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**SUBMISSION**  
**TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS**  
**(OHCHR)**

**FOR USE IN THE PREPARATION OF DOCUMENTATION FOR THE UNITED**  
**NATIONS HUMAN RIGHTS COUNCIL**

**FIRST UNIVERSAL PERIODIC REVIEW**

**OF THE CZECH REPUBLIC**

**Organisations Involved in this Submission:**

- Centre on Housing Rights and Evictions (COHRE)
- European Roma Rights Centre (ERRC)
- Peacework Development Fund
- Vzájemné Soužití (Life Together)

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## **I. Executive Summary**

I.1 This submission sets out in detail human rights concerns arising under international human rights law where Roma in the Czech Republic are concerned. It has been prepared to assist the Office of the High Commissioner for Human Rights (OHCHR) in providing documentation to the Human Rights Council on the occasion of that body's first assessment of the Czech Republic in the context of the Universal Periodic Review. For the sake of simplicity, reference is made to international law as set out under the International Covenant on Civil and Political Rights (ICCPR). This document does not address all human rights issues facing Roma in the Czech Republic, nor even all ICCPR issues facing Roma in the Czech Republic. The sole purpose of this document is to present documentation to the OHCHR in several areas of expertise of the submitting organisations. At a number of points herein, reference is made to the work of UN Treaty Bodies and other relevant agencies in their assessments of human rights issues in the Czech Republic.

I.2 All of the submitting organisations have direct research and practitioner experience related to the human rights situation of Roma in the Czech Republic. The summary details of the submitting organisations are provided at the end of this document.

I.3 Material included in this submission implicates a number of provisions of the ICCPR, including, but not necessarily limited to, the following:

I.4 As to ICCPR Article 2, the government of the Czech Republic has not complied with its obligations to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Czech government is obligated to bring discrimination to an end by all appropriate means, including legislation, but the Czech legislature has yet to adopt a comprehensive anti-discrimination law, and most of the sectoral fields of the ICCPR Covenant remain to date unprotected by any form of actionable domestic law ban on racial discrimination. In practice, Roma in the Czech Republic are regularly subjected to discrimination in almost all aspects of their lives. This is especially evident in the field of education, where officials consistently deny equal access to Romani children, placing them in alarming numbers in segregated, substandard schools and classes. In addition to the inherent harms flowing from this practice, the racial segregation of Romani children in the Czech school system virtually ensures that Roma will remain, for the foreseeable future, a systemically excluded underclass. Additionally, a growing number of Roma live in socially excluded locations characterised by substandard conditions on the edges of towns, segregated from the rest of the population. Recent acts by a number of local officials in the Czech Republic – frequently carried out with evident, explicit racial motivation -- have worsened this situation in a number of municipalities. No acts of the national government have been effective in countering racially segregating forces in the field of housing.

I.5 Article 6 paragraph 1 of the ICCPR states: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” In recent years, a number of acts have been undertaken in the Czech Republic by both private individuals and state actors who have threatened the lives of Roma. In the face of these acts, Czech authorities have failed to undertake adequate protection measures to secure the lives of the persons concerned.

I.6 With respect to Article 7 of the Covenant, Research by independent human rights groups has revealed that Romani women have been subjected to coercive sterilisation in Czech hospitals for decades and as recently as 2004. Civil complaints for damages have been initiated by a number of victims concerned. The submitting organizations are aware of two cases in which monetary damages have been awarded to victims by courts, and another case in which a court ordered a written apology by the hospital concerned. Criminal charges have been filed by the Public Defender of Rights (“Ombudsman”) in a series of cases in which criminal law may have been infringed. Czech prosecutors have, however, dismissed all such complaints to date. There is a need for Czech lawmakers to adopt a comprehensive administrative remedy – based on practice in countries such as Sweden, where there has been comprehensive acknowledgement of such practices and remedy made available. The need for a comprehensive administrative remedy derives from reasons including but not necessarily limited to (i) the destruction of some hospital records; (ii) the poverty of the victims and high financial risk of civil claims; (iii) the fact that some cases are older than the statute of limitations for civil remedy; (iv) the difficulty of meeting civil evidentiary standards in cases of this kind. Czech lawmakers have not however yet indicated any willingness to provide such a mechanism and, as of now, appear intent on forcing victims to undergo the gruelling, financially risky and publicly humiliating procedures associated with civil lawsuit. In addition, silence on the part of high-ranking public officials on these matters has meant that, to date, the victims are regarded by the vast majority of the Czech public as pariah persons who are purported to have invited, profited from, or deserved the treatment to which they have been subjected.

I.7 With respect to Article 14 of the Covenant, as detailed below, extensive empirical evidence indicates a system-wide failure in the Czech Republic to ensure rights of equality in administrative and judicial matters crucial for the realisation of fundamental human rights.

I.8 Concerning Article 16 of the Covenant, the continuing failure to remedy extreme exclusion driven by efforts by the State Party to deprive Czechoslovak Roma residing in the Czech Republic of Czech citizenship at the time of the break-up of Czechoslovakia, and the failure subsequently to adequately remedy these government-led acts of exclusion, raises concerns as to whether all persons in the Czech Republic enjoy adequate recognition as persons before the law.

I.9 As to Article 17, recently adopted Czech laws in the field of housing constitute an open invitation to municipal and private landlords and others to arbitrarily invade the privacy of any tenant. Roma, a particularly disadvantaged group in the Czech Republic,

are routinely subjected to invasive actions by landlords, as detailed below. In addition, patterns and practices of arbitrary removal of children from the care of their biological parents and their remand into state or other alternate care call seriously into question the compliance of the Czech Republic with Article 17.

I.10 With respect to Article 26 of the Covenant, the Czech government has failed to meet its obligations to guarantee that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” In recent years and continuing to the present, there has been near-total impunity for racial discrimination against the Roma, as well as for those who would frustrate the Roma in their efforts to realize the Covenant’s substantive provisions. Concerns under Article 26 comprise both (i) the specific concern of failure to adopt adequate law banning racial and other forms of discrimination, as well as (ii) the fact that the State Party has tolerated and in some cases actively promoted the extreme, systemic exclusion of Roma.

I.11 These regular, systemic human rights abuses against the Roma in the Czech Republic are aggravated by the fact that anti-Romani hate speech is a regular part of public discourse in the Czech Republic. Anti-Romani statements are a standard and often unquestioned part of public life in the Czech Republic, and officials as high-ranking as the Prime Minister, the President, Senators (including members of the Senate’s Human Rights Committee), other members of the cabinet, and many local officials have either made anti-Romani statements or failed to counteract speech acts denigrating the dignity of the Roma. This sets the tone for an environment in which Internet chat rooms and other public fora are flooded with anti-Romani invective. Individuals are rarely if ever held accountable in cases in which anti-Romani statements are at issue.

I.12 Furthermore, the Czech authorities continue to fail to provide Roma and human rights defenders with adequate protection against racially motivated violence perpetrated by members and sympathisers of nationalist-extremist movements and vigilante groups.

I.13 The submitting organisations hereby present their concerns in the following areas:

- Racism against Roma in the Czech Republic
- Failure to Give Effect to the International Law Ban on Racial Discrimination
- Coercive Sterilisation of Romani Women
- Racial Segregation in the Field of Housing, Including Pattern and Practice of Forcible Eviction of Roma
- Failure to Address Racial Segregation in Education
- Exclusion from Employment
- Other Concerns: (1) The Continuing Effects of the 1993 Act on Citizenship in Driving the Exclusion of Roma in the Czech Republic and (2) Systematically Discriminatory Practice of Removing Romani Children from the Care of their Biological Parents and Placing Them in State Care.

I.14 Due to the particularly extreme human rights concerns at issue with respect to the coercive sterilisation of Romani women, this submission is effectively divided into two substantive parts:

- (i) Matters concerning the coercive sterilisation, detailed in section IV. Recommendations related to coercive sterilisation issues follow immediately after Section IV.
- (ii) Matters related to equality and non-discrimination in a number of sectoral fields, including housing, employment, education and social services, detailed in Sections V-VIII. Recommendations with respect to these issues are found at the end of the submission.

## **II. Introduction: Racism against Roma in the Czech Republic**

II.1 Demographers estimate the number of Roma living in the Czech Republic as approximately 250,000 (of a total population of circa 10.2 million).<sup>1</sup> The actual number is highly disputed. Since 1989, official census data has been derived solely on the basis of self-identification. Due to the stigma associated with being viewed as a “Gypsy”, as well as fears among Roma about possible misuses of official data, very high numbers of Roma in the Czech Republic do not self-declare as Romani for official purposes. As such, only circa 11,000 people claimed to be Romani in the 2000 census, following which a number of government agencies and others stated that since the figure was obviously wildly inaccurate, they would not use the census data as the basis for their deliberations about Roma policy. Most Czech Roma were killed in the Holocaust. Today’s Czech Romani community is predominantly urban and poor, often with family backgrounds originating from rural Slovakia.

II.2 Racism remains high in the Czech Republic, with the Roma a primary target of hostility. In 2005 the World Bank and the Open Society Institute commissioned a comprehensive qualitative and quantitative opinion research study in the eight of the ‘Decade of Roma Inclusion’ countries, of which the Czech Republic is one. The study of the Czech Republic found that: “typically, the attitudes and predominant opinions of the representatives of the Non-Roma majority population toward Roma showed a negative emotion, which involves full rejection and inexplicable criticism of them. The dominant antipathy and aversion of Non-Roma residents largely stem from the fact that these people believe that the Roma minority is a major source of social, political and economic problems that negatively affect their everyday life. Most of the non-Roma population admitted their fear of being mugged or robbed by Roma as well as general quality of life in areas, cities, towns or regions with a strong presence of the Roma minority.”<sup>2</sup>

<sup>1</sup> <http://epolis.cz/pageen.php?location=&menu=first&id=127>, accessed 22 June 2007.

<sup>2</sup> Final Report: Qualitative Survey (Focus Groups) Attitudes Toward the Roma in the Czech Republic, July 2005. Factum Invenio.  
<http://siteresources.worldbank.org/INTRROMA/Resources/CzechQualitativeReport.doc>

II.3 There continues to be a high level of promotion of racism in the public sphere. During 2006 – an election year in the Czech Republic -- there were a number of opportunities for the authorities to proactively combat public expressions of racism, opportunities which the authorities largely failed to exploit. Some examples of recent events of concern are:

- The recently-formed National Party ran an internet radio station that broadcast music by neo-Nazi groups. Its website called for the abolition of alleged “advantages for Roma”, rejects the concept of registered partnership, and speaks of homosexuality as a disease. Despite its activities during 2006 (see below), it retains its registration as a political party.
- In January 2006, the National Party held a demonstration at the site of the former World War II concentration camp for Roma at Lety by Písek.<sup>3</sup> At the demonstration, speakers reportedly aired views that the “real victims” of WWII were ethnic Czechs; that Roma who died at Lety of typhus were responsible for their own deaths due to their own poor hygiene; and that plans to remove the pig farm located on the site in honour of the dead were not worth the expenditure. Speakers and participants also reportedly engaged in other acts of racist hate speech.<sup>4</sup> At the demonstration, private security guards working for the party physically attacked two counter-demonstrators who shouted “Down with Nazism”.<sup>5</sup> The counter-demonstrators were arrested and removed from the site for allegedly having committed the misdemeanour of “verbally disrupting” the demonstration.<sup>6</sup> The counter-demonstrators and other observers filed criminal charges against the National Party, but the subsequent police investigation found that no crime had been committed by the National Party; they referred to an expert opinion of the Czech Academy of Sciences which claimed that the camp at Lety “could not be recognized as either a concentration or extermination camp” and that the police recordings of the speeches did not include “an open declaration of ideas which would support, question, or try to justify genocide.”<sup>7</sup> The pig farm remains on the concentration camp site to this day.
- On May 1, 2006, a traditional day in the Czech Republic for marches by far-right adherents, National Party members marched through the centre of Prague. A

3 “Obec Lety žádá policii o odstranění kamene Národní strany”, Písek, 13. 1. 2006, 12:53 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0018](http://www.romea.cz/index.php?id=servis/z2006_0018); “Obec Lety nechala odstranit kámen instalovaný NS Lety”, 19.1.2006, 19:20 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0045](http://www.romea.cz/index.php?id=servis/z2006_0045)

<sup>4</sup> Ibid.

<sup>5</sup> “Chronologický vývoj skandálu kolem aktivity Národní strany v Letech u Písku”, Praha, 20.1.2006, 13:30 (ROME A), [http://www.romea.cz/index.php?id=servis/z2006\\_0053](http://www.romea.cz/index.php?id=servis/z2006_0053).

<sup>6</sup> “Policie zadržela v Letech dva proromské aktivisty.” Lety u Písku, 21.1.2006, 13:41 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0056](http://www.romea.cz/index.php?id=servis/z2006_0056).

