

Reply of the Czech Republic to the questionnaire of the Independent Expert charged by  
preparation of the study on the question of violence against children

I. Legal framework

International human rights instruments

1. Upon its establishment on 1 January 1993, the Czech Republic succeeded to all international commitments of the Czech and Slovak Federal Republic. By virtue of this succession it became a State Party to the Convention on the Rights of the Child (the "Convention") on the date of its establishment. The Czech and Slovak Federal Republic signed the Convention on 30 September 1990 and deposited its instrument of ratification on 7 January 1991. The Convention was published in the official journal "Collection of Laws" as Announcement of the Federal Ministry of Foreign Affairs No. 104/1991.

The Czech Republic ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 30 November 2001, with a declaration under Article 3, paragraph 1 that the minimum age at which voluntary recruitment into its national armed forces is permitted is 18 years. This age limit is prescribed by law. The Protocol was published in the official journal "Collection of International Treaties" under No. 45/2003. The Czech Republic has signed, but not yet ratified, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

The status of international treaties in the Czech Republic's legislation is governed by Article 10 of the Constitution. The article, as amended on 1 June 2002, provides that a promulgated international treaty, the ratification of which was approved by the Parliament and which is binding on the Czech Republic, is to be applied if its provisions differ from those of a national law. Judges are bound by national laws as well as by international treaties and have the discretion to decide whether the applicable national law is consistent with international treaties (Article 95 of the Constitution).

The Constitutional Court has referred to the Convention in rulings concerning the consistency of national laws with constitutional standards and international commitments in the field of human rights and fundamental freedoms. The Optional Protocol has not yet been interpreted by any court in the Czech Republic. The Constitutional Court has not yet referred to Article 19 of the Convention, or to any other international instrument, in the context of violence against children. Other parts of the Convention have been repeatedly mentioned in Constitutional Court rulings examining the consistency of national laws with international human rights commitments (e.g. at least three references to Article 28). In at least two cases the Constitutional Court repealed parts of a national law due to inconsistency with the Convention or other international treaties or with constitutional legislation. It is thus safe to assume that it would hold similar views on any inconsistencies between national laws and the Czech Republic's commitments under Article 19 of the Convention.

The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention 182) was ratified by the Czech Republic on

19 June 2001 and published in the "Collection of International Treaties" No. 90/2002. So far, no court has referred to the Convention in the context of violence against children.

The following is a summary of several Constitutional Court rulings relevant to the Convention. Article 19 has not yet been mentioned in Constitutional Court rulings.

In ruling No. 4/1994 the Constitutional Court repealed a phrase in an amendment to the Education Act (the repealed words are crossed out): "At schools included in the system of primary and secondary schools, citizens have the right to education free of charge, ~~unless provided otherwise by law.~~" due to inconsistency with Article 1, Article 9, paragraph 2 and Article 10 of the Constitution, with Article 5, paragraph 2 of Czech National Council Constitutional Act No. 4/1993 concerning measures related to the dissolution of the Czech and Slovak Federal Republic, with Article 4, paragraphs 2 and 4, Article 33, paragraph 1 and Article 41, paragraph 1 of the Charter of Fundamental Rights and Freedoms, with Article 28, paragraph 1 a), b), Article 41 a) and b) of the Convention and with Article 5, paragraph 2 and Article 13, paragraph 2 a), b), c) of the International Covenant on Economic, Social and Cultural Rights (promulgated under No. 120/1976).

In ruling No. 3/1995 the Constitutional Court referred i.a. to Article 24, paragraph 2 d) and Article 41 of the Convention. The court was asked to consider whether some of the absolute bans imposed by the Labour Code (Act No. 65/1965 as amended) could be relaxed to make the banned action permissible, subject to the protected person's consent. E.g. originally an employer could not ask a female employee with a child under one year of age to travel on business to places outside the municipality where she worked or lived. This absolute ban was replaced by a rule permitting such business trips, subject to the woman's consent. The Constitutional Court found that these changes were not inconsistent with international human rights treaties and with the Charter of Fundamental Rights and Freedoms.

In ruling No. 72/1995, the Constitutional Court repealed parts of Family Act (Act No. 94/1963) and of Act No. 114/1988 concerning the competences of social welfare authorities of the Czech Socialist Republic. The repealed clause permitted an administrative authority to separate children from parents without a court order if necessary. The court order was issued ex post. Nevertheless, according to Article 32, paragraph 4 of the Charter of Fundamental Rights and Freedoms, the court order should always be obtained in advance.

In ruling No. 13/1996 the Constitutional Court decided that higher professional schools are not secondary schools (they admit only students who have completed secondary education). As a result, the government is not required to make higher professional education available free of charge in terms of Article 33, paragraph 2 of the Charter of Fundamental Rights and Freedoms, Article 13, paragraph 2 c) of the International Covenant on Economic, Social and Cultural Rights and Article 28, paragraph 1 a), b) of the Convention.

In ruling No. 124/1996 the Constitutional Court decided that the power of the Security Information Service "to store, preserve and use data on natural persons and legal entities, if necessary for the performance of tasks falling within its competence" is not inconsistent i.a. with Article 16 of the Convention. The Security Information Service is permitted to collect data on persons under eighteen years of age.

In ruling No. 165/1995, the Constitutional Court decided that Government Directive No. 15/1994 concerning free of charge provision of textbooks, study materials and teaching aids is

not inconsistent i.a. with Article 28, paragraph 1 a) and b) and with Article 41 of the Convention. According to the Constitutional Court, "free education" means that the government bears the costs related to the establishment, operation and maintenance of schools and educational facilities and, above all, does not charge school fees. The government is not required to provide other school things, such as school bags, pencil cases, pens or PE clothes, free of charge.

As regards the development trends initiated by the adoption of international human rights instruments: the commitments arising from international treaties binding on the Czech Republic are being carefully implemented in national legislation. Several major legislative changes have been made to improve the protection of the rights of the child.

Changes in the field of criminal law include amendments to the Criminal Code and to the Code of Criminal Procedure. The amendment<sup>1</sup> to the Criminal Code (Act No. 140/1961 as amended), effective since 1 July 2002 enhances the protection of children against sexual abuse. In Section 205 ("Corrupting morals") it broadens the definition of child pornography by replacing the phrase "works depicting sexual intercourse with a child" by "pornographic works depicting a child". The previous legislation made it a crime to circulate, distribute and produce child pornography, to make it publicly available, to import and export it or to take it through the country in transit. The amendment newly criminalizes the very act of possessing child pornography for any of these purposes. It also introduces criminal sanctions for the distribution of pornography by mass communication means, including the Internet.

Another important change concerns Section 246 of the Criminal Code ("Trafficking in women"). The section was renamed "trafficking in human beings for the purpose of sexual intercourse" to make it clear that it refers to trafficking in women as well as boys and young men. This i.a. enhances the legal protection of young migrants. A similar change was made to the definition of rape in Section 241 of the Criminal Code already in 2001.<sup>2</sup> According to the new version of this clause, rape is committed by anybody who forces another person, man or woman, to have sexual intercourse. It is also important that the definition of "child" in Section 216 b) of the Criminal Code has been changed. Originally, a "child" meant a person under 18 years of age, unless he/she has attained majority earlier. The phrase "unless he/she has attained majority earlier" is now deleted.

The amendment<sup>3</sup> to the Code of Criminal Procedure (Act No. 141/1961 as amended), effective since 1 January 2002, is a major step towards better prevention, more humane criminal procedure and more effective punishment of sexual abuse of children. It introduces quicker and simpler criminal procedure to ease the burden on the child victim and to reduce the risk of secondary victimization.

Act No. 169/1999 to regulate the service of prison sentences newly permits female prisoners to keep their children with them in prison, as a rule until the age of three years, unless the court has entrusted the child in the care of another person. Requests for admission of children are considered in the light of the conditions in the prison and the mother's character. Before deciding on the request, the head of the prison must consult a doctor, a psychologist and a child welfare authority to make sure that the final decision is in the best interests of the child.

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<sup>1</sup> Act No. 134/2002.

<sup>2</sup> Act No. 144/2001.

<sup>3</sup> Act No. 265/2001.

An amendment<sup>4</sup> to Act No. 293/1993 to regulate the service of custody, as amended, newly requires the Prison Service to make available educational, training, leisure time and sports programmes for juveniles in custody. It is up to the juvenile inmate to decide whether he/she will take part.

Formerly it was sometimes very hard to gather evidence on cases of child abuse and neglect, especially from doctors who invoked their duty to maintain confidentiality. The problem was resolved by an amendment<sup>5</sup> to the Act concerning social and legal protection of children. According to the amendment, confidentiality under the Health Care Act<sup>6</sup> cannot be invoked if the requested data concern child abuse and neglect.

