



# **The Roma in the Czech Republic: Discrimination, Violence and Violations of Economic, Social and Cultural Rights**

Report on the Implementation of the International Covenant on Civil  
and Political Rights by the Czech Republic

Report Prepared by the World Organisation Against Torture (OMCT) for the  
Human Rights Committee

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## 1. Preliminary Observations

The Czech Republic ratified the International Covenant on Civil and Political Rights (ICCPR) in February 1993. The Czech Republic is also party to other international human rights instruments with related provisions on torture and other cruel, inhuman or degrading treatment or punishment and economic, social and cultural rights: the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the ILO Convention No. 111 concerning Discrimination with Respect to Employment and Occupation.

OMCT welcome the fact that the Czech Republic is also party to the Optional Protocol to the International Covenant on Civil and Political Rights and to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, both providing for individual complaints procedures. OMCT also welcomes the fact that the Czech Republic accepted the competence of the Committee on the Elimination of Racial Discrimination and of the Committee against Torture to hear individual cases, as specified under article 14 of the CERD and article 22 of the CAT.

At the regional level, the Czech Republic is a party to the European Convention on Human Rights, the European Social Charter<sup>1</sup>, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as to the Framework Convention for the Protection of National Minorities.

OMCT notes that the report presented by the Czech Republic to the Human Rights Committee (HRC) describes continued efforts to reform the legal system with regard to the rights enshrined in the Covenant, including protection against torture and other cruel, inhuman or degrading treatment or punishment as well as to improve the human rights situation of the Roma. The adoption of a Charter on Fundamental Rights and Freedom introduces into national law most of the economic, social and cultural rights (with the exception of the right to an adequate standard of living), as well as civil and political rights listed in both International Covenants. Article 7 of the Charter further stipulates that “nobody may be subjected to torture or to inhuman or degrading treatment or punishment”. According to article 3 of the Constitution, the Charter is an integral part of the constitutional order of the Czech Republic.<sup>2</sup> Moreover, article 10 of the Constitution provides that “international treaties on human rights binding on the Czech Republic are directly applicable and prevail over the law”.

Despite all these commitments, OMCT notes with concern that the real situation of the Roma living in the Czech Republic is not improving. The Roma population continues to be subjected both to strong discriminatory practices with regard to the enjoyment of their economic, social and cultural rights, as well as to repeated acts of violence and harassment by the police or private individuals. Most of the time, these violations go unpunished, while the victims do not receive proper restitution, compensation or rehabilitation. Access to justice and discrimination in the justice and prison systems also remain factors of concern for OMCT.

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<sup>1</sup> The Czech Republic bound itself to article 1 (1-3) on *the right to work*, article 2 on *the right to just conditions of work*; article 3 on *the right to safe and healthy working conditions*; article 4 (2-5) on *the right to a fair remuneration*; article 5 on *the right to organise*; article 6 on *the right to bargain collectively*; article 7 on *the right of children and young persons to protection*; article 8 on *the right of employed women to protection*; article 11 on *the right to protection of health*; article 12 on *the right to social security*; article 13 on *the right to social and medical assistance*; article 14 on *the right to benefit from social welfare services*; article 15(2) on *the right of disable persons*; article 16 on *the right of the family to social, legal and economic protection*; article 17 on *the right of mothers and children to social and economic protection*; article 18(4) on *the right to engage in gainful occupation in the territory of other Contracting Parties*; article 19(9) on *the right of migrant workers and their families*

<sup>2</sup> Article 3 of the Constitution reads as follow: “Part of the constitutional order of the Czech Republic is the Charter of Fundamental Rights and Freedom”.

In this report, OMCT wishes to draw the attention of the HRC to the link, in the case of the Roma, between the lack of enjoyment of economic, social and cultural rights on the one hand and, on the other hand, violations of their rights enshrined in the ICCPR.

After highlighting this link and the HRC competence to look at violations of economic, social and cultural rights and to formulate related recommendations, the first part of the report will address the violence against the Roma as well as their relationship with the justice and prison systems. The second part of the report will analyse, in the light of the above-mentioned link, the violations of Roma's economic, social and cultural rights as factors impeding the full enjoyment of the rights enshrined in the ICCPR, and in particular the protection against torture and other cruel, inhuman or degrading treatment or punishment.

## **2. General Observations: the link between violations of economic, social and cultural rights and the enjoyment of civil and political rights**

Given the interrelatedness and links between the Roma's enjoyment of economic, social and cultural rights and violations of their civil and political rights, OMCT believes that it is in this Committee's mandate to look at economic, social and cultural rights. Indeed, OMCT considers that only a comprehensive and holistic approach, taking into consideration the socio-economic dimension, can guarantee the realisation of the rights enshrined in the ICCPR.

OMCT welcomes the approach adopted by the HRC which considered, in several instances, that economic disparities, poverty, lack of opportunity, illiteracy, as well as economic dislocations of resources accompanying the transitions to market economy represent factors and difficulties impeding the full application of the ICCPR.<sup>3</sup>

Furthermore, the HRC interpreted in its General Comment No. 6 the expression "inherent right to life" as requiring States to adopt positive measures to reduce infant mortality and increase life expectancy.<sup>4</sup> With this General Comment, the HRC clearly expanded the scope of rights it can monitor to economic, social and cultural rights, basing its analysis on the notion of the effective enjoyment of the right to life. The HRC followed the same reflection in its 1999 Concluding Observations on Canada with regard to the implications of homelessness on the right to life. This approach clearly implies that state parties, in order to fulfil their obligations under article 6 of the ICCPR (right to life) have to take positive measures to address homelessness.<sup>5</sup>

OMCT therefore believes that the HRC is well-placed to consider the interrelatedness and links between violations of Roma's economic, social and cultural rights and violations of the rights enshrined in the ICCPR. Indeed, in order to achieve the full and effective enjoyment of the rights contained in article 2.3 (right to an effective remedy), article 6 (right to life), article 7 (right to be protected against torture and other cruel, inhuman or degrading treatment), article 14 (equality before the courts and tribunals) and article 17 (right to privacy), OMCT believes that violations of economic, social and cultural rights need to be addressed.