<sup>7</sup> “Policie: Členové Národní strany neporušili v Letech zákon”, Písek, 16.6.2006, 10:36 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0393](http://www.romea.cz/index.php?id=servis/z2006_0393).

conflict ensued between National Party members and civil society members there to observe them; the procession was videotaped by independent observers. A separate demonstration on the same day convened by the National Resistance (Národní odpor) organization at Palacky Square led human rights observers to call on the Interior Ministry to ban that organisation due to the racist expressions aired there.<sup>8</sup> Ms Katerina Jacques, at that time a Green Party candidate for Parliament and employee of the Czech Government's Human Rights Commissioner, was physically assaulted and injured by a police officer at the National Resistance demonstration, after being accused of "disturbing" the gathering.<sup>9</sup> Police also detained a journalist who photographed the incident.<sup>10</sup> NGOs, the Green Party, the then Prime Minister Jiri Paroubek and former Czech President Vaclav Havel spoke out against the police attack.<sup>11</sup> The response of the Interior Ministry to this particular case of police brutality was markedly more rapid in Ms Jacques's case than it has been in other cases, probably due to her being a prominent public figure.<sup>12</sup> Nevertheless, the officer who assaulted her was eventually found innocent of any wrongdoing.

- In July 2006, approximately 90 members of the vigilante racist "skinhead movement" and others participated in a protest march through the town of Svitavy. Their aim was to draw attention to their contention that Vlastimil Pechanec, sentenced to 17 years in prison three years ago for the racially motivated murder of a Romani man, Mr Ota Absolon, is serving time for a murder he did not commit.<sup>13</sup> Pechanec's mother was among the demonstrators. The marchers chanted "Retrial", "Free Pechanec" and "The Murderer is Elsewhere". Roma in Svitavy left the town on that day out of concern for their safety and took refuge with relatives in other towns.
- In November 2006, demonstrations ostensibly to mark the anniversary of the death of Francisco Franco were held by "skinheads" on the same day as the anniversary of Kristallnacht.

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<sup>8</sup> "Čakl: Ministerstvo vnitra by mělo Národní odpor zakázat", Praha, 1.5.2006, 17:11 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0286](http://www.romea.cz/index.php?id=servis/z2006_0286).

<sup>9</sup> "Policie zbila kandidátku zelených Kateřinu Jacques", Praha, 1.5.2006, 16:15 - 2.5.2006, 10:30 AKTUALIZOVÁNO (ROMEIA), [http://www.romea.cz/index.php?id=servis/z2006\\_0280](http://www.romea.cz/index.php?id=servis/z2006_0280)

<sup>10</sup> "Police president says action against Jacques inappropriate", Prague, 3.5.2006, 7:37 (CTK) [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0160](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0160).

<sup>11</sup> "Havel pokládá zákrok proti Jacques za nedobré znamení", Praha, 6.5.2006, 12:33 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0304](http://www.romea.cz/index.php?id=servis/z2006_0304), "Paroubek calls police treatment of Jacques inexcusable Prague", 2.5.2006, 16:14 (CTK), [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0158](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0158).

<sup>12</sup> "Za zákrok vůči Jacques padl první kázeňský trest", Praha, 8.5.2006, 18:26 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0306](http://www.romea.cz/index.php?id=servis/z2006_0306).

<sup>13</sup> "Skinheadi pochodovali Svitavami", Svitavy, 22.7.2006, 14:35 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0442](http://www.romea.cz/index.php?id=servis/z2006_0442).



II.4 In some instances, racist actions involved violent assault and resulted in very serious harm. In July 2006, an unidentified perpetrator shot and wounded four Roma, two of them children, at Ceske Budejovice's largest housing estate. The assaults with an air rifle lasted over the course of a month. Municipal authorities told the press they could “not afford” to increase police presence at the estate.<sup>14</sup> This constitutes failure to protect individuals from credible threats of extreme harm or death. Follow-up media coverage on the case in August 2006 said the police had made no arrests; if there has been any progress in the case, it has not been publicised.<sup>15</sup> Here the Czech government has evidently failed to protect the Roma from discriminatory and prejudicial acts which might lead to death, in apparent contravention of Article 6 of the Covenant.

II.5 Several other cases of violent assaults including evident racial animus occurring in the recent period follow here:

- On 9 September 2006, the Prague Daily Monitor reported escalating violence between Romani and skinhead groups in the northeastern Czech town of Orlova. Axes, baseball bats, chains and brass knuckles were used during various clashes between the groups, according to the Karvina police spokeswoman. Local police reportedly intended to increase their patrols in the town, while attackers from both camps reportedly face charges of hooliganism, inflicting bodily harm and defamation of nation, race, or belief.
- On 18 May 2006, the online newspaper Prague Daily Monitor reported that three neo- Nazis broke into an apartment building in the central Czech town of Neratovice and, while banging on the doors to their flats, threatened to kill the Romani inhabitants. The neo-Nazis, aged 16-20, broke windows with rocks and shouted threats and racist slogans. The Prague Daily Monitor reported that the police, who arrived at the scene and detained the attackers.
- According to a 12 December 2005 article by the Prague Daily Monitor, a Romani family in Moravsky Beroun, in the northwestern Bruntal region of the Czech Republic, were assaulted by a drunken man wielding an axe, who entered their apartment in search of a Japanese sword which he believed had been stolen from him. The perpetrator, aged 53, first damaged the exterior of their apartment, yelled racist slurs and threatened to kill the family. Fearing for their lives, the family, a 50-year-old woman, her 54-year-old husband and their 25-year-old son, called the police.

This list is by no means exhaustive.

II.6 The Czech Ministry's report on Extremism in the Czech Republic for the year 2005 found that: “No essential changes were noted during the year 2005 in the profile of

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<sup>14</sup> “Unidentified perpetrator shoots at Romanies from airgun”, Ceske Budejovice, 28.7.2006, 9:22 (CTK) [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0218](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0218).

<sup>15</sup> [www.romea.cz/index.php?id=kratce](http://www.romea.cz/index.php?id=kratce) 23.8.2006. Accessed 22 June 2007.

those committing crimes with an extremist subtext. In most cases they continue to be members of the skinhead movement and members of the majority population unaffiliated with right-wing extremist groups. The Roma predominates among the victims of verbal and physical attacks, followed by foreigners with darker skin or citizens of Vietnam. There are fewer cases of attacks on majority-ethnic citizens by Roma.” The report noted a slight decline in “extremist” crime in 2005.<sup>16</sup>

II.7 A number of high-ranking public officials have contributed to the lack of significant progress in reducing high levels of racism in the Czech Republic. President Vaclav Klaus has made comments seeming to downplay the Romani Holocaust in the Czech Republic,<sup>17</sup> has uttered disparaging remarks about human rights and civil society,<sup>18</sup> and has apparently been willing to engage in dialogue with extreme right-wing political parties such as Narodni sjednoceni (National Unity).<sup>19</sup> Then-Czech Prime Minister and chair of the Social Democratic Party Jiri Paroubek was also widely criticized for sharing the stage with a comedian who made racist jokes at the expense of the Roma during the Parliamentary election campaign in early 2006. Current Prime Minister Mirek Topolánek sent an SMS message to journalists quoting a well-known phrase (“Es kommt der Tag...”) used by Nazi party sympathizers in interwar Czechoslovakia.

### **III. Failure to Give Effect to the International Law Ban on Racial Discrimination**

III.1 Legal protections against racial discrimination remain inadequate, and existing protections against discrimination are rarely implemented. Czech lawmakers have tried but failed to adopt a comprehensive anti-discrimination law.

III.2 On December 7, 2005, the lower house of the Czech Parliament approved a newly drafted Anti-Discrimination Law and forwarded the bill for consideration by the Czech Senate. The bill as adopted forbade discrimination based on race, ethnicity, sex, sexual

<sup>16</sup> “Informace o problematice extremismu na území České republiky v roce 2005”, adopted by the Czech Government through Decree No. 438, 19 April 2006, pg. 41. <http://www.mvcr.cz/dokument/2006/extrem05.pdf>

<sup>17</sup> In an interview with the daily newspaper *Lidové noviny* published 14 May 2005 (“Paroubek je silný a zřetelný politik, pg. 11), Klaus stated of the former concentration camp for Roma at Lety by Písek: “if I understand correctly, the victims of this camp were primarily connected to an epidemic of spotted typhus, not with what we traditionally conceive of as concentration camp victims.” His remarks were protested by representatives of the survivors, the Romani community, and human rights advocates

<sup>18</sup> In May 2005 Klaus told the Council of Europe that “various manifestations of NGO-ism, of artificial multiculturalism, of radical human rights-ism, of aggressive environmentalism” were ways of “endangering and undermining freedom”.

<sup>19</sup> A letter from Klaus’s secretary, Ladislav Jakl, dated 27 June 2005 thanked the National Unity Party for its declaration dated 6 June 2005 (NSJ declaration 10/2005) in which they protested against “verbal attacks and threats by some [Czech] government officials against the president.” The alleged “attacks” concerned criticism by Czech Prime Minister Paroubek of Klaus’s comments on EU integration. See <http://www.blisty.cz/art/24171.html>.

orientation, age, disability, faith, religion, or because of non-religion, and covered discrimination in the workplace, social security, health care, education, access to public services, and accommodation.

III.3 The bill was rejected in the Czech Senate on January 2006 and returned to the lower house, where supporters of the bill were unable to muster the votes required to overturn the Senate's rejection. Through the end of 2006 the bill remained a dead letter, at least in part because after parliamentary elections in June 2006, no government was formed for months. Opposition to the bill has been especially driven by a number of high-ranking officials, including the President.<sup>20</sup>

III.4 In September 2007 an anti-discrimination bill passed a first reading in the Czech Chamber of Deputies and was sent to committee level. The Czech Republic is facing four separate administrative proceedings at the European Commission as a result of the failure by the government to adopt a comprehensive anti-discrimination law in conformity with European Union rules. The Czech Republic has therefore not yet incorporated the definition of discrimination as stipulated in ICCPR Articles 2, 14 and 26.

III.5 The will of the government to adopt comprehensive anti-discrimination law in conformity with international standards is, indeed, in question. According to the Prague Daily Monitor of 2 April 2007, during his speech at the launch of the European Year of Equal Opportunities for All, Czech Prime Minister Mirek Topolánek made extensive pronouncements, apparently with the intention of mobilising the public against the draft anti-discrimination bill, by invoking a number of bogies of the Czech public, including "positive discrimination". Prime Minister Topolánek reportedly stated, "No well-meant effort to make equal that cannot be equal, no positive discrimination will guarantee the equality of opportunities. Positive discrimination sounds about the same as a pleasant beating." During the same speech, Prime Minister Topolánek also attacked multiculturalism, saying that money spent by the state, "must go to the assimilation of individuals, not in support of the chimera of multiculturalism."

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<sup>20</sup> A major contributing factor to the political atmosphere and the ongoing resistance of legislators to passing anti-discrimination legislation is the position of Czech President Klaus on this issue. President Klaus has held various high offices of government since the transition to democracy in 1989, including several terms as Prime Minister, and is widely regarded as the face and voice of the right wing, specifically the ODS party (even though he officially left the party leadership in order to become President). Through the Centre for Economy and Policy (CEP), a think-tank on whose Board of Directors President Klaus sits, Mr. Klaus has been the Czech Republic's most vocal critic of a number of the provisions of the anti-discrimination bill, and indeed of anti-discrimination law in general. In August 2006, CEP published a 90-page seminar proceedings entitled "The Anti-Discrimination Legislation – Aid to those Weaker, or a Reversal of the Law?", calling into question the need for such a law. In his comments on the CEP web page promoting this publication, Mr. Klaus makes statements such as, "The so-called anti-discrimination legislation is ... based on very disputable prohibitions and instructions. In many instances it goes against the principles of the free market, against the inviolability of private property, and against human freedom." <http://www.cepin.cz/cze/kniha.php?ID=69&PHPSESSID=45e9fe35bedb67df234eb8ef7714fe49>

## **IV. Coercive Sterilisation of Romani Women**

The sections below:

- (i) Review the (as yet unsuccessful) efforts by a number of parties, including Czech and international civil society organisations and certain agencies of the Czech government, to secure justice for victims of coercive sterilisation and amendments to law and policy to ensure that this practise is once and for all rendered impossible in the Czech Republic;
- (ii) Note recommendations by the CEDAW Committee, the CERD Committee and the Human Rights Committee to the Czech government on this matter, and the progress of the implementation of these recommendations;
- (iii) Bring recommendations as to action required now to secure justice in this area, as well as to ensure that law and policy is amended to ensure that these practises are once and for all rendered impossible in the Czech Republic.

### ***IV.1 Background***

IV.1.1 For the purposes of this submission, the term ‘coercive sterilisation’ means any sterilisations performed absent fully informed consent, including sterilisations performed absent any form of consent at all. Inclusive in the category ‘coercive sterilisation’ are instances in which medical personnel have not obtained the consent of women prior to performing sterilisation operations, as well as cases in which consent has been obtained through pressure, or under conditions of duress (such as while giving birth) or through the provision of inadequate and/or inaccurate information.

IV.1.2 Sterilisations lacking fully informed consent directly implicate Article 7 of the Covenant, as well as potentially a number of other Covenant provisions.

