



Rights of the Child
in the Czech Republic



OPERATING THE SOS-TORTURE NETWORK



Rights of the Child in the Czech Republic



The aim of OMCT country reports are to prevent torture

In its reports on children's rights, OMCT aims to analyse national law in terms of the international commitments that a government has made. For example, in some countries families are not informed when their child is detained and this removes a precious safeguard against abuse. The absence of such safeguards facilitates situations where the torture of children can and does occur.

In other words, the reports aim to point out where, often unknowingly, legislation facilitates grave abuses against children.

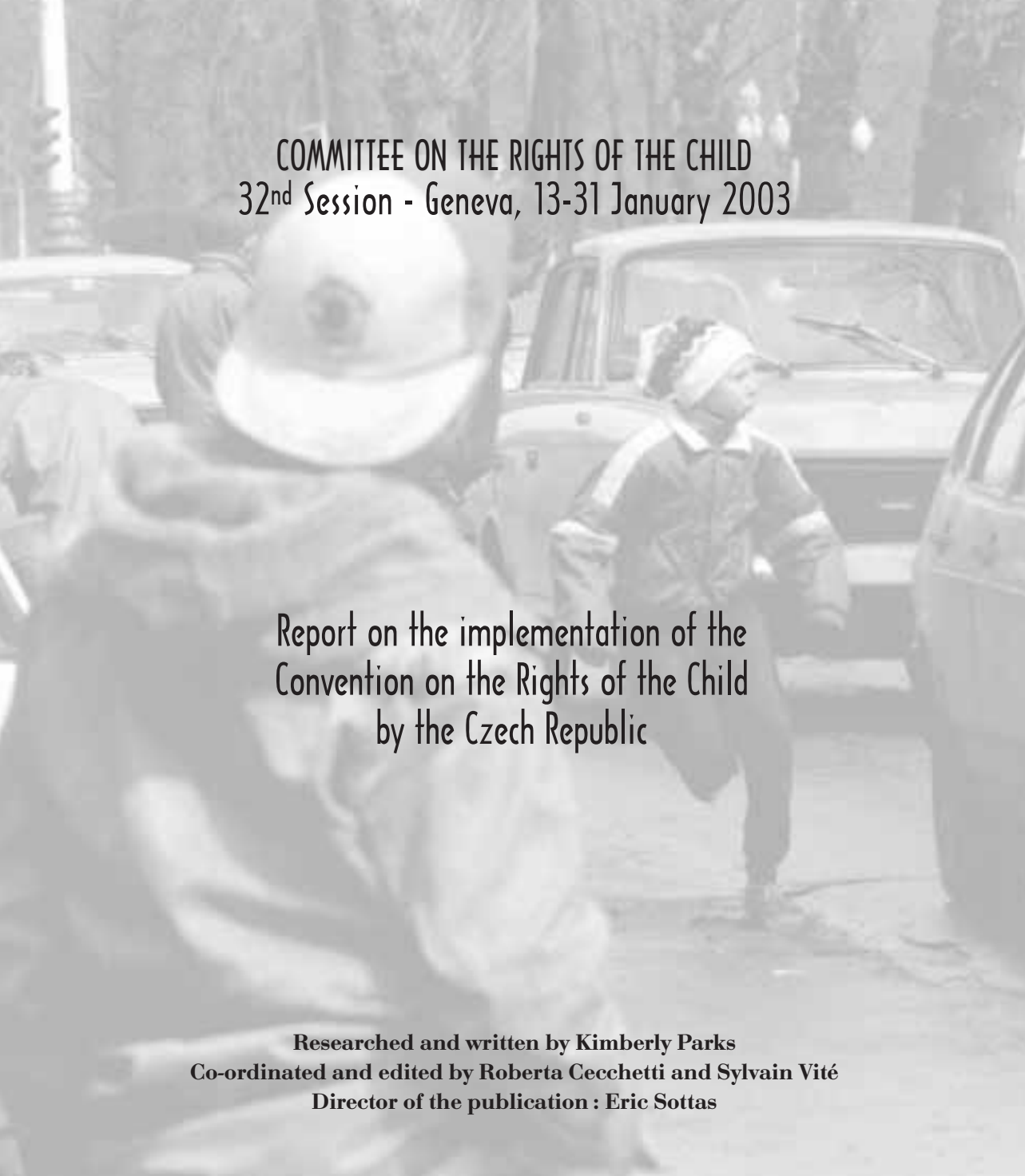
The legal analysis is supported, where possible, by urgent appeals on the torture of children documented by OMCT. These urgent appeals (OMCT intervenes almost daily on such cases) are the foundation of all our work.

The reports are not legal semantics for their own sake, but represent, in addition to the urgent actions, another side of our strategy to end torture. The reports include meaningful and feasible recommendations for legal reform aimed at reducing the incidence of child torture.

The reports are presented to the United Nations Committee on the Rights of the Child who use them to analyse how well a country is fulfilling its international commitments with regards to children. Their recommendations on the issue of torture, drawing from OMCT's reports, send a strong message from the international community on the need for action to end the torture of children.

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COMMITTEE ON THE RIGHTS OF THE CHILD
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Report on the implementation of the
Convention on the Rights of the Child
by the Czech Republic

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I. Introduction

Since the dissolution of the Czech and Slovak Federal Republic and the ensuing independence of the Czech Republic in 1993, social circumstances have been affected by the emerging market economy. Currently the economic policy of the country is geared toward entry into the European Union.¹

Increasing rates of unemployment have disproportionately affected women, members of the Roma community, and other vulnerable groups. After very low unemployment in the early years of the period of transition to a functioning market economy, the unemployment rate indicator rose rapidly in 1997 to 1998; as of 30 June 2002 the unemployment rate under registration was 8.7%.²

Discrimination against the Roma population also persists in the areas of housing and education, and there has been an increase in racially motivated violence against minority groups.³ The Czech Republic remains a central location for many criminal groups involved in the sexual exploitation of children and trafficking of women.

The Czech government established the Council for Human Rights of the Government in 1998 as well as the Office of the Public Protector of Rights in 1999.⁴ The Czech Republic also passed into law the Act on Social-Legal Protection of Children in April 2000.⁵ OMCT hopes that these entities will be utilized effectively in order to promote the protection of children's rights in the Czech Republic.

The Czech Republic ratified the Convention on the Rights of the Child (the Convention) on 22 February 1993. The Czech Republic is also a party to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or

1 - *State Party Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights*, E/1990/5/Add.47, 25 May 2001, par. 19.

2 - Ministry of Labour and Social Affairs, *Information on Unemployment in the Czech Republic – June 2002*, <http://www.mpsv.cz/scripts/nezamestnanost/info.asp?lg=2>

3 - *Concluding Observations of the Committee Against Torture: Czech Republic*, A/56/44, 14 May 2001, par. 113.

4 - *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Czech Republic*, E/C.12/1/Add.76, 17 May 2002, par. 5.

5 - Czech Helsinki Committee, *Report on the State of Human Rights in the Czech Republic*, 2000, page 11.

Punishment (CAT)⁶, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)⁷, and the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW).⁸ On a regional level, the Czech Republic is party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁹ and the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.¹⁰

OMCT is pleased to note that the Czech Republic has ratified the Optional Protocol to the Convention on the Rights

of the Child on the involvement of children in armed conflict.¹¹ The Czech Republic is also a party to the two principal covenants on human rights, the International Covenant on Civil and Political Rights (ICCPR)¹² and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).¹³

Article 10 of the Czech Constitution provides that “Ratified and promulgated international accords on human rights and fundamental freedoms, to which the Czech Republic has committed itself, are immediately binding and are superior to law.”¹⁴

I. Definition of the Child

Article 1 of the Convention declares that “a child means every human being below the

age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”

The Civil Code of the Czech Republic establishes that “majority shall be acquired by achieving the age of eighteen years. Before achieving this age, the majority shall be acquired only by entering into a marriage. The majority acquired in this way

6 - By acceding to the commitments ensuing from the former Czech and Slovak Federal Republic retroactively as of 1 January 1993.

7 - Ratified 22 February 1993.

8 - Ratified 22 February 1993.

9 - By acceding to the commitments ensuing from the former Czech and Slovak Federal Republic retroactively as of 1 January 1993.

10 - Ratified 7 September 1995; came into force 1 January 1996.

11 - Ratified on 30 November 2001.

12 - Ratified 22 February 1993.

13 - By acceding to the commitments ensuing from the former Czech and Slovak Federal Republic retroactively as of 1 January, 1993.

14 - Constitutional Act No. 1/1993.

cannot be lost even if the marriage becomes extinct or is declared invalid by a court”.¹⁵ According to the Family Act, a marriage is possible when a minor is “older than sixteen years,” but only “exceptionally and for important reasons” with the approval of a court.¹⁶ Therefore, the age of majority in the Czech Republic can potentially be reduced to sixteen years. OMCT would recommend that the Committee inquire as to whether the possibility of marriage under the age of eighteen implies the loss of legal protections at the age of sixteen or seventeen, particularly in the area of criminal justice.

The Labour Code specifies a minimum working age of fifteen years so long as one has completed his/her compulsory school attendance, although children who have completed their compulsory education at a remedial school (generally attended by those with mental disabilities or psychological problems; see Chapter III) may obtain work at the age of fourteen.¹⁷ The legal protections guaranteed in the Labour Code apply to all legally employed “adolescents” and thus there are no provisions that are specific to those children under fifteen who work. An employer may not give adolescents overtime work or work at night. Exceptionally, adolescents over sixteen can

perform work at night for no more than one hour, if necessary for their occupational training. Adolescents may not be employed for work underground in mineral mining or digging tunnels and shafts. Adolescents also may not be employed for work which, with regard to their anatomical, physiological and psychological characteristics at that age, is disproportionate, dangerous, or damaging to their health.¹⁸

Regarding the age of military recruitment, the Czech Republic has staunchly advocated a “straight-18” policy that prohibits children from entering the armed forces voluntarily or by conscription.¹⁹

15 - Act No. 40/1964, Chapter 2, Title 1, Section 8 (2).

16 - Act No. 94/1963, Chapter 2, Section 13.

17 - Act No. 65/1965, Section 11(2). This discrepancy is probably due to the fact that basic school education takes nine years to complete, beginning when a child is six years old, while it may be possible for education at a remedial school to be completed at an age earlier than fifteen.

18 - Labour Code, Sections 163-168.

19 - Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report*, 2001, page 142.

III. Discrimination against Roma Children

OMCT believes that discrimination is one of the root causes of torture and other forms of ill-treatment and violence. Article 2 of the Convention asserts that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind...” OMCT welcomes the fact that the principle of non-discrimination is upheld in the Charter of Fundamental Rights and Freedoms, which is part of the constitutional order of the Czech Republic.²⁰

3.1 Czech Republic’s Legal Framework and Programmes

Article 3 of the Czech Republic Charter of Fundamental Rights and Freedoms establishes that “Fundamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, colour of skin, language, faith, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth, or other status.” Article 24

further provides that “The national or ethnic identity of any individual shall not be used to his or her detriment.”