OMCT acknowledges that the situation of the Roma in the Czech Republic is characterised by a high degree of complexity and dynamics, in which historical legacies and prejudices intermingle with socio-economic exclusion, lack of integration and participation in civic life, discrimination, violence and frequent impunity. This combination of factors contributes to further marginalisation,

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<sup>3</sup> See for example *Concluding Observations of the Human Rights Committee: Bolivia*, 01/04/97, CCPR/C/79/Add.74, para 5; *Concluding Observations of the Human Rights Committee: Brazil*, 16/09/96, CCPR/C/79/Add.66, para 308; *Concluding Observations of the Human Rights Committee: India*, 04/08/97, CCPR/C/79/Add. 81, para 5; *Concluding Observations of the Human Rights Committee: Mongolia*, 25/09/92, CCPR/C/79/Add.7, para 4

<sup>4</sup> Human Rights Committee, *General Comment No. 6 (article 6)*, Sixteenth session, 1982

<sup>5</sup> *Concluding Observations of the Human Rights Committee: Canada*, 07/04/99, CCPR/C/79/Add. 105, para 12

discrimination and violations of the Roma's human rights. Beyond the complexity of this issue and the diversity of factors to take into account, the current situation of the Roma in the Czech Republic raises a whole range of issues under the ICCPR. Among other factors for concern, OMCT is particularly preoccupied by the violence directed against the Roma, as well as by the discrimination that the Roma face in the justice and prison systems or when access to justice is at stake.

OMCT believes that these two issues – violence and the relationship with the justice and prison systems – cannot be considered as separate and isolated items but need to be put in perspective with the overall human rights situation of the Roma and notably with regard to their enjoyment of economic, social and cultural rights.

Indeed, as the violence against the Roma is often triggered and fuelled by a whole range of prejudices, this issue cannot and shall not be separated from violations of economic, social and cultural rights. The Roma's relationship with the justice and prison systems is similarly characterised by the recurrence of prejudice as well as frequent references to the Roma's low socio-economic status. The Roma issue highlights the fact that the questions of discrimination, violations of economic, social and cultural rights, as well as of civil and political rights have to be considered as a whole and not as separate entities. The infringement of any one of these three elements triggers violations of the others. Indeed, discrimination against the Roma in the realm of economic, social and cultural rights tends to maintain or reinforce the negative images of them which in turn fuels acts of violence as well as discriminatory practices in the justice and prison systems. Similarly, as this report will highlight, the Roma's poor socio-economic status directly restricts their access to justice. A 2000 report on the Roma by the United Nations Sub-Commission acknowledges that the Roma "face two types of problems, which overlap. The first concerns racism and violence and the second is of a socio-economic nature."<sup>6</sup>

### 3. Violence Against the Roma

OMCT remains very concerned about torture and other forms of violence perpetrated against the Roma by the police and private individuals, as well as the frequent impunity that surrounds these acts.<sup>7</sup> In its 1998 concluding observations, the Committee on the Elimination of Racial Discrimination noted its concerns about "the persistence of racial hatred and acts of violence, particularly by skinheads and others, towards persons belonging to minority groups, especially Roma (...)."<sup>8</sup> Information provided by the European Roma Rights Centre (ERRC) shows recurrent ill-treatment and violence against Roma by members of the police or private individuals.

The following cases highlight the fact that violence perpetrated by private individuals or the police is, to a great extent, often fuelled by prejudices regarding the socio-economic status of the Roma. In turn, it is often the Roma's poor socio-economic status, resulting from violations of their economic, social and cultural rights, which stimulates these prejudices. Moreover, OMCT notes that these negative images play an important role in impeding an effective and satisfactory application of the legislative framework to address the violence and ill-treatment.

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<sup>6</sup> E/CN.4/Sub.2/2000/28, para 18

<sup>7</sup> Report by Mr. Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance E/CN.4/2000/16/Add.1, paras 19-23, EUROPEAN ROMA RIGHTS CENTRE, *Racist violence against Roma continues in the Czech Republic*, 1998, [http://errc.org/rr\\_wint1998/snap2.shtml](http://errc.org/rr_wint1998/snap2.shtml), as consulted 18/04/01

<sup>8</sup> *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic*, 30/03/98, CERD/C/304/Add.47, para 8

### *3.1 Violence perpetrated by the police*

In the Czech Republic, the Czech National Police, dealing with crime, is under the responsibility of the Ministry of the Interior while the Municipal Police Forces, established under the authority of local administrations, deal with public order and minor criminal offences.<sup>9</sup> Reports of demeanour by the National and Municipal Police are frequent and abuse of the Roma takes various forms, ranging from verbal insults to physical ill-treatment and excessive use of force. In this regard, the European Commission Against Racism and Intolerance acknowledges, in its 1999 report on the Czech Republic, that “racist attitudes are widespread among the police”.<sup>10</sup>

OMCT observes that so far the measures taken to address ill-treatment of the Roma by police officers remain inadequate. Indeed, OMCT notes that there is currently no independent mechanism to investigate allegations of police brutality as it is the police itself that conducts investigations related to cases of ill-treatment by its personnel and decides on the disciplinary measures to be taken. As a result, OMCT notices a pattern of strong reluctance to acknowledge the incidence of ill-treatment or of racist behaviour, and to take appropriate disciplinary action while victims do not receive proper compensation, restitution and rehabilitation. The whole procedure has also been criticised by the European Commission Against Racism and Intolerance for its lack of transparency.<sup>11</sup>

### *3.2. Violence perpetrated by private individuals*

OMCT would like to draw the attention of this Committee to the fact that violence against the Roma by private individuals continues to occur on a large scale and constitutes a major problem with regard to the implementation of the ICCPR. Indeed, according to the government itself, “the number of criminal acts [increased in 1999] from 285 to 371 (...). [and that] in most cases, the victims of verbal and physical attacks in 1999 were Romani”.<sup>12</sup> While the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance underlines that “anti-Roma violence comes primarily from extreme right-wing movements”, OMCT notes that the frequent tacit consent of society with regard to this violence, as well as the authorities’ failure to conduct investigations, identify those responsible, and apply the sanctions provided by law, reveals that this issue cannot be solely attributed to right-wing groups.<sup>13</sup>

The following cases are but some examples of the violence perpetrated by private individuals against Roma.