One of the most serious forms of child abuse is commercial sexual exploitation of children. A very important document in this sphere is the National Plan of Action against commercial sexual exploitation of children, drafted in 2000 by the Ministry of the Interior in consultation with other government authorities. It is regularly updated (most recently in July 2004) and includes long-term legislative, organizational, technical and educational tasks, mostly of a preventive nature. The main tasks for the next two years are e.g. to complete the ratification process of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, to criminalize the possession of child pornography in any form, to criminalize human trafficking in cases where the trafficked person does not leave the Czech Republic, to criminalize human trafficking for purposes other than sexual exploitation; and to include in the new Health Care Act a clause requiring doctors to report every case of suspected child abuse and neglect, including sanctions for non-compliance. The newly drafted Act concerning support for work with children and young people will provide that individuals who have in the past been sentenced for a crime against children must not be allowed to work with children and young people.

The Czech Republic signed the United Nations Convention against Transnational Organized Crime and its two Protocols – the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Air and Sea at the Signing Conference in Palermo. The protocols are yet to be ratified.

### Legal provisions on violence against children

2. The Charter of Fundamental Rights and Freedoms (the "Charter"), promulgated by Resolution of the Czech National Council Presidium No. 2/1993 of 16 December 1992, forming part of the Czech Republic's constitutional legislation, does not explicitly list the forms of violence against which children are to be protected. However, it safeguards fundamental human rights, e.g. the right to life, the right to personal integrity, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, the right not to be subjected to forced labour or servitude, the right to human dignity, personal honour, good reputation and the right to the protection of one's name. Article 32 of the Charter

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<sup>4</sup> Act No. 208/2000.

<sup>5</sup> Act No. 518/2002 effective since 1 January 2002.

<sup>6</sup> Section 55, paragraph 2 d) of Act No. 20/1966 to regulate care for the people's health as amended: "Every health worker has the duty to maintain confidentiality on facts that he/she has learned in connection with the exercise of his/her profession, unless the fact is disclosed with the consent of the patient or unless he/she has been released from this duty by a superior authority in an important national interest;...".

guarantees special protection of children and young people.

Beside the Charter, there are laws and regulations of various legal force covering the rights of the child (e.g. protection against neglect, abuse and psychological and physical violence), especially in the fields of family law, civil law, social security law, administrative law (education, health care), criminal and minor offences law.

The Criminal Code naturally contains many provisions that may be applied in cases of violence against children. Crimes typically committed against children are covered by Chapter Six ("Crimes against family and young people"). They include the crime of abandoning a child, failing to support and maintain a child, maltreating a person entrusted to one's care, kidnapping a child, trafficking in children, endangering the favourable development of a child, enticing a child to have sexual intercourse, serving alcoholic drinks to minors and providing anabolic substances to minors. Other crimes committed against children can be found in Chapter Five "Crimes against good order and decency" (procuring and soliciting prostitution, corrupting morals), and in Chapter Eight "Crimes against freedom and human dignity" (rape, sexual abuse, trafficking in human beings for the purpose of sexual intercourse). Chapter Seven "Crimes against life and health" covers murder, murder of a newborn infant by its mother, bodily harm, etc.

A person who maltreats, abuses or neglects and child may be charged with any of the following crimes: maltreating a person entrusted to one's care, sexual abuse, rape, endangering the favourable development of a child, bodily harm, murder, abandoning a child, kidnapping, trafficking in children, trafficking in human beings for the purpose of sexual intercourse, enticing a child to have sexual intercourse, failing to support and maintain a child, corrupting morals, procuring and soliciting prostitution, and murder of a newborn infant by its mother.

Children are protected against maltreatment by Section 215 of the Criminal Code, which provides that anybody who maltreats a person entrusted to his/her care is liable to imprisonment for six months to three years. The offender may be sentenced to two to eight years in prison if he/she commits the crime in an especially cruel manner, or against more than one victim, or if the criminal activity has continued for a prolonged period of time. This clause protects not only minors but also adults who for any reason (illness, old age, disability, mental retardation, etc.) are dependent on the care of others. The legal basis of such care (laws, court orders, contracts, etc.) is not relevant. "Maltreatment" means actions causing physical as well as mental suffering.

Maltreatment of children in terms of Section 215 of the Criminal Code is subject to the reporting duty under Section 167 and 168 of the Criminal Code; anybody who fails to prevent or to report this crime is also guilty of a crime. Section 167, paragraph 1 of the Criminal Code provides that anybody who receives reliable information that another person is preparing to commit, or actually committing, the crime of maltreating a person entrusted to his/her care, sexual abuse, rape and murder, and fails to take steps to prevent the crime, is to be punished by imprisonment for a term of up to three years. According to Section 168 of the Criminal Code, anybody who fails the report the crime to a public attorney or to the police faces the same sentence.

The protection of children against corporal or other excessive punishment by parents falls within the scope of the Family Act (Act No. 94/1993 as amended). Parents are allowed to use

reasonable methods to discipline children, without violating the dignity or endangering the physical, emotional, mental and moral development of the child. In order to enhance the protection of children against actions that endanger the child's development but do not constitute a crime, an amendment<sup>7</sup> to the Minor Offences Act (Act No. 200/1990 as amended) introduced new definitions of minor offences covering i.a. various forms of abuse and neglect. E.g. according to new Section 28 it is a minor offence to leave a child without supervision adequate to the child's age, level of maturity or health condition, if as a result of such action the child is exposed to the risk of injury, to deliberate violations of its human dignity as a result of application of inadequate measures, or if as a result of such action the child is required to perform physical work inadequate to the its age and level of maturity.

The re-enacted Criminal Code is expected to enhance even more the protection of children against violence and commercial sexual exploitation. Its draft has already been approved by the Government and presented to the Parliament. The new Criminal Code is expected to take effect on 1 January 2006.

Customary law does not exist in the Czech Republic; violence against children is covered by generally binding regulations.

3. According to Act No. 359/1999 regulating social and legal protection of children, as amended, municipal offices (so-called "municipal offices with extended powers", basic executive authorities at local level), are required to monitor negative factors affecting children, to identify their causes and take measures to reduce their impact on children. Within the framework of prevention, guidance and counselling services, the municipal office must seek to identify children who have been victims of a crime endangering their life, health and human dignity, moral development or their property, and to urge parents to fulfil their parental duties. The municipal office's counselling service should help parents cope with child-raising and education problems or with care for handicapped children. It should organize lectures and courses on educational, social and other issues connected with care for children.

Section 7, paragraph 2 of the Act regulating social and legal protection of children concerns the protection of children against violence. It provides that everybody has the right to inform a child welfare authority about cases where parents fail to fulfil their duties or abuse their rights arising from parental responsibility or where parents are incapable to fulfil their parental duties, as well as about cases of potentially threatened children, including abused and neglected children. The informer is guaranteed anonymity because the records concerning his/her information are kept in a separate file, accessible only to courts or public attorneys.

Section 8 of the Act safeguards the child's right to ask child welfare authorities, government authorities involved in the protection of rights and justified interests of the child, authorized persons, schools, educational and healthcare institutions for help in protecting its life and other rights. The authorities must provide the necessary assistance. It is important, especially in the context of child abuse and neglect, that the child may ask for help without the knowledge of parents or other persons responsible for the child's upbringing.

Section 42 of the Act regulates the facilities providing assistance and protection to children in emergency situations, in particular to abandoned children, children whose life or favourable

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<sup>7</sup> Act No. 360/1999.

development are at risk, children subjected to physical or mental maltreatment or abuse and children in situations seriously endangering their fundamental rights. This protection and assistance includes services satisfying the child's basic needs, such as accommodation and health care, psychological and other specialized care.

Separation of a maltreated child from its family is regulated by Act No. 99/1963, Code of Civil Procedure, as amended. It covers cases of abandoned children and children whose life or favourable development are at risk. In such cases the municipal office must ask the court for an emergency ruling placing the child in the care of a natural person or a facility for children in emergency situations ("crisis centre") or in institutional care. After receiving the municipal office's request, the court must decide on the emergency ruling within twenty-four hours.

