


No. 100/2013

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and has the honour to forward, attached to this note, the responses of the Czech Republic to the questionnaire pursuant to the Human Rights Council resolution A/HRC/21/30 on complementary standards to the ICERD.

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the United Nations High Commissioner for Human Rights the assurances of its highest consideration. 

Geneva, 4 February 2013



registry@ohchr.org
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
Geneva

I. Racism and xenophobia in the Czech Republic

The Czech Republic recognizes the importance of the fight against racism and xenophobia and is firmly committed to combat these two phenomena. In spite of our efforts, in the period between 2008 and 2009 the right-wing extremist or neo-Nazi scene was reactivated and on the rise. Their hatred focused mainly on the Roma minority. Security forces strengthened their measures to fight the neo-Nazis in response to these activities. The combat of political extremism has become a priority for subsequent Government. Any criminal act with possible racist undertones is strictly and thoroughly investigated and prosecuted and proven cases lead to a conviction with adequate punishment.

A newly started campaign against extremism has gained public support and neo-Nazi dogma did not find broader response in society. During the first phase, repressive efforts have been developed against neo-Nazi militants and political leaders, who spread hatred against minorities. In the second stage, the focus shifted to preventive tools as education of security forces members, prevention of extremism on the Internet or order enforcement in the socially excluded neighbourhoods

The campaign against extremism can be evaluated as successful. The neo-Nazi scene is in disarray. The ban of the neo-Nazi Workers Party can be considered a one of important successes. Perpetrators of several violent racist crimes were identified and brought to justice. Police took additional measures to combat extremism more efficiently. The Czech Republic continues concentrated efforts in this way.

In 2011, 238 so called extremists crimes were detected, i. e. 0,08 % of the total incidence of crime in the Czech Republic.

The above-mentioned intervention of the central authorities was successful and the extremists are now less radical and less visible.

II. Legal and judicial frameworks

Apart from the educational framework there are no legislative measures dealing with xenophobia per se. Xenophobia is addressed mostly as a phenomena related to racism and discrimination. In this regard, racism and discrimination are tackled both within the civil law (the Anti-Discrimination Act and the Labor Act) and the public law (the Criminal Code, the Minor Offence Act, the Right of Assembly Act).

Repression of cases of racism and xenophobia is effected through measures of criminal law that protects the fundamental values and relations of the legal order and society as a whole. If a criminal act is committed, it is an obligation of the state to prosecute the offender and thus enforce the compliance of his behaviour with law. There are four basic criminal acts penalizing racially or similarly motivated attacks against a group of people or an individual in the Criminal Code. These are violence against a group of people or an individual, dangerous threatening, defamation of a nation, race, ethic or other group of people or instigation to hatred against a group of people or of suppression of their rights and liberties. The most grievous attacks against national, ethnical, racial or religious groups shall be prosecuted as crimes against humanity like genocide, apartheid and discrimination against a group of people, establishment, support and promotion of movements aimed at suppression of human rights and freedoms, expressing sympathies for such movements and denial, impugnation, approval and justification of genocide. However, these crimes do not exhaust criminal protection against racially or similarly motivated assaults. Some other crimes designed to

protect life, health or property may include racial motivation as a condition leading to harder punishment of the offender. The Criminal Code thus enables sufficient sanctioning of various racially motivated attacks against groups of people or an individual beside explicit extremist groups and individuals. The investigators and public prosecutors receive specialized training in the area of racist and xenophobic crimes as well.

In some cases we have observed crimes with possible racial undertones that did not lead to a conviction however this occurrence was not caused by inappropriate substantive criminal regulation. The problem stemmed from the complicated nature of proving these acts and especially the racial, ethnical or similar motivation of the offender. In such cases the offender's confession, the only possible direct evidence of his motivation, is rarely available. Thus it is necessary to prove their motivation by indirect evidence that is not always available in sufficient amount and quality to convict the alleged offenders without infringing on their rights based on the principle of presumption of innocence and fair trial as such.

The Ministry of the Interior, the Police of the Czech Republic and the intelligence services closely cooperated in the repressive phase. Specialist detectives from the Unit for Combating Organized Crime conducted a series of raids on the top representatives of the neo-Nazi movement. The raids completely paralyzed the militant scene. The security forces managed to uncover the perpetrators of several violent crimes, especially arson. The most significant and publicly known was the case of "Vítkov arsonists" from northern Moravia, who threw Molotov cocktails at night into a Roma family house and gravely injured a little girl. The four offenders were identified through extensive police investigation and convicted by the court to exceptional sentences of 20 to 22 years in prison.

The prohibition of the Workers' Party by the court on Government's proposal can be considered as a unique achievement. This party provided the political background for neo-Nazis and racists. The party also organized a number of anti-Roma demonstrations and manufactured and spread racist and xenophobic propaganda materials. During its consideration of the case, the Supreme Administrative Court established clear criteria for dissolving political parties for extremist propaganda while paying due respect to freedom of association. This judgement significantly influenced public debate on extremism. The same criteria apply also to civic associations. Legal entities are also criminally liable for their acts including racially motivated crimes.

III. National mechanisms of fighting and preventing racism, racial discrimination, and xenophobia

Beside the reactive criminal law mechanism the Czech Republic has a Strategy for Combating Extremism, revised on a yearly basis. Reports on the implementation of the Strategy are presented to the Parliament annually. The report consists of information on the developments on the extremist scene during the year under review, and of an Anti-Extremism Policy Concept for the next year. The Strategy is preventive rather than repressive, with measures designed to prevent the emergence and spread of extremism. It includes activities targeting children and young people.

