



CZECH REPUBLIC: HUMAN RIGHTS OF ROMA AND REFUGEES AT STAKE

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
REVIEW, 28TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2017

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First published in 2016

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: EUR 71/6509/2017

March 2017

Original language: English

amnesty.org

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INTRODUCTION

In this submission, prepared for the UN Universal Periodic Review (UPR) of the Czech Republic in November 2017, Amnesty International comments on the implementation of recommendations made to the Czech Republic during its previous UPR in 2012 concerning discrimination and hate crimes against Roma and the situation of refugees and migrants.

While Amnesty International welcomes measures taken by the Czech Republic to ensure that Romani children are educated in mainstream schools rather than following separate educational

programmes, it remains concerned that Romani children continue to be over-represented in schools and classes for pupils with mild mental disabilities and segregated in Roma-only schools. It is of additional concern that the government is resistant to meaningfully participate in the EU's policy of resettlement and relocation of refugees against the backdrop of anti-migrant and anti-refugee protests and rhetoric by politicians in 2015-2016.

FOLLOW UP TO THE PREVIOUS REVIEW

During its second UPR in 2012, the Czech Republic supported recommendations on a number of issues, including the fight against discrimination,¹ integration of the Roma minority,² the fight against racism,³ and inclusive education.⁴ Although initially rejecting a recommendation to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,⁵ in 2016: in a meeting with NGOs in December 2016, the government announced that it was considering the ratification of the Optional Protocol.⁶ Amnesty International welcomes this positive development.

In its response to a UPR recommendations in 2012, the Czech Republic stated that it consistently enforces all anti-discrimination laws, including the Anti-Discrimination Act, and made a commitment to further develop measures aimed at combating discrimination.⁷ However, concerns remain relating to the enforcement of the legislation, in particular discrimination against the Roma.

In relation to hate crimes, the government stated that it investigates and prosecutes racially motivated criminal offences and that offenders receive strict penalties. Amnesty International is concerned, however, at the lack of prevention of racially-motivated violence and harassment targeting Roma communities throughout the country. The government also indicated that victims of racially motivated crimes are paid appropriate attention during the prosecution process and

¹ Report of the Working Group on the Universal Periodic Review, Czech Republic, A/HRC/22/3, recommendations 94.23–24 (France, USA), 94.57 (Malaysia), 94.59 (Thailand), 94.71 (Egypt), 94.73 (Iran), 94.76 (Norway), 94.122–125 (Argentina, Australia, Austria, UK).

² A/HRC/22/3, recommendations 94.33 (Cambodia), 94.42 (Costa Rica), 94.44 (Cuba), 94.93 (South Africa), 94.105 (Finland), 94.121–123 (Libya, Argentina, Australia), 94.127 (Thailand), 94.129–135 (Namibia, Spain, China, DPRK, Denmark, Paraguay, Brazil).

³ A/HRC/22/3, recommendations 94.40 (Armenia), 94.42 (Costa Rica), 94.48–72 (Egypt, Turkey, Tunisia, China, Algeria, Cuba, South Africa, Canada, Malaysia, Thailand, and others), 94.126 (China), 94.128 (Democratic People's Republic of Korea)

⁴ A/HRC/22/3, recommendations 94.73 (Iran), 94.95–115 (Paraguay, Palestine, Canada, Sri Lanka, Norway, Indonesia, USA, Belgium, Kyrgyzstan).

⁵ A/HRC/22/3, recommendation No. 94.1(Spain).

⁶ Outline on the implementation of the recommendations by the Czech Republic, December 2016. On files of Amnesty International.

⁷ Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. 1 March 2013. A/HRC/22/3/Add.1, para 7.

committed to improve measures in the area of hate crimes, “including prevention, training for public authorities, monitoring, and public education”.⁸

THE NATIONAL HUMAN RIGHTS FRAMEWORK

In relation to inclusive primary education, the government has taken a number of positive steps since the previous review. In February 2015, the government adopted the Revised Action Plan which envisages a comprehensive amendment of the Schools Act to “guarantee the maximum achievable [...] education in mainstream schools for all pupils”.⁹ In September 2016, the amended Schools Act entered into force which abolished separate educational programme for pupils with mild mental disabilities and introduced a set of support measures to facilitate the education of children with special needs in mainstream schools. This reform, if implemented fully, could lead to significant progress towards achieving integrated education for Romani children by removing one of the filters used to exclude the Roma from mainstream education (see also below). In March 2016, Parliament adopted another amendment of the Schools Act introducing a compulsory last year of pre-school (either in kindergarten or in private care) free of charge.¹⁰ The law will come into force in September 2017.¹¹ The amendment should address the problem of delays in the start of compulsory schooling of Romani children who were not in pre-school and were assessed as “not ready” by counselling centres and placed into preparatory classes that were effectively segregated and Roma-only.