The Czech Republic's legislation does not contain special provisions concerning child victims of domestic violence. There are uniform rules for the treatment of all crime victims, children as well as adults. Their eligibility for financial aid is regulated by Act No. 209/1997 concerning the provision of financial aid to crime victims, as amended. Section 2, paragraph 1 of the Act says that persons whose health has been damaged as a consequence of the crime, at least to the minimum extent defined by law, are eligible for financial aid. Regarding the amount of financial aid, Section 7 provides that a qualifying victim will receive, on request, financial aid at a flat rate amounting to CZK 25,000, or financial aid worth up to CZK 150,000, according to the actual amount of documented medical costs and lost earnings. Section 2, paragraph 4 of the Act provides that for the purposes of financial aid, "crime" means any action constituting a crime or attempted crime in terms of the Special Part of the Criminal Code. The victim's age is not relevant in this context. According to Section 7, paragraph 3 of the Act, the estimated future loss of earnings must be taken into account when calculating the amount of financial aid.

The Compensations Department at the Ministry of Justice has handled a request for financial aid filed by an attorney on behalf of a six-month child – victim of an attempted murder, which permanently damaged the child's health. The child suffered extensive brain damage causing locomotion problems, malfunction of sensory organs and serious mental disability, and according to medical reports had no chance of improvement. In this case the serious health consequences of the crime were taken into consideration as a factor that will permanently affect the victim's earning capacity, and the awarded compensation represents the maximum amount permitted by the current legislation.

Many definitions of crimes in the Criminal Code mention the fact that the crime victim is a child (or a child under 15 years of age) as a factor justifying stricter criminal sanctions. An exception in this regard are crimes that by definition are committed against children. Besides, the fact that the crime harmed a child under 15 years of age is a general aggravating factor, to be taken into account in sentencing. This applies also in cases where the offender entices a child under 15 years of age, a juvenile or a very young adult to commit a crime.

4. In the Czech Republic's legislation criminal sanctions for violence against children do not depend on the place where the violence is committed. The decisive factors are the substance and severity of the crime. A certain exception may be the crime of maltreating a person entrusted to one's care under Section 215, which covers i.a. child maltreatment in the family.

Regulation No. 345/1999, Rules for the Service of Prison Sentences, Section 35, covers situations endangering the right of prisoners, juveniles as well as adults, to protection against

unjustified violence and degradation of their human dignity. A Prison Service officer who has identified any situation endangering the prisoners' right to protection against unjustified violence, degrading treatment, insults or threats, or who has received information about such situations from prisoners, must promptly take steps to prevent such conduct and notify the head of the prison. The head of prison must promptly and carefully examine any report, letter or other communication concerning violations of prisoners' rights and take effective measures to put an end to such conduct. He must ensure that prisoners who are especially prone to become victims of violence and degrading treatment due to their mental capacity, age or health condition are held separately from aggressive inmates. To this end he must consult doctors, psychologists, sociologists and education experts.

5. The Czech Republic has no special legislation prohibiting corporal punishment. The basic rules for child-raising, including protection of children against corporal punishment, are contained in the Family Act. An amendment to this Act, effective since 1 August 1998, requires parents, in exercising their parental responsibilities, to consistently protect the best interests of the child and to control and supervise the child in a manner corresponding to the child's level of maturity. Parents are entitled to take reasonable measures to discipline the child without degrading it and without endangering its health or physical, emotional, intellectual and moral development. The Family Act thus limits the range of disciplinary measures available to parents; it is understood that corporal punishment is not a permitted disciplinary measure.

The Criminal Code does not explicitly ban corporal punishment of children. However, excessive punishment may, under certain circumstances, constitute the crime of maltreating a person entrusted into one's care. "Maltreatment" is not defined in the Criminal Code, but the current case law shows that it is understood to include any maltreatment which is especially severe, crude and persistent, and which the victim regards as a severe wrong. In this context, the "persistence" of maltreatment depends on the intensity of suffering, rather than duration or consistency.

Cases where maltreatment endangers a child's development but does not constitute the crime of maltreatment or of bodily harm fall within the scope of the Minor Offences Act (see above).

6. The Czech Republic's legislation does not permit corporal punishment of offenders, whether juvenile or adult. The death penalty has been abolished.

Act No. 218/2003 concerning the liability of young people for unlawful conduct and concerning juvenile justice, adopted in 2003, replaced the rules previously contained in the Criminal Code and the Code of Criminal Procedure. The Act regulates the liability of children under 15 years of age and juveniles between 15 and 18 years of age for crimes contained in the Criminal Code and the disposition of such cases. According to this Act, a child under 15 years of age is not criminally liable. However, the Juvenile Justice Act enables the state to react to child delinquency by means of tools normally available in the civil procedure, including educational measures. It increases the protection of juvenile offenders in judicial proceedings; e.g. nobody is allowed to publish the juvenile offender's name or any other information providing clues as to his/her identity. The hearings are to be held in camera, but they may be open to the public at the juvenile offender's request. The new Act improves the situation in many other respects. E.g. it enables the existence of specialized courts and judges, broadens the range of sanctions and improves their differentiation. It strongly emphasises the



educational aspect and opens up new opportunities for educational work, including probation programmes. The Probation and Mediation Service is given much more room for its activities.

7. Bullying, degrading treatment and sexual harassment are not established as crimes in the Criminal Code. However, these actions may constitute the crimes of restriction or deprivation of personal liberty, abduction abroad, rape, sexual abuse, incest, or trafficking in persons for the purpose of sexual intercourse.

According to Government Resolution No. 108/1994 implementing the Labour Code and some other acts, Section 27, schools and educational institutions are responsible for their pupils during lessons and any other activities organized by the school. According to Section 422 of the Civil Code, the school or educational institution is liable for any harm or damage caused to pupils under its supervision during lessons and in direct connection with them. The teacher is expected to promptly put an end to any bullying and to assist the victims. Assistance to victims of bullying at schools is regulated by the Methodical Instruction of the Minister of Education, Youth and Sports for the prevention and handling of bullying at schools and other educational institutions (No. 28 275/2000-22).

This type of conduct is also covered by civil and labour legislation. Regulations concerning sexual harassment can be found in the Labour Code, Employment Act<sup>8</sup> and the Act concerning the service of personnel of security corps<sup>9</sup>. They define the term and specify the remedies available to victims.

According to the Employment Guidelines for the staff of schools and educational facilities (Methodical Instruction No.14 269/2001-26), staff members are required to refrain from undesirable conduct of sexual nature, not only towards colleagues, but also towards pupils.

8. These phenomena do not occur in the Czech Republic. Any case of this type would be classified e.g. as bodily harm.

9. The Czech Republic's Constitution and the Charter of Fundamental Rights and Freedoms guarantee the equality of all citizens before law. This principle is reflected in all spheres of Czech legislation, including sanctions for violence against children, where the law does not take account of the child's nationality. The situation is different in the case of violence, or threat of violence, against a group of persons or an individual because of their political conviction, nationality, ethnic origin, race or religion or because the persons are nondenominational. This type of conduct constitutes the crime of violence against a group of population and against individuals under Section 197 of the Criminal Code and carries a prison sentence of up to three years.

The legislation concerning the asylum and residence of aliens in the Czech Republic<sup>10</sup> respects the rights of the child e.g. as regards asylum for the purposes of family reunion, temporary protection for the purposes of family reunion or the issuance of residence permits to minor aliens joining a parent who possesses Czech citizenship, or issuance of residence permits to minor aliens on humanitarian grounds.

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<sup>8</sup> Act No. 435/2004.

<sup>9</sup> Act No. 361/2003.

<sup>10</sup> Act No. 326/1999 to regulate the residence of aliens in the territory of the Czech Republic and to amend some other acts, Act No. 325/1999 to regulate asylum and to amend Act No. 283/1991 on the Czech Republic Police, as amended, (Asylum Act), and Act No. 221/2003 on temporary protection of aliens.

The Act on social and legal protection of children also covers the protection of children in some special situations, including e.g. children without a permanent residence permit, who are not registered as persons staying in the Czech Republic for a period longer than 90 days in terms of the Residence of Aliens Act, and are not permitted to permanently reside in the country under Section 87 of this Act, in cases where such child is unaccompanied or its life or favourable development are seriously at risk. In such situations, the social and legal protection includes steps to protect the child's life and health, to satisfy its basic needs, including healthcare. The competent authority must ask the court to issue an emergency ruling, to appoint a guardian or to place the child in institutional care. The child is referred to an asylum facility or to a special educational facility.

A short-term facility for unaccompanied migrant children has been established by the Ministry of Education, Youth and Sports.

10. Czech legislation does not define "violence". The term should always be interpreted with regard to the context in which the given act of violence occurs. Normally, violence is understood to mean "the use of force in order to overcome or prevent resistance". Violence may be directed against people or against things. Therefore it is impossible to describe any differences in the definition of violence.