IV.1.3 From the 1970s until 1990, the Czechoslovak government sterilised Romani women programmatically, as part of policies aimed at reducing the ‘high, unhealthy’ birth rate of Romani women. This policy was described by the Czechoslovak dissident initiative Charter 77, and documented extensively in the late 1980s by dissidents Zbyněk Andrš and Ruben Pellar. Helsinki Watch (now Human Rights Watch) addressed the issue as part of a comprehensive report published in 1992 on the situation of Roma in Czechoslovakia, concluding that the practice had ended in mid-1990. A number of cases of coercive sterilisations taking place up until 1990 in the former Czechoslovakia were also documented by the ERRC. Criminal complaints were filed with Czech and Slovak prosecutors on behalf of sterilised Romani women in each Republic in 1992. The Czech prosecutor concluded that there had been wrongdoing, but no persons were ever criminally prosecuted and no victims ever received compensation or even public recognition of the harms they had suffered.<sup>21</sup> No Romani woman coercively sterilised by

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<sup>21</sup> See Public Defender of Rights, “Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures”, 23 December

the Czechoslovak authorities has ever received justice for the harms to which they were systematically subjected under Communism.

IV.1.4 During 2003 and 2004, the ERRC and partner organisations in the Czech Republic undertook a number of field missions to determine whether practices of coercive sterilisation have continued after 1990, and if they were ongoing to the present. The conclusions of this research indicated that there was significant cause for concern that as recently as 2004, Romani women in the Czech Republic have been subjected to coercive sterilisations, and that Romani women are at risk in the Czech Republic of being subjected to sterilisation absent fully informed consent.

IV.1.5 In cases in which the matter at issue is as serious and has such potentially irreversible consequences as sterilisation, the condition of fully informed consent is met only when the patient has been adequately and appropriately informed of the procedure, its alternatives and the consequences and risks associated with it, and when the patient has subsequently consented to the procedure of her own free will beyond any acts of coercion or misinformation. In addition, all relevant information must be provided sufficiently in advance of the procedure such that individuals have time to consider all implications in full, and such that ample opportunity is provided for the individual to change her mind.<sup>22</sup>

IV.1.6 During the course of ERRC research in 2003 and 2004, researchers found that Romani women have indeed been coercively sterilised in recent years in the Czech Republic. The cases documented include:

- Cases in which consent had not been provided at all, in either oral or written form, prior to the operation;
- Cases in which consent was secured during delivery or shortly before delivery, during advanced stages of labour, i.e., in circumstances in which the mother is in great pain and/or under intense stress;

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2005, pp. 28-35 (Hereinafter “Ombudsman Report”; page references refer to the official English-language translation, published 13 March 2006).

<sup>22</sup> The World Health Organisation in its publication on *Considerations for formulating reproductive health laws* states that “one of the key principles in the provision of reproductive health services is free and informed decision-making. This is expressed as ‘informed consent’ although informed decision-making or informed choice would be better terms. The legal duty is to present information that is material to the choice that the patient has to make, in a form that the patient can understand and recall. The purpose is to equip the patient to exercise independent choice.”

The European Convention on Human Rights and Biomedicine (ECHR) states in Article 5 that “An intervention in the health field may only be carried out after the person has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks. The person concerned may freely withdraw consent at any time.” The explanatory report to this Convention states that “this information must be sufficiently clear and suitably worded for the person who is to undergo the intervention. The person must be put in a position, through the use of terms he or she can understand, to weigh up the necessity or usefulness of the aim and methods of the intervention against its risks and the discomfort or pain it will cause”.

- Cases in which consent appears to have been provided (i) based on a mistaken understanding of terminology used, (ii) after the provision of apparently manipulative information and/or (iii) absent explanations of consequences and/or possible side effects of sterilisation, or adequate information on alternative methods of contraception;
- Cases in which officials pressured Romani women to undergo sterilisation, including using financial incentives or threats to withhold social benefits.

IV.1.7 In a number of the cases documented in 2003 and 2004, explicit racial motive appears to have played a role during doctor-patient consultations. It has subsequently come to light that nearly all of the victims of this practice are Romani women.

IV.1.8 In June 2004, the ERRC met with the Czech Public Defender of Rights (“Ombudsman”) and his staff to discuss the investigation of the cases. During the summer months of 2004, the ERRC and partner organisations IQ Roma Service (Brno), League of Human Rights (Prague and Brno), and Life Together (Ostrava) gathered evidence for complaints to the Ombudsman. The first ten of these were filed in September 2004.

IV.1.9 Eighty-seven victims of coercive sterilisation – all but one of them women and the overwhelming majority of them Romani – submitted complaints to the Ombudsman in the period to September 2005. Many complaints came from Moravia – especially northern Moravia – although the overall geographic dispersion of the complaints, which are from throughout the Czech Republic, confirmed researchers' initial hypothesis that coercive sterilisation is a systemic issue in the Czech health care and Czech social assistance systems.

IV.1.10 In early 2005, approximately 25 Romani women coercively sterilised by Czech medical officials established a victim advocacy group called the Group of Women Harmed by Sterilisation to press the authorities for justice. This development – in which the victims themselves have organised, come out in public, and taken control of the process of pressing for change – is among the most important points in the struggle for redress of these human rights violations. Ms Elena Gorolová, spokesperson for the Group, travelled to New York to testify on these matters at UN CEDAW in August 2006.

## ***IV.2 The Investigation and Report of the Ombudsman***

IV.2.1 Throughout 2005, on the basis of the coercive sterilisation complaints submitted to him, the Ombudsman investigated these practices. For a number of reasons, as noted in the material provided by the Czech Government to the CEDAW Committee, the Ombudsman sought and reached an agreement with the Ministry of Health whereby the Ministry would establish an expert review panel which would, on the basis of a request by the Ombudsman, seek the relevant medical files from the hospitals concerned and answer questions the Ombudsman provided on any given case. The expert review panel

was tasked with examining not only whether the interventions had been performed according to good medical practice, but also whether the legal qualifications for performing them had been satisfied.

IV.2.2 Because of the long time taken by the expert review panel's inquiry, the Ombudsman decided to conclude his inquiry after reviewing 50 cases. The ombudsman therefore drew up a report on these cases under section 18 par. 1 of the Ombudsman Act, reproaching the Ministry for an inadequate inquiry as well as for its faulty, or even lacking, conclusions from the findings of facts.

IV.2.3 The Ombudsman's Final Statement<sup>23</sup> of December 2005 concludes that “the problem of sexual sterilisation carried out in the Czech Republic, either with improper motivation or illegally, exists, and Czech society has to come to terms with this.”

IV.2.4 The Final Statement concludes that in the cases under examination, shortcomings are identifiable in the legal quality of the sterilised persons' consent. The report finds that in the vast majority of cases reviewed, legal and procedural safeguards were not followed. In discussions with the Ombudsman's staff, it has been noted that while under Communism policy and law were, in the main, followed (meaning that Czech social workers dutifully implemented policy encouraging the sterilisation of Romani women), following the official termination of those policies in 1991 a number of doctors have apparently acted fully outside the law to continue the practice. At a press conference launching the Final Statement, Deputy Ombudsperson Anna Šabatová spoke of this phenomenon as “fully deformed praxis in the Czech medical community.”

IV.2.5 Pages 25-59 of the Final Statement concern “Sterilisation and the Romani Community” and reach the conclusion of racial targeting. The case summaries included in the report highlight events in which, for example, the medical files reveal that social workers and doctors recommended caesarean section births in order to manufacture ‘indicators’ through which sterilisation would appear legitimate and necessary.

IV.2.6 The text of the report also includes detailed summaries of Czechoslovak state policies toward Roma in the 1970s and 1980s, in which social workers were enlisted in the task of controlling the Romani birth-rate – regarded as too high by policy-makers – and creating a culture of invasive control over Romani families which endures until today. The report also includes a separate section on the history of eugenics in Czechoslovakia, which the report's authors evidently regard as key to understanding the policies and practices detailed in the report.

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<sup>23</sup> See Public Defender of Rights, “Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures”, 23 December 2005, pp. 28-35 (Hereinafter “Ombudsman Report” or “Final Statement”; page references refer to the official English-language translation, published 13 March 2006), <http://www.ochrance.cz/en/dokumenty/dokument.php?doc=400>.

IV.2.7 Finally, the report notes that during 2005, the Ombudsman filed a number of criminal complaints in the cases at issue in his investigation (see below).

IV.2.8 However, despite examining extensive evidence that forces conspiring to compel Romani women to forfeit their ability to give birth through coercive sterilisation practices were in fact infected with racially motivated considerations, the Ombudsman stopped short of concluding that these issues were racially discriminatory, apparently because this conclusion remains simply too controversial, as Czech public opinion is as yet unable to acknowledge that racism against the Roma is a vivid reality in the Czech Republic today.

IV.2.9 The Ombudsman also dismisses the possibility that the crime of genocide<sup>24</sup> may have been perpetrated, although certain facts give rise to concerns that that conclusion may be premature. For example, in the housing estate of Chanov, just outside the northern Bohemian city of Most, a targeted campaign involving both offers of financial incentives and threats to withhold social welfare or to take children into state care was carried out throughout the 1980s and resulted in the sterilisation of tens if not hundreds of Romani woman. The person named repeatedly by surviving victims of these practices as the leader of this sterilisation campaign at Chanov was a social worker called ‘Mrs. Macháčová’, who some believe may have since died. The submitting organisations know of no official investigation carried out into the actions of social workers and/or doctors in Chanov or indeed any other location where these violations occurred.

IV.2.10 Three areas of recommendations are brought by the Ombudsman in his report:

- 1) Changes to Czech domestic law to better anchor the principle of informed consent in these areas;
- 2) Supplementary measures to ensure a change of culture with regard to informed consent in the medical community, as well as among users;
- 3) A simplified procedure for compensation to victims, where social workers have been involved in implementing coercive sterilisation policy.

IV.2.11 It is therefore of very serious concern that (i) in the nearly two years intervening since the publication of the report, no high-level authority in the Czech Republic has made any public pronouncement or apology on the matter, despite efforts by the Ombudsman’s office and others to seek statements on the findings of the report by Parliament and/or the Prime Minister’s office and/or other agencies of government; and (ii) there is no indication that any Czech governmental authority intends to act soon on these or any other recommendations existing on this issue.

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24 Article 2 of the Genocide Convention states: “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:... (d) Imposing measures intended to prevent births within the group.”



### ***IV.3 Court Proceedings in Coercive Sterilisation Cases***

IV.3.1 The Ombudsman's report followed the decision of the District Court in Ostrava on 11 November 2005 finding violations of law concerning the coercive sterilisation of Ms Helena Ferenčíková by Czech medical practitioners in 2001.

IV.3.2 On 10 October 2001, Ms Ferenčíková gave birth in Vitkovická Hospital in the city of Ostrava to her second child. The child was born at 4:45 AM, by caesarean section birth. Ms Ferenčíková's first child had also been born via caesarean section.

IV.3.4 At the time of her second birth, Ms. Ferenčíková was also sterilised by tubal ligation. Although her files indicate that 'the patient requests to be sterilised', the procedures set out under Czech and international law to ensure that consent meet the standard of full and informed were not followed by the doctors at the Vitkovicka hospital. Although it had been foreseen well in advance of labour that she would give birth by caesarean section, Ms. Ferenčíková's 'consent' to the sterilisation was only secured by doctors several minutes before the caesarean operation when she was already deep in labour. As a result, Ms Ferenčíková emerged from her second birth traumatised and irrevocably harmed by the doctors to whom she had entrusted herself for care.

IV.3.5 Ruling on 11 November 2005, the Ostrava court recognised that Ms Ferenčíková's sterilisation was coercive and therefore illegal, and ordered the Vitkovicka hospital to apologise in writing. The ruling was upheld on appeal, and the management of the Vitkovicka hospital has since provided an apology to Ms Ferenčíková, in accordance with the Court's mandate. In a letter dated 27 February 2007, the hospital's chair admitted that the institution had performed the procedure and neglected to obtain the appropriate consent, and thus had 'seriously interfered with the most intimate area of [Ms Ferenčíková's] life, impacting [her] permanently both physically and psychologically.'

IV.3.6 Nevertheless, the Court rejected Ms Ferenčíková's claim for financial compensation with the reasoning that the statutory limitation for the claim had expired. Ms Ferenčíková's legal representative filed an appeal against this point of the decision.

IV.3.7 Earlier, in 2000, a court in the town of Plzeň had awarded CZK 100,000 (approximately 2500 Euro) in damages to a woman sterilised there in 1998. She had repeatedly explicitly refused to be sterilised, but doctors had performed the operation anyway.

IV.3.8 On 12 October 2007, a court in Ostrava ruled that Iveta Cervenakova had suffered civil harms when she was sterilised without providing full and informed consent in 1997. The court ordered payment of CZK 500,000 (circa 18,200 EUR) in damages.

IV.3.9 Despite three favourable rulings by the Czech courts, it is important to recognise that in most of the cases of which the submitting organisations are aware in which women have been subjected to the extreme harm of coercive sterilisation, it is very unlikely that court proceedings can even be initiated, let alone won, unless an

administrative mechanism to provide compensation to victims is established, one which would provide to victims some level of presumption of harm. Otherwise many (if not most) of the victims will have no access to due compensation for one or more of the following reasons: (1) statutory limitation for the claim having already expired; (2) insufficient financial means to risk a civil claim; (3) records destroyed by the hospital; (4) absent comprehensive recognition by the State that a general situation has given rise to particular harms, rigidity of the courts in applying standards of proof in civil claims.

