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Wickenburgg. 14/7, A-1080 Vienna, Austria; Tel +43-1-408 88 22; Fax 408 88 22-50  
e-mail: office@ihf-hr.org – internet: <http://www.ihf-hr.org>  
Bank account: Bank Austria Creditanstalt, 0221-00283/00, BLZ 12 000

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## ANNUAL REPORT 1999

### Czech Republic<sup>1</sup>

#### IHF Focus:

Elections; freedom of expression and the media; conditions in prisons; protection of ethnic minorities (Roma); the rights of the child; protection of asylum seekers and immigrants.

Discrimination of and attacks on the Roma minority as well as their deteriorating living conditions remained the main human rights problem in the Czech Republic. In addition, the Czech media law dated back to the Communist era, thus failing to provide internationally accepted protection for the media. The courts' reluctance to hand down alternative sentences to imprisonment as well as extremely long pre-trial detention periods resulted in serious overcrowding in prisons. Other concerns included insufficient protection of the rights of the child, asylum seekers, and immigrants.

#### Elections

In 1998 several elections were held in the Czech Republic. In January the two-chamber parliament re-elected incumbent President Vaclav Havel. In June the deputies of the Chamber of Deputies and one third of the members of the Senate were elected, and in November the municipal elections were held.

The winner of the June parliamentary elections was the Czech Social Democratic Party, which received 33 percent of all votes. The Civic Democratic Party came second with 27 percent of all votes. Other parties running in the elections included the Communist Party, the Czechoslovak People's Party/the Christian Democratic Union, and the Union of Freedom. The Republican Party of Czechoslovakia/the Association for the Republic, which was generally considered as neo-Fascist and racist, could not surpass the 5 percent hurdle required for seats in parliament. Due to lack of consent among the winning parties, a government solely consisting of the Czech Social Democratic Party was formed, however, with an agreement for the "construction of a stable political environment" with the two other winners of the elections.

Both the June and the November local elections were held in compliance with Czech

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The IHF has consultative status with the United Nations and the Council of Europe.

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Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Ukraine\* – United Kingdom – United States – Uzbekistan<sup>3</sup>

COOPERATING ORGANIZATIONS:

The European Roma Rights Center – Human Rights Without Frontiers – Mental Disability Advocacy Center

law, without major conflicts or irregularities. However, the local elections in the Dubec constituency of Prague were declared invalid after two men - falsely identifying themselves as court employees - had been given some ballot papers and other election documents. The elections were repeated in February 1999.

A constitutional law on referenda was not passed in 1998, although the constitution provides for it. Other subjects that raised discussion were the legal provision by which Czech citizens residing or staying abroad at the time of the elections were deprived of their right to vote, and the proposed changes to the constitution to allow presidential elections by popular vote.

### Freedom of Expression and the Media

The Czech constitution stipulated that the right of access to information was to be regulated by a parliamentary act. The Freedom of Information Act, supported by the government, was re-drafted by the Senate, but had not been adopted as of this writing. In June the Act on the Right to Information Concerning the Environment was passed.

There was urgent need to replace the Communist era media law (1966) with new legislation. The minister without portfolio, Vladimir Mlynar, proposed amendments to this restrictive law, and the recently nominated minister of culture, Pavel Dostal, affirmed that the media law was one of the priorities of his office. The amended bill was adopted by the government and was in parliament as of the end of 1998.

Some journalists and reporters faced criminal charges for their activities when carrying out their duties:

- Television reporter Zdenik Zikal was arrested and charged with criminal libel. Zikal had covered the important "Olomouc city case", in which police, security service officers, and businessmen were charged with involvement in illegal economic affairs. He revealed some important facts about the case, and claimed that the investigation of the case had not been conducted appropriately.

The Council for Radio and Television Broadcasting attempted to restrict the operation of the largest private television station in the Czech Republic, TV Nova.

- The Council for Radio and Television Broadcasting expressed its objections against a TV Nova program, "Call the Director". In that program the station's general director

presented his opinions about current news and discussed them with viewers. Some members of the council declared that the program violated TV Nova's legal obligations to broadcast objectively.

- In the summer of 1998 TV Nova was fined 2 million Kč (approximately US\$65,000) for its last program in a series entitled "A". This series targeted the young public, touching upon several controversial topics. The last program focused on prostitution. The council judged that the issue and the manner in which it was presented violated the Radio and Broadcasting Act. TV Nova shelved the program but showed it at a later time.

The council generally expressed its disapproval about the way the station fulfilled its legal and license obligations and stated that it would be reluctant to renew TV Novas's license after its expiration in a few years time.

According to the Czech Television Act, Czech national television was an independent institution, and the state had no right to impose direct control over its activities and broadcasting policies. Control could be exercised only by the Czech Television Council, whose members - media professionals and experts – were elected by the Chamber of Deputies. The director of the national television station was responsible to that council only.