11. The present Criminal Code introduced in 1961 is naturally becoming obsolete and the Ministry of Justice has decided to initiate its full re-enactment. The draft new Criminal Code was presented to the Government in early 2004 and is now waiting for parliamentary approval.

Act No. 218/2003 concerning the liability of young people for unlawful conduct and concerning juvenile justice, adopted in 2003, replaced the rules previously contained in the Criminal Code and the Code of Criminal Procedure. The Act regulates the liability of children under 15 years of age and juveniles between 15 and 18 years of age for crimes contained in the Criminal Code and the disposition of such cases. According to this Act, a child under 15 years of age is not criminally liable. However, the Juvenile Justice Act enables the state to react to child delinquency by means of tools normally available in the civil procedure, including educational measures. It increases the protection of juvenile offenders in judicial proceedings; e.g. nobody is allowed to publish the juvenile offender's name or any other information providing clues as to his identity. The hearings are to be held in camera, but they may be open to the public at the juvenile offender's request. The new Act improves the situation in many other respects. For example, it enables the existence of specialized courts and judges, broadens the range of sanctions and improves their differentiation. It strongly emphasises the educational aspect and opens up new opportunities for educational work, including probation programmes. The Probation and Mediation Service is given much broader scope for its activities.

12. A study entitled "Issues related to the rights of the child in the Czech Republic in the context of commercial sexual exploitation of children" (Dunovský, Mitlohner, Hejč, Tlačilová – South Bohemian University, České Budějovice), financed by a Health Ministry grant, focuses on the CSEC trends, their knowledge and analysis. The authors recommend steps to improve the whole child welfare system, based on French and Swedish experience. They stress the need for reliable monitoring as a primary condition for successful introduction of the system. Specific tasks are set in the National Plan of Action against commercial sexual

exploitation of children (see above). The basis of these efforts is the Convention on the Rights of the Child, which remains the main instrument safeguarding the best interests of the child in every situation.

The Institute for Information on Education examined the issue of violence and aggression at schools (Quick Survey I/2004).

### Courts tasked with addressing violence against children

13. Crimes against children are tried by ordinary courts, including district courts, regional courts, high courts and the Supreme Court like any other crimes. These courts deal with cases involving both children and adults. There are no family courts in the Czech Republic.

Child offenders under 15 years of age, who are not yet criminally liable, and juvenile offenders between 15 and 18 years of age are tried by juvenile courts in accordance with the Juvenile Justice Act. For the purposes of this act, the term "juvenile court" means a special chamber or, in cases specified by law, a judge presiding such chamber or a single judge at the competent district court, regional court, high court and at the Supreme Court.

### Minimum age for sexual activity

14. The age of sexual consent is set by the current Criminal Code in connection with sexual abuse (Section 242). According to the definition of this crime, a person having an intercourse with a person under 15 years of age is liable to imprisonment for one to eight years. The age limit of 15 years applies to both boys and girls. The law does not distinguish between homosexual and heterosexual activities.

The re-enacted Criminal Code, which is presently going through the Czech Parliament, will not change the rules in this regard.

15. According to the Family Act (Act No. 94/1963 as amended), a minor, i.e. person under 18 years of age, cannot contract marriage. In exceptional cases, the court may permit the marriage of persons between 16 and 18 years of age, if the step is consistent with the social purposes of marriage. Without this permit, the marriage is void and the court may declare it invalid even in the absence of a motion to this effect.

### Sexual exploitation of children

16. The National Plan of Action against commercial sexual exploitation of children<sup>11</sup> was approved by the Government in 2000. The document drafted by the Ministry of the Interior charges the competent ministries with many tasks, in particular to improve the legislative tools designed to eliminate commercial sexual exploitation of children, to improve co-operation in the field of education and prevention, to more efficiently prosecute persons involved in the commercial sexual exploitation of children, to facilitate quicker identification of victims of commercial sexual exploitation and to enhance their protection and rehabilitation. The tasks arising from this document are being continuously fulfilled and updated.

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<sup>11</sup> Government Resolution No. 698 of 12 July 2000.

The protection of children against commercial sexual exploitation is further enhanced by several legislative changes, in particular amendments to the Criminal Code and to the Code of Criminal Procedure. The amendment to the Criminal Code<sup>12</sup> changes the definition of child pornography in Section 205 ("Corrupting morals"). The former very narrow definition "pornographic works depicting sexual intercourse with a child" was broadened to include all "pornographic works depicting a child." The amendment also makes it a crime to possess child pornography for the purpose of its circulation and distribution, publication, production, import, transit or export. It tightens the sanctions for those who distribute pornography by means of mass communication systems or who commit these crimes as members of an organized group. For the time being, possession of child pornography "for personal use" remains outside the scope of the Criminal Code and is not punishable.

The version of the Code of Criminal Procedure effective until the end of 2001 was rather insensitive towards child victims and often caused secondary victimization. The child had to testify on its traumatic experience several times during the criminal proceedings. The situation was greatly improved by an amendment to the Code of Criminal Procedure<sup>13</sup>. It provides that if a child under 15 years of age is to testify on facts the recalling of which might, with regard to the child's age, negatively influence its mental and moral development, the investigator or judge should conduct the examination with special care so as to avoid the need for re-examination. The child is to be re-examined only if strictly necessary. The Code of Criminal Procedure enables the person accompanying the child during the examination (a teacher or another person experienced in education of children, parents) to propose that the proceedings be discontinued, suspended or postponed if there is a risk of negative influence on the child witness.

The protection of child victims in criminal proceedings is further enhanced by the Police President's Binding Instruction No. 8 of 2002, providing that child witnesses are to be examined in facilities where the examination can be conducted properly, taking full account of the child's mental capacity and level of maturity. Preferably, the examination should be held in familiar, untraumatizing places such as school, home, premises of another administrative authority, etc.

The investigation of Internet crime falls within the competence of a specialized department at the Czech Republic Police Headquarters, which co-operates with other structures of the Czech Republic Police, with internet providers and foreign partners.

Since the current legislation no longer fully reflects the trends in the area of commercial exploitation of children, some of the present definitions of crimes will be changed in the re-enacted Criminal Code<sup>14</sup>. E.g. the definition of child pornography (now in Section 205 "Corrupting morals") will be broadened to include the possession of child pornography and will appear in new Section 168 ("Distributing and possessing pornography"). The change reflects the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and Article 9 of the Council of Europe Convention on Cybercrime. In accordance with these instruments the re-enacted Criminal Code will change the rules for the application of prison sentences, in order to enable more

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<sup>12</sup> Act No. 134/2002 amending Act No. 140/1961, the Criminal Code, as amended.

<sup>13</sup> Act No. 265/2001 amending Act No. 141/1961 on the criminal procedure, as amended, and Act No. 140/1961, the Criminal Code, as amended.

<sup>14</sup> Draft re-enacted Criminal Code approved by Government Resolution No. 593 of 9 June 2004.

effective punishment of producing, distributing, as well as acquiring and possessing child pornography and pornographic works depicting other pathological practices. To this end, it will introduce aggravating circumstances justifying the imposition of stricter sentences for the possession of pornography by organized groups, its distribution through publicly accessible computer networks (mainly the Internet) or by other equally effective means.

#### Pornography and harmful information

17. The present Section 205 of the Criminal Code ("Corrupting morals") forbids circulation, distribution, publication, production, export, transit or import, or the possession for any of these purposes, of pornographic works in the form of text, sound or video record, picture or another object corrupting morals, which depict a child or expresses disrespect for a human being or violence, or depict intercourse with an animal. A person who commits this crime is liable to imprisonment for a term not exceeding one year or to a fine or to forfeiture of a thing. The re-enacted Criminal Code will criminalize the possession of child pornography "for personal use" and punish it by imprisonment for a term not exceeding three years, forfeiture of a thing and prohibition of professional activities.

Anybody who offers, gives or makes available pornographic works to persons under 18 years of age, or displays such works or makes them otherwise available at a place accessible to such persons, is liable to imprisonment for a term not exceeding two years, to a fine or to forfeiture of a thing. A person who commits such crime as a member of an organized group, or using the press, film, radio or TV broadcasts, public computer networks or other equally effective means is liable to imprisonment for a term of six months to three years or to a fine.

A workshop on special software designed to aid the detection and identification of child pornography distributors on the Internet was organized in December 2003 by the Ministry of the Interior in cooperation with the British Embassy. Eight members of the staff of the Criminal Police and Investigating Service and of the Forensic Institute have been trained for this purpose.