- According to information received from the European Roma Rights Centre, on December 18<sup>th</sup> 1999 a group of skinheads allegedly attacked and severely injured three Romani men in a village near the town of Decin.<sup>14</sup> It is reported that the group of skinheads shouted “you black swine will die” at the Romani men and kicked them in the head and on various parts of their bodies.<sup>15</sup> According to the Czech Ministry of the Interior, the victims sustained the following injuries: concussion, laceration of the head and contusion of the shoulder, injuries on arms and legs.<sup>16</sup>

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<sup>9</sup> EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI), *Second Report on the Czech Republic*, June 1999, para 16

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*, para 17

<sup>12</sup> *Report on the State of Human Rights in the Czech Republic in the Year 1999*, cited in ERRC, *Racial Discrimination and Violence against Roma in Europe: Statement to the Committee on the Elimination of Racial Discrimination*, August 1999

<sup>13</sup> Report by Mr. Gièlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance E/CN.4/2000/16/Add.1, paras 19-23

<sup>14</sup> EUROPEAN ROMA RIGHTS CENTRE, *Skinheads attack and kidnap Roma in northern Czech Republic*, in Roma Rights, No. 1, 2000, [http://errc.org/tr\\_nrl\\_2000/snap10.shtml](http://errc.org/tr_nrl_2000/snap10.shtml), as consulted 18/04/01

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

- According to information provided by the European Roma Rights Centre, on July 27<sup>th</sup> 2000, a group of men reportedly attacked nine Roma, mainly women and children, at the OMV petrol station in Houzna.<sup>17</sup> It is reported that the men shouted racist slogans such as “black whores” and “go back to India” and threatened to kill the Roma.<sup>18</sup> One of the woman reported that she was thrown into a ditch and that one of the attackers fired a shot into the ditch.<sup>19</sup> According to the information received, a Romani man was also taken across the road and cut with a power saw.<sup>20</sup>

### ***3.3 The authorities’ failure to take action with regard to violence perpetrated by private individuals: the question of due diligence***

The Czech Criminal Code includes racist motivation as a specific aggravating circumstance and specifically penalises certain acts inspired by racism and intolerance. These include Sections 196 (violence against a group and against individuals on the basis of race, nationality, political conviction or religion), 198 (defamation of a race, nation or belief), 198a (incitement to national and racial hatred), 260 (sponsoring and promotion of movement which aim to suppress the rights and freedom of citizens) and 261 (public expression of sympathy for fascism or similar movements). The Criminal Code was amended in 1995, increasing all sentences for crimes with racial motives.<sup>21</sup>

OMCT notes that the overall response of the authorities to the violence perpetrated against Roma by the police, or by private individuals, has, so far, been inadequate. Indeed, punishment for racially motivated crimes remain relatively light when the charges are not abandoned altogether, while the victims do not receive proper compensation, restitution and rehabilitation.<sup>22</sup> In its 1998 concluding observations, the Committee on the Elimination of Racial Discrimination noted that “information indicates that the number of charges and convictions (...) is low relative to the abuses reported”, and that “the perpetrators of racial crime are often lightly punished and that, in a number of cases, prosecutors have been reluctant to identify a racial motive”.<sup>23</sup> Similarly, the European Commission Against Racism and Intolerance notes that “following a marked increase in violent racist offences in the early 1990s, official statistics show that in recent years the number of prosecutions and convictions for most racially motivated crimes involving acts of violence has dropped”.<sup>24</sup> OMCT observes, as highlighted by the following examples, that the dropping of cases related to racially motivated crimes involving acts of violence, far from revealing a significant diminution of these cases, rather shows that they either go unreported or are not properly investigated and prosecuted by the authorities.

- According to information provided by the European Roma Rights Centre, on January 17<sup>th</sup> 1998, in the northern Moravian town of Krnov, a bottle containing a burning flammable liquid was thrown at the residence of Ms Emilie Zigova, a Roma woman, in which five people, including Ms Zigova, were present.<sup>25</sup> Accordingly, Ms Zigova sustained life-threatening burns that required extensive medical treatment, another man, present in the house at the time of the explosion, was also injured.<sup>26</sup> The fire following the explosion also caused damage to the

<sup>17</sup> EUROPEAN ROMA RIGHTS CENTRE, *Roma attacked in the Czech Republic*, in *Roma Rights*, No. 3, 2000, [http://errc.org/rr\\_nr3\\_2000/snap7.shtml](http://errc.org/rr_nr3_2000/snap7.shtml), as consulted 18/04/01

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI), *second report on the Czech Republic*, June 1999, para 8

<sup>22</sup> *Report on the Situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in Society*, at <http://www.vlada.cz>, as consulted 26/04/01; ERRC, *Racial Discrimination and Violence against Roma in Europe: Statement to the Committee on the Elimination of Racial Discrimination*, August 1999

<sup>23</sup> *Supra* note 23, para 9

<sup>24</sup> EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI), *second report on the Czech Republic*, June 1999, para 28

<sup>25</sup> EUROPEAN ROMA RIGHTS CENTRE, *Failure to provide justice to Roma in the Czech Republic*, in *Roma Rights*, Number 1, 2001, p. 17

<sup>26</sup> *Ibid.*

property.<sup>27</sup> Three men have been charged with the firebomb attack under Penal Code articles 179(1) (endangering public safety), 196(2) (violence against a group or individual), 222(1) and 222(2)(b) (racially motivated intentional bodily harm), as well as under article 257(2)(b) of the Penal Code (racially motivated damage to property).<sup>28</sup> The Buntal District Court acquitted all three defendant of all charges in December 1999.<sup>29</sup> This verdict was annulled in May 2000 by the Regional Appeal Court in Ostrava which sent the case back for re-trial.<sup>30</sup> On February 22<sup>nd</sup> 2001, all three men were again cleared of all charges by the District Court of Bruntal.<sup>31</sup> It is reported that the presiding judge stated in its verdict that while it was proven that the defendants had clear links to neo-Nazi groups, there was no concrete evidence linking them to the specific attack of Ms Emilie Zigova.<sup>32</sup> According to the European Roma Rights Centre, the court's failure to convict has its roots in numerous inadequacies in the investigation.<sup>33</sup>