In April a new general director was appointed, who carried out a reorganization of national television, which resulted in a decrease in the number of viewers. A member of the parliamentary commission for the broadcasting media, concerned about the situation, planned a commission meeting to which the new general director was invited. During that meeting, some members objected to this kind of interference with the independence of national television, and the meeting was closed.

### Conditions in Prisons

The Czech Helsinki Committee carried out a survey on conditions in Czech prisons. It visited 22 out of a total of 33 prisons in the Czech Republic.

The Committee found that, with the third largest proportional prison population in the world, all prisons – with the exception of those designed for juvenile delinquents - were overcrowded. This was largely a result of the reluctance of Czech courts to hand down alternative penalties such as suspended sentences or socially productive

work instead of incarceration. In remand prisons overcrowding could be attributed to extremely long pre-trial detention periods, the average being 207 days.

According to the Czech Helsinki Committee, medical care of prisoners was relatively good, which successfully prevented the spread of infectious diseases such as tuberculosis and AIDS – despite poor hygienic conditions. All inmates had to undergo a thorough medical check upon their arrival, and there were two prison hospitals. However, there was only one special department for drug addicts and one for particularly aggressive prisoners. Moreover, there were no special departments to prepare long-term prisoners for their return into society, although some training for that purpose was available.

The quantity and quality of food was relatively good, although modest, due to the low sum of money allowed to be spent (approximately US\$1.00 per inmate a day). Due to the lack of appropriate legislation to support prisoners' employment, and the amount of bureaucracy involved in getting contracts even for seasonal work, inactivity was a serious problem. However, education programs for prisoners were well organized, particularly for illiterate prisoners. Special attention was paid to the training of juvenile delinquents.

On the negative side, there was no independent body to deal with complaints from prisoners about their treatment, and to supervise that their basic rights were respected.

Some reports were received about the ill-treatment of prisoners, but it was difficult to prove their veracity.

## Protection of Ethnic Minorities

### Roma Minority

In the 1991 census some 30,000 individuals had registered themselves as Roma. However, it was estimated that some 300,000 Roma actually resided in the Czech Republic, as many Roma had registered themselves as ethnic Czechs, Slovaks or Hungarians due to the negative stigma attached to the Roma minority, and to avoid discrimination.

The Charter of Fundamental Rights and Freedoms guaranteed to members of

national minorities internationally accepted basic minority rights. It also stipulated that allegiance to a national or ethnic minority (article 24) should not be harmful to anyone. In addition, article 25 guaranteed members of national or ethnic minorities support for overall development, in particular regarding their right to develop their culture together with other members of the same group, the right to receive and disseminate information, and the right to national association. The article further guaranteed, under conditions set by the law, the right to education in one's mother tongue and the right to participate in decisions on issues concerning minorities.

In 1993 the Charter of Fundamental Rights and Freedoms became part of constitutional legislation. However, no law had been adopted to implement the constitutional rights of national and ethnic minorities at the time of writing.

In the 1990s the standard of living of the Roma minority has decreased markedly. Roma have often been considered not as a national or ethnic minority - for which there is no legal definition although they are theoretically protected by law - but as a social group. This development dates back to the Communist era, when the state rather gave the Roma generous social benefits than recognized their traditional, private trades as acceptable.

Roma continued to face widespread discrimination in all sectors of life, including housing, employment, and education as well as violent attacks by skinheads. Roma were often not served in restaurants, not allowed to entry discos, and had problems finding a job.

- In January skinheads set fire to a Roma house in Orlov. One woman was seriously wounded. The offenders were taken into custody, but were soon released.

In February skinheads attacked a Roma woman and pushed her into the river Elbe in Vrchlabi. In September two perpetrators were found guilty of assault resulting in the death of the woman and sentenced to six and eight years in prison. 2

- In April skinheads assaulted and beat an ethnic Roma near Ostrava, Northern Moravia. He was later killed by a passing car. Local Roma strongly protested the failure of the local police to protect them from such attacks.

- The Supreme Court reopened a case regarding the killing of a young Roma, Tibor Danihel of Pisek. The court overturned the mild sentences of the lower court and handed down prison sentences of 13 years and 20 months to the two perpetrators, respectively.

In January the government set up a special commission on the situation of ethnic Roma. It was headed by the Minister without Portfolio, Vladimir Mlynar, and main Roma leaders participated in its activities. The commission initiated a wide debate on the problems in the Roma community and the relationship between the Roma and the majority population. However, neither of the parties had complete confidence in the commission's activities. The Roma complained that they were not appropriately represented in the commission - the problem partly being that it was difficult to find Roma representatives willing to be members of a body whose members represented widely different interests and had difficulties in reaching agreements.

Although Czech legislation offered several forms of remedies to prevent racist and discriminatory acts, the lack of knowledge about these remedies and the language barrier resulted in the Roma making little use of them. This fact added to their distrust towards the majority Czech population. Another fact contributing to tension between the majority population and the Roma community was the scarce publicity that steps taken by the government against racism received. One of them was the order of the prosecutor general to all state prosecutors to punish racially motivated crimes with the highest penalty. In addition, the police president gave instructions to all police officers on how to improve investigations of racially motivated crimes.