HUMAN RIGHTS SITUATION ON THE GROUND

HATE CRIMES

In 2013, Czech far-right groups staged a series of anti-Roma protests in dozens of towns and cities across the country.¹² Many joined the call to march and used racial abuse and intimidating

⁸ Views on conclusions, para 13.

⁹ Revised Action Plan for the Execution of the Judgment of the European Court of Human Rights in *D.H. and Others v. The Czech Republic*, February 2015, pp. 3-4.

¹⁰ The upper chamber of the parliament, the Senate, adopted the amendment in April 2016.

¹¹ Press release of the Ministry of Education, 9 March 2016 (in Czech: <http://www.msmt.cz/ministerstvo/novinar/poslanci-schvalili-novelu-skolskeho-zakona-2>).

¹² According to the United States Department of State, the Czech police recorded 21 anti-Roma marches from January to the end of August 2013. United States Department of State. Czech Republic 2013 Human Rights Report.

tactics, sometimes repeatedly, towards residents in Romani neighbourhoods. Despite the seriousness and large scale of these marches, the response by the central government has been ambivalent; as noted by several national NGOs and the then Government Plenipotentiary for Human Rights, there was no unequivocal condemnation by the authorities.¹³

In August 2016, a man fired shots into the air and shouted racist abuse in the vicinity of a Roma children's summer camp in the village of Jiřetín pod Jedlovou, Děčín District. According to camp organizers, local police did not send officers to the scene despite the camp managers' repeated requests for help. In September 2016, a regional police investigation dismissed the complaints by the organizers, but found that the incident had not been thoroughly investigated.

In October 2016, a Roma man died in a pizzeria in the town of Žatec after an intervention against him by the municipal police and some guests following a conflict between the man and guests and staff of the restaurant. The Government Council for Roma Minority Affairs called on the Minister of Interior and the Police President to investigate his death.¹⁴ An investigation was initiated; however, in January 2017, while the investigation was still pending, the family of the victim filed a complaint against the police on the basis that the investigation was not thorough.¹⁵ The lawyer representing the victim's family criticised the initial police investigation for failing to secure the crime scene and the evidence. He also expressed concern that the police inquiry had initially focused on investigating the deceased man rather than his death.¹⁶ In February 2017, the police discontinued the investigation and announced that the death was not the result of a crime.¹⁷

ROMA DISCRIMINATION IN ACCESS TO EDUCATION

The 2016 Amendment of the Schools Act abolished the system of parallel education for pupils diagnosed with mild mental disability. The use of educational programmes for pupils with mild mental disability is scheduled to be phased out by 1 September 2020. Pupils educated in these educational programmes are also entitled to a re-assessment by a counselling centre.¹⁸ The reform also introduces a system of support measures for pupils with special educational needs including methods to enable a pupil to "overcome the lack of school readiness", use of individual educational plans, adequate number of teaching assistants and interventions by special pedagogues to support the pupils' special educational needs. These measures should prevent streaming of pupils with special educational needs into separate schools for pupils with disabilities.

¹³ Czech Radio, 10 September 2013. "Politici musí vystupovat proti antiromským náladám, vybízí Šimůnková." Available here: <http://www.rozhlas.cz/zpravy/politika/zprava/politici-musi-vystupovat-protiantiromskym-naladam-vybizi-simunkova-1255804>

¹⁴ "Vyšetřete smrt mladého Roma, žádá vládní rada Chovance", 2 November 2016. In Czech: http://www.tyden.cz/rubriky/domaci/krimi/vysetrete-smrt-mladeho-roma-zada-vladni-rada-chovance_403988.html