- According to information provided by the European Roma Rights Centre, on August 27<sup>th</sup> 1999 a Romani family living in the settlement of Dvorek u Ohrazenice in the Trebic district of southern Moravia was attacked by a group of individuals throwing stones and bricks, breaking windows and doors, damaging vehicles and shouting racist slogans.<sup>34</sup> It is reported that even young men aged between 16 and 24, and the owner of the farm who allegedly incited the young men to violence, were charged with racially motivated violence, damage to property and rioting.<sup>35</sup> The defendants were given suspended sentences of between four months and two years.<sup>36</sup>
- According to information received from the European Roma Rights Centre, on January 5<sup>th</sup> 2000 five Roma and one non-Roma men were beaten by fifteen skinheads who shouted remarks at them such as "black swine".<sup>37</sup> It is reported that although the police arrived at the scene before the attackers had left, only one of them was investigated.<sup>38</sup> The European Roma Rights Centre reports that on February 29<sup>th</sup> 2000, it was informed by the police that the attack was "merely a pub brawl".<sup>39</sup> Accordingly, and despite the racist remarks shouted by the fifteen skinheads, the investigating authorities have continued to deny any racial motive in the attack.<sup>40</sup> Finally, on December 7<sup>th</sup> 2000, the European Roma Rights Centre was informed by a police spokesman that the investigation into the man accused of taking part in the attack has been passed to municipal authorities to be dealt with as a summary offence.<sup>41</sup>
- According to information provided by the European Roma Rights Centre, on the evening of May 2000 two men attacked and severely injured a Roma couple and their five year-old and eleven year-old children during a stroll on Lazecka Street in the north-western town of Orlova. The couple was beaten violently with a baseball bat and the man reportedly suffered lacerations and contusions to his head, broken arms and contusions to his left side, while his wife's kneecap was broken. Despite the fact that the couple's eleven-year-old son was able to

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<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> EUROPEAN ROMA RIGHTS CENTRE, *Failure to provide justice to Roma in the Czech Republic*, in Roma Rights, Number 1, 2001, p. 18

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> EUROPEAN ROMA RIGHTS CENTRE, *Failure to provide justice to Roma in the Czech Republic*, in Roma Rights, Number 1, 2001, pp 17-18

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*



identify one of the attackers from a photograph of a local skinhead shown to him by the police, it is reported that nobody has been arrested for the attack.<sup>42</sup>

OMCT further notes that in many instances the Roma victims of violence perpetrated either by private individuals or by the police are afraid to file a complaint. According to information provided by the European Roma Rights Centre, Roma filing a complaint for acts of violence often end up either being accused of having started the incident, or of being threatened with reprisals.<sup>43</sup>

- It is reported by the European Roma Rights Centre (ERRC) that a 29 year-old Romani man, V.S., was attacked in December 1997 by four skinheads at the Karlovo Naměstí tram stop in Prague. He reported the incident to the ERRC on January 1998, stating that he did not report the incident to the police in order to avoid problems.<sup>44</sup>

#### **4. The Roma and the Justice and Prison Systems**

OMCT is deeply concerned by the fact that the low socio-economic status of the Roma, which is linked with violations of their economic, social and cultural rights, negatively affects their relationship with the Czech justice and prison systems, both in terms of access to justice and discriminatory practices.

##### **4.1. Access to justice**

OMCT notes that the Roma's access to justice in the Czech Republic remains unsatisfactory. The failure to prosecute or investigate crimes perpetrated against the Roma, highlighted in the precedent part of the report, clearly constitutes a serious limitation to the Roma's access to justice. Inadequate investigations, disproportionate length of the proceedings, the lack of adequate remedies, as well as the lack of independent monitoring of police behaviour (see part 3.1) are but a few examples of factors restricting their access to justice in the Czech republic.

While inadequate access to justice is not only a problem affecting the Roma, OMCT notes that their socio-economic marginalisation, given the current state of the Czech legislation regulating the provision of free legal aid, tends to magnify the scope of the problem. While article 37 of the Czech Charter of Fundamental Rights and Freedoms states, in conformity with article 14 of this Covenant, that "everybody has the right to legal assistance in proceedings held before courts", the European Roma Rights Centre notes that "the proportion of Romani defendants convicted without a lawyer is significantly higher than the proportion of other defendants."<sup>45</sup> OMCT observes, given that the availability of a lawyer is closely linked to the financial circumstances and socio-economic condition of the defendant, that a lack of economic resources might constitute a serious financial barrier to access to a lawyer and therefore to justice.

The Czech legal system distinguishes, with regard to the provision of free legal aid, between mandatory and non-mandatory cases. In the first cases, the Czech authorities are required to provide free legal aid to the defendant. Section 36 of the Czech Code of Criminal Procedure describes the cases in which free legal aid is mandatory: when the defendant is detained, where the defendant's legal capacity is limited; where the defendant is a minor; where the defendant has absconded; where the upper limit of the possible penalty of imprisonment exceeds five years; where extradition proceedings

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<sup>42</sup> *Ibid.*

<sup>43</sup> EUROPEAN ROMA RIGHTS CENTRE, *More police abuse in Pisek, Czech Republic*, 1998, [http://errc.org/rr\\_wint1998/snap19.shtml](http://errc.org/rr_wint1998/snap19.shtml), as consulted 18/04/01

<sup>44</sup> EUROPEAN ROMA RIGHTS CENTRE, *Racist violence against Roma continues in the Czech Republic*, 1998, [http://errc.org/rr\\_wint1998/snap2.shtml](http://errc.org/rr_wint1998/snap2.shtml), as consulted 18/04/01

<sup>45</sup> EUROPEAN ROMA RIGHTS CENTRE, *Roma Rights*, No. 1, 2001, p. 41

are at stake; and where the proceedings concern protective medical treatment imposed by a criminal court in connection with the criminal prosecution.<sup>46</sup>

The Code of Criminal Procedure does not provide for free legal aid beyond cases involving mandatory defence. Indeed, Section 36(2) leaves to the discretion of the judges the possibility of deciding whether there are other reasons for the mandatory provision of legal defence.<sup>47</sup> Therefore the issue of limited access to a lawyer in criminal justice cases arises in cases which do not fall under the mandatory provision. While the financial situation of the defendant should constitute a primary consideration in these non-mandatory cases, information provided by the European Centre for Roma Rights highlights the fact that judges make rarely use of Section 36(2) of the Code of Criminal Procedure and usually provide for free legal aid only in those mandatory cases enumerated by the law.<sup>48</sup>

Consequently, OMCT notes that the current legal system in force in the Czech Republic, whereby no rule recognises indigence or poverty as grounds for the provision of free legal aid, fails to guarantee access to justice in criminal cases for indigent defendants. Such situation tends to affect the Roma in a disproportionate way.