In recent years the Strategy has e.g. prevented extremist infiltration into the security structures, and helped reduce the number of extremist concerts and demonstrations. The police commanders undergo regularly several days of intensive training focused on effective and fair management of conflict situation on a broader scale. Further training is organized for specialists on extremism and members of the anti-conflict teams. The Police of the Czech Republic are developing a database containing expert opinions, judgments, standards,

significant cases, analysis and examples of good practices. The Police also set up a new system in the personnel policy, which significantly reduced the risk of infiltration of the security forces by extremists. Job applicants within the police, the army, the customs administration, the prison service, and selected positions within the fire and rescue service are screened in police databases for extremism

However, extremist content on the Internet and the conspiratorial practices of extremists remain a problem. Action to eliminate crimes with racial, national and religious motives is also at the core of the Crime Prevention Strategy for 2012-2015. In addition to preventing racism and xenophobia, the Crime Prevention Strategy fosters the coexistence of the majority society and ethnic minorities as a way of eliminating the usual pretexts for some extremist attitudes and manifestations. The Internet Police Helpline facilitates better communication between the police and the public reporting illegal content on the Internet.

In 2009 the Ministry of the Interior has launched a crime prevention project aimed at improvement in the field of public order and safety in socially excluded neighbourhoods. The main objectives of the project are to decrease the tensions between the majority and minority population living in socially excluded localities, reinforce non repressive police methods, offer of assistance to the inhabitants of these neighbourhoods, eliminate socially high-risky phenomena and prevent potential extremist attacks. Another project responds to anti-Roma rhetoric of right-wing extremists. It offers a positive alternative to key topics from neo-Nazi propaganda. The aim of this project is to support the non repressive methods of police and municipal police work, increase safety in socially excluded neighbourhoods, eliminate the risk of negative social phenomena, prevent hate crime and increase the involvement of socially excluded people in efforts to improve their situation. This project significantly affected the security situation in the participating municipalities. In socially excluded neighbourhoods it helped start the process of stabilization and social integration.

A special body dealing with discrimination is the Ombudsman. Its powers according to the EU law are to contribute to promotion of the right to equal treatment of all persons regardless of their race or ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions. His task is to help enforce the right to equal treatment, to assist victims in asserting their rights, to conduct research, to publish reports and recommendations on issues related to discrimination and in particular to provide counseling and disseminate information. The Ombudsman also keeps statistics and evaluates the grounds and areas of discrimination to concentrate his efforts on the most serious ones. His website includes basic information on the problem of discrimination, advice on protection, as well as recommendations and legal opinions on specific cases of discrimination.

IV. Procedural gaps to the ICERD

As stated above, the Czech national legislation based on international human rights standards, with ICERD in the forefront, allows for effective persecution of racism, racial discrimination, xenophobia and related intolerance.

We do not perceive any gaps with regard to the procedures under ICERD. Universal ratification and full and effective implementation of the ICERD should remain principal goals for the international community.

The Czech Republic regularly submits its national reports and holds a productive dialogue with the CERD Committee. It has made a declaration under art. 14 of the ICERD and has placed no reservations relating to the ICERD. The Czech Republic is of the opinion that such

full use of the existing ICERD procedures is sufficient to successfully fight racism, racial discrimination, xenophobia and related intolerance.

V. Reservations on the implementation to the ICERD

See the rest of responses by the Czech Republic.

VI. Comments concerning Article 14 of the ICERD

The Czech Republic declared on 11 October 2000 that according Article 14, paragraph 1 of International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) that it recognizes the competence of the Committee on the Elimination of All Forms of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of violation of any of the rights set for in the ICERD.

VII. Implementation of the CERD General Recommendation

In connection with the CERD General Recommendation No. 17 (1993) the Ombudsman was established as an institution to promote the right to equal treatment and to combat discrimination in 2009. The Ombudsman is an independent body from the state administration, whose task is to control the exercise of public power in accordance with law and the principles of good governance and to contribute to the protection of human rights. The Ombudsman plays a central role in the fight against discrimination. His task is to help enforce the right to equal treatment, to assist victims in asserting their rights, to conduct research, to publish reports and recommendations on issues related to discrimination and in particular to provide counselling and disseminate information. His website includes basic information on the problem of discrimination, advice on protection, as well as recommendations and legal opinions on specific cases of discrimination.

His role in the area of combating racial discrimination is as follows: (a) to promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) to review government policy towards protection against racial discrimination; (c) to monitor legislative compliance with the provisions of the Convention; (d) to educate the public about the obligations of States parties under the Convention; (e) to assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination.

VIII. Assistance provided to victims of racism, racial discrimination, and xenophobia

Victims have the right to claim compensation for non-pecuniary as well as pecuniary damage in criminal proceedings. The Ombudsman may assist the victims with lodging the actions on account of discrimination.

A draft Law on the Free Legal Aid is being proposed by the Government. A draft Law on the Victims of Criminal Offences was adopted by the Lower House of the Parliament and is being discussed by the Upper House. It should replace the current Act and seeks to provide the victims with the comprehensive compensation, rehabilitation, care, privacy protection and access to relevant information.

In the course of their regular professional training, members of the Police receive information on the victims of extremist crime. Moreover, the Police cooperate with the White Circle of Safety, an NGO.

IX. a) Possible recommendations

None.

b) Additional comments

None.