¹⁵ "Kauza smrti Roma v Žatci: Rodina podala stížnost na postup při vyšetřování", 13 January 2017. In Czech: <http://www.romea.cz/cz/zpravodajstvi/domaci/kauza-smrti-roma-v-zatci-rodina-podala-stiznost-na-postup-pri-vysetrovani>

¹⁶ Video interview with the lawyer representing the family in Czech: <http://www.romea.cz/cz/zpravodajstvi/domaci/video-policie-postupovala-nespravne-nedostatecne-zajistila-stopu-rika-pravni-zastupce-v-kauze-zatec>

¹⁷ "Rom v žatecké pizzerii zemřel sám, policie případ odložila." Echo24, 2 February 2017. In Czech: <http://echo24.cz/aijUeB/rom-v-zatecke-pizzerii-zemrel-sam-policie-pripad-odlozila>

¹⁸ They eligibility for reassessment was set for two years starting on 1 September 2016. For further details see: Timeline for the reform. Available in Czech: <http://www.msmt.cz/file/36880/>

During the 2012 review, the Czech Republic committed to monitor the number of Roma students who receive education outside mainstream educational programmes. The monitoring of the counselling centres was carried out by the School Inspectorate in 2014 and 2015, and by the Ministry of Education in 2016. In November 2016, the Ministry of Education published data indicating that 30.9% of pupils enrolled in the educational programmes for pupils with mild mental disabilities were Roma. The Ministry noted an increase of 3% in Romani pupils in mainstream educational programmes and a decrease of 5.2% in Romani pupils educated under programmes for those with mild mental disabilities.^{19 20} These figures suggest that Roma remain overrepresented in schools and classes for pupils with mild mental disabilities. According to estimates, the number of Roma in the Czech Republic ranges between 150,000 and 300,000, i.e. only between 1.4% and 2.8% of the total population.²¹

RIGHTS OF REFUGEES AND MIGRANTS

A number of anti-migrant and anti-refugee protests were reported in 2015 and 2016. According to opinion polls in 2015, 50% of Czechs opposed policies of accepting refugees fleeing from armed conflict. Over the summer of 2015, hundreds of protesters participated in anti-refugee and anti-migrant demonstrations in Prague and other cities. Some of these protests were countered by refugee-rights and anti-racist activists. During a rally organized by the nationalist Freedom and Direct Democracy Party in Prague on 1 July 2015, at which some of the protesters carried gallows symbolizing death threats to the politicians who “betrayed the homeland”, the riot police intervened only against some 20 counter-demonstrators who attempted to block the march.

In September 2015, stickers featuring a noose and a statement “Death to traitors” were placed by non-state actors on the display window and door of a Community Centre Kašpárek in the town of Pardubice. The incident happened a few days after the centre had organized a food collection and other aid for refugees. The police told the media that they were investigating the incident merely as a misdemeanour. In February 2016, thousands of people participated in an anti-refugee demonstration in Prague, after which the social centre Klinika, which was providing support for the refugees, was attacked, and one person injured.

During the peak of the refugee crisis in the summer of 2015, the police was routinely checking trains for irregular migrants. Those without a valid visa were apprehended and taken to a detention centre pending deportation proceedings, sometimes without adequate access to lawyers and translators. According to the NGO, Organization for Aid to Refugees, about 700 refugees and migrants, predominantly from Syria, Afghanistan and Iraq were held in the Bělá-Jezová detention centre in September 2015. The capacity of the detention centre was only 260 persons, so a large number of refugees and migrants were forced to sleep in military tents, a gym and pre-fabricated containers.

The detention centre was fiercely criticized by domestic and international human rights bodies in 2015. In October 2015, the Public Defender of Human Rights (the Ombudsperson) stated that the conditions in the Bělá-Jezová detention centre amounted to degrading treatment and were worse than a prison. Adults were brought to the premises handcuffed, routinely checked by the police in the evening and accommodated in unhygienic sleeping quarters. The food was distributed by police officers wearing helmets and balaclavas hiding their faces. The refugees and

¹⁹ Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. A/HRC/22/3/Add.1. Section J.

²⁰ Ministry of Education, (In Czech) “Zpráva ze zjišťování kvalifikovaných odhadů počtu romských žáků v základních školách ve školním roce 2016/2017”. Prague, November 2016, p. 6.