The updated National Plan of Action against commercial sexual exploitation of children, published in July 2004, requires the Minister of Informatics to include in the draft new Telecommunications Act a clause extending the period for which an Internet provider must keep the data related to telecommunication services, in particular the identification data of subscribers. The statutory duty of Internet providers to collect data on websites with illegal content and to report such websites to the Czech Republic Police is currently regulated by the operative Telecommunications Act No. 151/2000. The new act will define this duty in more specific terms.

18. At present children are protected against pornography by Section 205 of the Criminal Code ("Corrupting morals"). As mentioned in the previous answer, anybody who offers, lends or makes available pornographic works in form of text, sound or video record or picture to a person under 18 years of age, or displays them or makes them otherwise available at a place accessible to such persons, is liable to imprisonment for one year, to a fine or to forfeiture of a thing.

Other rules concerning access to information are provided in Act No. 273/1993 regulating some conditions for production, distribution and archiving of audio-visual works and amending some acts and other regulations. According to this Act the age limits for access to

audio-visual works that are likely to endanger the moral development of minors are 15 and 18 years (Section 4).

Other relevant legislation includes Act No. 468/1991 to regulate the operation of radio and television broadcasting. Broadcasters are not allowed to broadcast commercials inconsistent with public morals, with the consumer's interests or with the protection of health, security or the environment, as well as commercials designed for children or featuring children, which promote behaviour dangerous to their health or mental and moral development (Section 6). In addition to restrictions in advertising, the Act prohibits programmes that are likely to seriously disrupt the physical or moral development of children, in particular programmes with elements of violence or pornography. Programmes that are likely to endanger the physical, mental or moral development of children may not be broadcast between 6.00 and 22.00 hours. Radio and television broadcasters are required to announce prior to the start of the programme, verbally or by means of a symbol, that the programme is unsuitable for children.

The re-enacted Criminal Code also contains provisions on the distribution and possession of pornography.

The Ministry of Education, Youth and Sports has published the "Safe Use of the Internet" rules for parents and children. The problem of sexual abuse of children is included in sexual education programmes at schools.

#### Reporting obligations relating to violence against children

19. Act No. 359/1999 concerning social and legal protection of children imposes a general reporting duty on all government authorities, authorized persons, schools, educational facilities and healthcare institutions or other institutions dealing with children. They are required to promptly report to the competent municipal office any facts indicating that a particular child is in danger (Section 10, paragraph 4). Typically, the reports concern probable child victims of crimes against life and health, crimes violating human dignity or disrupting moral development, or children who are believed to lead an idle or immoral life (truancy, alcohol and drugs, prostitution or involvement in crime).

The Section 53 of the Act provides that government authorities, employers and other legal entities, namely schools, educational and healthcare institutions and similar facilities, natural persons who are incorporators of schools and other institutions (healthcare and similar institutions), as well as authorized persons, must disclose free of charge any information necessary for social and legal protection of children, unless the disclosure of such information is prohibited by special regulations. The duty to maintain confidentiality under the present Health Care Act No. 20/1966 does not apply to information on suspected cases of child abuse and neglect. This is a major break with the traditional duty of health workers to maintain confidentiality.

According to the Act regulating social and legal protection of children, authorities involved in social and legal protection of children are required to share the data in their databases and files to the extent necessary for their work (Section 51). They are also required to report to the law enforcement authorities any facts suggesting that a child has become the victim of a crime or has been instrumental in committing a crime, and to provide them with the necessary information on request.

According to Section 1 of the Code of Criminal Procedure, everybody has the duty to assist in achieving the purpose of criminal proceedings. Since the purpose of criminal proceedings is to prevent crime, every person should consider it his/her duty, or even his/her right, to report any suspicion of criminal activity, especially where children are concerned. Although the Code of Criminal Procedure defines this duty (or right), it does not penalize all cases of non-compliance. Section 167 of the Criminal Code punishes failure to prevent certain crimes, which are listed in the section. According to these provisions, a person who receives reliable information that somebody is about to commit the crime of maltreating a person entrusted to his/her care (Section 215), murder (Section 219), rape (Section 241), sexual abuse (Section 242) and fails to prevent the crime, faces up to three years in prison.

The reporting duty of the staff at schools and educational facilities is also included in their Employment Guidelines (No. 14 269/2001-26), Article 13 ("Health and safety protection at work and during educational activities"), which provides that "all employees shall report to the head of the school any facts indicating that a pupil abuses drugs, gambles compulsively, bullies other pupils, engages in crime or is endangered by other sociopathological phenomena, that a pupil is exposed to bullying or maltreatment or other undesirable treatment at school or elsewhere. This does not affect the duties of employees under special regulations."

### Complaints procedures

20. In the Czech Republic's legislation, criminal sanctions for violence against children do not depend on the place where the violence is committed. In case of crime of violence against children, a complaint may be submitted irrespective of the place where the crime was committed. Anyone who knows that a crime was committed, whether a witness or a victim, may submit a complaint to the law enforcement authorities – the Czech Republic Police or the Prosecuting Attorney's Office. Anyone can also report that an infraction was committed, either as a witness or as a victim. The report may be submitted to the Czech Republic Police or to a Municipal Office. Infractions fall within the competence of Municipal Offices.

Another authority competent to provide protection against violence, degrading treatment etc. is the Public Defender of Rights ("Defender") established by Act No. 349/1999 on the Public Defender of Rights. The Defender's mission is to protect individuals who claim to be harmed by the actions of government authorities and other institutions listed in the above-mentioned act, in cases where such actions are unlawful, inconsistent with the principles of the democratic rule of law and good governance, or who claim to be harmed by inaction of these authorities. He/she is competent to handle complaints concerning i.a. the Czech Republic Police, the Czech Republic Army, the Czech Republic Prison Service and detention facilities, prisons, protective and institutional education facilities and facilities providing court-ordered in-patient treatment. The law enforcement authorities, prosecuting attorneys and courts fall outside the Defender's competence. Anyone, including children, has the right to submit to the Defender a written complaint on matters falling within his/her competence. The Defender may also investigate cases on his/her own initiative. For that purpose, the Defender is authorized to enter all parts of the facilities concerned, to consult official records, to interview the staff, to talk to inmates in detention centres and prisons, young offenders facilities and facilities providing court-ordered in-patient treatment without the presence of third persons. The last privilege is particularly important for the protection of children in cases where the Defender conducts investigations in children's homes, diagnostic or young offenders institutions.

The Defender's competence is to be broadened by an amendment to the Act on the Public Defender of Rights, currently going through the Chamber of Deputies of the Czech Parliament. The Defender will be able to conduct investigations in all places where the liberty of individuals is *de facto* restricted, including facilities with clients or patients fully dependent on the care of others, such as social care institutions, healthcare institutions and institutions of social and legal protection of children. According to the amendment, the Defender will be also required to regularly visit such facilities.

Protection of the rights of prisoners is covered by Act No. 169/1999 on the execution of prison sentences. The act applies also to prisoners between 16 and 18 years of age. According to Section 26 of the act, prisoners are entitled to lodge complaints and requests with the competent authorities. Prison Service officers must respect the rights of prisoners. The Prison Service must immediately notify the head of the prison, a prosecuting attorney, a judge or an authority conducting a control in the prison whenever a prisoner asks for a meeting with them, and must enable the meeting on the instructions of the official concerned. Prisoners also have the right to the assistance of a lawyer; lawyers may communicate with prisoners by mail and meet them without other people's presence, within the limits of their authorization. Though the act includes special provisions concerning juvenile prisoners, the above-mentioned complaint procedures and obligations of Prison Service officers are the same for all groups of prisoners.

Section 35 of Act No. 169/1999 regulates the protection of prisoners against unjustified violence and degrading treatment. If a Prison Service officer has identified any situation endangering the prisoners' right to protection against unjustified violence or degrading treatment, or has received information about such situations from prisoners, he must promptly take steps to prevent such conduct and notify the head of the prison. If there is any suspicion or evidence that a Prison Service officer has treated a prisoner in this manner, the head of the prison must ensure that such officer has no direct contact with the prisoner until the case is investigated. If a prisoner commits such act, the head of the prison must take appropriate steps to put an end to such conduct and to ensure the safety of the victim and of the prisoner who reported it. He must also ensure that prisoners who are especially prone to become victims of violence and degrading treatment due to their mental capacity, age or health condition are held separately from aggressive inmates. To this end he must consult doctors, psychologists, sociologists and education experts.