In its Concluding Observations, the Committee on the Elimination of All Forms of Racial Discrimination welcomed the Act on the System of Primary and Secondary Schools passed in 1999, which facilitates the entry of special school graduates into secondary schools.²¹ However, the UN Economic and Social Council lamented that the “piecemeal legislation” currently in place is inadequate to prevent racial discrimination and to provide efficient remedies for victims of discriminatory acts. The Council noted that despite the constitutional nature of Articles 3 and 24 of the Charter, the Czech government “has not yet adopted a law to curb racial discrimination in all areas of life.”²²

On a positive note, the Czech government adopted an amendment to the Citizenship Law in September 1999, which has helped resolve many issues of statelessness that had disproportionately affected the Roma

20 - 16 Dec 1992, specifically Article 7.

21 - CERD/C/304/Add.109, 1 May 2001, par. 6.

22 - E/CN.4/2001/21, 6 Feb 2001, page 44, par. 150.

population.²³ The government has also opened a secondary school for Roma children, which furthers their educational development but fails to address the problem of segregation. Other programmes recently implemented by the Czech government include assistance to integrate Roma children into social life when they leave school; measures to train young Roma in different occupations or to continue their general education and integration; and the hiring of Roma educational assistants to participate in language teaching and re-socialisation activities.²⁴

3.2 Facts

The Committee on the Elimination of All Forms of Racial Discrimination expressed deep concern regarding the ongoing practice of segregation that places Roma children in specialized schools for the mentally handicapped and inherently limits their opportunities for higher education and future employment.²⁵

An estimated 75-80% of Romani children in the Czech Republic attend special schools designed for the mentally handicapped,²⁶ compared to only 4.2% of the gen-

eral population.²⁷ Romani children are thus over fifteen times more likely to be placed in special schools than their non-Romani counterparts.²⁸ This figure is astounding given the fact that the Romani population in the Czech Republic constitutes less than 3% of the total population in the country.²⁹

The Czech government issued a decree in January 1998 entitled “Alternative Education Programme of Special Schools for Pupils of Romani Ethnicity.”³⁰ This decree demonstrates the intentionality of a selective process of segregation that places Romani children in learning environments that are only suitable for those who suffer from mental or psychological disabilities. Indeed, the State Party report submitted in June 1996

23 - *Concluding Observations of the Committee Against Torture: Czech Republic, A/56/44*, 14 May 2001, par. 108.

24 - ILO, Committee of Experts on the Application of Conventions and Recommendations: *Individual Observation concerning Convention No. 111, Discrimination (Employment and Occupation)*, 1958 Czech Republic, 2002.

25 - CERD/C/304/Add.109, 1 May 2001, par. 10.

26 - Czech Helsinki Committee, *Report on the State of Human Rights in the Czech Republic*, 2000, page 18.

27 - European Roma Rights Center, European Roma Rights Center, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, June 1999, section 3.

28 - *Ibid.*

29 - European Roma Rights Center, *Written Comments Concerning the Czech Republic for Consideration by the UN Human Rights Committee*, 29 June 2001, page 10.

30 - Ministerstvo Školství, mládeže a tělovýchovy, “Alternativní vzdělávací program zvláštní školy pro zřáky romského etnika,” programme no. 35 252/97-24, January 1998, unofficial translation by European Roma Rights Center.

states that “A corresponding ethnic school system serves the needs of ethnic minorities.”³¹ In a June 1999 report, the European Roma Rights Center provided evidence from interviews and studies in the Czech Republic demonstrating that disproportionate numbers of Roma children are placed in remedial special schools on the basis of arbitrary psychological evaluations.³² These tests may occur with or without parental consent and, in many cases, parental consent is secured by undue pressure from school officials. There was reportedly no informed consent whatsoever regarding the content of remedial school education as compared to the curriculum in basic primary schools, or the consequences of being placed in a special school in terms of later opportunities.³³

While special schools are allegedly intended for children who have certain handicaps, yet simultaneously the government decree shows that such schools are geared toward “pupils of Romani ethnicity,” a mentality is perpetuated that the Roma themselves are inherently handicapped. The placement of significant numbers of Romani children in

special schools on the basis of ethnicity, and not mental capability, disregards Article 29 of the Convention, which declares that every child has a right to an education that is geared towards the development of his/her fullest potential.

The disproportionate level of placement of Roma children in remedial special schools prompted a group of Roma parents from Ostrava to lodge an application with the European Court of Human Rights in Strasbourg in April 2000. The parents alleged that the Czech state was practicing discrimination and segregation by channelling a skewed number of Romani children into schools intended for children with mental disabilities, constituting “degrading treatment.”³⁴ The application contained evidence demonstrating that, in the district of Ostrava, Romani children outnumber non-Roma in special schools by a proportion of more than twenty-seven to one. There has so far been no resolution of the case.

Since special schools are not considered to provide a complete education in contrast to other primary schools in the Czech Republic, a large number of Roma children leave school unequipped with the educational background necessary for secondary

31 - CRC/C/11/Add.11, 1996, par. 200.

32 - European Roma Rights Center. *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic, June 1999*, section 4.3.

33 - *Ibid.*, section 4.1.

34 - International Helsinki Federation for Human Rights, “Strasbourg Application by Roma Challenges Racial Segregation in Czech Schools”, 18 April 2000.

schooling or regular apprenticeship. As these children mature into adults, the lack of qualifications causes difficulties securing employment, dependence on social benefits, and general marginalisation of the Roma community.³⁵

In 2001, the UN Human Rights Committee expressed serious concern in its Concluding Observations and called upon the Czech government to “take immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that placement in schools is carried out on an individual basis and is not influenced by the child’s ethnic group. Where needed, the State party should also provide special training to Roma and other minority children to secure, through positive measures, their right to education.”³⁶

OMCT regrets the continual selective placement of Roma children into schools that fall below the standards of basic education to which every child is entitled. OMCT is also deeply concerned by reports of violence in both remedial and basic schools targeting Romani students. See Chapter V.(C.) In light of these concerns, OMCT would recommend that the Czech government enact an effective

legislative framework to prohibit discrimination against minorities in all areas of life, including education. OMCT would further suggest that the Czech Republic implement effective procedures for monitoring the psychological testing processes and ensure that informed consent be obtained by all parents before the placement of a child in a remedial special school. Moreover, OMCT would urge the government to take immediate and effective measures to integrate Roma children into the mainstream of the educational system.

3.3 Acts of Violence by Private Individuals

The incidence of violent attacks by private individuals continues to plague the Roma population, including children. In several reported cases, police have failed to pursue their investigations of such reported crimes to the full extent, and the Czech government has not enacted legislation to adequately protect minorities from racially motivated violence.

35 - ILO, Committee of Experts on the Application of Conventions and Recommendations: *Individual Observation concerning Convention No. 111, Discrimination (Employment and Occupation)*, 1958 Czech Republic, 2002.

36 - *Report of the Human Rights Committee, A/56/40, Vol. I., 26 Oct 2001, par. 83(2).*

On 27 July 2000, a group of men allegedly attacked nine Roma, including children, at the OMV petrol station at Hou_na, two miles from the Czech town of Vimperk.³⁷ Criminal police officials reportedly arrived after an hour and a half. Although the victims informed the police that they recalled some information including a partial license plate number of the attackers' car, they "reportedly were not interested in this information."³⁸ None of the attackers have been indicted.

In a separate incident, three men attacked a group of six Roma on the road from Rokycany to the village of Osek in the late evening of 5 July 2000. Some members of the group were as young as fifteen, two of them girls. The victims suffered abrasions and contusions, and this time the attackers were caught.³⁹ The investigator allegedly accused the attackers of rioting, violence against a group of people or individuals, and defamation of race, under Articles 202, 196(2) and 198 of the Penal Code. Investigation was reportedly still open as of 10 October 2000.

On 12 September 2001, the Czech newspaper *Mladá Fronta Dnes* reported that the Central Bohemian Regional Court had suspended the sentences of a number of Czech youths previously convicted of a racially motivated attack on several Romani children in the central Bohemian town of Podebrady.⁴⁰ The attack occurred in April 2000 after the youths forced the Romani children to leave a public playground and shouted ethnic slurs at them.

OMCT would urge the Czech government to ensure timely and thorough investigations into racially motivated attacks against Romani children, and to consider enacting legislation that would provide more legal protections from such acts of violence by private individuals. OMCT deems that violent acts, in which the perpetrators are not identified, can invoke the responsibility of the State for lack of due diligence. States Parties to the UN Conventions are expected to adopt various measures in conformity with the international norms of human rights. These measures include the obligations to prevent, stop, investigate and punish human rights violations, to provide sufficient compensation and promote the adequate recuperation and reintegration of the victim.⁴¹

37 - European Roma Rights Center, "Snapshots from around Europe," No. 3, 2000, http://errc.org/tr_nr3_2000/snap7.shtml.

38 - *Ibid.*

39 - *Ibid.*

40 - European Roma Rights Center, "Snapshots from around Europe," No. 4, 2001, http://errc.org/tr_nr4_2001/snap23.shtml

41 - OMCT, *Outcome Document: International Conference on Children, torture and other forms of violence*, Tampere, Finland, 2001, page 42.

IV. Protection against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

4.1 Legal Framework

On a national level, the Czech Republic has enshrined the right of children to be protected against torture or other cruel, inhuman or degrading treatment in the Charter on Fundamental Rights and Freedoms, the Penal Code⁴², and the recently enacted Act on Social and Legal Protection of Children.

The Czech Republic upholds the mandate of Article 37 of the Convention in Article 7 of the Charter on Fundamental Rights and Freedoms, which states that “No one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Article 259(a) of the Penal Code establishes that the infliction of “torture or other inhuman and cruel treatment” in connection with the performance of the jurisdiction of a State body, local authority or court of justice is considered a crime punishable by imprisonment for a term of six months to three years.⁴³ If the act is committed by at least two persons, or for a prolonged period of

time, imprisonment ranges from one to five years. Furthermore, if serious bodily harm is caused, the offender will be sentenced to a term of five to ten years in prison, and if death is caused, the sentence will be eight to fifteen years. The Czech Republic reports that there have been no arrests or prosecutions under Article 259(a) as of 1997.⁴⁴

According to the Czech Helsinki Committee, the Act on Social and Legal Protection of Children “responds to the endangerment of the child by socially negative influences such as increasingly frequent acts of violence...”⁴⁵ It defines the obligation of the State authorities to protect the child from physical and mental violence, as well as the obligations of the State authorities in matters related to reintegration and recovery of children victimized by negligence, abuse, torture and other degrading treatment.⁴⁶

42 - Act No. 140/1962 Coll., as amended by later provisions (2001), specifically Article 259(a).