#### ***IV.4 Criminal Investigation***

IV.4.1 On 11 March 2005, the Ombudsman sent eight sterilisation cases that had also been reviewed by the Czech Health Ministry to the Supreme Public Prosecutor, along with the information that the facts of the cases indicated that crimes may have been committed. In three of these cases, the expert review panel of the Ministry of Health had also proposed sending the materials to the prosecutor. Since March 2005, other cases were subsequently sent to the Supreme Public Prosecutor and then to the relevant Czech Police authorities during the course of 2005. Czech criminal law includes provisions banning bodily harm, and therefore in principle should provide one mode through which victims might seek and secure justice.

IV.4.2 The approach of the criminal investigative bodies to these complaints gives rise to serious concerns that these procedures will not ultimately prove effective as a remedy for these extreme abuses, despite clear indications of breaches of criminal law in the cases concerned. Police have interrogated witnesses, the sterilised women, their husbands/partners and the health care workers involved; they also commissioned expert evaluations, and then, using unconvincing arguments, dismissed the cases.

IV.4.3 A number of aspects of the criminal proceedings give rise to serious concerns. The expert institution relied upon during the investigation held that a correctly indicated and correctly performed medical procedure could not constitute a crime. This opinion is in conflict with international standards in this area, since if the procedure is performed without the consent of the patient, then it would breach law, and evaluation of the act as to its criminal character would then depend on further evaluation of the act. Moreover, sterilisation is intended to permanently end a person's reproductive capacity and is almost never, in itself, a life-saving measure. Therefore the issue of fully informed consent to such a procedure is key to examining its legality, and the harms arising from the practice may amount to cruel and/or degrading treatment in the sense of ICCPR Article 7 and related law. The public prosecutor charged with enforcing the legality of some of these preliminary proceedings did not concern himself with the claims of the sterilised women that, even though they had technically signed sterilisation requests, they had signed them under such circumstances that the sterilisations performed could not be considered legal because they did not satisfy the requirement of informed consent.

IV.4.4 The manner in which the evidence has been evaluated in the majority of these cases also gives rise to concerns. In one case, the criminal investigation appears to have

been closed on the grounds that a handwritten note by the doctor on the reverse side of the medical protocol made 50 minutes prior to the surgery reading ‘patient requests sterilisation’ is to be deemed proper consent. An expert consulted by police also bizarrely characterised the victims as ‘irresponsible’ if they did not agree to the sterilisation voluntarily, indicating possible bias on the part of the expert. The conduct of the doctors, however, was characterised by the expert as correct. In several instances in which police have concluded that sterilisation performed by a doctor is not a crime, the partners are now considering a Constitutional complaint in the name of those women whose cases were dismissed.

IV.4.5 On 29 May 2007, the Most District State Attorney’s Office ruled for the first time ever that the sterilization of women without their consent is a crime. The case concerned two Romani women sterilised against their will in a hospital in the northern Czech city of Most in 1993 and 1998.<sup>25</sup> This ruling qualifies such an action on the part of a doctor as the crime of causing bodily harm. However, no perpetrators were identified and since the statute of limitations had expired in the case, the State Attorney’s Office ordered that the investigation be closed.<sup>26</sup> This decision may signal a shift in the approach of the Supreme State Attorney’s Office typically was not to find the doctor criminally liable in such cases, even without the patient’s consent. It is not yet clear however if this approach has been or will be extended to other cases, particularly those in which investigation has already been closed.

IV.4.6 As a result of the foregoing, despite several recent positive developments, Czech criminal law has not yet proved a viable mode for providing redress for Romani victims of coercive sterilisation.

#### ***IV.5 Romani Women Coercively Sterilised in Slovakia***

IV.5.1 Finally, there are a number of women now resident in the Czech Republic who were sterilised in Slovakia during the period before the division of the Czechoslovak Federal Republic on 1 January 1993. Challenges to the coercive sterilisation of Romani women in Slovakia have gone much worse than those to date in the Czech Republic, with Slovak officials denying, in some cases with reference to a communication from CEDAW,<sup>27</sup> that there is any problem whatsoever in Slovakia, and in a number of cases

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<sup>25</sup> [http://www.llp.cz/subdomains/cz/index.php?option=com\\_content&task=view&id=299&Itemid=100](http://www.llp.cz/subdomains/cz/index.php?option=com_content&task=view&id=299&Itemid=100), Accessed 22 June 2007.

<sup>26</sup> See Prague Daily Monitor. 28 May 2007. “Czech attorney qualifies sterilisation without consent as crime”

<sup>27</sup> On 21 September 2004, the European Roma Rights Centre submitted, under the confidential complaint mechanism available before the United Nations Committee on the Elimination of Discrimination against Women (“CEDAW Article 8 procedure”), details concerning procedures undertaken by Slovak medical officials with respect to 49 Romani women. This complaint included details of 22 cases of sterilisation performed without any form of consent; 23 cases of sterilisation in which consent to sterilisation was

harassing victims and their advocates to silence.<sup>28</sup> To our knowledge, Czech officials have never raised these issues with their Slovak counterparts, although a number of the women concerned (i) are now Czech citizens and in any case (ii) were citizens of Czechoslovakia at the time they were coercively sterilised.

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obtained by coercion; and 4 cases in which sterilisation had been performed following consent secured absent the provision of information regarding alternative contraceptive measures.

In a communication of 1 August 2005, the CEDAW declined to conduct an Article 8 inquiry into the matter, primarily as a result of the entry into force, on 1 January 2005, of a new Act on Healthcare, including provisions to ensure “ethical medical practice as well as access to a patient’s file”. The CEDAW communication states, however, that while it would not at present conduct an inquiry into the matter, under the Article 8 procedure, “it remains concerned that there may have been individual cases of sterilisation of Roma women without consent or with consent obtained by coercion and that, within this context, the issues of responsibility and redress have so far not been sufficiently addressed.” The Committee further advised the Slovak government “to pursue and appropriate consideration of these questions”.

This decision, issued confidentially to the ERRC and the Slovak Government has been dramatically misrepresented by Slovak officials in public statements. For example, according to the Slovak news agency SITA from September 29, 2005, Mr. Jozef Centes, Vice President of the Criminal Division of the Slovak Attorney-General’s Office, made statements that “illegal sterilisation of Romani women has never happened in Slovakia” and claimed that the same conclusion had been reached by a UN Committee after examining the issue upon request submitted by the European Roma Rights Centre. The statements of Mr. Centes were welcomed, endorsed and repeated by a number of Slovak officials, and have been widely quoted in the media. In addition, the views of a number of European expert bodies which have expressed extreme concern at the actions of Slovak medical officials have also been misrepresented by Slovak officials.

28 To name only a few actions undertaken by Slovak authorities in response to these issues:

- Authorities including the Slovak Human Rights Commissioner and the Slovak ambassador to the Organization for Security and Co-operation in Europe threatened the authors of a report on coercive sterilisation practices in Slovakia that they would be prosecuted. If the issues raised in the report were true, they would be prosecuted for failing to report a crime; if the issues in the report were false, they would be prosecuted for spreading false alarm;
- The Slovak Ministry of Health directed hospitals not to release the records of the persons concerned to the legal representatives of the victims;
- Slovak prosecutors – despite extensive advice not to do so – opened investigations for the crime of genocide, a crime so serious that evidentiary standards could not be met, and they then predictably concluded that this crime had not been committed, ending their investigation into the matter. The same authority has repeatedly released misleading information to the media, deliberately perpetuating a state of delusion about the matter currently prevailing among the Slovak public;
- Slovak police investigating the issue urged complainants to testify, but reportedly warned a number of them that their partners might be prosecuted for statutory rape, since it was evident that they had become pregnant while minors; under this pressure, a number of victims withdrew testimony.

#### ***IV.6 CEDAW Committee Conclusions Concerning Coercive Sterilisation in the Czech Republic***

IV.6.1 In August 2006 the Committee on (CEDAW) issued the following recommendations as part of its regular periodic review of the Czech Republic's compliance with the CEDAW Convention:

The Committee is particularly concerned about the report, of December 2005, by the Ombudsman (Public Defender) regarding uninformed and involuntary sterilization of Roma women and the lack of urgent Government action to implement the recommendations contained in the Ombudsman's report and to adopt legislative changes on informed consent to sterilization as well as to provide justice for victims of such acts undertaken without consent.

The Committee urges the State party to take urgent action to implement the recommendations of the Ombudsman/Public Defender with regard to involuntary or coercive sterilization, and adopt without delay legislative changes with regard to sterilization, including a clear definition of informed, free and qualified consent in cases of sterilization in line with the Committee's general recommendation 24 and article 5 of the European Convention on Human Rights and Biomedicine; provide ongoing and mandatory training of medical professionals and social workers on patients' rights; and elaborate measures of compensation to victims of involuntary or coercive sterilization. It also calls on the State party to provide redress to Roma women victims of involuntary or coercive sterilization and prevent further involuntary or coercive sterilizations. The Committee requests the State party to report on the situation of Roma women pertaining to issue of coercive or involuntary sterilization, in its next periodic report, including a detailed assessment of the impact of measures taken and results achieved.<sup>29</sup>

IV.6.2 Almost a year has passed since the CEDAW recommendations, and yet no high-level authority in the Czech Republic has made any public pronouncement or apology on these matters, despite efforts by the Ombudsman's office, international and domestic NGOs, and coercive sterilisation survivors to seek a response to the Final Statement from Parliament, the Prime Minister's office, and other agencies of government. To the knowledge of the submitting organisations, the Czech government has no intentions of amending Czech law regarding fully informed consent standards, and no training for professionals has been planned. Indeed, there is no indication that any governmental

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<sup>29</sup> CEDAW/C/CZE/CO/3, paras. 23-24.

authority intends to act with the urgency required – if at all – on these or any other recommendations existing on this issue.<sup>30</sup>

#### ***IV.7 Conclusions and Recommendations by the United Nations Committee on the Elimination of Racial Discrimination (CERD) Concerning Coercive Sterilisation in the Czech Republic***

IV.7.1 The UN Committee on the Elimination of Racial Discrimination (CERD) expressed serious concern regarding forced sterilisations of Roma women during review of the sixth and seventh periodic reports of the Czech Republic in March 2007. In its Concluding Observations, CERD stated the following:

The Committee notes with concern that women, a high proportion of whom being Roma women, have been subjected to coerced sterilization. It welcomes the inquiries undertaken by the Public Defender of Rights on this matter, but remains concerned that to date, the State party has not taken sufficient and prompt action to establish responsibilities and provide reparation to the victims. While noting that a distinction should be drawn between sterilizations that have occurred before and after 1991, when an official policy encouraging such violations was ended, the Committee is deeply concerned that the State party has not taken sufficient action to abide by its positive obligation to impede their illegal performance by doctors after 1991, and that sterilizations without the prior informed consent of women are reported to have been carried out as late as 2004. (articles 2, 5 (b) and (e) (iv), and 6).<sup>31</sup>

IV.7.2 CERD told the Czech Government that:

The State party should take strong action, without further delay, to acknowledge the harm done to the victims, whether committed before or after 1991, and recognize the particular situation of Roma women in this regard. It should take all necessary steps to facilitate victims' access to justice and reparation, including through the establishment of criminal responsibilities and the creation of a fund to assist victims in bringing their claims. The Committee urges the State party to establish clear and compulsory criteria for the informed consent of women prior to

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30 A draft recommendation prepared on the matter by the Czech Government's Advisory Subcommittee on Biomedical Ethics and Human Rights was reviewed by the Human Rights Council on 19 May 2006 and sent back to the former body for revision after strenuous opposition by representatives of several ministries, including the Health Ministry.

<sup>31</sup> CERD/C/CZE/CO/7, para. 14.

sterilization and ensure that criteria and procedures to be followed are well known to practitioners and the public.<sup>32</sup>

IV.7.3 The Committee considered these issues of sufficient urgency to require the Czech government to provide information, within one year, on the way it has followed up these Committee's recommendations.<sup>33</sup> To the knowledge of the submitting organizations, the Czech government has made no efforts towards establishing a fund to assist victims in bringing their claims.

#### ***IV.8 Conclusions and Recommendations by the United Nations Human Rights Committee Concerning Coercive Sterilisation in the Czech Republic***

IV.8.1. In July 2007, the UN Human Rights Committee told the Czech government the following, in the context of regular review of the Czech Republic's ICCPR compliance:

The Committee notes with concern that Roma and other women have been subjected to sterilization without their consent, and that the relevant recommendations of the Ombudsman's report of 2005 have not been implemented. In particular, the Committee regrets the latitude given to doctors in this regard, and the fact that no criminal proceedings have been initiated against perpetrators. The Committee is also concerned that no compensation mechanism has been established and that victims have not received any compensation. (art. 2, 3, 7 and 26)

IV.8.2. The Committee recommended that the Czech government undertake the following:

The State party should:

- a) implement the recommendations of the Ombudsman's report of 2005;
- b) provide mandatory training on patients' human rights to medical professionals and social workers;
- c) grant compensation and provide assistance to victims, including legal assistance to those who intend lodging a claim before the courts;
- d) initiate criminal proceedings against alleged perpetrators;
- e) ensure fully informed consent in all proposed cases of sterilization and take the necessary measures to prevent involuntary or coercive sterilization in the future,

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<sup>32</sup> Ibid.