21. Children and their guardians may use any of the complaints procedures described above.

In 2000, the Minister of Education, Youth and Sports issued the Methodical Instruction for the prevention and handling of bullying at schools and other educational institutions, which entered into force on 1 January 2001. The Instruction is designed to cover a wide range of socio-pathological phenomena. It defines basic prevention programmes for schools and educational institutions, as well as the role of each institution and the functions of prevention experts at schools. The Instruction treats bullying at schools and other educational institutions as a serious negative phenomenon. It is the particular responsibility of each school and educational institution to prevent the problem or to deal with it resolutely as soon as it arises. According to the Methodical Instruction, schools and educational institutions should encourage close cooperation between pupils, parents and teachers and make it clear that even the first signs of bullying can be reported (and that such reports are strictly confidential).



22. The Czech Republic Police Headquarters, Criminal Police and Investigation Service, organized several lectures within the framework of inter-ministerial EU projects and interdisciplinary cooperation in the Czech Republic (cooperation with the Ministry of Education, Youth and Sports, the Ministry of Agriculture, non-governmental organizations etc.). On the regional level, lectures were organized in cooperation with the staff of the Czech Republic Police, Criminal Police and Investigation Service, Preventive Information Groups, etc.

23. There are no special rules of procedure and evidence for the prosecution of violence against children, except for the rules concerning examination of witnesses under 15 years of age (Section 102 of the Code of Criminal Procedure).

#### *Section 102*

*1) If a child under 15 years of age is to testify on facts the recalling of which might, with regard to the child's age, negatively influence its mental and moral development, the investigator or judge should conduct the examination with special care so as to avoid the need for re-examination. During the examination, the child is accompanied by a teacher or another person experienced in education of children, who contributes to adequate examination of a witness, with respect to the subject in question and to the level of mental development of a child. Parents may also be present if their presence is to the benefit of the examination. The accompanying persons may propose that the proceedings be postponed or, if started, be discontinued or suspended if there is a risk of negative influence on the child witness. If there is no risk of delay, the law enforcement authority will satisfy the demand.*

*2) In further proceedings, the child is to be re-examined only if strictly necessary. In a trial before court, the court may decide that the testimony will be read out, even if the conditions under Section 211, paragraph 1 and 2, are not fulfilled. If necessary, the person who accompanied the child witness will be questioned about the correctness and completeness of the testimony and about the way in which the examination was conducted and the way in which the child responded.*

Persons under 15 years of age are accorded the same protection in the case of e.g. confrontations and police line-ups.

24. The causes of these serious crimes are mainly the aggression of parents, often under the influence of alcohol or drugs, or their low mental capacity. The offenders are mostly given unconditional prison sentences, served in a stricter category of prisons and often followed by substance abuse treatment. In some cases, especially in cases of sexual abuse of children (Section 242 of the Criminal Code), the court may order mandatory sex offender therapy.

25. In 2003, Czech courts finally sentenced a total of 3,558 juveniles (between 15 and 18 years of age), i.e. 5.3% of the total number of 66,131 finally sentenced offenders. Juveniles were mostly tried for property crime (1,568 persons). Most of them received conditional prison sentences (2,048) and community service orders (809). 213 juveniles received an unconditional prison sentence; the duration of the sentence was less than one year (153), one to five years (59) or five to fifteen years (1). 165 juveniles were declared habitual offenders by the court.

Inpatient alcohol abuse treatment was ordered to two juvenile offenders, outpatient alcohol abuse treatment to three juveniles; inpatient drug abuse treatment was ordered to three juvenile offenders, outpatient drug abuse treatment to seven juveniles; eighteen juveniles were

ordered other medical treatment. 31 juveniles were ordered rehabilitation in a young offender institution. The number of child offenders under 15 years of age was 3,524 in 1990, 7,118 in 1995, 10,313 in 2000 and 5,724 in 2003. These children could not be sentenced because of their age.

An important motive in juvenile and child crime is drug addiction. There has been an alarming increase in experimental and occasional abuse of so-called dance drugs, as evidenced by surveys conducted at schools. On the other hand, the number of “problematic users” has stabilized in the recent years.

To reduce drug-related phenomena, there is a wide range of anti-drug programmes offering services for addicts, such as help lines, counselling services for children and families, alcohol and drug abuse guidance, contact points, detoxification units, programmes for reintegration into society etc.

The reintegration programmes play a major role in the reintegration of juvenile ex-offenders, who find it hard to get a job after release from prison, especially in some ethnic groups. The importance of retraining courses is increasing as well. However, some juvenile ex-offenders lack any motivation to take part in schemes designed to improve their work habits.

The family plays an irreplaceable role in protecting children and juveniles from risk behaviour. If the family is incapable to control a child with serious behaviour problems and there is no other way to provide for the child’s proper upbringing, a measure of last resort is to refer the child to an institution according to the Family Act. If the child’s behaviour problems are so serious that he/she cannot be admitted to a children’s home with a school, the court may order his/her placement in a young offenders rehabilitation facility. To promote the social functions of the family, a concept of national family policy is being prepared.

## II. Institutional framework and resources to address violence against children

26. Protection of and care for children is guaranteed by the State in cooperation with public administration authorities and, to some extent, with non-governmental non-profit making organisations. Act No. 2/1969 on the establishment of ministries and other government authorities of the Czech Republic as amended, defines the competences of government authorities headed by members of the Czech Republic’s government. Cases of violence against children fall within the competence of several authorities, namely the Ministry of Labour and Social Affairs, the Ministry of Education, Youth and Sports, the Ministry of Health, the Ministry of the Interior and the Ministry of Justice. The Ministry of Justice is responsible for courts, prosecuting attorneys and the probation and mediation services. The Ministry of the Interior is responsible for crime prevention. It formulates the national crime prevention strategy, covering also child crime, and the National Plan of Action against commercial sexual exploitation of children, and deals with other issues such as trafficking in children. The Ministry of Labour and Social Affairs coordinates the government policy for social and legal protection of children and monitors the work of regional authorities in this area. The Czech Republic is divided into fourteen regions; Regional Offices supervise and provide methodical guidance to Municipal Offices. The main task of the Regional Offices in this area is to organize foster care and to grant licences to non-profit making organizations.

The authority responsible for the protection of children at the local level is the Municipal

Office. Its duties in this respect are defined by Act No. 359/1999 on social and legal protection of children. According to this Act, the Municipal Office should make sure that children are not allowed access to places that would adversely affect their development and upbringing. The Municipal Office carries out a number of preventive activities and decides on certain disciplinary measures, such as cautioning, supervision and restraint of children. Cautioning is the mildest one-off disciplinary measure, applied for the child's protection. Supervision is ordered if the child needs continuous control and oversight. Restraint is the strictest measure, ordered to keep the child away from an obviously harmful environment. These disciplinary measures may also be ordered by courts. Another task of the Municipal Office is to take charge, in an emergency, of a child who is found to be without adequate care.

The largest share of tasks in the area of protection of children has been assigned to "Municipal Offices with extended powers" (i.e. with powers formerly exercised by the police and other government authorities, recently transferred to some municipal offices). Their competences are defined by Act No. 359/1999 on social and legal protection of children. The Municipal Office with extended powers should monitor any negative phenomena that are likely to affect children, identify their causes and take steps to prevent them. It plays the main role in counselling and prevention services. It is competent to request the court to e.g. order separation of children from the family in situations where the child is at risk and it may become the child's guardian.

27. Maltreatment, abuse and neglect of children is a very wide and interdisciplinary problem requiring the cooperation of several government authorities, namely the Ministry of Labour and Social Affairs, the Ministry of Education, Youth and Sports, the Ministry of Health, the Ministry of the Interior and the Ministry of Justice.

That is why responsibility for protection of the rights of the child, for implementation of the rights arising from the Convention on the Rights of the Child, and for activities concerning violence against children, is divided between several ministries. At present there is no central coordinating body in this area. However, an "Analysis of the present institutional framework for implementation of the Convention on the Rights of the Child" is currently in the drafting stage and will be presented to the government. It suggests that one of the ministries should be charged with the role of national coordinator of the implementation of the Convention on the Rights of the Child.

28. The funds allocated to individual areas concerning children are shown under the relevant headings and subheadings of the state budget (education, free-time activities, childcare facilities, benefits and social services for children and families with children).

29. The funds were allocated within the framework of the Comprehensive Cooperation Programme for crime prevention at the local level (Programme), run by the National Crime Prevention Committee since 1996. Its preventive activities focused primarily on children and juveniles, in particular on the promotion of useful free-time activities that should put them off crime. The Programme also supported activities helping to address the problem of violence against children. Between 1997 and 2003, support was provided to projects dealing with violence against children in nine towns and cities, and a state budget allocation of CZK 1.5 million was divided between other ten crime prevention projects.