#### ***4.2. Discriminatory practices against Roma in the justice and prison systems***

Data provided by the European Roma Rights Centre shows disparities between Roma and non-Roma with regard to the ratio of conviction and sentencing.<sup>49</sup> For cases of robbery, the average length of imprisonment is 60 months for Roma defendants and 45 for non-Roma defendants.<sup>50</sup> The ratio is 62 months to 35 for bodily harm, and approximately 168 months to 155 for murder.<sup>51</sup> Disparities in sentencing with longer prison sentences for Roma defendants are also reported in cases of theft, drug trafficking and assault of a public official.<sup>52</sup> Furthermore, figures provided by the European Roma Rights Centre show that the convictions of Roma male defendants are proportionately higher than for non-Roma male defendants, the ratio being of 93,8% to 87,7%.<sup>53</sup> Information provided by the Counselling Centre for Citizenship, Civil and Human Rights also shows that Roma defendants are often not offered the same opportunities for alternative sentencing.<sup>54</sup>

According to the European Roma Rights Centre, when cases involve a Roma defendant, prosecutors and investigators often make references to socio-economic factors. These include items such as attendance of special schools, or residence in socially disadvantaged community.<sup>55</sup> OMCT wishes to draw the attention of this Committee to the fact that such comments are in fact much more than simple remarks about socio-economic conditions. Indeed, attendance of special schools or residing in a socio-economically disadvantaged community are often portrayed as being exclusive to Roma. These socio-economic conditions are therefore endowed with ethnic and often negative connotation. In this regard, OMCT expresses its concern about the possible negative impact such stigmatisation might have on a specific case, and in particular in term of conviction and sentencing of the defendant. For example, a criminal law official, in a case involving a Roma defendant, clearly stated that “the rehabilitation [of the defendant] is problematic because of his identification with the value system of the criminal Romani subculture and because he does not have even basic working habits. In the light of these circumstances, I impose a sentence on the defendant in the upper level of possible sentences, an

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<sup>46</sup> EUROPEANROMA RIGHTS CENTRE, *Roma Rights*, No. 1, 2001, p. 97

<sup>47</sup> *Ibid.*, p. 98

<sup>48</sup> *Ibid.*

<sup>49</sup> EUROPEANROMA RIGHTS CENTRE, *Roma Rights*, No. 1, 2001, pp 52-55

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*, p. 52

<sup>54</sup> COUNCELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>55</sup> EUROPEANROMA RIGHTS CENTRE, *Roma Rights*, No. 1, 2001, p. 52

unsuspended imprisonment of fourteen years...”.<sup>56</sup> OMCT notes that for an identical offence, a male Roma defendant is likely to receive a harsher sentence than a non-Roma counterpart.

OMCT also notices, on the basis of information provided by the Counselling Centre for Citizenship, Civil and Human Rights, that Roma are placed in pre-trial custody much more frequently than their non-Roma counterparts.<sup>57</sup> Indeed, the Counselling Centre reports, on the basis of a research carried out by the non-governmental organisation Tolerance and Civil Society, that for a crime such as a petty theft, 80% of the Roma defendant are placed in pre-trial detention while only 57% of their non-Roma counterparts were placed in pre-trial detention for the same offence.<sup>58</sup>

Roma also suffer disproportionate stigmatisation after their conviction and/or release, due to their lack of access to economic and cultural support, employment and housing, rendering their reintegration into the society much more difficult. (see section 5)

While it remains difficult to prove racial discrimination against the Roma in the Czech criminal justice system -as discriminatory behaviour is generally not openly expressed- the above-mentioned evidence shows that serious discriminatory practices against the Roma is prevalent in the justice and prison systems and occurs at different levels.

## **5. The Roma and violations of economic, social and cultural rights**

The socio-economic situation of the Roma remains a factor of concern for OMCT. While the transition to market economy has resulted in an overall and significant rise in poverty and inequalities throughout the country, it has had a disproportionately negative impact on the Roma population. OMCT further notes that discrimination against the Roma, with regard to their enjoyment of economic, social and cultural rights, including the right to work, the right to education and the right to adequate housing, explains, to a large extent, their poor socio-economic condition.

### **5.1. Discrimination**

Discrimination against the Roma remains widespread with regard to their enjoyment of economic, social and cultural rights. In this regard, the government has yet to enact legislation and administrative regulations expressly prohibiting racial discrimination in most fields related to the enjoyment of economic, social and cultural rights.<sup>59</sup> Accordingly, even if the Constitution, the Charter of Fundamental Rights and the Criminal Code contain provisions expressly directed against racist speech and propaganda, victims of racial discrimination in the field of economic, social and cultural rights have no legal remedies for acts of discrimination as such. As a consequence, criminal investigators have no legal power to investigate acts of racial discrimination perpetrated either by private individuals or by public agencies, institutions or state agents with regard to discriminatory practices in the realm of economic, social and cultural rights.