<sup>33</sup> CERD/C/CZE/CO/7, para. 27.

including written consent forms printed in the Roma language, and explanation of the nature of the proposed medical procedure by a person competent in the patient's language.

#### ***IV.9 Recommendations for Government Action on Coercive Sterilisation Issues***

IV.9.1 Despite the elapse of 18 months since the release of the Ombudsman's Final Statement, the Czech government has offered no indication to the public as to how or when it intends to implement the measures proposed by the Ombudsman. Public officials have yet to undertake the simple act of a public apology. The following measures are needed in the near term in order to ensure that (i) the victims receive justice, finally, and without any further delay; (ii) Czech law is amended to remove the current threats to all women of coercive sterilisation; and (iii) Czech society might begin finally to address these race-based harms, degrading to women:

IV.9.2 The Czech Prime Minister should issue, as a 'Decision of Government', a public apology to the victims of the practises described in the Ombudsman's Final Statement.

IV.9.3 The Czech legislature should act without delay to adopt the legislative changes necessary to establish the criteria for informed consent in the context of sterilisation set out in the recommendations of the ombudsman's Final Statement (Recommendations Section A – 'Legislative measures').

IV.9.4 The Ministry of Health should act without delay to implement in full the recommendations on 'Methodological measures' set out in section B of the Ombudsman's Final Statement.

IV.9.5 The Czech Legislature should act without delay to establish by law the compensation mechanism proposed in the ombudsman's Final Statement (Recommendations Section C – 'Reparation measures').

IV.9.6 The Government should establish a fund to assist victims of coercive sterilisation in bringing claims under the compensation mechanism or, where relevant, before courts of law, such that all victims of coercive sterilisation have access to justice. Such a fund should be able to: (i) provide compensatory damages to victims, in such cases where the mechanism established pursuant to the ombudsman's Final Statement may not be able to; (ii) support the work of advocates in bringing claims to court; (iii) where relevant, ensure payment of court fees and other relevant costs arising in the course of establishing coercive sterilisation claims before courts of law and/or other instances.

IV.9.7 The Government should seek expert legal opinion as to the best method for providing compensation to victims of coercive sterilisation practices during the period post-1991 (i.e., those not necessary covered by the measures included in Recommendations Section C – "Reparation measures"), but possibly beyond relevant



statutes of limitations, such that the Government is in full compliance with its obligations under the European Convention on Human Rights and other relevant international law.

IV.9.8 In cases in which hospital records of relevance to establishing claims of coercive sterilisation have been destroyed, the government should make public the criteria by which individuals shall establish the veracity of claims for compensation for practices of coercive sterilisation.

IV.9.9 Within the limits of the powers available to his office, the General Prosecutor should monitor investigative proceedings in the matter of criminal complaints filed in the course of the Ombudsman's investigation into these practices, and report to the public the findings of these investigations.

IV.9.10 The Czech government should make financial assistance available to women who have been coercively sterilised, such that they might undertake artificial insemination measures, should they so choose;

IV.9.11 The Czech Ministry of Foreign Affairs should raise with the Slovak Government the issue of compensation for persons who are currently Czech citizens but who were coercively sterilised in the Slovak Republic.

## **V. Racial Segregation in the Field of Housing, Including Pattern and Practice of Forcible Eviction of Roma**

V.1 In the Czech Republic, many Roma live in substandard, racially segregated ghettos, as recently documented by the Czech Labour and Social Affairs Ministry.<sup>34</sup> Roma have also been forcibly evicted from housing in many cases allegedly because of rent arrears. However, even Romani tenants who honour the terms of their leases have been subjected to forced eviction. Additional issues with respect to housing include homelessness, overcrowding, discrimination in the allocation of state or municipally-owned housing, and the concomitant effects of family disruption and institutionalisation of Romani children. The Czech government has not yet implemented any policies or laws sufficient to check or reverse these forces. Czech national housing law does not contain any specific provisions that explicitly prohibit racial discrimination by public or private institutions. There is neither fair housing legislation, nor any state institution that monitors equal access to public housing.

V.2 On March 31, 2006 an amendment to the Civil Code took effect that radically changed the rental housing regime through Law No. 107/2006 Coll., "on the unilateral increase of rent on flats" and an amendment to Law No. 40/1964 Civil Code. Law 107/2006 authorises landlords to evict tenants without court approval under certain circumstances, opening the way for racial prejudice and/or other arbitrary considerations to play a heightened role in such decisions. The passage of Law 107/2006 was not

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<sup>34</sup> The existence of such ghettos has been documented by sociologists contracted by the Czech Labour and Social Affairs Ministry and is available in an interactive map at [http://www.esfcr.cz/mapa/int\\_CR.html](http://www.esfcr.cz/mapa/int_CR.html).

accompanied by any substantial public discussion, so those at risk of eviction had little or no opportunity to prepare for this radical change, and all socially disadvantaged families with minor children now face even more serious problems than ever before.

V.3 Tenants are now required to inform landlords in writing of any changes in the number of persons residing in a rented flat and to provide information on the name, surname, birth date, and citizenship of those persons, a measure arguably infringing the privacy of the persons concerned beyond a limit allowed under international law, including under ICCPR Article 17.<sup>35</sup> This policy also raises questions concerning discrimination against non-citizens, an issue of recent CERD attention.<sup>36</sup> Failure to provide this information within one month of the change occurring can be considered a gross violation sufficient for the landlord to evict the tenant without court order. Landlords can also evict tenants without court approval should a tenant or his or her flatmates grossly violate ‘good comportment’ in the building. This concept is not adequately specified in the law, leaving room for arbitrary treatment of tenants.

V.4 Prior to the enactment of these laws, the courts could rule in cases of families with minor children that a landlord was obliged to provide an evicted tenant with alternate accommodation or even an alternate flat (not just temporary shelter). Under Law 107/2006, a court can only reach such a verdict if the tenant files a motion to have the eviction reversed within 60 days of the eviction notice. Even though written eviction notices must instruct tenants of the option to file such a motion, socially disadvantaged tenants will probably not be able to act on this option without legal aid, which is currently all but unavailable to them. While defendants in criminal cases are provided with counsel by the state, persons wishing to initiate civil prosecutions who cannot afford counsel must apply to the Czech Bar Association or an NGO for *pro bono* assistance. There are not enough NGOs to meet demand, and *pro bono* assistance is underdeveloped in the Czech legal profession.

V.5 In addition, even though there is a measure in Czech law termed ‘alternative consignee’,<sup>37</sup> according to which certain measures might be undertaken to protect persons

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<sup>35</sup> “1. No one shall be subject to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor to unlawful attacks to his honour and his reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.”

<sup>36</sup> See CERD General Recommendation No. 30, Discrimination Against Non Citizens, 01/10/2004: “I.4. Under the Convention, differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory.”; “VII. Economic, social and cultural rights 29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health....32. Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices.”

<sup>37</sup> ‘Alternative/substitute consignee’ (*zvláštní příjemce* in Czech): In accordance with section 40 (1) of Law No 111/2006, the consignee (or a recipient) of a social benefit means a person to whom the social benefit

threatened with forced eviction or otherwise in socially weak positions, in practice municipalities in general fail to apply this measure when tenants default on rent, preferring evictions.

V.6 Municipal and private landlords take advantage of Romani tenants' limited legal awareness. According to Czech law, once municipal property is transferred to a private owner, the terms of any existing leases remain in effect. In practice, however, new private owners present new leases to the tenants, raise rents, and evict tenants unable to pay. New private landlords usually demand the new leases be signed without allowing the tenants to consult lawyers, and municipalities do not instruct the tenants about their right not to sign the new lease. Open-ended leases are also frequently changed to fixed-term leases without the tenants' clear knowledge or agreement. This tactic is used by property owners – including municipal property owners -- to disenfranchise the Romani community.

V.7 Once a private landlord purchases rental property from a municipality, any existing Romani tenants are usually evicted into substandard conditions. In practice, Czech municipalities' social policies with regard to housing are all but completely subordinated to economic interests.

V.8 Finally, the Czech Justice Ministry reportedly announced on 22 June 2007 that is proposing amendments to the Civil Code which would make it possible for landlords to evict tenants at will after a two-year notice. The bill would take effect after 2011, when rents are expected to be completely deregulated. Should it go into effect, this measure would further weaken protections available to tenants against forced eviction. As the class of tenants most dangerously exposed to forced eviction practices to date, Roma would very likely be the group most particularly affected by these further erosions of law in the Czech Republic.

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has been granted. The authority responsible for providing help to a person in material need shall determine an alternative/substitute consignee instead of the recipient referred to above in those cases where the allocation of the social benefit at issue would not apparently fulfil the purpose which the social benefit is supposed to serve, or where interests would be damaged of the persons in whose favour the recipient is obliged to use the social benefit, or where the recipient is not capable of receiving the payment of the social benefit. The consent of the recipient with the determination of the alternative consignee is required only in those cases where the recipient is not able to receive the payment of the social benefit; this does not apply to those cases where, in view of the health condition of the recipient, he/she cannot file a submission concerning the determination of an alternative consignee. The recipient and the alternative consignee are obliged to use the social benefit in favour of the person or jointly assessed persons to whom the social benefit has been granted. The alternative consignee who is determined instead of a recipient who cannot receive the payment is obliged to use the social benefit according to the instructions of the recipient. Only a physical or legal entity, which agrees to be determined an alternative consignee, may be determined an alternative consignee by the authority responsible for providing help to a person in material need. In accordance with section 59 of Act n. 117/1995 Coll., On State social support, a person can ask the authority responsible for providing help to a person in material need to determine an alternative consignee for the payment of the housing benefit as part of the state social support. The determination of an alternative consignee relates to the allocation of state social support benefits, such as the housing benefit (*příspěvek na bydlení*) or the social benefits in material need, such as the housing supplement (*doplatek na bydlení*). In most cases both of the aforementioned benefits (the state housing benefit and the social housing supplement) are not enough to cover the real expenditures.

## Recent Forced Evictions of Roma in the Czech Republic

V.9 The period since 1989 has been marked by local authorities evicting Roma to the outskirts or completely out of their towns *en masse*. Roma are often only allocated housing in isolated areas. This report summarises forced evictions and/or threats of forced evictions in the towns of Bohumin, Vsetin, Novy Jicin, Plzen, Radslavice and Nove Dvory, taking place in the period 2005-2007. These examples are not anomalies; similar processes led to the creation of the more than 300 ghettos documented by the Labour and Social Affairs Ministry.<sup>38</sup> The Bohumin and Vsetin cases are particularly egregious because they involve: a) public expressions of racism and intentional discrimination by public officials in connection with the wholesale “resettlement” of Romani residents of city-owned property; and, b) took place as part of the election campaigns of the politicians who orchestrated the evictions, which observers believe greatly influenced the authorities’ timing, decisions, and public remarks. Both mayors were re-elected. These examples indicate that incitement to hatred of Roma is a bankable election tactic in the Czech Republic.

V.10 Bohumin: In the northern Moravian town of Bohumin, Mayor Petr Vicha announced in February 2005 that the city would purchase a hostel occupied primarily by Romani tenants with the intention of evicting them and renovating the property. Four families who had fastidiously paid their rent and utilities bills filed lawsuits against the eviction, obtained a preliminary injunction against it, and refused to leave. The injunction specified that the city as landlord was obligated to maintain certain utilities in operation at the housing for the duration of the injunction. In July 2005, the city countered the suit; the eviction was granted and the tenants then appealed. The preliminary injunction remained in effect pending the outcome of the appeals. During the course of these lawsuits, the city took the following retaliatory steps against these tenants:

- Mail was not properly delivered to the tenants.<sup>39</sup>
- On 27 July 2005, the city cut off water to the building.
- The city recommended alternate accommodation to the tenants which would have required the parents to separate from their children, thereby advocating infringements of guaranteed rights to private and family life, as well as placing the children at risk of institutionalisation.
- The city hired a private security company to block visits to the tenants, including visits by immediate family members. The tenants were then billed for the security company’s services.
- The monthly rent previously charged per flat was changed to a *per resident* charge, i.e., if a six-member family lived in one flat, their rent increased six-fold. The families were forced into debt and thus rendered ineligible to receive social aid for housing per the terms of the city’s housing lottery. The debt per tenant is

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38 See footnote 34 supra.

39 E-mail communication from the families’ attorney, 7 November 2006.

the equivalent of thousands of Euro, and the court issued payment orders for the amounts within four days of the city filing suit in 2006; objections were filed against the orders to pay, but almost a year later, hearings on those objections had yet to be scheduled.

- Despite a visit to the tenants by then-Czech Human Rights Commissioner Svatopluk Karasek and international and local human rights observers in October 2005, the city continued to harass the tenants by disconnecting the heat. The families filed two motions to have the original preliminary injunction enforced while waiting for their appeal to be heard. Exterior temperatures reached as low as minus 26 degrees Celsius, but the heat was never reconnected.<sup>40</sup>

V.11 The four families gradually left the property. As of June 2007, one family had moved in with relatives in Bohumin who have no electricity; one family was living in a single room in another hostel; one family was living in a hostel in Prague; and one family was in rental accommodation in the town of Ostrava.<sup>41</sup> The city of Bohumin's social housing and child welfare sections have failed these families completely.<sup>42</sup>

V.12 Most of the other evicted tenants were provided with no durable alternate accommodation and so moved in with relatives in neighbouring towns, causing overcrowding in neighbourhoods already considered Roma 'ghettos'. Several court orders have declared aspects of the municipality's actions unlawful, but no force has been sufficiently powerful to reverse or remedy the harms caused in the course of the action.