In 2003 the government conducted a media campaign on the unacceptability of domestic violence against women. The target group - young people between 15 and 25 years of age -

were encouraged to oppose even the very first signs of partner violence, physical as well as mental. CZK 3.5 million were earmarked for the campaign, which included the distribution of leaflets, broadcasting of radio and TV spots, a cinema spot, newspaper advertisements, a computer game distributed as a CD supplement to computer magazines.

30. In December 2003, the Ministry of the Interior, in cooperation with the British Embassy in Prague, organised a workshop on special software for detection and identification of child pornography distributors on the Internet. Eight specialists of the Criminal Police and Investigating Service and the Forensic Institute were trained to use the software. The British side donated to the Czech Republic Police a PC running the software, as well as an unlimited number of software licences.

31. The Ministry of the Interior takes part in activities related to the fight against human trafficking on a long-term basis. At the international level it recently participated in a project concerning prevention, suppression and punishment of human trafficking and the response of the Czech criminal justice system to human trafficking in the Czech Republic within the framework of the UN Global Programme against Trafficking in Human Beings. Along with the Czech Republic, the participating countries are Poland, Germany, Austria, the Netherlands and Finland. The project was implemented in the Czech Republic from November 2002 to May 2004.

Cross-border cooperation with the police authorities of neighbouring countries functions well in this field, not only as regards repression, but also in prevention and exchange of experience.

On the initiative of the Ministry of the Interior, a Trilateral Czech-German-Polish Working Group was established in March 2002 to address the problem of trans-border crime. The purpose is to exchange information on the relevant laws, to establish direct contacts and to create efficient channels for the exchange of information on specific cases. In November 2003, the Working Group met at the Saxon Ministry of the Interior in Dresden. The meeting followed up a regional project addressing the issue of prostitution in Karlovy Vary region (building on the results of the meeting in Železná Ruda in April 2003). The objective of the meeting was to review the results of the project on both sides of the border. Contact persons appointed at the meeting are responsible for intensive exchange of information on crime in this field and, if a specific case comes under investigation, would establish joint investigating teams on the basis of the Agreement between the Czech Republic and the Federal Republic of Germany on cooperation of police authorities and border control authorities in borderline areas. Within the framework of the training programme of the Czech Republic Police, NGOs in cooperation with the German police prepared a series of lectures followed by discussions on the issue of sexual exploitation and on cooperation between the police and NGOs. Another measure that has already proved useful in other countries will be the distribution of leaflets entitled “Small souls – great danger” at Czech border crossing points.

32. In the Czech Republic, the office of the Public Defender of Rights was established by Act No. 349/1999 on the Public Defender of Rights, as amended. However, the Defender does not specialize in protection of the rights of the child. His/her mission is to protect individuals who claim to be harmed by the actions of government authorities and other institutions listed in the above-mentioned act, in cases where such actions are unlawful, inconsistent with the principles of the democratic rule of law and good governance, or who claim to be harmed by inaction of these authorities. Most of the Defender’s cases involving children concern the

social and legal protection of children provided by Municipal Offices. The Defender is also competent to conduct inquiries in institutional education facilities and young offenders facilities, either on the basis of complaints received from children living in such facilities, or on his/her own initiative.

Since the government system previously lacked a central authority monitoring the fulfilment of the Czech Republic's international obligations concerning the protection of human rights and fundamental freedoms, the government decided to set up Government Human Rights Council. The mission of the Czech Government's Human Rights Council<sup>15</sup> is to advise the government and present proposals in the field of human rights. The Council has established several permanent committees, including a Committee on the Rights of the Child dealing with the implementation of the Convention on the Rights of the Child. The Committee comprises experts, especially from various NGOs, and representatives of the involved ministries. The Committee presents to the Council proposals seeking to improve the situation of and respect for the rights of the child in the Czech Republic. It contributes to reports presented to the monitoring body of the Convention on the Rights of the Child – the UN Committee on the Rights of the Child. It submits to the Government Human Rights Council proposals for partial or systemic changes that should improve the respect for the rights of the child in the Czech Republic. However, the Council and the Committee are not competent to receive complaints from individuals, or interfere in the work of any authorities dealing with such complaints.

33. The Czech Parliament has no special committees or commissions dealing with violence against children. Generally, the field is covered by the Permanent Commission for Family and Equal Opportunities in the Chamber of Deputies, and the Committee for Education, Science, Culture, Human Rights and Petitions in the Senate.

34. In 2003 the Parliament approved a Senate bill amending the Criminal Code. The amendment introduced a new crime of "Maltreating a person living in a shared apartment or house" (Section 215a). According to this provision, whoever maltreats a relative or any other person with whom he/she shares an apartment or a house, faces imprisonment for up to three years. If the offender commits the act in a particularly brutal fashion or against more than one person, or commits it continuously for a prolonged period of time, he/she is liable to imprisonment for two to eight years.

### III. Role of civil society in addressing violence against children

35. Non-governmental non-profit making organisations, local, regional as well as nationwide, play a comparatively great role in this field. They offer counselling services and help lines, organize prevention campaigns, run facilities for maltreated and abused children and provide crisis intervention, therapy and follow-up.

Help-lines for maltreated, abused and neglected children include the nationwide toll-free "Safety Line" available round the clock to children faced with any kind of danger. Besides there are many regional help-lines for children threatened with violence. There are also specialized centres, run mainly by NGOs, providing intervention, therapeutic stays and follow-up.

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<sup>15</sup> Government Decree No. 809 of 10 December 1998.

The Ministry of the Interior and the Criminal Police and Investigation Service cooperate chiefly with following NGOs:

The Safety Line (Linka bezpečí) is a civic association helping children and young people to deal with major crises as well as everyday problems. It operates several help-lines. The association is accredited within the framework of the Czech Republic's system for social and legal protection of children.

Our Child Foundation (Nadace Naše dítě) seeks to help children on a long-term basis, focusing on children living in problematic family environment, children in educational institutions (children's homes, infant homes, diagnostic and young offenders facilities), abused and maltreated children, mentally and physically disabled children. It provides direct financial support (on the basis of grants or individual applications); raises public awareness (publications and leaflets, campaigns); lobbies for legislative changes to improve the system of protection of children.

The White Circle of Safety (Bílý kruh bezpečí) is a civic association assisting crime victims and promoting crime prevention. It provides expert assistance to crime victims, including moral and emotional support. The service is free of charge and strictly confidential. Its workers may accompany victims of especially serious violent crimes (or the families of victims) to court, visit them in hospital or, exceptionally, at home. The White Circle of Safety also organizes psycho-rehabilitation weekend programmes for victims of violent crimes. By means of its regular Bulletin, leaflets and cooperation with the media, it informs the general public and government authorities and local governments about the current problems concerning crime victims and their possible solutions.

The Children's Crisis Centre (Dětské krizové centrum) deals with child abuse, its prevention, diagnostics and therapy. It is licensed to provide social and legal protection of children, including:

- identification of children in need of social and legal protection
- assistance to parents in coping with educational or other problems of children
- guidance and counselling ROZDÍL? services for parents on care for and education of children and care for disabled children
- organization of lectures and courses on educational, social and other problems associated with childcare and education of children
- activities to protect children against harmful influences and to prevent the occurrence of such influences
- professional counselling services in the field of childcare
- establishment and operation of facilities for children in need of immediate help

36. NGOs receive grants within the framework of the grant-making policies of the involved ministries. Non-governmental non-profit making organizations working in the field of protection of children against violence mostly receive grants from the Ministry of Labour and Social Affairs. In 2004, the Labour Ministry's budget for non-investment subsidies to non-governmental non-profit making organizations providing social services was CZK 918.4 million.

37. The media play a very important role in the exchange of information and in preventive action. However, in a number of cases a biased or insensitive media coverage of suspected crimes or ongoing criminal investigations has hampered the investigation and adversely influenced the public opinion about the work of the Czech Republic Police.

#### IV. Children as actors in addressing violence

38. The information is not available.

39. Any examination of a child witness, including child victims of violence, must comply with the special rules in Section 102 of the Code of the Criminal Procedure. (see 23 above)

There are no special statistics on this issue.

40. The information is not available.

#### V. Policies and programmes to address violence against children

41. On the government level, priority tasks related to the protection of children are defined in the Concept of Government Policy for Children and Youth until 2007.<sup>16</sup> The priorities are defined in each problem area, such as protection of the rights of children, protection of young people on the labour market and in the field of education, protection of children's health, protection of children against socio-pathological phenomena and protection of vulnerable groups (ethnic minorities, migrants). Other priorities concern the support of non-profit making sector and promotion of youth participation.