43 - Amendment to Penal Code No. 290/1993 Coll., came into effect 1 January 1994.

44 - CAT/C/38/Add.1, 22 June 2000, par. 15.

45 - Czech Helsinki Committee, Report on the State of Human Rights in the Czech Republic, 2000, page 11.

46 - *State Party Report to CRC*, CRC/C/11/Add.11, 17 June 1996, para. 6.

4.2 Ill-Treatment by Police

Despite the legal framework that is in place to prohibit instances of torture or other inhuman and cruel treatment, there have been several recent occurrences in the Czech Republic in which police officers have treated minors abusively.

On the evening of 17 September 2000, a 17-year-old Romani male named Martin Tomko was approached by a plainclothes police officer in a park in the south-eastern town of Brno. The officer reportedly sat down beside Martin and started to stare at him. When Martin asked why the officer was staring at him, the officer allegedly grabbed him by the neck and threw him to the ground. Approximately ten minutes later, a police patrol arrived at the scene and requested to see Martin's identity card. When Martin asked the officers to check his identity by radio, they reportedly kicked and punched him. Following the incident, Martin obtained a medical certificate stating that he was not able to work for over a week. He also filed a formal complaint against the police.

Despite initial charges brought against three officers in December 2000, the Brno State Attorney decided to drop the case, reportedly arguing that he had not found enough evidence for the initiation of criminal proceedings against the officers involved.⁴⁷

On 27 September 2000, Professor Giancarlo Spadanuda and his 16-year-old son were walking on Lubla ská Street in Prague, when three plainclothes men approached them. Professor Spadanuda later stated, "Before I knew what had happened my son had disappeared out of my sight and then I realized that he was lying on the ground about three metres away from me. He later told me that one of the men picked him up, holding him by the hair, and threw him onto the ground."⁴⁸ Professor Spadanuda claimed that he thereafter saw the three men speaking to "three or four uniformed police officers pointing at us. They were all laughing." The next day the professor and his son cut short their vacation, returned to Italy, and filed numerous complaints to the Czech government.⁴⁹ OMCT recalls that even if this act of violence was committed by private individuals, the state has an obligation of due diligence.

47 - European Roma Rights Center, *Written Comments Concerning the Czech Republic for Consideration by the UN Human Rights Committee*, 29 June 2001, page 4.

48 - Amnesty International, *Arbitrary Detention and Police Ill-Treatment*, March 2001, AI Index: EUR 71/001/2001, page 9.

49 - *Ibid.*

On 29 May 2001, 13-year-old Tibor B. was caught by police as he was throwing stones at the window of an abandoned building in Náchod.⁵⁰ One of the officers injured him so badly that the medical report of the general hospital in Náchod stated that Tibor had suffered severe spinal injuries. As a result, he was kept at home for treatment for more than a month. According to the daily newspaper *Mladá Fronta Dnes* on 6 December 2001, the investigation of Tibor B.'s case was dropped as the investigator's office stated that the police officers had not broken the law and reportedly told the boy's father that he had no right to appeal the decision.⁵¹

Amnesty International reports that the authorities have failed to conduct thorough and impartial investigations into complaints of police misconduct and ill-treatment. Although investigators determined that police may have ill-treated detainees in two Prague police stations in September 2000, the perpetrators were never identified or held accountable.⁵² Government Commissioner for Human Rights Petr Uhl stated in his Report on the State of Human Rights in the Czech Republic that he had proposed reforms to improve the investigation of alleged police abuses, recommending that a force independent of the Interior Ministry

take responsibility for such investigations because the Interior Ministry itself maintains authority over the police. However, the Czech government has not initiated any of these reforms.⁵³ Indeed, the Czech Republic has noted in its most recent report to the CAT that "policemen have not been trained and tested in the sphere of human rights, not in respect for the prohibition of torture and other forms of maltreatment."⁵⁴

OMCT is pleased to note that the Czech Republic has completely adopted some police training modules developed by the Constitutional and Legal Policy Institute that focus on various issues including the use of force.⁵⁵ OMCT hopes that such training is currently being implemented to guarantee respect and promotion of human rights by all law enforcement officials. Because this is a recent development, OMCT would also suggest that the Czech government provide more information on these training modules.

50 - European Roma Rights Center, "Snapshots from around Europe," No. 1, 2002, http://errc.org/tr_nr1_2002/snap15.shtml

51 - *Ibid.*

52 - Amnesty International, *Arbitrary Detention and Police Ill-Treatment*, March 2001, AI Index: EUR 71/001/2001, pages 13-14.

53 - *Ibid.*, page 16.

54 - CAT/C/38/Add.1, 22 June 2000, par. 26.

55 - COLPI Newsletter, Winter 2001/2002, Vol. 4, Issue 2, page 2; <http://www.osi.hu/colpi/indexie.html>

OMCT would further recommend that the Czech government take steps to ensure that all allegations of ill-treatment are promptly, thoroughly and impartially investigated and the full findings of investi-

gations made public. Those responsible should be identified and brought before a competent and impartial tribunal that will apply the sanctions provided by the law.

V. Protection from Other Forms of Violence

5.1 Legal Framework

Article 19 of the Convention requires the protection of children “...from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” Article 34 of the Convention further obliges States Parties to “protect the child from all forms of sexual exploitation and sexual abuse.” The Czech Republic has confirmed this obligation through numerous legal and constitutional provisions.

Prostitution itself is not prohibited in the Czech Republic, but the Czech Penal Code contains specific clauses on prostitution of

children. Article 204 declares that “whoever engages, forces or lures another person to carry out prostitution...shall be sentenced to imprisonment for 2-8 years” if the victim is younger than 18 years; a sentence of 5-12 years is imposed on a perpetrator who forces a person younger than 15 years into prostitution. Article 216(a) is directed against parents or guardians who sell their children to others for any reason, such as for the purpose of prostitution.

The Czech Penal Code also provides specific protections for minors from trafficking. Article 233 declares that “whoever entices another person abroad shall be punished by imprisonment for a term of 5-12 years if he/she commits such act on a person younger than 18 years...” Moreover, Article 246 prohibits a person from enticing, hiring,

or transporting a woman abroad with the intent to have her used there for sexual intercourse with another person. If such crime is committed on a female younger than 18 years, a sentence of 3-8 years of imprisonment will be imposed. It is worth noting that Articles 233 and 246 only cover cases in which a child or woman is transported to another country from the Czech Republic. Therefore, these provisions are not relevant to situations in which a Czech woman or child is forced into trafficking within Czech borders. Indeed, there is some evidence that a small amount of trafficking of Czech women and children for prostitution takes place within Czech borders, from areas of low employment to border areas with Germany and Austria.⁵⁶

OMCT is pleased to note that the Czech government is currently amending Article 246 of the Penal Code to refer to “trafficking in persons” and thus protect both sexes.⁵⁷ The criminal sanctions will apply not only to a person who tricks, hires or transports another person abroad with the intention to use him/her there for sexual intercourse but also to a person who lures foreigners into the Czech Republic for such purposes. This extends legal protection to male and female foreigners who become trafficking victims

within the Czech Republic. A new draft of the Penal Code is expected in the fourth quarter of 2002 by the Minister of Justice.

Regarding other provisions concerning sex crimes, Article 242 prohibits sexual intercourse (or other forms of sexual activity that constitute abuse) with a child under fifteen years of age. Article 241 establishes increased sentences of five to twelve years for the rape of a female under the age of fifteen. However, there are no such provisions to protect male victims. Article 243 delineates the crime of misusing the dependence of a person under eighteen years of age in order to force the child into rape or sexually abuse the child in any other way, which is punishable by imprisonment for at most two years.

Finally, Articles 167 and 168 offer further protection by providing that anyone who learns in a reliable way that a child has become a victim, or that a form of criminal activity is being perpetrated on a child, is obliged under sanction of penal law to prevent such activity, namely by giving timely notice to a police authority or public prosecutor.

56 - International Organization for Migration, *Trafficking in Unaccompanied Minors for Sexual Exploitation in the European Union*, May 2001, page 13.

57 - *National Programme for the Preparation of the Czech Republic for Membership of the EU*, 2001, section 1.2.1.2, page 15.

5.2 Child Prostitution and Child Trafficking

Despite recent efforts by the Czech police and government to address the problem of sexual exploitation, the Czech Republic remains a country of origin, transit and destination for trafficking in children to and from the former Soviet Union, Africa, Asia and the Middle East.⁵⁸ Girls under eighteen are a particularly vulnerable population for traffickers who falsely advertise jobs in waitressing and dancing or opportunities for marriage abroad.⁵⁹ According to the UN Special Rapporteur on the sale of children, child prostitution and child pornography, “Sexual freedom is considered one of the new attractions which the market economy can offer...thus, girls and boys become more

easily involved in prostitution and/or pornography, most of the time without really knowing what it is all about.”⁶⁰ Child victims of trafficking are often intimidated and isolated due to their ignorance of their new surroundings and are subject to serious attacks on their physical integrity, accompanied by psychological, moral and social harms that are immeasurable.⁶¹

The full extent of trafficking in children is not clear; however, the fact that the Czech Republic is considered to be one of the biggest centres of paedophile activity in Europe may indicate a significant amount of trafficking in children for sexual purposes.⁶² A government report stated that there were hundreds of cases of child prostitution listed every year, but this is thought to be a fraction of the real number.⁶³

Trafficking of Czech Children to Germany

According to the International Organization for Migration, Czech women and girls constitute the third largest trafficked group in Germany.⁶⁴ German police investigations uncovered an organized child trafficking ring of Romanian minors, some

58 - Global March Against Child Labour, *Worst Forms of Child Labour Data*, 2000, www.globalmarch.org/worstformsreport/world/czech-republic.html

59 - Stanislava H_bnerová and Harald Scheu, *Legal Study on the Combat of Trafficking in Women for the Purpose of Forced Prostitution in the Czech Republic*, 1999, page 7.

60 - *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, E/CN.A/1997/95/Add.1, 17 February 1997, par. 13.

61 - Stanislava H_bnerová and Harald Scheu, *supra*, page 18.

62 - Newsroom of the BBC World Service, “Czech Challenge to Child Prostitution,” 22 July 2000, available at www.ec-pat.net/eng/Ecpat_inter/IRC/tmpNews.asp?SCID=155.