A new form of discrimination against the Roma was introduced by some discos and night clubs which required membership cards from all visitors – and refused to issue them to members of the Roma minority. In this way the club owners were able to reject all Roma applicants without directly breaking the law.

When ratifying the Framework Convention on the Protection of Minorities, the Czech Republic committed itself to supporting measures that encourage the knowledge of the language, history and religion of ethnic minorities. However, the state disregarded this commitment. Curricula in Czech schools did not include any information at all about the Roma minority, and public libraries did not own books by Roma authors at all, not even those written or translated in Czech.

## Rights of the Child

The Czech Republic ratified the UN Convention on the Rights of the Child in 1991. However, the Czech Republic was not able to provide children and youths with the practical protection stipulated by the convention, nor had it created laws which would

be consistent with the standards laid down by the convention.

The Legal Advice Office of the Czech Helsinki Committee (set up in 1997) monitored and analyzed systematically the observance of the rights of the child in light of the UN Convention. It documented decisions by both courts and authorities which had not sufficiently respected the rights of the child. Those included procedural delays, inappropriate operation of child care authorities, and insufficient protection of the child in cases of abuse by parents as well as during court proceedings in such cases where a child was not represented by a lawyer while the parents were. Also, there were disputes about the applicability of the convention in cases where domestic legislation was in contradiction of its provisions. Despite the fact that article 10 of the Czech constitution stipulates that international conventions on human rights are directly applicable and have constitutional power - i.e. other legislation is subordinated to them – domestic law was frequently applied instead of the convention. The Czech Committee stated that it would be essential to establish new legal regulations that were easily applicable to new developments and dangers faced by children and youths.

In the beginning of 1995 the government vested the Ministry of Justice with the task of creating amendments to the Family Law, and the Ministry of Labor and Social Work with that of drafting a law on social and legal protection of the child. Both tasks should have been completed in collaboration with the other ministries. However, the only outcome in 1998 was the August amendments to the Family Law, which partially responded to current problems. A Law on Social and Legal Protection of the Child was drafted, but not submitted to parliament.

The draft Law on Social and Legal Protection of the Child included regulations which were consistent with the UN Convention on the Rights of the Child. For example, it stipulated that children were guaranteed social-legal protection, had the right to their own opinions, and to get involved in issues concerning them. Furthermore, the draft law provided for the right to one's own identity and to care in one's own family. The proposal obligated the state, among other things, to provide assistance to families with children, to protect children against physical and mental violence, to guarantee reintegration and recovery of a child who is a victim of torture, molestation or culpable negligence, and to keep record of children living outside the family. This approach was a significant improvement to the attitude of previous regulations, in which socio-legal protection of the child was primarily understood as the right to place children who need special care in foster homes outside their families.

One of the most frequent activities of social workers was to represent children as guardians in legal proceedings concerning the regulation of family conditions, paternity, and other important issues concerning the rights of the child.

As a signer of the UN Convention on the Rights of the Child, the Czech Republic is obligated to submit periodic reports on its compliance with the UN Committee on the Rights of the Child. The first report was submitted in October 1997, long overdue. The Czech Helsinki Committee participated in writing an alternative report on the implementation of the Convention on the Rights of the Child, which the UN Committee considered together with the governmental report. The Committee on the Rights of the Child reproached the Czech Republic for its reservation to article 7 of the Convention concerning the right of the child to know his/her parents, protection offered against discrimination (article 2 of the Convention), welfare of the child (article 3), respect of the child's opinion (article 12). It recommended that an inter-ministerial Commission for the Rights of the Child be established – a task which was not completed by the end of 1998.

#### Protection of Asylum Seekers and Immigrants

In October the Department for Refugees and Integration of Foreigners of the Ministry of the Interior became the first instance in the asylum procedure. Until then this had been a task of the Aliens Police. As a result, it was planned that asylum seekers be moved to another reception center that was under the control of the Ministry of the Interior. However, the ministry was unable to carry out these plans due to an exceptionally high number of new asylum applicants arriving in the country in the last months of 1998; some 800 applications were submitted in October, compared to the average 200 applications in previous months.

According to the proposed Asylum Law, the minister of the interior was to appoint an appeals committee, which would serve as the second instance. The committee would consist of three representatives of state institutions and four of NGOs, including the Czech Helsinki Committee.

In a worrisome development, distrust and suspicion towards asylum seekers and immigrants increased, with the media playing an important part in this. Moreover, the police's attitudes towards foreigners raised increasing concerns.

#### FOOTNOTES:



1. Based on the Annual report 1998 and other information from the Czech Helsinki Committee to the IHF.
2. RFE/RL Newslines, 30 September 1998.