The government's activities in the field of fight against commercial sexual exploitation of children are based on the National Plan of Action against commercial sexual exploitation of children, a framework document for coordinated action of all ministries and other central government authorities in preventing and suppressing this phenomenon. The tasks defined in the National Plan of Action against commercial sexual exploitation of children<sup>17</sup> are currently focused on specific target groups, on prevention and detection of child pornography on the internet and on prevention of commercial sexual exploitation of young unaccompanied asylum seekers in the Czech Republic, with special regard to children who live in private accommodation or who have left the asylum facility.

In 2003, the Government approved the its first comprehensive document on human trafficking – the National Strategy of the Fight against Trafficking in Human Beings for the Purpose of Sexual Exploitation in the Czech Republic<sup>18</sup>. The Strategy describes the current situation and lists the steps to be taken by the Government in this regard. It includes a report on trafficking in human beings for the purpose of sexual exploitation in the Czech Republic, a scheme for victim support and protection, and a plan of action for implementation of the Strategy.

The analytical part of the document sums up the available information on trafficking in human beings for the purpose of sexual exploitation in the Czech Republic and analyses the legislative and administrative basis for the punishment of offenders. The next part suggests ways to improve the situation, mainly in the field of prevention, including measures to make

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<sup>16</sup> Government Resolution No. 343 of 7 April 2003

<sup>17</sup> Government Resolution No. 698 of 12 July 2000 on the National Plan of Action against commercial sexual exploitation of children; Government Resolution No. 716 of 24 July 2002 on the Report on the implementation of the National Plan of Action against commercial sexual exploitation of children (2000-2002) and its updating for the next period; Government Resolution No. 718 of 21 July 2004 to the Report on the implementation of the National Plan of Action against commercial sexual exploitation of children (2002-2004) and its updating for the next period (2004-2006).

<sup>18</sup> Government Resolution No. 849 of 3 September 2003.

the potential victims more aware of the danger, as well as in the field of repression and immediate help.

42. The information is not available.

43. The information is not available.

44. The information is not available.

#### VI. Data collection, analysis and research

45. In 1998, Our Child Foundation carried out an adult retrospective survey regarding sexual abuse in childhood.<sup>19</sup> The objective was to collect representative data on the prevalence of sexual abuse, the conditions under which it occurs and the development of sexual abuse cases. In 2000, the Institute of Criminology and Social Prevention published a study on *Maltreatment of Children and Young People in Families* (Martinková, M.).<sup>20</sup>

46. The information is not available.

47. The information is not available.

48. The information is not available.

49. The sources are the statistics of the Czech Republic Police and resolutions of the public attorney's offices and courts.

50. The information is not available.

51. All data concerning crimes committed by young people and crimes against young people are included in the standard statistics available on the website of the Ministry of the Interior. Juvenile crime is included in monthly statistics and crimes against children in trimestrial statistics.

#### *Murders of children in the period 2000-2003*

Age / Year	0-15	16-18	Total
2000	23	5	28
2001	15	6	21
2002	18	5	23
2003	9	1	10

#### *Statistics on selected crime categories*

Year		2000		2001		2002	
Section of the Criminal Code	Crime	Detected	Cleared	Detected	Cleared	Detected	Cleared

<sup>19</sup> Bosák, Csémy, Halfarová, Pöthe, Šepsová, *Retrospective Survey of Adult Population in the Czech Republic regarding Sexual Abuse in Childhood*.

<sup>20</sup> Older studies published by the Institute include: Martinková, *The occurrence of some forms of violent or socially unacceptable conduct of parents towards children in the family*.



216	Abduction	21	21	16	16	23	17
242/2, 243	Sexual abuse of a dependent person	141	140	101	101	117	108
242	Sexual abuse, other cases	799	748	812	767	894	803
242/2, 243	Commercial sexual exploitation of a dependent person	N	N	0	0	1	0
242/1,3,4	Commercial sexual exploitation, other cases	N	N	2	1	7	7
205	Corrupting morals	27	25	48	48	51	27
205, 217	Endangering the moral development of young people	652	649	653	652	748	712
216a	Trafficking in children	1	0	0	0	1	1

*Crimes against children aged 0-15 years in 2000-2002*

Crime (Section of the Criminal Code)	2000	2001	2002
Restriction or deprivation of personal liberty (231, 232)	114	193	140
Maltreatment of a person entrusted to the offender's care (215)	137	130	177
Rape (241)	56	63	105
Sexual abuse of a dependent person (242/2, 243)	126	83	95
Sexual abuse, other cases (242)	774	773	875
Corrupting morals (205)	0	0	0
Exposing other persons to an STD (226)	0	0	1
Bodily harm caused by intentional transmission of an STD (221, 222)	0	1	0
Bodily harm caused by negligent transmission of an STD (223, 224)	0	1	0
Procuring prostitution	0	0	0
Trafficking in women (246)	1	1	0
Endangering the moral development of young people (217)	0	0	7

*Crimes against persons aged 16-18 years in 2000-2001*

Offence (Section of the Criminal Code)	2000	2001	2002
Restriction or deprivation of personal liberty (231, 232)	56	61	65
Maltreatment of a person entrusted to the offender's care (215)	12	8	18
Rape (241)	72	93	96
Sexual abuse of a dependent person (242/2, 243)	13	13	16
Sexual abuse, other cases (242)	15	25	13
Corrupting morals (205)	0	0	0
Exposing other persons to an STD (226)	0	0	0
Bodily harm caused by intentional transmission of an STD (221, 222)	0	2	1
Bodily harm caused by negligent transmission of an STD (223, 224)	0	0	0
Procuration	0	0	0
Trafficking in women (246)	4	4	2
Endangering moral development of young people (217)	0	0	0

52. The Ministry of Labour and Social Affairs records the number of cases of maltreatment and sexual abuse of children, reported to the social and legal protection departments of Municipal Offices. The data are shown in the tables below.

*Table 1 – Physical and mental maltreatment and sexual abuse of children*

Physical maltreatment

Year	Total	By a parent	By other family member	By other person
1994	159*	112	xxx	xxx
1995	176*	126	xxx	xxx
1996	575	392	172	11
1997	600	437	127	36
1998	641	441	161	39
1999	662	455	154	53
2000	530	361	132	33
2001	648	444	148	56
2002	527	374	137	16

Mental maltreatment

Year	Total	By a parent	By other family member	By other person
1994	49*	43	xxx	xxx
1995	54*	44	xxx	xxx
1996	173	131	37	5
1997	169	106	37	26
1998	192	162	26	4
1999	224	155	49	20
2000	213	165	40	8
2001	236	188	35	13
2002	171	121	42	8

Sexual abuse

Year	Total	By a parent	By other family member	By other person
1994	312*	63	xxx	xxx
1995	328*	76	xxx	xxx
1996	558	162	137	xxx
1997	520	122	127	271
1998	593	125	130	338
1999	638	131	140	367
2000	614	98	111	405
2001	522	92	128	302
2002	537	101	123	311

\* The statistics for 1994 and 1995 show only the number of established cases, the figures for the following years include all reported cases.

*Table 2 – Cases of physical maltreatment of children causing death*

Year	Physical Maltreatment Total	Deaths
1994	159*	not recorded
1995	176*	not recorded
1996	575	7
1997	600	4
1998	641	2
1999	662	4
2000	530	4
2001	648	1
2002	527	0

53. The information is not available.

54. A media campaign on the unacceptability of domestic violence against women took place in 2003. It was organized on the basis of a government resolution adopted in 2002, instructing the First Deputy Prime Minister and Minister of the Interior, the Minister of Labour and Social Affairs, the Minister of Education, Youth and Sports and the Government Commissioner for Human Rights to organize a public information campaign on the unacceptability of domestic violence and other forms of violence against women, and to enable interested NGOs to participate in the working group set up for this purpose. The working group, comprising representatives of the Labour and Social Affairs Ministry, the Interior Ministry and of the Education Ministry, as well as representatives of NGOs concerned with the problem of domestic violence, decided that the campaign would target young people between 15 and 25 years of age and encourage them to oppose even the very first signs of partner violence, physical as well as mental. This nationwide campaign included the distribution of leaflets at schools, posters on buses and trams etc., radio spots broadcast by local radio stations, cinema spots (information clip, slides with soundtrack) screened in cinemas, banners, postcards, newspaper advertisements and a TV spot.

55. The information is not available.

56. The detailed information is not available.

Since 2002, the Ministry of Education, Youth and Sports has organized regular training courses for social workers from social and legal protection departments of Municipal Offices. The courses were mostly focused on the problem of violence against children, especially on crisis intervention and subsequent steps in dealing with cases of maltreated and abused children.