63 - *Ibid.*

64 - Sources include UN Office for Drug Control and Crime Prevention, *Trafficking in Human Beings: The Case of the Czech Republic*, http://www.odccp.org/trafficking_projects_czech_republic.html; and Global March Against Child Labor, <http://globalmarch.org/child-trafficking/statistics.html>

of which were smuggled from the Czech Republic.⁶⁵ In two separate cases in February 2000, men in the Teplice region were arrested for providing Czech children to German paedophiles.⁶⁶ The Bundeskriminalamt, or Federal Criminal Office, in Germany recognized 55 of 801 trafficking victims in 1999 or 2000 as Czech nationals.⁶⁷

The International Organization for Migration further reports that the numbers of children being taken to Germany for short periods of time for sexual exploitation are increasing, particularly in the border regions around the Czech towns of As, Cheb, Kynperk, Karlovy-Vary, Sokolov, Ostrov, Jachimov, and Stribo.⁶⁸ Czech children have been flown from the former Soviet Union to Germany, or taken across the border in a private car. The children are, as a rule, included under false names on the passport of the female courier who accompanies them. In Plauen the women's organisation Karo has repeatedly observed customers taking boys and girls as young as nine years of age across the border into Germany for sexual purposes.⁶⁹ According to an employee at Karo, "the border authorities say that they cannot intervene against the emigration of Czech or Slovakian children in German-

owned cars if the children possess a valid passport."⁷⁰

The presence of approximately 200 brothels serving German sex tourists in the border regions has created a dire situation in which "under-age prostitutes often end up in the same children's home as their offspring."⁷¹

The High Commissioner for criminal investigations from the police headquarters in Frankfurt/Main, Germany reports that during the past few years, the approximately 500 adolescent prostitutes in the city have included boys from the Czech Republic who were victims of traffickers. The UN Special Rapporteur on the sale of children, child prostitution and child pornography reported large numbers of Czech boys involved in

65 - International Organization for Migration, *Trafficking in Unaccompanied Minors for Sexual Exploitation in the European Union*, May 2001, page 13.

66 - Global March Against Child Labour, *Worst Forms of Child Labour Data*, 2000, www.globalmarch.org/worstformsreport/world/czech-republic.html.

67 - International Organization for Migration, *Victims of Trafficking in the Balkans*, 2001, page 19.

68 - International Organization for Migration, *Trafficking in Unaccompanied Minors for Sexual Exploitation in the European Union*, May 2001, page 101.

69 - *Ibid.*, page 107.

70 - *Ibid.*, page 108.

71 - BBC News Europe, "Tragedy of orphans left behind in 'sin town'", 22 December 1997, available at http://news6.thdo.bbc.co.uk/hi/english/world/europe/new_sid_41000/41872.stm.

prostitution as well.⁷² Women and girls are thus not the only targets of sexual traffickers.

Other Destination Countries

Recent data gathered from various sources demonstrate the pervasive global impact of trafficking in children to and from the Czech Republic:

Czech women and girls comprise the largest group of forced prostitutes in Austria and the Netherlands.⁷³

In Spain, 51 of 865 victims of sexual exploitation were identified by the Spanish police as coming from the Czech Republic.⁷⁴

In Slovenia the Ministry of the Interior reports that the Czech Republic is one of eight countries of origination for the estimated 200 trafficking victims that arrive in Slovenia each year.⁷⁵

The Czech Republic is also listed as one of the most frequent countries of destination for females trafficked from Kosovo.⁷⁶

In early March 1998, American and Czech police broke a transatlantic prostitution ring that for three years had trafficked Czech and Hungarian women to work in New York sex clubs.⁷⁷

Governmental Responses to Child Trafficking

One of the major difficulties faced by the Czech government is that investigations often take more than two years to complete and only a few can be managed at once.⁷⁸ In most cases there are no documents or hard evidence, and victims may be reluctant to

72 - *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, E/CN.4/1997/95, 7 Feb 1997, par. 54.

73 - Sources include UN Office for Drug Control and Crime Prevention, *Trafficking in Human Beings: The Case of the Czech Republic*, http://www.odccp.org/trafficking_projects_czech_republic.html; and Global March Against Child Labour, <http://globalmarch.org/child-trafficking/statistics.html>.

74 - International Organization for Migration, *Victims of Trafficking in the Balkans. A study of trafficking in women and children for sexual exploitation to, through and from the Balkan region*, 2001, page 26.

75 - *Ibid.*, page 41.

76 - International Organization for Migration, *Kosovo Counter-Trafficking Unit Report*, Feb 2000 – April 2002.

77 - *Le Matin*, 23 April 1998; *International Herald Tribune*, 12 Jan 1998.

78 - UN Office for Drug Control and Crime Prevention, *Trafficking in Human Beings: The Case of the Czech Republic*, http://www.odccp.org/trafficking_projects_czech_republic.html

testify. Furthermore, prostitution and trafficking rings are very well organized and use highly sophisticated equipment.⁷⁹

Recent steps taken by the Czech government to address the problem include the adoption in July 2000 of a National Action Plan on the Struggle Against Commercial Sexual Abuse of Children, which contains a Report on the Situation in the Sphere of Commercial Sexual Abuse of Children. This Report considered materials submitted by all relevant state institutions, including the police, and NGOs. The Report noted the devastating effect of commercial sexual abuse on children and called for numerous preventive measures.⁸⁰ The Ministry of Interior also created a Consultative Commission to address the problem of commercial sex abuse and trafficking of children.⁸¹

However, the Czech Republic has not signed or ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.⁸² OMCT would recommend that the Czech government do so in order to join the international community in combating the problem of sexual exploitation of children.

Furthermore, since all legal provisions relating to trafficking and forced prostitution are in the Penal Code, which focuses solely on punishing the offender, OMCT would urge the Czech government to provide more protections for victims. Such measures would aim at prevention, social reintegration, access to health care and psychological assistance.

OMCT would also suggest that the Czech government implement mechanisms for individual complaints in order to create confidential, secure environments in which child victims of sexual violence can notify law enforcement officials and/or child welfare authorities. Finally, OMCT would recommend that the Czech Republic inform the Committee of the progress of existing governmental initiatives to combat trafficking, namely those described in the Report on the Situation in the Sphere of Commercial Sexual Abuse of Children from 2000.

79 - *Report of the Special Rapporteur on the sale of children, child prostitution and child pornography*, E/CN.4/1997/95/ Add.1, 7 Feb 1997, par. 79.

80 - Ministry of the Interior, *A Report for the Republic Committee for the Prevention of Crime on the Fulfilment of the National Plan on the Struggle against Commercial Sexual Abuse of Children and the Preparation for the International Congress in Yokohama*, 2001.

81 - *Ibid.*

82 - A/RES/54/263, 2000.

5.3 Violence against Children in Schools

Abuse in Remedial Special Schools

OMCT is seriously concerned by reports of harassment and ill-treatment of Romani children in remedial special schools. Such treatment is detrimental to the physical and psychological integrity of a child, and contravenes the Convention. Recent testimonies include the following:

- A Romani student at the Karasova remedial special school in Ostrava claimed that her physical education teacher “beat children, grabbed them by the face and shook them, used foul language with them, and prevented them from using the toilet.”⁸³
- A Romani parent reported that her daughter had been badly beaten by a teacher at the Na Vizinje school in Ostrava in fall 1998. As a result, the girl had shoulder problems and had to stay out of school for one week.⁸⁴
- Ms. Božjēna Dudi-Kot’iová, a Romani assistant at the Pĕremysl Pitter parochial school in Ostrava, told the European Roma Rights Center that “Most of the teachers there were in the habit of slapping children on the head if they did something wrong.”⁸⁵
- Ms. Eva Tokárová, a Romani mother, alleged that her son David was repeatedly physically abused by his teacher at the Kapitana Vajdy remedial special school in Ostrava. When Ms. Tokárová personally went to the school to complain, she witnessed the same teacher hitting her son “in the back with her fist...because he did not form a pair with another child in the corridor.” When the abuse continued despite Ms. Tokárová’s complaints to the principal and teacher, David was transferred to a children’s home.⁸⁶

Abuse in Basic Schools

When Romani children are placed in basic schools⁸⁷ they are very much in the minority and thus become a target of abuse and harassment by teachers as well as other students. Social workers, parents, and students

83 - European Roma Rights Center, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, June 1999, section 5.

84 - *Ibid.*

85 - *Ibid.*

86 - *Ibid.*

87 - The term “basic schools” refers to standard primary schools in the Czech Republic.

have reported that Romani children who are enrolled in basic schools are often seated alone or in the back of the classroom, thus segregated from other children, and neglected in the classroom by their teachers.⁸⁸ A social worker in Kladno recalled a situation in which a teacher instructed other pupils to shun a Romani child in the class, telling them, ““Don’t talk to him; he’s a Gypsy. He won’t be here for long.””⁸⁹ The Romani child reportedly fell into a pattern of truancy as a result of this hostile treatment. There have also been recurring allegations that teachers in basic schools refuse to allow Romani children to go to the bathroom, which, in some instances, has caused students to develop intestinal problems or to return home “soiled and traumatised.” Furthermore, some teachers have allegedly used racial epithets toward Romani children, such as “black face” or “Gypsy.”⁹⁰ Relevant to these allegations is Article 16 of the Convention, which provides that “no child shall be subjected to...unlawful attacks on his or her honour and reputation.”

Sometimes the perpetrators of ill treatment in the classroom are non-Romani students. However, teachers and other school officials often refuse to step in to prevent such ill

treatment of Romani children by other pupils, and fail to impose discipline for such occurrences, which may be perceived as equivalent to condoning and perpetrating the acts of aggression themselves. It has been reported that some school officials blame the Romani children for “provoking” the insults.⁹¹ According to a fourteen-year-old Romani boy, Roman Bandy, he was physically attacked by another student at Anto_ovická basic school in Ostrava, leaving him with bruises on the neck, legs, and sides of his body. His teacher allegedly claimed that he was lying. In 1998, a fifteen-year-old classmate of Roman’s attacked him outside the school and broke his elbow. When the headmistress was approached regarding the incident, she apparently claimed it was “nothing.”⁹²

Governmental Responses to Violence in Schools

As for governmental action regarding the physical abuse of children, particularly those of Roma ethnicity, the Ministry of Labour and Social Affairs verifies the

88 - *Ibid.*, section 8.

89 - *Ibid.*

90 - *Ibid.*

91 - *Ibid.*

92 - *Ibid.*

monitoring of tortured, neglected and abused children. The Ministry of Education, Youth and Physical Culture also implements prevention measures through education, including most recently a school curriculum package that was introduced in schools throughout the Czech Republic in 2001.⁹³

The Czech government also adopted a Resolution on 19 March 1998 that set forth measures to enhance the effectiveness of sanctions for prevention and punishment of criminal offences motivated by racism and xenophobia, including “analysing tolerance and intolerance of pupils at primary schools and students of secondary and vocational schools towards persons belonging to racially and ethnically different members of society.”⁹⁴

OMCT regrets the existence of classroom environments that are hostile to Romani children because it infringes on their guaranteed rights to education and non-discriminatory treatment. In accordance with Article 19 of the Convention, OMCT would call upon the

Czech government to thoroughly monitor the treatment of children in both basic and special schools in order to ensure the protection of the physical and psychological integrity of all students while in the care of school officials.