V.13 Vsetin: In the Moravian town of Vsetin, local authorities expelled a group of Roma living in city-owned property in the town centre in October 2006. Some were expelled to housing in the Poschla quarter on the edge of town, creating a *de facto* racially segregated housing estate, while some were evicted in the middle of the night to extremely substandard housing in an entirely different administrative region, several hundred kilometres away.

V.14 In October 2006, the town of Vsetin completed construction of housing comprised of metal "containers" in the Poschla quarter on the outskirts, into which officials intended to move some of the 42 Romani families residing in a building slated for demolition in the centre. On October 5<sup>th</sup>, 2006, the town of Vsetin held a "grand opening" for the "new Roma ghetto," as it was frankly referred to in the media, which was attended by 40 municipal representatives from towns all over the Czech Republic, who praised the project to the press as a model one. Funding for the container housing had reportedly

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<sup>40</sup> Retail spaces rented to firms on the lower floors were provided with heating.

<sup>41</sup> Communication from Vzájemné soužití social workers, 22 June 2007.

<sup>42</sup> Communication from the families' attorney, 7 November 2006, who noted that one family ended up paying more rent to live in one room than if they had been renting a "Category 1" flat from the city with four rooms. The family was not eligible for the municipal flat lottery due to the indebtedness caused by the city's arbitrarily punitive measures.

been provided in part by the State Fund for Construction.<sup>43</sup> The container tenants received month-to-month contracts and Vsetin Mayor Jiří Cunek stated that anyone with whom the contract had to be terminated would be immediately “put out on the street.” The heating in the buildings ran on electricity and the tenants were charged the highest rate possible.<sup>44</sup>

V.15 On October 13, 2006, Mayor Cunek then had those Roma families who were, in his words, the most “problematic” transported not just out of the town, but entirely out of the region in the middle of the night. Some families were expelled as far as 230 kilometres from Vsetin. Cunek claimed the families had “reached an agreement with the town”, which purchased properties in isolated areas throughout the neighboring Olomouc region and was reselling them – sight unseen -- to the “problematic” families, who were also loaned the money for purchasing these properties by the town of Vsetin. One Romani NGO sent an open letter to the Government Council for Roma Community Affairs criticising the social workers employed by the city of Vsetin (with Council funding) for their role in telling the families that, should the parents refuse to sign the purchase agreements, their children would be institutionalised.

V.16 These Roma families were forcibly transferred to villages throughout the Jeseník district. Children, accompanied by their fathers, were separated from their mothers during the travel. They report being left hungry after buses dropped them off in the middle of the night in front of their new “homes”, which are derelict farms. Olomouc regional officials were never notified that these families would be placed in these isolated locales, including areas with very high unemployment.

V.17 A total of approximately 100 Roma were forcibly expelled from the Zlin region.<sup>45</sup> The speaker of the lower house of the Czech Parliament, Miloslav Vlcek, initiated an investigation into the legality of the purchase agreements.<sup>46</sup>

V.18 The creation of the new ghetto, the deportations, and Cunek’s remarks in the media<sup>47</sup> were protested by Roma across the country, by human rights observers, and by

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43 “Vsetínská radnice ‘slavnostně’ otevřela další romské ghetto”, Vsetín, 6.10.2006, 10:12, (ROME A), [http://www.romea.cz/index.php?id=servis/z2006\\_0613](http://www.romea.cz/index.php?id=servis/z2006_0613)

44 “Vsetínská radnice začala stěhovat Romy do ghetta na periferii města”, Vsetín, 11.10.2006, 12:21, (ČTK/ROME A), [http://www.romea.cz/index.php?id=servis/z2006\\_0624](http://www.romea.cz/index.php?id=servis/z2006_0624)

45 “Roma Vidnava: Terénní sociální pracovníci ve Vsetíně selhali” Vidnava, 3. 11. 2006, 12:08, (ROME A), [http://romea.cz/index.php?id=servis/z2006\\_0712](http://romea.cz/index.php?id=servis/z2006_0712). For photographs of the condition of the buildings which the deported families are expected to buy, see [http://romea.cz/index.php?id=servis/z2006\\_0694](http://romea.cz/index.php?id=servis/z2006_0694).

46 “Šéf sněmovny zjišťoval situaci Romů vystěhovaných ze Vsetína”, Olomouc, 6. 11. 2006, 14:15, (ČTK), [http://romea.cz/index.php?id=servis/z2006\\_0730](http://romea.cz/index.php?id=servis/z2006_0730).

47 Mayor Cunek was reported as having stated, “I feel like a doctor ridding someone of boils,” (“Já si připadám jako lékař, který tyto vředy čistí.”). Responding later to criticism of this statement, he claimed to

Government Council for Roma Community Affairs Secretary Czeslaw Walek, who observed that the timing of the “grand opening” of the new housing coincided with the run-up to municipal and Senate elections on October 20, 2006. Criminal charges were filed against Mayor Cunek by several individuals and organisations and he was repeatedly called upon to resign from his position as Senator due to his unethical behaviour. The leadership of the Christian Democrats, of which he is a member, refused to criticise him. The Christian Democrats won the Vsetin municipal elections with 26.01% and Cunek won the most preferential votes on the ticket; he also was elected Senator. On December 9, 2006, he secured the national leadership of the party. He is currently the first Deputy Prime Minister in charge of the Regional Development Ministry through which all EU Structural Funds for housing will be channelled.

V.19 The Czech Public Defender of Rights (“Ombudsman”) issued a report on the evictions in June 2007 condemning these human rights violations and calling for the town of Vsetin to offer the forcibly evicted residents the option of returning by allocating them flats from the municipal housing fund.<sup>48</sup> However, according to a report in the Prague Daily Monitor on 14 June 2007, representatives of the Vsetin local government and former Mayor Jiri Cunek (now Czech Regional Development Minister), dismissed the report and disagreed with findings that they had erred in their actions. In October 2007 a police investigation cleared Cunek of any wrongdoing in relation to the evictions, claiming that the charges had been filed against him as a result of the publicity surrounding the Vsetin eviction and that they were baseless. Cunek had been charged with the crimes of abusing the powers of a public official, defamation, slander, restricting personal liberty, extortion, persecution, and fraud. Some of the families and civil society organizations which originally filed the charges immediately complained to the state prosecutor. Local police, the state prosecutor, public health officials and officials in charge of issuing use permits for real estate have been noticeably “missing in action” throughout the course of the Vsetin evictions.

V.20 Nový Jičín: According to research undertaken by COHRE and Peacework in May 2007, in the town of Nový Jičín, several municipally-owned buildings have been occupied by Romani tenants for years. At the end of 2006, plans were announced to sell the buildings to private owners for conversion into luxury housing; 130 persons total will be evicted. The municipality claimed to the media that all the residents of the building are indebted to the local housing authority, which is not true. Some of the tenants who have always paid their rent are currently taking legal action with the assistance of the Vzájemne Souziti to challenge the evictions. Their legal representative reports that some of the buildings are said to have already been sold to a local attorney, Mr. J.K., who is also a member of the local government. Some of the tenants have never received any information from the court and thus never had a chance to participate in their own

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have meant by “boils” the building slated for demolition from which he had evicted the Roma. “Čunek: Za čistěním vědu si stojím, Kasal.” [http://romea.cz/index.php?id=servis/z2006\\_0710](http://romea.cz/index.php?id=servis/z2006_0710)

<sup>48</sup>Závěrečné stanovisko ve věci vystěhování romských obyvatel z pavlačového domu na ulici Smetanova č. p. 1336 ve Vsetíně.

proceedings. The legal representative says she has never witnessed this kind of conduct from the courts before.

V.21 Radslavice: Locals in the town of Radslavice have been petitioning the local authority to expel Roma residents from the town, according to media reports.<sup>49</sup> After reading alarming coverage of the situation which included prejudicial language, the submitting organizations met with the Romani coordinator for the South Moravian Regional Authority, who explained that a number of Romani families had purchased dilapidated properties in Radslavice and moved there after being evicted from their previous housing by a private owner. The mayor objected to the families moving in to the properties without renovating them first. The Romani coordinator said the Social Affairs Department which has jurisdiction over the town has long neglected the Roma throughout its territory. The Social Affairs Department's only intervention has been to threaten to institutionalise the Romani children concerned.

V.22 Plzeň: In Plzeň, the city government reportedly plans to sell a building in the Romani neighbourhood of Vinice.<sup>50</sup> The building for sale has 40 occupied flats; of these households, 19 reportedly have no difficulty paying rent on time. The municipality's sale thus appears to be motivated by racial malice. Despite the tenants' objections that they have nowhere to go, Plzeň municipality is going ahead with the sale. Mr. Štefan Tišer, Chair of the Association of Roma and National Minorities of the Plzeň Region, says the municipality has been concentrating socially disadvantaged people, most of them Roma, into certain locations since the 1990s.<sup>51</sup> After 15 years of allowing back rent to accumulate, the municipality hired a debt-recovery company, even though for years Mr. Tišer tried to persuade the municipality to convert the building into social housing. The debt-recovery company is expected to eventually purchase the property. When the sale was announced, allegations were made in the press that the tenants had 'destroyed' the flats. Mr Tišer then invited journalists to visit the households and photograph their condition. There was in fact no property destruction to document.

V.23 Nové Dvory: Media attention surrounding the recent death of a Romani child in Nové Dvory<sup>52</sup> raised issues related to the forced eviction of Romani families living in a derelict former sugar refinery residence since the 1990s. The municipality had reportedly intended to enforce a court-ordered eviction of the family in May 2007, but the family is pressing for adequate alternative housing. According to Czech media, only 2 of the 40 residents possess valid leases for their homes, which werewindowless, lack running water and electricity, and hadholes in the roof. According to a 19 May 2007 media report, the

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<sup>49</sup> "Romové zaplavují obec; Radslavičtí mají potíže, přistěhovalé Romy" [Roma are flooding the municipality; the inhabitants of Radslavice have a difficulty: the Roma who have moved here.] *Mladá fronta DNES*, 28.03.2007 - Helena Vaculova - p. 01

<sup>50</sup> "Radnice nabídne k prodeji problémový dům s dlužníky", *Mladá fronta DNES*, 18.05.2007.

<sup>51</sup> "O problémovém domě chtějí hlasovat znovu", *Mladá fronta DNES*, 17.04.2007.

<sup>52</sup> Buskova, Market, Pavla Švédová, "Kam půjdeme, ptají se Romové", *Mladá fronta DNES*, 05.05.2007.



mayor agreed to provide housing only to former refinery residents who: a) held valid leases and b) were mothers with children. In the forced eviction that took place on DATE, more than 40 Romani individuals were left homeless. On 14 May, the mother of the dead child was forced to move to the 'Přístav' ('Harbour') asylum house for single mothers with children run by the NGO Caritas. However, another mother and her seven children were reportedly left homeless after being forcibly evicted; because of the number of her children and the fact that she has a boyfriend, this woman did not meet the criteria of the 'Přístav' lodging house for single mothers.

### **Unimplemented Housing Strategies for Roma in the Czech Republic**

V.24 In 1998, the Czech government stated that it would 'do everything possible for the provision of accessible and acceptable housing for all citizens, including the Roma.'<sup>53</sup> That government's subsequent policy papers, and those of its successors, have deviated from this goal. Although there have existed government housing policy concepts concerning members of the Romani community which have advocated for anti-discrimination legislation and positive action, in general succeeding concepts have failed to resolve *de facto* racial segregation and the ongoing process of ghetto-creation and ghetto-enlargement, as can be seen from the cases described above and the finding that there are almost 300 such 'ghettos' throughout the country.

V.25 The most recent Housing Policy Concept, adopted in 2005, states:

The possibility of applying the Government's plans is aggravated by the unclear role of municipalities in the field of housing. ... on the one hand, they are expected to maximum [sic] the profit from their assets with due professional care so as to generate income for the municipal budget effectively, and on the other hand municipalities have been set the task of furthering the conditions enjoyed by their inhabitants... . Assigning a flat to be rented by persons where there is a high risk that they will not make due rent payments...could...contradict the principles of due professional care. ... Municipalities are not obliged to provide assistance to ...persons...who are at risk of poverty or social exclusion... .<sup>54</sup>

V.26 This purportedly 'unclear role' of the municipalities with regard to safeguarding human rights was criticised by CERD in its most recent Concluding Observations from March 2007:

The Committee reiterates its concern about information according to which Roma people are particularly vulnerable to evictions and segregation in housing, and regrets that the State party has not taken sufficient action to tackle this issue. While noting the undertaking of the State party to support the construction of

<sup>53</sup> Cited in Zoon, Ina, *On the Margins: Roma and Public Services in Bulgaria, Romania and Macedonia with a supplement on housing in the Czech Republic*, (OSI: 2001), p. 162.