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<sup>56</sup> Decision No. 7 To 35/97 of the Upper Court in Prague (Vrchni soud v Praze) from November 19, 1997, p. 26, cited in *Newsletter of the European Roma Rights Center*, EUROPEAN ROMA RIGHTS CENTER, Number 1, 2001

<sup>57</sup> COUNCELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>58</sup> COUNCELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>59</sup> with the exception of the labour law, see The European Commission against Racism and Intolerance (ECRI), *Second Report on the Czech Republic*, Strasbourg, March 21<sup>st</sup> 2000

## 5.2. *The impact of economic restructuring on the Roma*

The strong *de facto* discrimination against the Roma in the Czech Republic with regard to their enjoyment of economic, social and cultural rights, as well as civil and political rights underlines, explains and reinforces the significant deterioration of their situation following the transition to a market economy and the related economic restructuring. In his 2000 report following his mission to the Czech Republic, the Special Rapporteur on Contemporary Forms of Racial Discrimination, Xenophobia and Related Intolerance stated that the Roma remain “exposed to racial discrimination, which is manifested particularly in access to employment, housing and education.”<sup>60</sup>

Throughout the socialist period, the Roma of Czechoslovakia faced various and repeated assimilation efforts aimed at erasing their ethnic differences and particularities.<sup>61</sup> Amongst the measures taken by the government to assimilate the Roma were a policy of forced integration into the mainstream economy by providing them with employment and housing to settle the nomadic Roma.<sup>62</sup> With regard to the employment policy, most Roma were employed in state-owned enterprises or as agricultural labourers on collective farms, frequently in the most unskilled and less well paid positions.<sup>63</sup> In terms of education, these policies led to the enrolment of a significant portion of Roma children into special schools, often intended for children with mental and physical disabilities, a pattern which persists today in the Czech Republic. (see section 5.4.)

The transition to a market economy has resulted in an overall and significant rise in poverty and inequality. The UNDP’s 1999 Human Development report for Central and Eastern Europe and the CIS acknowledges a sharp increase in inequalities in the Czech Republic.<sup>64</sup> The Committee on the Rights of the Child, in its 1997 concluding observations, noted that “the transition to market economy has led to increased rates of unemployment, poverty and other social problems, and has had a serious impact on the welfare of the population (...)”.<sup>65</sup> While the Czech Republic’s transition to market economy has had an overall negative impact on the enjoyment of economic, social and cultural rights in the country, the situation of the Roma has deteriorated more severely than that of others. The benefits of the economic transition have been of little significance for the Roma whose condition, in most cases, has deteriorated towards greater socio-economic exclusion.

Following the privatisation of state-owned industries such as industrial factories, mines or agricultural cooperatives, the Roma were often the first to be laid off.<sup>66</sup> Their generally low education and professional skills, as compared to other groups in the society, represent significant hurdles for them when they have to find other positions or to maintain and compete for jobs in the new competitive market economy.<sup>67</sup> As a result, Roma were often forced to take jobs in the informal sector or depend on declining levels of social assistance.<sup>68</sup> In this regard, the 1999 UNDP’s Human Development Report on Central and Eastern Europe and the CIS acknowledges the spread of informal activities following the transition to a market economy and large scale lay-offs caused by the privatisation process.<sup>69</sup>

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<sup>60</sup> See Report by Mr. Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance E/CN.4/2000/16/Add.1, paras 8, 13-18

<sup>61</sup> FRASER, A., *The Gypsies*, Blackwell, Oxford, 1995

<sup>62</sup> *Ibid.*

<sup>63</sup> CROWE, D., *A History of the Gypsies of eastern Europe and Russia*, St. Martin’s Griffin, New-York, 1996

<sup>64</sup> UNDP, *Human Development Report For Central and Eastern Europe and the CIS*, 1999, p. 7

<sup>65</sup> *Concluding Observations of the Committee on the Rights of the Child: Czech Republic*, 27/10/97, CRC/C/15/Add.81., para 7

<sup>66</sup> RINGOLD, D., *Roma and the Transition in Central and Eastern Europe : Trends and Challenges*, The World Bank, Washington D.C., 2000

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

<sup>69</sup> UNDP, *Human Development Report For Central and Eastern Europe and the CIS*, 1999, p. 9

Access to social services has also been severely restrained due to tight fiscal policies required by structural adjustment programmes.<sup>70</sup> Again, due to their socio-economic exclusion, which has been aggravated by the transition to market economy, the Roma were, and still are, the first to be hit by this reduced access to social services.

Moreover, the Roma who have been forced to take jobs in the informal sector also face an overall worsening of their situation in terms of income, job security, working conditions, insurance based benefits, including health care, and unemployment insurance.

Finally, the economic crisis that accompanied the transition, as well as the implementation of structural adjustment programmes, severely exacerbated the condition of Roma with regard to their access to health and education as well as their housing conditions.<sup>71</sup>

These different factors, and their interrelatedness in terms of the enjoyment of economic, social and cultural rights led to a spiral of increasing impoverishment and significant degradation of the Roma's situation with regard to the right to work, the right to education, the right to health and the right to an adequate standard of living, which comprises the right to adequate food, the right to adequate housing and the right to adequate clothing.

The situation of the Roma women also remains a subject of concern for OMCT, as they are often overwhelmingly affected by the above-mentioned developments be it in terms of employment, education, or health. Moreover, their gender makes them much more vulnerable to torture and other forms of violence.<sup>72</sup> The UNDP's 1999 Human Development Report for Central and Eastern Europe and the CIS recognised that gender inequalities have been rising following the process of economic transition, with women's economic and personal security being on the decline.<sup>73</sup>

To summarise, the situation of Roma in the Czech Republic is characterised by a high degree of complexity and dynamics in which historical legacies and prejudices intermingle with socio-economic exclusion, lack of integration and participation in civic life, discrimination, violence, and frequent impunity. This combination of factors contributes to further marginalisation, discrimination and violations of Roma's human rights. The economic restructuring, by having strongly affected the Roma, has reinforced these existing trends and dynamics and has lead, in general, to greater socio-economic exclusion.