In 1997 the Committee on the Rights of the Child expressed concern that “corporal punishment is still used by parents and that internal school regulations do not contain provisions explicitly prohibiting corporal punishment, in conformity with articles 3, 19 and 28 of the Convention.”⁹⁵ The Committee recommended that further measures to protect children from abuse and maltreatment be undertaken, in particular through the development of a widespread public information campaign for the prevention of corporal punishment at home, at school, and in other institutions.⁹⁶

OMCT would suggest that the Committee inquire as to whether such measures have been taken and whether the Czech government has conducted an official survey regarding violence at schools and in the home.

93 - Newsroom of the BBC World Service, “Czech Challenge to Child Prostitution,” 22 July 2000, available at www.ec-pat.net/eng/Ecpat_inter/IRC/tmpNews.asp?SCID=155.

94 - Ministry of Interior of the Czech Republic, *Resolution No. 192*, 19 March 1998, available at <http://www.mvcr.cz/extremis/engl-extrem/resol.html>.

95 - *Concluding Observations of the CRC*, 27 October 1997, CRC/C/15/Add.81, par. 18.

96 - *Ibid.*, par. 35.

VI. Children in Conflict with the Law

6.1 Age of Criminal Responsibility

In terms of criminal responsibility, the Czech Republic distinguishes between a child under fifteen years and a child between the ages of fifteen and eighteen years. The latter are considered to have “partial criminal responsibility” whereas the former cannot be criminally accountable for their actions.⁹⁷ Juveniles are thus defined as persons ranging from fifteen to eighteen years.⁹⁸

Despite the fact that children between the ages of twelve and fifteen cannot be held criminally responsible for their acts, they may be placed in protective custody during the course of civil proceedings if a criminal act punishable by an exceptional penalty has been committed.⁹⁹ The Penal Code also provides for the placement of children under twelve in such detention centres if a serious offence has been committed.¹⁰⁰ It should also be noted that children and juveniles who have not committed criminal offences, but live in environments that pose serious risk of adversely affecting their de-

velopment “from either a physical or moral standpoint,” may also be placed in detention centres for minors.¹⁰¹

The law of the Czech Republic in the area of juvenile justice is ambiguous, since it does not clearly distinguish between punitive measures imposed on children in conflict with the law, on the one hand, and protection measures applicable to child victims of dangerous home environments, on the other hand. OMCT recalls that the decision to deprive a child of his/her liberty should be an exceptional measure. Thus, OMCT would recommend that the Czech government make a clear distinction between child victims and child offenders in the law, so that the measures imposed in civil and criminal proceedings, respectively, are tailored to the child’s individual circumstances.

97 - Act No. 140/1962 Coll., as amended by later provisions (2001), specifically Article 11.

98 - Articles 11, 76, 84, 86 of Penal Code; *State Party Report to CRC*, 17 June 1996, CRC/C/11/Add.11, para. 232.

99 - *State Party Report to CRC*, 17 June 1996, CRC/C/11/Add.11, paras. 98, 239.

100 - Council of Europe, *Report to the Government of the Czech Republic on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 15 April 1999, para. 80.

101 - *Ibid.*; Section 45 of the Family Act.

OMCT would also recommend that the Czech government clearly establish an age under which no child, under any circumstances, can be held responsible and deprived of his/her liberty for criminal acts. The fact that children under twelve may be placed in protective custody for committing a serious offence implicitly suggests that the age of criminal responsibility (15) is not as clear-cut as it should be.

6.2 Police Custody

On 26 September 2000, a fifteen-year-old boy was detained for several hours at the Hrůského Street police station with thirteen other people in a cell estimated to be 2x3 metres.¹⁰²

On that same day, a German schoolboy was one of several people handcuffed to a bar outside of a cell in the Bohu_ovická Street

police station for more than twelve hours, where the window was kept open despite an extremely cold temperature and the detainees were not permitted to sit or sleep.¹⁰³

Regarding the detention of the minors, OMCT wishes to recall that Article 37(c) of the Convention provides that “every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the person, and in a manner which takes into account the needs of persons of his or her age.” Furthermore, pursuant to Rule 29 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, Article 37(c) states that detained children should be held separate from adults.¹⁰⁴ Children who are detained with adults face significant risks to their physical and psychological integrity.

6.3 Juvenile Justice

There is no separate justice system to adjudicate cases involving persons under the age of eighteen.¹⁰⁵ Judges preside over cases in court, in a modified form of court proceedings as they apply to adults, generally without the assistance of third party child

102 - Amnesty International, *Arbitrary Detention and Police Ill-Treatment*, March 2001, AI Index: EUR 71/001/2001, page 8.

103 - *Ibid.*

104 - *UN Rules for the Protection of Juveniles Deprived of their Liberty*, adopted by General Assembly resolution 45/113 of 14 December 1990.

105 - *Ibid.*, par. 76.

experts. It does not appear that judges receive special training for cases involving children.¹⁰⁶

Legal representation of a juvenile offender is obligatory under Sections 36 and 291 of the Code of Criminal Procedure, even in preparatory proceedings.¹⁰⁷

Given that under Article 40 of the Convention, every child has the right to be treated in a manner which, *inter alia*, takes into account the child's age, and further promotes the establishment of laws, procedures, authorities and institutions specifically applicable to children, OMCT would recommend that the Czech Republic develop child-oriented proceedings when adjudicating cases involving children and juveniles.

The Czech government should be urged to implement and provide information on training programmes developed for judges and all professionals involved with children in conflict with the law. OMCT would further suggest that the Czech government inform the Committee of its conformity with Article 40 of the Convention and other relevant international instruments in the field of juvenile justice, including the Beijing Rules, the

Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

6.4 Detention and Sentencing

The types of educational/welfare measures utilized by the Czech Republic criminal justice system include educational assistance and community service, but preventive detention is still employed considerably.¹⁰⁸ As of the end of the year 2001, the International Centre for Prison Studies reports that, in the Czech Republic, offenders who are under the age of eighteen comprise 1.1% of the total prison population of 19,320.¹⁰⁹ As pre-trial detainees constitute 23.7% of the total prison population, the number of children in pre-trial detention should be approximately 50.

A recent study of the justice system in the Czech Republic revealed that community

106 - Prof. Stewart Asquith, Centre for the Child & Society, University of Glasgow, *Juvenile Justice and Juvenile Delinquency in Central and Eastern Europe: A Review*, 1996, page 6.

107 - Act No. 141/1961; see also Asquith, *supra*, page 7.

108 - Asquith, *supra*, page 9.

109 - International Centre for Prison Studies, *World Prison Brief*, 2001, www.prisonstudies.org.

service is a measure that is most frequently imposed on juvenile offenders, with the number of hours held to a maximum of 100 for juveniles and 200 for adults.¹¹⁰ One of the aims is to carry out re-socialisation. OMCT is pleased that an amendment to the Penal Code came into force on 1 January 2002 which requires the judge to take the opinion of the accused person into account when imposing this punishment.¹¹¹ OMCT hopes that this provision applies to juvenile offenders as well.

Imprisonment for juveniles (who have partial criminal responsibility) is imposed as a penal measure in a reduced or more lenient version of sentences imposed on adults.¹¹² The maximum length of imprisonment for a juvenile is typically five years, although a

juvenile may receive ten years in exceptional cases or when a cumulative or concurrent sentence is passed.¹¹³ According to Article 33 of the Penal Code, violation of penal law at an age “close to the age of adolescence” is usually considered as a mitigating circumstance.¹¹⁴

Juvenile offenders who are sentenced to imprisonment are imprisoned separately from other convicts in special prisons or prison wards.¹¹⁵

Juveniles may be committed to a detention centre for minors rather than to prison, if it is considered to be in the interest of the education of the young person concerned.¹¹⁶ Once a judge has ordered placement in a detention centre, a diagnostic institute must evaluate what type of establishment is best suited for that particular juvenile. These detention centres are geared toward providing material, educational and rehabilitative assistance to children. They are generally staffed by care workers, teachers and social workers, and in some cases, child development specialists.¹¹⁷

OMCT wishes to recall that detention should be employed as a last resort and for the shortest time possible in the sentencing of

110 - Constitutional and Legal Policy Institute Paper No. 6 by Vivien Stern, *Developing Alternatives to Prison in Central and Eastern Europe and Central Asia*, May 2002, page 49.

111 - *Ibid.*, page 50.

112 - Asquith, *supra*, page 11.

113 - *State Party Report to CRC*, 1996, CRC/C/11/Add.11, par. 245; see also Asquith, *supra*, page 12.

114 - *State Party Report to CRC*, 1996, CRC/C/11/Add.11, par. 239.

115 - *Ibid.*, para. 245.en grave peligro a la seguridad pública”), *El Mundo*, 31 Noviembre 2001.

116 - Council of Europe, *Report to the Government of the Czech Republic on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 15 April 1999, para. 80.

117 - *Ibid.*, para. 83.

all children, in accordance with Article 37(b) of the Convention and Rules 2 and 11(a) of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. OMCT is concerned by the placement of children under fifteen in detention centres despite their lack of criminal responsibility and would suggest that the Committee inquire into the grounds authorizing such detention.

The Czech Republic conveyed in its most recent State Party Report to the Committee Against Torture that “civic (external) inspection is completely lacking in the facilities where people are held, including childcare facilities. Not even NGOs, such as the Czech Helsinki Committee, have

any right to visit prisoners...”¹¹⁸ OMCT is seriously concerned by a policy that prohibits monitoring and inspection of detention facilities and would strongly suggest that this practice be changed to allow for periodic visits by administrative authorities and/or NGOs.

Furthermore, to ensure the physical and psychological integrity of all detained minors, OMCT would echo the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and urge the careful selection, ongoing professional training, and regular supervision of all staff working in detention centres for minors.¹¹⁹

118 - CAT/C/38/Add.1, 22 June 2000, par. 104.

119 - Council of Europe, *Report to the Government of the Czech Republic on the visit to the Czech Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 15 April 1999, para. 88.

VII. Conclusions and Recommendations

The International Secretariat of OMCT is deeply concerned with the situation of children in the Czech Republic, particularly with the ongoing sexual exploitation of children by traffickers and the widespread discrimination against Roma children in the area of education. OMCT believes that a number of legal and practical safeguards must be established in order to fully guarantee the rights of children enshrined in the Convention.

Re discrimination against Roma children, OMCT recommends that the Committee on the Rights of the Child:

urge the Czech government to:

- enact an operative legislative framework to prohibit discrimination against minorities in all areas of life, including education;
- implement efficient procedures for monitoring the psychological testing processes and ensure that informed consent be obtained by all parents before the

placement of a child in a remedial special school;

- take immediate and effective measures to integrate Roma children into the mainstream of the educational system.