<sup>54</sup> <http://www.mmr.cz/upload/1122566030housing-policy-concept-2005.pdf>, Housing Policy Concept approved by the Government under Resolution No. 292 of 16 March 2005, pg. 9. Accessed 22 June 2007

subsidized flats by municipalities, the Committee is concerned that the autonomy of municipalities under domestic law is described by the State party as an obstacle to the fulfilment of its obligations to ensure the enjoyment of the right to housing by all without discrimination, in particular at the local level. It is further concerned that domestic regulations do not clearly prohibit racial discrimination in the enjoyment of the right to housing. (articles 2, 3 and 5 (e) (iii))

The Committee reminds the State party that it may not invoke the provisions of its internal law as a justification for its failure to implement the Convention, and urges the State party to adopt all steps necessary to ensure the right to housing to all without discrimination, whether direct or indirect, based on race, colour, descent or national or ethnic origin, including in particular at the local level. The State party should ensure that domestic legislation clearly prohibits racial discrimination in the enjoyment of the right to housing, and protects vulnerable persons, including Roma, from evictions. In particular, such legislation should include measures providing the greatest possible security for tenants and strictly enumerate the circumstances under which evictions may be carried out.<sup>55</sup>

## **VI. Failure to Address Racial Segregation in Education**

VI.1 Documentation of the schooling of Romani children in the Czech Republic has revealed that, despite legislation introduced in 2005, meaningful desegregation of the school system has yet to occur. For decades, more than half of all Romani pupils in the Czech Republic have been sent to ‘special schools’ for the mentally disabled; the new legislation has redefined the special education system, but the practice with respect to Romani children has not changed. With respect to the CERD Committee’s previous recommendations to the Czech Republic,<sup>56</sup> no significant progress has been made.

VI.2 An appeal to a first decision handed down on a complaint filed by the ERRC on behalf of 17 children contesting the practice of placing Romani children in so-called ‘remedial special schools’ for the mentally disabled is currently under review by the Grand Chamber of the European Court of Human Rights. The over-representation of Romani children in separate, substandard education has also been a concern of regional and international human rights monitoring bodies.<sup>57</sup> The Council of Europe’s European

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<sup>55</sup> CERD/C/CZE/CO/7, para. 16.

<sup>56</sup> Point 14, Concluding Observations, CERD/C/63/CO/4, 10 December 2003, that the State Party ‘intensify the efforts to improve the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitization of teachers and other education professionals to the social fabric and world views of Roma children.’

<sup>57</sup> See for example Council of Europe, Office of the Commissioner for Human Rights, *Follow-up Report to the Czech Republic (2003-2005): Assessment of the progress made in implementing the recommendations*

Commission against Racism and Intolerance (ECRI) has noted that “Roma children continue to be sent to special schools which, besides perpetuating their segregation from mainstream society, severely disadvantage them for the rest of their lives.”<sup>58</sup> Romani children are also segregated into substandard schools and classes within the mainstream school system.

VI.3 On January 1, 2005, new legislation on education took effect in the Czech Republic. The school reform comprises new and/or amended laws<sup>59</sup> and includes declaratory provisions against discrimination in school.<sup>60</sup> The school reform is too extensive to analyze here, but the following problems are evident from the legal and policy texts guiding the reform:

1. There are no implementing regulations in the new legislation or auxiliary regulations<sup>61</sup> to require school officials to desegregate school facilities and/or arrangements and/or to aid them in so doing.

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*of the Council of Europe Commissioner for Human Rights (29 March 2006), § 20: “In his 2003 report, the Commissioner drew attention to the large presence of young members of the Roma/Gypsy community in ‘special’ schools and classes for children suffering from slight mental disability.” See also the UN Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic.10/12/2003* (UN Doc. CERD/C/63/CO/4), § 14: “While appreciating the complexity of the problem of special schooling and noting the accompanying measures taken by the Government with a view to promoting adequate support to Roma children, the Committee remains concerned, as does the Committee on the Rights of the Child (see CRC/C/15/Add.201, para. 54), at the continued placement of a disproportionately high number of Roma children in “special schools”. Recalling its general recommendation XXVII, the Committee urged the Government to “continue and intensify the efforts to improve the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitization of teachers and other education professionals to the social fabric and world views of Roma children and those with apparent learning difficulties.”*

<sup>58</sup> European Commission against Racism and Intolerance (ECRI), *Third Report on the Czech Republic* adopted on December 5<sup>th</sup>, 2003 and made public on June 8<sup>th</sup>, 2004), § 107.

<sup>59</sup> Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical, and other education (the 2005 “School Act”); Law No. 562/2004 Coll., which changes some laws in connection with the adoption of the School Act; and Law No. 563/2004 Coll., applies to pedagogical workers and changes in legislation. The school reform is further developed by implementing regulations (government decrees and public notices by the Czech Ministry of Education, Youth, and Sports, hereinafter ‘MŠMT’) and curricular documents.

<sup>60</sup> Regulation Section 2 of Law No. 561/2004 Coll. (the “School Act”), includes a proclamation of the guarantee of equal access to education without regard to race, skin colour, sex, language, creed or religion, nationality, ethnic or social origin, property, ancestry, state of health, or any other status. This is a general declaration only, not an elaboration of the specific obligations of specific subjects. Regulation Section 44 of the School Act sets forth as an educational aim that pupils should learn to effectively communicate and work with one another and be considerate and tolerant towards other people, other cultures, and spiritual values.

<sup>61</sup> Silence on this issue extends at minimum to the Framework of Educational Program for primary education. There was a policy document issued by the Youth and Sport Ministry of Education, No. 27002/2005-22, August 29<sup>th</sup>, 2005. Amending the Framework of Education Program for primary education, this was made effective as of September 1st, 2005. The concept on timely care for children from socio-

2. There are no effective control mechanisms in either the School Act or any other domestic law provisions to ensure protection against racial segregation or discrimination in education. The declaratory prohibition against discrimination in Article 2 of the School Act is unaccompanied by any procedural scheme through which an individual victim of discrimination could seek enforcement of this ban. There is no specific requirement on the Czech Education Inspection Authority to monitor discrimination or segregation in its periodic evaluations. The School Act provides no indication that a school authority's ability to discriminate is no longer prevalent, and it is, therefore, ineffective.
  
3. Article 30 of the School Act says the school director is responsible for publishing the school policy (*školní řád*), which is to spell out "conditions for securing the safety and protection of the health of children, pupils or students and their protection against socially pathological expressions and against expressions of discrimination, hostility or violence".<sup>62</sup> This provision gives rise to the concern that confusion may prevail at the level of the Czech lawmaker as to the nature of discrimination as set out in law, especially pertaining to those features which distinguish 'discrimination' as understood in the Convention on Racial Discrimination and related international law and norms from (i) acts of physical violence on the one hand and (ii) verbal or other tangible expressions of hatred on the other. Article 30 of the School Act fails to adequately ban arbitrarily different or deliberately indifferent treatment based on race or ethnicity, including treatment which would result in placement in separate, inferior educational arrangements of an inherently degrading nature. Indeed, by empowering the school director to create these regulations, the lawmaker has enshrined as the sole controlling agent one of the powers most likely to be involved in decisions to create separate and inferior educational arrangements for Romani children and most likely to enforce racially discriminatory decisions to place Romani children in such forcibly separated educational arrangements.
  
4. School directors are explicitly empowered under the School Act to create separate schooling arrangements for particular categories of children defined as needing special education, with no checks or balances to ensure that racial discrimination does not influence such decisions.<sup>63</sup> The law defines special education as a right flowing to children with special educational needs. By failing to secure protections against racial segregation in the school system, the legislation disproportionately fails Romani children. The School Act enshrines

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culturally disadvantaged backgrounds in the area of education was adapted by the Czech cabinet decision No. 564/05 from May 11<sup>th</sup>, 2005.

<sup>62</sup> Article 30(1)(c).

<sup>63</sup> Article 16(8) of the amended Schools Law states, "If the level of health disability so commends, schools may be created for children, pupils and students with health disabilities, on a case-by-case basis with the consent of the regional authority in the framework of the individual classes of schools, departments or study groups with adjusted educational programs."

administrative arrangements conducive to the maintenance of racially segregated arrangements as they currently exist, and provides sufficient administrative arrangements for creating new and similarly segregating educational settings, provided these are concealed under the cover of seeming to implement a 'right to special education.'

VI.4 Most troubling are the indications that the school reforms have to date had no discernable impact in reducing racial segregation in education. Romani children are still systematically turned away from regular schools and sent to schools where the curriculum is not as challenging and does not meet minimum requirements for dignity. When Romani children do manage to enrol in a regular school, they continue to be disproportionately placed in segregated special education or separate classes with less rigorous curricula. Despite declaratory documents and optimistic predictions, no actions by the Czech Government to date have altered the fundamental state of the Czech school system as racially segregated with respect to Romani children, and there is no data available to the contrary.

VI.5 The following examples from research conducted by the ERRC in partnership with the Czech NGO League of Human Rights at the end of the 2005-2006 school year indicate that the new legislation has yet to positively promote integration in practice. These examples also indicate that damaging assumptions about the relationship between Romani culture and Romani children's intelligence still give rise to racial discrimination by Czech educators:

VI.6 Elementary School in Ivanovice na Hané, Southern Moravian Region: Two 'remedial' classes have been established at this school for pupils for whom the tempo of instruction in the mainstream classes is said to be 'too fast'. The first classes was established as of January 1<sup>st</sup>, 2001. These remedial classes are attended only by Romani children; only three Romani children are enrolled in mainstream classes. The school principal estimated 8% of the children in the school to be Romani, of whom 1% were enrolled in mainstream classes. He said no changes related to integrating the Romani minority had occurred at the school after January 1<sup>st</sup>, 2005. Most of the Romani children are therefore educated separately from the other children with the exception of 'cultural' subjects (art classes, work-skills classes, and physical education classes), which are attended by children from the 'remedial' classes together with children from the mainstream classes. The principal told researchers that education is 'not a priority for Romani citizens' and said the 'insufficient hygienic habits' of Romani families resulted in the non-Romani children isolating themselves from the Romani children.

VI.7 Elementary School Halkova, Frýdek Místek, Moravian-Silesian Region: This former remedial special school was renamed an 'Elementary School' in accordance with the new School Act. Of 70 pupils, 20 were estimated to be Romani. The school includes Romani children who transferred there when another special school closed. Since remedial special schools were abolished as of January 1<sup>st</sup>, 2005, this school is now an Elementary School with a 'remedial education' programme including curricula for both 'practical' and 'auxiliary' schools in conformity with a Czech Education Ministry

directive from 1993. The ‘practical’ curriculum primarily involves instruction in manual labour. There are also pupils with mental disabilities, ranging from light to more severe, who are instructed according to the ‘auxiliary school’ curriculum, as well as pupils diagnosed with behaviour problems. It is unclear what if anything besides its name has changed at this school as a result of the January 2005 school reform.

VI.8 Elementary School 28. října, Brno, Northern Moravian Region: This school is the result of many Roma-majority schools being consolidated. It has a large Romani majority because parents of non-Romani students transferred their children to other schools after the consolidation. The school has a low overall level of educational achievement and high dropout rates. The families visited appeared to be unaware of their rights concerning their children’s education. The school was planning to create special education classes (furthering segregation) to address the needs of ‘socially disadvantaged’ children. Desegregation or mainstreaming does not look likely to happen for now.

VI.9 Elementary School, Havlíčkovo náměstí, Prague 3, Central Bohemian Region: This school seemed to be focused on keeping the currently enrolled Romani students motivated, engaged and involved in their education, but there was still definite segregation. The school has a ‘special system’ geared towards children with special education needs. School officials said many non-Romani children have transferred away. No real progress on integration can be seen here; the opinion that different approaches and conditions are needed for Romani students to achieve in school prevails among school officials.

VI.10 Grafická School, Prague 5, Central Bohemian Region: Here there were no specialised classes and all the students (those with special needs and those without) attended class together; the vast majority of the students were Romani. School officials told researchers that the curriculum had been adapted to the Romani culture and value system, which in practice meant a ‘more user-friendly and less demanding’ curriculum for all of the students. School officials believed this ‘lowering of standards’ was beneficial to the children. Local school teachers were also interviewed; their views were that integration into the mainstream might make the Romani students feel insecure, so they were not endeavouring to mainstream Romani children. The new School Act has thus led to the re-segregation of the Romani children attending this school.

VI.11 The findings of this research, published in the report, *The Impact of Legislation and Policies on School Segregation of Romani Children*,<sup>64</sup> reveal that to date, the most frequent changes to educational arrangements arising as a result of the 2005 school reform have been cosmetic adjustments. ERRC research in 2005 and 2006 documents that ‘special schools’ have been renamed ‘remedial schools’, ‘practical schools’, or even standard ‘elementary schools’, but neither the ethnic composition of the student bodies nor the curricular content has changed.<sup>65</sup> No significant desegregation action appears to

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<sup>64</sup> Report available on the Internet at: <http://www.errc.org/cikk.php?cikk=2743>. This research was performed with support from the European Commission’s Community Action Program to Combat Discrimination.

be underway in the Czech Republic. ‘White flight’ and ongoing intensification of social exclusion as a result of intensifying segregation in the field of housing (see above) appears to be intensifying segregation in the field of education.