²¹ (In Czech) Survey of the Public Defender of Rights on Ethnicity of Pupils in Former Special Schools, 2012. p. 10 Available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf

migrants held in the detention centre were charged for their stay at a rate of 260 euros per month.

The Ministry of Interior failed to acknowledge any of these concerns and rejected the Ombudsperson's recommendation to stop placing families with children in the detention centre.

On 22 October 2015, the UN High Commissioner for Human Rights also criticized the treatment of migrants and refugees in the Czech Republic and expressed concern that the government was using detention as a routine policy.²² The spokesperson for the Czech President rejected the criticism alleging that these statements were part of a campaign against the Czech Republic. In November 2015, the Ombudsperson acknowledged that the conditions in the detention centre had improved since she had first raised concerns in February 2015. The number of persons held in the detention centre had decreased to 69 and the Ministry of Interior had accepted some of the Ombudsperson's recommendations.²³

After the consistent refusal to relocate refugees within the EU in 2015, the government agreed to relocate 12 refugees in 2015. In-depth security checks of the refugees were the condition for these relocations. The government also modestly contributed to the EU resettlement scheme by resettling 52 refugees by the end of 2016.

²² Office of the High Commissioner for Human Rights, "Zeid urges Czech Republic to stop detention of migrants and refugees," News and Events, 22 October 2015, Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16632&LangID=E>

²³ „Veřejná ochránkyně práv vítá zlepšení poměrů v zařízení Bělá-Jezová“. 5 November 2015. In Czech: <http://www.ochrance.cz/aktualne/tiskove-zpravy-2015/verejna-ochrankyne-prav-vita-zlepseni-pomeru-v-zarizeni-bela-jezova/>

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF THE CZECH REPUBLIC TO:

THE NATIONAL HUMAN RIGHTS FRAMEWORK:

- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

DISCRIMINATION OF ROMANI CHILDREN IN ACCESS TO EDUCATION:

- Monitor the impact of reforms aiming at inclusion of Romani pupils in mainstream schools;
- Oblige the local authorities to review the current school catchment areas to assess whether they facilitate ethnic segregation of, and in, schools and, if they do, implement appropriate changes;
- Adopt a working definition of unlawful discrimination, in line with the grounds identified in national and international law including ethnicity, and segregation at schools;
- Ensure that any discriminatory treatment of pupils by teachers, other school staff or staff at the diagnostic centres is properly investigated and addressed;
- Ensure that the Revision centre (*Revizní pracoviště*), established at the National Institute for Education on 1 September 2016 and mandated to revise the decisions of pedagogical counselling centres, is adequately funded and provided with the necessary human resources.

REGARDING HATE CRIMES:

- Ensure that any crimes against individuals and communities are effectively and promptly investigated and address any alleged discriminatory motive behind these crimes;
- Condemn hate crimes when they occur and make clear they will not be tolerated;
- Ensure that the police protect communities and groups at risk of, or threatened with, violence and ensure that Roma people can exercise all of their human rights free from intimidation and discrimination;
- Collect data on hate crimes, including reporting, investigation, prosecution and sentencing, and ensure that such data are disaggregated by protected ground, made publicly accessible and regularly reviewed to assist the development of policies to combat hate crimes;
- Ensure that victims of hate crimes are treated in an impartial, respectful and professional manner, that they are provided with thorough and prompt information regarding the status of their case, and that they are able to be heard in legal proceedings, including the investigation phase, and provided with necessary legal or psychological support.

REFUGEES AND MIGRANTS:

- Provide asylum-seekers with immediate access to prompt and effective individual asylum procedures and adequate reception conditions;
- Comply with the principle of *non-refoulement*.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE²⁴

Czech Republic: Eight years after the D.H. judgment a comprehensive desegregation of schools must take place Indonesia (Index: EUR 71/2863/2015).

Czech Republic: Must try harder – ethnic discrimination of Romani children in Czech schools (EUR 71/1353/2015).

Czech Republic: Allegations of excessive use of force by the police must be investigated (EUR 71/003/2014).

Europe: “We ask for justice”: Europe’s failure to protect Roma from racist violence (EUR 01/007/2014).

Czech Republic’s discriminatory treatment of Roma breaches EU Race Directive (EUR 71/005/2013).

²⁴ All these documents are available on Amnesty International’s website:
<https://www.amnesty.org/en/countries/europe-and-central-asia/czech-republic/>

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