Re the torture and other cruel, inhuman or degrading treatment or punishment of children, OMCT recommends that the Committee on the Rights of the Child:

urge the Czech government to:

- institute an independent mechanism to scrutinise the behavior of the police and properly investigate all allegations of ill treatment by police.

Re child prostitution and child trafficking, OMCT recommends that the Committee on the Rights of the Child:

urge the Czech government to:

- accede to the Optional Protocol to the Convention on the Rights of the Child on

the sale of children, child prostitution and child pornography;

- provide more protections for victims, focusing on prevention, social reintegration, access to health care and psychological assistance;
- implement mechanisms for individual complaints so that child victims of sexual violence can safely notify law enforcement officials and/or child welfare authorities;
- provide information regarding the implementation of governmental initiatives to combat trafficking, namely those described in the Report on the Situation in the Sphere of Commercial Sexual Abuse of Children from 2000.

Re violence against children in schools, OMCT recommends that the Committee on the Rights of the Child:

urge the Czech government to:

- implement training programmes to promote respect for children of Romani descent by teachers and other school officials, and monitor the behavior of

teachers in the classroom;

- ensure that complaints by parents and students of abuse or other ill-treatment in school are taken seriously and investigated thoroughly by school officials;
- amend internal school regulations to explicitly prohibit corporal punishment.

Re the juvenile justice system in the Czech Republic, OMCT recommends that the Committee on the Rights of the Child:

urge the Czech government to:

- clearly distinguish between child victims and child offenders, so that civil and criminal proceedings are tailored to the individual child's specific situation;
- clarify the minimum age of criminal responsibility in light of the Penal Code provisions which authorize protective custody for children under the age of twelve;
- ensure that children are detained separately from adults, and are treated in a manner consistent with the promotion of the child's dignity and worth, in accor-

dance with Article 40 of the Convention;

- develop child-oriented proceedings for adjudicating cases involving children in conflict with the law, including specialized training for judges;
- ensure education and training for all personnel who may be involved in the custody, interrogation or treatment of any child subjected to any form of arrest, detention or imprisonment. This should include specific training in child psychology, child welfare and international standards and norms of human rights and the rights of the child, in particular the Convention and the UN Rules

for the Protection of Juveniles Deprived of their Liberty;

- establish a national system of visiting boards to visit police stations and detention facilities to interview detainees and inspect facilities, in accordance with the UN Rules for the Protection of Juveniles Deprived of their Liberty. This should include regular (and unannounced) inspections by competent administrative authorities;
- provide specific information on the grounds for authorizing the detention of children under fifteen in the course of civil and penal proceedings.



COMMITTEE ON THE RIGHTS OF THE CHILD
32nd Session - Geneva, 13-31 January 2003

Concluding observations
of the Committee
on the Rights of the Child:
The Czech Republic

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

1. The Committee considered the second periodic report of the Czech Republic (CRC/C/83/Add.4) at its 852nd to 853rd meetings (see CRC/C/SR.852-853), held on 24 January 2003, and adopted¹ the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the timely submission of the State party's second periodic report, which was at times self-critical, as well as the written replies to its list of issues (CRC/C/Q/CZE/2) providing up-dated information complementing the State party report. It further notes with appreciation the high level delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

B. FOLLOW-UP MEASURES UNDERTAKEN AND PROGRESS ACHIEVED BY THE STATE PARTY

3. The Committee welcomes amendments to existing legislation and enactment of new legislation as listed in the written replies to the list of issues, inter alia, regarding strengthening the protection against trafficking and commercial sexual exploitation of children and integration of children with special needs in regular schools. The Committee notes very good maternal protection including satisfactory maternity leave and excellent health indicators including infant mortality, under-5 mortality and vaccination intake. Furthermore, the Committee welcomes the ratification of the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Inter country Adoption and ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

C. FACTORS AND DIFFICULTIES IMPEDING THE IMPLEMENTATION OF THE CONVENTION

4. The Committee notes that the State party continues to deal with socio-economic problems related to the transition to a market economy, including deterioration of living standards and unemployment. Furthermore the Committee is aware that persisting traditional societal attitudes further hamper the enactment of new legislation and affect implementation of the Convention that have already been provided for in legislation and practices.
5. The Committee notes, in addition, the occurrence of natural disasters including, notably the 2002 severe flooding which has a serious social, economic and environmental impact affecting vulnerable children.

D. PRINCIPAL SUBJECTS OF CONCERN, SUGGESTIONS AND RECOMMENDATIONS

D1. General measures of implementation (arts. 4, 42 and 44, paragraph 6 of the Convention)

Committee's previous recommendations

6. The Committee regrets that some of its recommendations in the previous concluding observations (CRC/C/15/Add.81) have been insufficiently addressed, inter alia the reservation to article 7 para 1 of the Convention (ibid., para 26); development of a comprehensive policy on children (ibid., para 27); development of awareness raising campaigns aimed at reducing discriminatory practices against the Roma population (ibid para. 32); comprehensive reform of the system of juvenile justice (ibid para 41). The Committee notes that those recommendations are reiterated in the present document.
7. The Committee urges the State party to make every effort to address those recommendations from the concluding observations of the initial report that have not yet been fully implemented and to address the list of

concerns contained in the present concluding observations on the second periodic report.

Reservations and declarations

8. The Committee regrets that the State party did not withdraw its reservation to Article 7(1) of the Convention. From the dialogue, it is the Committee's understanding that the civil registration of irreversible adoption does not necessarily mean that the adopted child has no possibility to know her/his (biological) parents.
9. The Committee therefor recommends the State party to reconsider its position and withdraw its reservation.

Legislation and Implementation

10. The Committee notes that many positive steps have been taken to bring legislation into conformity with the Convention but it remains concerned at the lengthy process of legislative reform necessary to make the laws fully compatible with the Convention. The Committee is also concerned at the lack of financing for the implementation of legislation.

11. The Committee recommends that the State party expedite and complete effectively the process of legislative review and strengthen implementation and enforcement of new legislation by providing resources and training, for implementation of all legislation relevant to the Convention.

Co-ordination

12. The Committee notes that a Committee on the Rights of the Child has been set up within the Council of the Government of the Czech Republic for Human Rights established in 1999, but nevertheless remains concerned at the lack of a central adequately mandated and resourced coordination mechanism for all issues related to the implementation of the Convention.
13. The Committee recommends that the State party establish or appoint a single permanent body, which is well-mandated and well-resourced, to coordinate implementation of the Convention at the national level, including by effectively coordinating activities between central and local authorities and cooperating with NGOs and other sectors of civil society.

National Plan of Action

14. The Committee welcomes the approval of principles of the State Policy for the young generation until 2002, it also notes that relevant ministries are responsible for specific areas of evaluation, promotion and protection of the rights of the child. The Committee regrets that a comprehensive rights-based National Plan of Action addressing all principles and provisions of the Convention has not yet been elaborated.

15. The Committee encourages the State party to develop a coherent and comprehensive rights based National Plan of Action with a division of responsibilities, clear priorities, time-table and preliminary calculation of necessary resources for the implementation of the Convention at the central, regional and local levels in cooperation with civil society.

Independent monitoring structures

16. The Committee welcomes the establishment of the Public Defender in 2000 and his Report to the Committee. Furthermore, the Committee notes that the mandate of the Public Defender is limited to actions/in-actions of the public sector and thus does not

fully cover all aspects of the implementation of the Convention.

17. The Committee recommends the State party take full account of its General Comment No. 2 on the Role of National Human Rights Institutions and establish an independent body for the monitoring of the implementation of the Convention including the investigation of individual complaints by children in a child-sensitive manner. This may be done by broadening the mandate of the Public Defender and providing him with the necessary human and other resources or by establishing a separate independent children's commissioner or ombudsperson.

Resources allocation

18. The Committee regrets the lack of adequate information concerning the State, regional and local budgets on financial, technical and human resources allocated for the implementation of the rights of children.

19. The Committee recommends that the State party implement article 4 of the Convention in the light of articles 3 and 6 in such a way that the proportions of the State budget that are allocated for implementation

of all rights, and to the maximum extent of all resources available for the economic, social and cultural rights of children, are easily identifiable and presented in a transparent way. The Committee further encourages the State party to clearly state yearly its priorities with respect to child rights issues and to identify the amount and proportion of the budget spent on children and especially on marginalized groups, at the national and local levels in order to enable the evaluation of the impact of the expenditures on children and their effective utilization.

Data

20. The Committee expresses its concern that data collection made by various ministries is not sufficiently developed and disaggregated for all areas covered by the Convention (e.g. vulnerable and disadvantaged groups). It further notes that data on children are not used in an adequate manner to assess progress as a basis for policy-making in the field of children's rights.

21. The Committee urges the State party to:

a) Strengthen and centralize its mechanism to integrate and analyse systematically

disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups, including children belonging to minority groups; children of economically disadvantaged households; children living in rural areas; children in institutions; children with disabilities and children in need of special protection, e.g. street children; working children; children used for prostitution and trafficked children;

b) use these indicators and data effectively for the formulation and evaluation of legislation, policies and programmes for the implementation, resource allocation and monitoring of the Convention.

Dissemination/Training

22. While noting the initiatives of the State party to promote awareness of the rights in the principles and provisions of the Convention, the Committee is concerned that politicians, all groups of professionals working with and for children as well as children, parents and the public at large are still not sufficiently aware of the Convention and the rights-based approach enshrined therein.

23. The Committee recommends that the State party strengthen its awareness raising efforts and encourages the State party to undertake systematic education and training on the rights and the principles and provisions of the Convention, including, inter alia, professionals working with and for children and vocational schools.

Co-operation with NGOs

24. The Committee welcomes the transfer to regional offices of all decision-making related to the issuance of authorisations to non-governmental organisations as service providers aimed at offering greater support to this sector and encourages further strengthening of relations between Government and civil society with increased cooperation. The Committee remains concerned that insufficient efforts have been made to involve civil society in the implementation of the Convention following the rights based approach.

25. The Committee emphasises the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms and welcomes closer co-

operation with NGOs. The Committee in particular urges the State party to more systematically involve and support non governmental organisations, especially rights-based ones, and other sectors of civil society working with and for children, throughout all stages of the implementation of the Convention.

D2 Definition of the child

26. The Committee welcomes the amendment to section 216b of the Criminal Code concerning the deletion from the text “unless such person has attained majority earlier” from the definition of the child as a person younger than 18 years of age. However, the Committee is concerned at the information on the ongoing debate on the juvenile justice reform in the State party on lowering the age of criminal responsibility.

27. In the spirit of the Convention and especially with reference to article 3 (the best interests of the child) and 12 (the right to life, to the maximum possible survival and development of the child) the Committee urges the State party to retain the present age of criminal responsibility of 15 years.