## **VII. Exclusion from Employment**

VII.1 The ERRC report, *The Glass Box: Exclusion of Roma from Employment*,<sup>66</sup> based on research carried out with EU support in the Czech Republic in 2005 and 2006, indicates dramatic levels of Roma exclusion from work. After 1989, Roma were systematically laid off; as a result of very high levels of discrimination on the labour market, most have not held a job since or ever. Roma who are employed frequently work in dangerous, short-term, or other forms of substandard employment.

VII.2 Summaries of ERRC field research undertaken in preparation for the report in four localities follow here:

VII.3 Hodonin, Southern Moravia: Only four Roma were found who are employed: two were community social workers who had been temporarily forced to stop work because of insufficient funding; one young man was employed as a grinder in a factory; and the director of the local Roma centre was Roma. All other Roma in Hodonin were unemployed. Many young Roma have never worked; having grown up plagued by unemployment, they have been subjected to the same fate. Middle-aged Romani women are particularly vulnerable to unemployment. The municipality had no policy for improving Romani employment.

VII.4 Most is an industrial city in northern Bohemia with a high Romani population. The brown coal industry was predominant here under communism; since 1989, many of its branches closed. The unemployment rate in Most is one of the highest in the Czech Republic. The only employed Romani people in Most are those working for the Community Centre at the Chanov Romani housing estate. The rest of the Roma community is unemployed.

VII.5 Ostrava is an industrial city in the north of Moravia with a high Romani population. Most Roma living in Ostrava are plagued by extreme poverty. Regardless of their previous employment history, education, qualifications, work experience, or age, most local Roma are unemployed. The only employed people documented were employees of *Vzájemné Soužití* (Life Together), one of the submitting organisations of this report. Young mothers, mothers in general and middle-aged women are especially impacted; racial discrimination appeared to be the primary factor excluding Roma from employment. Researchers documented one case of a middle-aged woman who had inquired about a vacancy at a hairdresser; the hairdressers looked at her with shock and told her they did not want to have anything to do with Roma.

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<sup>65</sup> Schools previously termed “zvlastni” are now termed “specialni”.

<sup>66</sup> Report available on the Internet at: <http://www.errc.org/cikk.php?cikk=2727>.

**VII.6 Prague:** The Czech capital has the lowest unemployment rate in the country, but Roma do not benefit from this economic fact. Among the Roma, particularly impacted groups in Prague included young mothers, the middle-aged, young people with no work experience, and people with criminal records.

VII.7 There is no indication that the rest of the Czech Republic differs from these localities. If there are Czech employment policies for assistance to minorities, they are not succeeding as far as the Roma are concerned.

### **VIII. The Continuing Effects of the 1993 Act on Citizenship in Driving the Exclusion of Roma in the Czech Republic**

VIII.1 Following the changes of 1989, the federations of Czechoslovakia, Yugoslavia and the Soviet Union dissolved. This generated many stateless persons, among them many Roma, as successor states refused to recognise certain categories of persons as citizens.<sup>67</sup> The Czech Republic designed the 1992 Act on Citizenship, adopted in the context of the break-up of the Czechoslovak state on 1 January 1993, to include provisions aimed at forcing Roma in the Czech Republic to go to Slovakia or otherwise excluding Roma from the polity. Sufficient international and domestic civil society pressure was brought upon the Czech government that it amended the citizenship law in 1999. Nevertheless, certain categories of persons – including anyone who left the country between 1993 and 1999 – remain excluded from access to citizenship other than via naturalisation procedures. This includes people who travelled to Slovakia for medical treatment or to give birth among relatives because they either had no access to any citizenship or only to Slovak citizenship. In addition, those Roma who were forced to become ‘Slovaks’ as a result of the Czech citizenship law may face systematic discrimination today as a result of local rules denying families social housing if a family member is a ‘foreigner’. The Czech government has never undertaken any study of the situation of persons forced to become ‘Slovaks’ as a result of the 1993 citizenship law and their current situation. No policy exists to address these problems, and no remedies have ever been provided to persons arbitrarily excluded from the polity as a result of the 1992 Act on Citizenship.

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<sup>67</sup> The Council of Europe approach to the foregoing issue has been to require that, in the context of state succession, statelessness shall be avoided and those persons with “genuine and effective links” to the new state shall be recognised as citizens of those states. The 1995 European Convention on Nationality provides a 4-point test of assessing these links under a chapter explicitly devoted to “state succession and nationality”. In 2006, the Council of Europe adopted a new Convention devoted explicitly and solely to the avoidance of statelessness in the context of state succession.



## **IX. Systematically Discriminatory Practice of Removing Romani Children from the Care of their Biological Parents and Placing them in State Care**

IX.1 At a rate of 60 per 10,000, the Czech Republic institutionalises more children than any other European Union Member State.<sup>68</sup> The Czech Republic was recently found in violation of provisions of the European Convention on Human Rights by the European Court of Human Rights as a result of the arbitrary remand into state care of children, where the sole or prevailing reason for the intervention was the material poverty of the parents.<sup>69</sup> No accurate data exists on the ethnicity of children separated from their biological parents by state officials and placed in state or alternate foster care, but there are indications that systemic discrimination influences this process. For example:

- The first person born in the Northern Moravian region of the Czech Republic in 2005 was a Romani girl who was immediately institutionalised on 4 January 2005. The court ordered that she be returned to the custody of her mother on 2 May 2005; she spent her first four and a half months of life in an institution. The Czech media, especially the weekly journal *Respekt*, have covered the issue but there has not been even rudimentary official recognition of the problem, much less systemic change.
- According to a 20 June 2007 report by the Prague Daily Monitor, a court in Usti nad Labem removed 6 Romani children from their parents' care following the death of their 2-year-old sibling in hospital due to dehydration. The family lived in a single room in Trmice, North Bohemia, without electricity until recently. Town hall spokesman Milan Knotek was quoted as having stated, "At the moment, it is impossible to consider returning the children, now placed in the children's asylums, to the family." Local social workers reportedly visited the family 5 times in the month before the children were removed from their parents' care, in the presence of sanitary officers, which found sanitary conditions in the building to be appalling. According to the Prague Daily Monitor, police are conducting an investigation into the child's death. It is unclear what measures, if any, social workers have proposed in the place of institutionalisation.

## **X. Recommendations**

Please note: recommendations concerning coercive sterilisation matters are included above at IV.8.

In light of the above, the submitting organisations recommend the Government of the Czech Republic undertake the following measures:

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<sup>68</sup> See Birmingham University's "Mapping the Number and Characteristics of Children under than Three years of age in Institutions across Europe at Risk of Harm". This is a 15-month project sponsored by the European Union Daphne Program 2002/03 and the World Health Organisation Regional Office for Europe.

<sup>69</sup> See European Court of Human Rights, Chamber Decision on the Merits, *Wallova and Walla v. The Czech Republic*, 26 October 2006.

1. Adopt and implement comprehensive anti-discrimination legislation in conformity with international and European standards.
2. Establish judicial and administrative procedures to implement anti-discrimination legislation and authorize associations, organisations, and other legal entities to engage in seeking legal remedies on behalf of the victims they represent. Designate a body capable of providing independent assistance to victims of discrimination in pursuing their complaints.
3. Systematically collect and made available to the public statistical data, disaggregated by ethnicity, on the situation of Roma in sectoral fields key for social inclusion, including statistical data comparing the situations of Roma with non-Roma in areas such as education, employment, housing, health care, access to social services and access to justice.
4. Undertake detailed legal analysis of existing laws, decrees, and regulations in the field of social protection/assistance, health care, employment, education and housing. Eliminate all discriminatory provisions, as well as provisions that may have a disparate impact on Roma, from existing legislation.
5. Undertake measures – particularly amendments to law -- to correct the ongoing erosion of protections to tenants against forced eviction.
6. Revoke all legislation and/or implementing provisions and/or policies facilitating arbitrary interferences with privacy, home and/or family life.
7. Review and amend housing legislation to eliminate all discriminatory provisions that aim to block the Roma's access to decent housing. Adopt clear regulations on social housing, giving priority to the indigent population, large families, and disadvantaged people first. Incorporate specific anti-discrimination provisions, levy clear sanctions, enact effective complaint mechanisms and effective remedies to redress discrimination. Create monitoring systems to identify, document, and report on discriminatory practices against the Roma in the field of housing at national and regional levels.
8. Adopt measures for the legalisation of Romani settlements. Develop new urban plans, survey Romani dwellings, and register Roma as legal residents in the places in which they actually dwell. Ensure effective legal protection against racial segregation and end the involuntary segregation of Roma behind physical barriers, warehouses, garages, and garbage dumps.
9. Build only acceptable housing that meets applicable and acceptable standards for Roma. Without delay, move persons from substandard housing accommodations. Provide equal access to electricity, public transportation networks, garbage collection, and clean water to Romani neighbourhoods. Subsidise the cost of services for the Romani families who live under the poverty line.

10. Mobilise public and private local, national, and international resources necessary for the integration of Roma. Support local initiatives from national budgets. Include Roma in all relevant projects. Subsidise local efforts and educate local authorities to allocate, create, and seek funds for improving situation of Roma.
11. Implement comprehensive, proactive policies to desegregate schools, as well as to ensure that all children in the Czech Republic receive equal quality schooling in a non-segregated environment. Review the 2005 school Act (Law No. 561/2004 Coll) to ensure that it is effective by including enforcement measures on the obligation to desegregate and to protect from further school racial segregation. In addition:
  - Integrate all Romani students into mainstream classes, and, when necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling;
  - Design pre-school programmes for Romani children to learn the primary language of schooling and attain a level of preparation ensuring an equal start in the first class of primary school;
  - Provide supplementary assistance to those children in need of particular assistance.
  - Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma.
12. Without delay, design and implement policies aimed at ensuring that Roma in the Czech Republic have access to gainful employment on an equal footing with other Czechs.
13. Condemn and punish persons responsible for discrimination against Romani women and men in access to employment. Victims of alleged discrimination should be encouraged to bring complaints with assurances that confidentiality will not be compromised on account of bringing a claim.
14. Support positive measures, such as offering incentives (including tax exemptions, subsidised employment contracts, etc) to promote the hiring of Roma.
15. Eliminate requirements that prevent Roma from acquiring citizenship in the countries where they are born or can demonstrate durable, factual ties. Solve the crisis of statelessness as soon as possible. Provide low-income persons with appropriate identification documents quickly and for no fee. Allow people to establish their *de facto* residency as their legal residency. Provide adequate remedy to persons arbitrarily excluded from the Czech policy as a result of the 1992 Act on Citizenship.

16. Take particular steps to documents rates of remand of children into state care, with a view to ending all discriminatory treatment or outcomes in these procedures.
17. Encourage high-level officials to take public positions against anti-Romani discrimination and racism, and to communicate to all government employees and agents that direct and indirect discrimination is not tolerated and will be punished.

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The organisations involved in the preparation of this document are as follows:

The Centre on Housing Rights and Evictions (COHRE) is an independent, non-governmental, non-profit human rights organization campaigning for the protection of housing rights and the prevention of forced evictions around the world. COHRE's overall objective is to promote and protect the housing rights of everyone everywhere. To achieve this, COHRE has developed varied work programmes, guided by international human rights law and designed for maximum effectiveness. COHRE work involves housing rights training and education; research and publications; monitoring, documenting and preventing forced evictions; undertaking fact-finding missions; participation and advocacy within the United Nations and regional human rights bodies; and providing legal advocacy and advice to communities and organisations involved in housing rights campaigns. Further information about COHRE is available at <http://cohre.org>.

The European Roma Right Centre (ERRC) is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Since its establishment in 1996, the ERRC has established a reputation as the leading international non-governmental organisation engaged in human rights defence of Roma in Europe. The ERRC has undertaken extensive research, policy, law and training work in the Czech Republic due to the very serious issues Roma face there. ERRC publications about the Czech Republic, as well as additional information about the organisation, are available on the Internet at <http://www.errc.org>.

The civic association Vzájemné Soužití (Life Together) is a registered Roma-Czech non-governmental, non-profit organisation unaffiliated with any political party which has been active in Ostrava since 1997. Through community work, Life Together aims to improve the social and living conditions of poor families in need. The association's activities are concentrated on the areas of humanitarian, educational, social and legal counselling, and the issues of housing, employment conflict resolution and human rights.

Since its founding, Life Together has worked regularly with the ERRC on issues including pressing for school desegregation, securing justice for victims of coercive sterilisation, and ending housing rights abuses of Roma in the Czech Republic. For further information on Life Together, please see [www.vzajemnesouziti.cz](http://www.vzajemnesouziti.cz).

The Peacework Development Fund manages over 100 volunteer projects a year throughout Africa, the Americas, Asia and Europe. Peacework volunteers contribute assistance and expertise to communities in the areas of agriculture and livelihood, ecology and the environment, health and medicine, issues affecting children, literacy and education, and women's initiatives. This assistance includes helping local partners identify the root causes of such phenomena as school dropout, unemployment, or ill-health in order to address these issues and contributes to the greater enjoyment of human rights by all. For further information, please see [www.peacework.org](http://www.peacework.org).

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