In this regard, OMCT would like to draw the attention of the Human Rights Committee to the recent recommendations made by the World Bank, in March 2001, with regard to the issue of fiscal stability in the Czech Republic: the World Bank notes that the "overall balance of the government has turned around from a surplus in 1993 to a preliminary 3.7 percent of GDP deficit in 2000."<sup>74</sup>

While OMCT does not take a position concerning the merits of economic restructuring as such, it notes that the measures foreseen by the World Bank - tightened fiscal policies- are likely to lead to further degradation of the Roma's situation with regard to their economic, social and cultural rights. The main points of the World Bank report are that the Czech Republic should aim at bringing the government deficit towards 1-2 percent of GDP and that the necessary fiscal adjustment will need to come from the expenditure side through structural reforms.<sup>75</sup> The report itself recognises that the "task will undoubtedly be difficult and perhaps painful".<sup>76</sup>

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<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> On the specific issue of torture and violence against women, see ANNE-LAURENCE LACROIX ET CARIN BENNINGER-BUDEL, *violence Against Women: A Report*, OMCT, 1999

<sup>73</sup> UNDP, *Human Development Report For Central and Eastern Europe and the CIS*, 1999, p. 7

<sup>74</sup> WORLD BANK, *Czech Republic: Enhancing the Prospects for Growth with Fiscal Stability*, March 2001

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

The World Bank identifies, among other areas in need of structural reform, the social security scheme, the health sector, education and housing.<sup>77</sup> Decreased in government spending, privatisation, as well as a lesser regulatory role for the state are part of the measures recommended by the World Bank. OMCT notes with concern that the World Bank, in its analysis of the Czech situation and in its evaluation of past and future reforms, circumscribes its approach to the macro level. For example, the World Bank describes an improvement in the health sector on the basis of a rise in life expectancy and a drop in infant mortality.<sup>78</sup> OMCT notes with concern that the World Bank failed to consider, in its March 2001 review, the micro level as well as the impact of past reforms on different segments of the population, and in particular vulnerable groups such as the Roma. Indeed, while the overall health indicators might have improved the individual situation of certain groups might have declined at the same time. This observation is also valid when talking about other areas such as social security, education and housing. The total absence of this micro level from the World Bank's paper, both in term of evaluating past reforms and foreseeing the impact of the recommended structural changes, is particularly worrying. Human rights, including economic, social and cultural rights are individual rights, their full realization going well beyond the sole rise in overall indicators. OMCT remains highly concerned that, given the lack of evaluation and reflection of the past impact of the reform on vulnerable groups such as the Roma, future reforms might again have a negative effect on the Roma and further deteriorate their already precarious socio-economic situation, leading to increased violations of their economic, social and cultural rights.

As far as education is concerned, the World Bank March 2001 paper proposes, among other measures, greater emphasis on advanced skills to respond to the needs of the economy.<sup>79</sup> The paper also recommends a reduction in the number of public schools.<sup>80</sup> While OMCT does not contest the need to improve higher level education, it would like to draw the attention of the HRC to the possible impact of this measure on the Roma. Given the scarcity of resources, emphasis on higher education –which implies greater allocation of funds to this sector- implies a decrease in spending, or at least a stagnation, in the field of primary education. The reduction of the number of public schools, recommended by the World Bank, also goes in this direction. Such measures might have a dramatic impact on the Roma children's right to education. Firstly, as the representation of Roma in higher education remains very low, it is likely that they will simply not be in a position to benefit from the reforms. Secondly, reduction in government spending in primary education, along with the reduction of public schools, will strongly affect the Roma children, as will be highlighted in the section on the right to education. (see section 5.4.)

With regard, to housing, the World Bank recommends, among other measures, a reform of rents, privatisation of the public housing stock and a stagnation of public spending on housing.<sup>81</sup> As will be highlighted in the section on the right to adequate housing, the impact of these reforms might also affect the Roma disproportionately and seriously threaten their right to adequate housing. (see section 5.5.)

Given the continuing implementation of economic reforms and restructuring it is therefore likely that, as it has been the case for the last 9 years, the Roma will not find themselves in a position to benefit from the continuing restructuring of the economy and the reforms recommended by the World Bank. The Committee on the Elimination of Racial Discrimination recognised, in its 1998 concluding observations, that “ the economic, political and social changes that are still taking place in the Czech Republic may affect the full enjoyment of economic, social and cultural rights of some segments of the population, especially those belonging to minority groups”.<sup>82</sup>

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<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*, para 17

<sup>79</sup> *Ibid.*, para 22-23

<sup>80</sup> *Ibid.*, para 24

<sup>81</sup> *Ibid.*

<sup>82</sup> *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic*, 30/03/98, CERD/C/304/Add.47, para 3

### 5.3. The right to work

OMCT notes that the Czech authorities have taken positive steps to address discrimination in the field of employment. In September 1998, the Parliament voted an amendment to the labour law incorporating a provision prohibiting racial discrimination with regard to employment practices. The amendment entered into force on October 1<sup>st</sup> 1999 and makes racial discrimination in employment illegal.<sup>83</sup> Despite the promulgation of such a law, OMCT notes that discrimination against Roma in the field of employment in the private sector and within the administration remains widespread and is not properly addressed and monitored by the Czech authorities.

As mentioned, the Roma have often been the first to be dismissed following economic restructuring, while they continue to face difficulty in integrating the labour market due to lack of the necessary skills and strong discriminatory practices by private employers and the administration. Citing the Council of Nationalities 1997 data, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance notes that 70 percent of the Roma are unemployed and that this figure is as high as 90 percent in some areas, while the general unemployment rate is 5 percent.<sup>84</sup> This information is confirmed by a World Bank Report, which estimates that in 1999, 70 percent of the Roma were unemployed in contrast with 10 percent unemployment levels for the total population.<sup>85</sup>

While these figures do not take into account the Roma working in the informal sector, it should be underlined that this form of employment is generally characterised by precariousness in terms of wages, security of employment, conditions of work and access to social benefits.

With regard to the high level of unemployment amongst the Roma, OMCT is very concerned by some remarks made by the Czech government in its report “On the Situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in Society”. Indeed, the report says that the non-improvement of the Roma situation is “caused to a large extent by the Roma unwillingness to take advantage of offers and their tendency to rely on the system of welfare benefits (...)”<sup>86</sup> However, OMCT notes that the government itself acknowledges that according to the Employment law (no. 450/1992 Coll., as amended) a person must have been employed for at least 12 months out of the last 3 years in order to receive welfare benefits.<sup>87</sup> On this basis, OMCT believes that the allegation that the majority of unemployed Roma have decided to be so in order to receive a higher income from welfare assistance is abusive and may feed prejudices and violence against the Roma. Indeed, evidence shows that a high proportion of Roma have remained unemployed for more than 3 years or are working in the informal sector. In this later case, Roma having worked in the informal sector for more than 12 months during a three year period are not entitled to social welfare.