D3. General principles (Arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

28. The Committee welcomes the Method Instruction of the Ministry of Education, Youth and Sports on education against expressions of racism, xenophobia and intolerance. The Committee also notes the numerous initiatives of the State party to counter discrimination in education, in particular against children belonging to the Roma minority, including adoption of legislation to counter discrimination in employment (Act. No. 167/1999 Coll.). However, the Committee is concerned that the provisions of article 2 are not yet integrated in all relevant legislation and thus not sufficiently implemented. The Committee reiterates also the concerns expressed by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.76 para.12; 23, 17 May 2002) and the Human Rights Committee (CCPR/CO/72/CZE para.8-11, 27 August 2001) and remains concerned at the persistence of de facto discrimination against minorities, in particular the Roma and other vulnerable groups.

29. The Committee recommends that the

State party continue and strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) in all relevant legislation concerning children and that this right is effectively applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children and children belonging to minority groups, such as the Roma. The Committee further recommends the State party to continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes.

30. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of General Comment no 1 on article 29(1) of the Convention (aims of education).

Best interests of the child

31. While noting that the principle of the “interest and welfare” of the child is contained in the Act on the Family and in the Law on Social and Legal Protection of Children, the Committee is concerned that the principle of primary consideration for the best interests of the child is still not adequately defined and reflected in all legislation, court decisions and policies affecting children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

32. The Committee, in line with its previous recommendations (ibid., para 30) recommends that the principle of “best interests of the child” of article 3 be appropriately analysed with regard to various situations (such as separation from parents, review of placement) of the child, groups of children (e.g. minorities) XX and integrated in all revisions to legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children be reinforced and that

article 3 of the Convention is fully understood and that this principle is effectively implemented.

The right to life, survival and development

33. The Committee is encouraged by the decline of infant mortality rates in the State party, but remains concerned at the high rate of accidents including injuries, poisoning and traffic accidents. Furthermore it is concerned that the rate of suicides is relatively high despite the declining trend.

34. The Committee recommends that the State party:

- a) Strengthen efforts to raise awareness about and undertake public information campaigns in relation to accident prevention;
- b) Study the possible causes of youth suicide and the characteristics of those who appear to be most at risk and take steps to put into place additional support and interventional programmes which would reduce this tragic phenomenon.

Respect for the views of the child

35. The Committee welcomes the amendment to the Civil Procedure Code including the information by the State party referring to regulation of the respect for the child's opinion in the Act on Social and Legal Protection of Children and by Amendment to the Act on the Family. The Committee is concerned that children's participation in other areas, such as school and institutions, is not regulated by legislation or sufficiently observed in practice. Furthermore the Committee is concerned that awareness of these provisions is quite low, thus contributing to weak observance.

36. The Committee recommends the State party to introduce a comprehensive legal provision in order to provide for the right to participation with application to courts, administrative bodies, institutions, schools, child care institutions and families being relevant to a child and guarantee the right to appeal the decisions, in accordance with article 12 of the Convention. Awareness raising and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights.

D4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a))

Name and nationality

37. The Committee welcomes the amendment to the Citizenship Law adopted in September 1999 aimed at resolving the problems of statelessness that had disproportionately affected the Roma population including children (CAT 14/05/2001 A/56/44 para 108).

38. The Committee recommends that the State party:

- a) expedite the procedure of acquiring citizenship and ensure its effective implementation at the local level;
- b) Accede to the 1954 Convention relating to the Status of Stateless persons.

Violence/abuse/maltreatment

39. The Committee notes efforts of the State party aimed at increasing the protection of children from various forms of abuse and neglect, including sexual abuse, such as the amendment to the Act on Misdemeanours

(Law No. 360/1999 Coll) and welcomes the significant efforts by NGOs in this respect. However, the Committee is concerned by ill-treatment and abuse committed against children in the family, in schools and other institutions as well as by public officials in the streets and in places of deprivation of liberty, particularly in the context of a form of popular justice for an alleged crime such as theft. The Committee is further concerned that certain groups of children, such as Roma, are specifically targeted; and that a very small portion of reported cases of suspicion of abuse and neglect are investigated. It is also concerned at the lack of an integrated system of services and that problems of child abuse and neglect are often solely addressed in an ad-hoc manner by NGOs. Furthermore, as noted by CEDAW, domestic violence is prevalent and is not specifically addressed in legislation (CEDAW/C/2002/EXC/CRP.3/Add.2); awareness among professionals and the public is low, and support for victims is insufficient.

40. The Committee is concerned that there is no legislation explicitly prohibiting corporal punishment, and is concerned that it is practised in the family, in schools and in other public institutions including alternative care contexts.

41. The Committee recommends that the State party take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, inter-alia:

- a) enacting legislation to adequately protect minorities from racially motivated attacks;
- b) ensuring that allegations of ill-treatment by the police and police misconduct are promptly, thoroughly and impartially investigated by an independent authority and that those responsible are identified and brought before a competent tribunal that will apply sanctions provided for by the law;
- c) develop an effective system for the reporting and investigation of cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, within a child-sensitive inquiry and judicial procedure, avoiding repeatedly interviewing child victims of abuse, in order to ensure better protection of child victims, including the protection of their right to privacy;

- d) Adopt and implement effectively adequate multidisciplinary measures and policies, including public campaigns, to prevent and address incidences of child abuse and neglect and contribute to changing attitudes;
- e) implementing training programs to promote respect for children belonging to minority groups, in particular Roma children, and by monitoring the treatment of children in both basic and special schools in order to ensure the protection of the physical and psychological integrity of all children while in the care of school officials;
- f) taking all necessary steps to enact legislation prohibiting the use of corporal punishment in schools, institutions, in the family and in any other context;
- g) making use of legislative and administrative measures, as well as public education initiatives to end the use of corporal punishment and ensuring this is adhered to;
- h) take measures for the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect,

ill-treatment and violence, including by providing counselling, care, recovery and reintegration for victims as well as the perpetrators, in accordance with article 39 of the Convention;

- i) taking into account the Committee's recommendations adopted at its day of general discussion on "Violence against children within the family and in schools" (CRC/C/111).

D5. Family environment and alternative care (arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para. 4); and 39)

Family environment

42. The Committee welcomes the information on the Policy Statement on measures to be taken relating to child and family welfare and on the preparation of a National programme for support of families with children. The Committee is concerned at the insufficient assistance and guidance to parents in their child rearing responsibilities in the upbringing and development of the child (article 18) resulting in numerous cases in custody procedures or in alternative care in institutions.

The Committee is further concerned that preventive efforts and family counselling are inadequate and that placement in an institution may be a solution for social problems and crisis situations in the family.

43. The Committee recommends that the State party to:

- a) Urgently improve professional support and counselling for families by ensuring qualified staff and resources and ensure that children are able to maintain contact with both parents in accordance with articles 3; 6 and 12 of the Convention;
- b) undertake a comprehensive review of all legislation, policies and administrative decisions related to children within the family in order to assess their impact on the family as a whole with a view to adoption of a family policy. The Committee further encourages the State party adopt a family policy including the minimum of social security for the child and the family, housing and social services, consistency between parent's work and child care, women's and single parent's status, child-maintenance, maternity and paternity leave and other family related issues.

- c) Adopt and implement international and domestic legislation to address these concerns, including the 1973 Hague Convention No. 24 on the Law Applicable to Maintenance Obligations.

Alternative care

44. The Committee notes the adoption of the Act of Residential Care in 2002 (EPS 16), but is concerned that it has not addressed the full range of rights covered by the Convention. The Committee also notes that children may be placed in institutions under the jurisdiction of three different ministries and that a court may order reformative (preventive) upbringing to a child below the age of 15 which means in practice that such a child will be placed in the same institution as juvenile delinquents. The Committee welcomes the policy of deinstitutionalisation, however remains deeply concerned by the increasing number of children placed in institutions by preliminary injunction and at the frequent use of this special measure, which can be revoked only after a lengthy and complex procedure. Furthermore the Committee is concerned that the general principles of the Convention are not always observed in such situations and that:

- a) institutional responses to provide assistance to children in difficulty are predominantly used and a disproportionately large number of children are placed in a residential institutional care environment;
- b) temporary measures may be extended for lengthy periods and that there are no regulations for review of placement;
- c) children are often placed at significant distances from parents, who in turn, may not be aware of their visiting rights and punitive measures such as limitation of phone calls or meeting with parents may also be used;
- d) contacts with parents are sometimes made conditional upon behaviour of children in care;
- e) the conditions and treatment of children in some institutions may not be provided in a manner consistent with the evolving capacities of the child and ensuring survival and development to the maximum extent possible;
- f) institutions are large and an individual approach to each child is lacking, child

participation is minimal, treatment in some institutions may have unwanted effects (such as the diagnostic institutions).

45. The Committee recommends that the State party:

- a) Establish or strengthen at the local levels the mechanism in charge of alternative care within the system of social welfare and take effective measures to facilitate, increase and strengthen foster care, family-type foster homes and other family-based alternative care and correspondingly decrease institutional care as a form of alternative care;
- b) Take effective measures to strengthen preventive efforts in reducing the incidences of children deprived of a family environment for social problems or in other crisis situations, and ensure that placement into an institution is for the shortest time possible, subject to regular review in accordance with art. 25;
- c) Ensure that issuance of preliminary orders by courts is used as a temporary measure and that the best interests of the child are a primary consideration;

- d) Ensure that children under 15 years of age are not placed in the same institutions as juvenile delinquents, and in conformity with the other principles and provisions of the Convention;
- e) Take all necessary measures to improve conditions in institutions, in accordance with art. 3 of the Convention and increase the participation of children;
- f) Provide support and training for personnel in institutions, including social workers;
- g) Provide adequate follow-up and reintegration support and services for children leaving institutional care.

D6. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras 1-3)

46. The Committee is encouraged by the decline of the infant mortality rate. However, the Committee is deeply concerned that the present economic situation in the health sector does not allow for compulsory preventive medical check-ups of children, from birth to the age of three, to be covered by public health

insurance; Furthermore, the Committee regrets the insufficient information provided following the Committee's previous recommendation (ibid. para 38) to undertake research on the possible effects of environmental pollution on the health of children.

47. The Committee recommends that the State party urgently:

- a) Define sustainable financing mechanisms for the primary health care system and an effective utilization of resources including adequate salaries for child health care professionals in order to ensure that all children, in particular children from the most marginalised vulnerable groups have access to free basic health care of good quality;
- b) undertake comprehensive research on the possible effects of environmental pollution on the health of children with a view to effectively addressing this problem.

Children with disabilities

48. The Committee welcomes information on the National Plan to equalize opportunity for citizens with medical disabilities and is

encouraged by the growing numbers of children with disabilities integrated into mainstream education, however the Committee is concerned that:

- a) The previous recommendation of the Committee (ibid. para. 37) has been insufficiently addressed and institutionalisation of children with disabilities remains high. The Committee notes the concern of CESCR related to inadequacy of measures to ensure a decent life for persons with disabilities including the mentally ill (E/C.12/1/Add.76 para 20);
 - b) Most public assistance activities are carried out by non-governmental organizations without significant support from the State party.
49. The Committee recommends that the State party:
- a) Implement alternative measures to the institutionalisation of disabled children;
 - b) Allocate the necessary resources for programmes and facilities for all children with disabilities, especially the ones living in rural areas, and strengthen communi-

tybased programmes to enable them to stay at home with their families;

- c) In light of the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities (General Assembly Resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The Rights of Children with Disabilities" (CRC/C/69, paras.310-339), further encourage their integration into the regular educational system and inclusion into society, including by providing special training to teachers and by making schools more accessible.

Adolescent health

50. The Committee reiterates the concerns expressed by the Committee on Economic Social and Cultural Rights (E/C.12/1/ Add.76 para 21 / 41) related to tobacco smoking, drug abuse and alcohol consumption as well as the decreasing but high number of teenage pregnancies and abortions.

51. The Committee recommends that the State party undertake further measures, including the allocation of adequate human

and financial resources, to evaluate the effectiveness of training programmes in health education, in particular as regards reproductive health and substance abuse, and to develop youth-sensitive and confidential counselling, care and rehabilitation facilities that are accessible without parental consent when this is in the best interests of the child.

Social security and standard of living

52. The Committee notes that new financial benefits were introduced in 1995 under Act No. 117/1995 Coll. regulating contributions and additional social care payments and that the Elimination of Poverty and Social Exclusion Strategy is being implemented. However, the Committee shares the concerns of the Committee on Economic Social and Cultural Rights (para 10) that the inadequacy of the social safety nets during the restructuring and privatisation process have negatively affected the enjoyment of economic, social and cultural rights, disproportionately affecting the most disadvantaged and marginalised groups.

53. The Committee recommends that the State party ensure that provisions of the Convention are taken into account in the

privatisation process and that all children residing on the territory of the State party equally enjoy social benefits.

D7. Education, leisure and cultural activities (arts. 28, 29, 31)

54. The Committee welcomes the efforts of the Government aimed at developing post-secondary education, making it more accessible, ensuring education for minority groups and integrating children with disabilities into mainstream education. The Committee welcomes the secondary school for Roma children established on the initiative of the Roma themselves. However, the Committee is concerned that the implementation of the reform of the education system remains insufficient and that in-service teacher training in this respect is lacking. The Committee is further concerned that Roma children continue to be over-represented in so-called “special schools” and at the discrimination in access to education of illegal migrants and refugees denied asylum.

55. Noting the State party's efforts in this domain, the Committee recommends that the State party:

- a) ensure the availability and accessibility of free primary education for all children in the State party, giving particular attention to children in rural communities, children from Roma and other minorities, as well as children from disadvantaged backgrounds such as refugees, illegal migrants particularly unaccompanied minors, to good quality education, including in their own language;
- b) continue to strengthen its efforts to professionalise the pre-school assessment of children and avoid as much as possible that children of Roma origin or other children belonging to disadvantaged groups are not assigned to special schools;
- c) implement education reforms with sufficient preparation and support schools in this regard with extra funding and teacher training, and a process for quality evaluation of the new programmes;
- d) promote quality of education in the whole country in order to achieve the goals mentioned in article 29 (1) of the Convention and the Committee's general comment on the aims of education; and ensure that human rights education, including

children's rights, are included into the school curricula.

D8. Special protection measures (arts. 22, 38, 39, 40, 37 (b)-(d), 32-36)

Refugee and internally displaced children

56. The Committee notes that the number of refugees and asylum seekers is steadily increasing and welcomes the ongoing efforts of the State party to provide for the special needs of these persons and the systematic recording of information on unaccompanied minors since 1998.

The Committee welcomes the ratification of the 1961 Convention on the Reduction of Statelessness and notes the intention of the Government to ratify the 1954 Convention relating to the Status of Stateless persons. It also recognises the cooperation with UNHCR in the drafting process of the new Foster Care Law defining modalities of education and accommodation for foreigners who are also unaccompanied minors. The Committee remains concerned that :

- a) Special care and protection is not accorded to all asylum seekers, particularly

those in the 15-18 year age group and that children aged under-15 years may be placed in diagnostic institutions which are not equipped to provide the special care these children require;

- b) Children may be placed in detention facilities for foreigners for prolonged periods; c) Compulsory school attendance is not always observed.

57. The Committee recommends that the State party:

- a) Guarantee special protection and care to all child asylum seekers with respect to their special needs, including the 15-18 years age group;
- b) Avoid any form of detention of asylum seekers under 18 years of age;
- c) Facilitate access of children to legal and psychological assistance, including by enabling contact with non-governmental organisations offering such assistance;
- d) Pursue implementation of the new foster care modalities contemplated by the 2002 legislation.

Economic exploitation

58. The Committee welcomes ratification of ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Committee notes with concern that ILO Convention No. 138 remains unratified and that there are no programmes or activities for the prevention and protection of children against economic exploitation and statistical data are lacking. Furthermore, the Committee is concerned that many children, including children under 15 and as young as seven years, perform regular labor in agriculture, family enterprises and as models.

59. The Committee recommends that the State party:

- a) Undertake a study on the causes and extent of child labor with an aim to prevent and improve the situation of child labor;
- b) Continue efforts to protect all children from economic exploitation through the establishment of an effective mechanism for inspection;
- c) Protect all children above 15 years from performing any work that is likely to be

hazardous, to interfere with the child's education, or to be harmful to the child's health or physical, mental or social development;

- d) Make every effort to ensure that those children above 15 who do work legally continue to have access to education;
- e) Ratify ILO Convention No. 138 concerning the Minimum Age for Admission to Employment.

Sexual exploitation and trafficking

60. The Committee welcomes:

- a) the establishment in Spring of 2002 of the trilateral Czech-German-Polish working group addressing, inter alia, trafficking in human beings, in particular related to sexual exploitation of children for prostitution occurring in these areas;
- b) information contained in the State party Report (paras. 334-335) related to social, preventive and re-socialization programs for victims of sexual exploitation as well as the adoption in July 2000 of the National Plan to Fight Commercial Sexual

Abuse of Children and amendments to the Criminal Code and Code of Criminal Procedure in 2002;

- c) the significant work done by non-governmental organisations in this field.

61. The Committee remains concerned at:

- a) reports of increased instances of sexual abuse of children and the low rate of reporting such crimes;
- b) the lack of a comprehensive system of protection and assistance to all child victims of sexual abuse and CSEC by qualified professionals;
- c) the lack of follow-up to the recommendations from the 1997 visit of the United Nations Special Rapporteur on child trafficking, child prostitution and pornography;
- d) lengthy duration of investigations into child trafficking;
- e) failure to date to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

62. The Committee recommends that the State party:

- a) Increase protection provided to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in a coordinated manner including by enhancing cooperation with non-governmental organisations;
- b) Ensure that a confidential, accessible and child sensitive mechanism is established to receive and effectively address individual complaints of all children, including those in the 15-18 years age group;
- c) Implement outstanding recommendations of the United Nations Special Rapporteur on child trafficking, child prostitution and pornography, inter alia those related to the cross-border trafficking problem;
- d) Sensitize professionals and the general public to the problems of sexually abused children through education including media campaigns;
- e) Ratify the Optional Protocol to the Convention on the Rights of the Child on

the sale of children, child prostitution and child pornography.

Street children

63. The Committee is concerned that there is a growing number of children living on the street in urban areas vulnerable to, inter-alia, sexual abuse, violence, including from the police, exploitation, lack of access to education, substance abuse, sexually transmitted diseases, HIV/AIDS and malnutrition. Furthermore, the Committee notes that the primary response to the situation of these children, as described by the State party report, is institutionalisation.

64. The Committee recommends that the State party:

- a) Strengthen its efforts to identify the numbers of street children with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation;
- b) Make additional efforts to provide protection to children living on the street and to ensure their access to education and health services;

- c) Strengthen efforts to assist children in leaving the street, placing greater emphasis on alternatives to institutionalisation;
- d) continue to support non-governmental organisations to assist these children; e) strengthen the support and assistance to families in this respect.

Juvenile justice

65. The Committee notes information provided in the State party report (para 293) related to discussions by the re-codification commission on the non-existence of a juvenile justice system leading to treatment which may not be in conformity with the provisions and principles of the Convention and welcomes the information provided by the delegation that a bill for juvenile justice reform will be submitted to Parliament rather soon. At the same time the Committee is concerned at the rise of delinquency and crimes committed by children:

66. The Committee recommends that the State party:

- a) Establish a juvenile justice system including juvenile courts to ensure the full

implementation of juvenile justice standards and in particular articles 37, 40 and 39 of the Convention, as well the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines);

- b) Clarify the minimum age of criminal responsibility in light of legal provisions authorizing protective custody for children under the age of twelve;
- c) Develop child-oriented proceedings for adjudicating cases involving children in conflict with the law, including specialized training for judges as well as all other personnel;
- d) Ensure that all acts of violence by the police toward minors are ended, including through the prosecution of police officers guilty of such acts;
- e) Ensure that no children are detained illegally and that when detention is necessary as a measure of last resort, that persons under 18 are detained separately from adults;

- f) Develop mechanisms and provide adequate resources Children belonging to minority groups

78. The Committee welcomes the implementation of strategies aimed at the improvement of Roma children's rights to health care services and inclusion in education. The Committee also welcomes Roma NGO participation in improving the rights of their children. However, it remains concerned at the negative attitudes and prejudices among the general public, media representations, incidents of police brutality, and discriminatory behaviours on the part of some persons working with and for children, including teachers and doctors.

79. In accordance with article 2, the Committee recommends that the State party:

- a) initiate campaigns at all levels and in all regions aimed at addressing negative attitudes towards Roma in society-at-large, and in particular among authorities such as the police, and professionals providing health care, education and other social services;
- b) based on the evaluation of previous strategies, develop and implement a com-

prehensive proactive strategy for the improvement of access to primary health care, education and social welfare services, in cooperation with Roma NGO partners, and targeting the whole Roma child population;

- c) develop curriculum resources for all schools, including in relation to Roma history and culture, in order to promote understanding, tolerance and respect of Roma in Czech society.

D 9. Ratification of the 2 optional protocols

81. Welcoming the ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts the Committee recommends that the State party ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

D 10. Dissemination of the report, written answers, concluding observations

82. Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.

D 11. Next report

83. In light of the recommendation on reporting periodicity adopted by the Committee and described in its sessions reports CRC/C/114 and CRC /C/124, the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. The Committee recommends the State party submit its next periodic report on 30 June 2008, 18 months before the due date established under the Convention for the fourth periodic report, which is 31 December 2009. This report will combine the third and fourth periodic reports. The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

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