Finally, OMCT would like to underline the fact that high unemployment among the Roma, by leading to further socio-economic exclusion and the lack of a proper and decent income, often drives the Roma towards criminal activities. This, in turn, reinforces prejudices against them as well as police repression, which often involves ill-treatment.

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<sup>83</sup> Law No. 167/1999, amendment of law No. 1/1999

<sup>84</sup> E/CN.4/2000/16/Add.1, also see *Report on the Situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in Society*, <http://www.vlada.cz>, as consulted 26/04/01

<sup>85</sup> RINGOLD, D., *Roma and the Transition in Central and Eastern Europe : Trends and Challenges*, The World Bank, Washington D.C., 2000

<sup>86</sup> *Report on the Situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in Society*, <http://www.vlada.cz>, as consulted 26/04/01

<sup>87</sup> *Ibid.*

## 5.4. The right to education

### 5.4.1. The placement of Roma children in special schools

In its report to the Framework Convention for the Protection of National Minorities, the Czech government acknowledges that a majority of Roma children attend special schools. This pattern, which dates back to the time preceding the economic restructuring, continues to be reported.<sup>88</sup> On the basis of the government's estimates, the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance notes that 70 to 80 percent of Roma children attend special institutions.<sup>89</sup> This data is confirmed by a World Bank report which estimates that in 1997, 64 percent of Roma children in primary school were attending special schools, in comparison with the 4.2 percent national average of children attending these schools.<sup>90</sup> In its 1998 concluding observations, the Committee on the Elimination of Racial Discrimination acknowledged the "marginalisation of the Roma community in the field of education" and noted the "evidence that a disproportionately large number of Roma children are placed in special schools, leading to de facto racial discrimination".<sup>91</sup> Roma children in Ostrava constitute more than 50 percent of the special school population: according to a 1999 report of the European Roma Rights Centre, 762 of the 1360 children in special schools are Romani.<sup>92</sup> The same report describes a similar pattern in Brno, where four of the five special schools are located in areas populated heavily by Roma.<sup>93</sup> In Usti nad Labem, most of the special schools also have a majority of Roma pupils.<sup>94</sup>

The Czech Schools Law provides for a system of special schools, parallel to the nine-years elementary school and intended for "pupils (...) who have intellectual deficiencies such that they cannot successfully be educated in elementary schools".<sup>95</sup> This Law further states that special schools are for the "mentally handicapped". Indeed, Section 4 of the Schools Law provides that "special schools offer, using special educational and teaching methods, means and forms, education and teaching to pupils with mental, sensory or physical handicap, pupils with speech impediments, pupils with multiple impediments, pupils with behavioural difficulties and sick or weakened pupils placed in hospital care."<sup>96</sup> The administration of this law creates a situation in which a disproportionate number of Roma children are relegated to special schools.

As education at a special school is not considered a complete primary education, the placing of Roma children in this type of institution seriously hinders their accessibility to attend secondary school as well as to vocational training.<sup>97</sup> The European Commission against Racism and Intolerance notes in its 1999 report on the Czech Republic that "participation of members of the Roma/Gypsy community in education beyond the primary school level is extremely rare."<sup>98</sup> While OMCT does not intend to describe the difference between the education offered in regular schools and in special schools, it would like to point out that special schools do not offer the same standards of education as that in regular schools. This pattern directly hinders their ability to find jobs and exercise their right to work,

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<sup>88</sup>RINGOLD, D., *Roma and the Transition in Central and Eastern Europe: Trends and Challenges*, The World Bank, Washington D.C., 2000; E/CN.4/2000/16/Add.1

<sup>89</sup> E/CN.4/2000/16/Add.1

<sup>90</sup> RINGOLD, D., *Roma and the Transition in Central and Eastern Europe: Trends and Challenges*, The World Bank, Washington D.C., 2000

<sup>91</sup> *Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic*, 30/03/98, CERD/C/304/Add.47, para 13

<sup>92</sup> EUROPEAN ROMA RIGHTS CENTRE, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, 1999

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> EUROPEAN ROMA RIGHTS CENTER, *Written Comments of the European Roma Rights Centre Concerning the Czech Republic*, February 1998

<sup>96</sup> EUROPEAN ROMA RIGHTS CENTRE, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, 1999

<sup>97</sup> EUROPEAN ROMA RIGHTS CENTER, *Written Comments of the European Roma Rights Centre Concerning the Czech Republic*, February 1998

<sup>98</sup> ECRI, *Second Report on the Czech Republic Adopted on 18 June 1999*, para 35



as their lack of skills and qualifications represents one of the main obstacle, along with discrimination, to their access to the labour market. In reference to the recommendations made by the World Bank in March 2001, OMCT reiterates its concern about the fact that the Roma will not be in a position to benefit from the reforms foreseen. (see section 5.2.)

In April 1997, the Czech government adopted Resolution No. 279 “On the Conception of Government Policy Towards Members of the Romani Community, Assisting Their Integration in Society”, which acknowledges the scope of the problem. The resolution explicitly recognised that the situation indicates a “tendency towards apartheid”. In October 1997, the Czech government passed Resolution No. 686 instructing the Minister of Education to “prepare new materials for testing used in transferring children to special schools and to take greater account of the specific characteristics of Romani children, in order to limit the prevailing practice in which Romani children have too often been transferred to special schools without conclusive evidence of their intellectual learning capacity”.<sup>99</sup>

While OMCT acknowledges the efforts made by the Czech Republic to address this issue, it notes that the measures taken remain insufficient. Indeed, OMCT notes that the Czech Government failed to pass an effective legislative framework for combating discrimination in education. Moreover, OMCT remains very worried by a recent official endorsement that special schools are schools for Roma. According to the European Roma Rights Centre, the Ministry of Schooling, Youth and Physical Education issued a decree in January 1998 entitled “Alternative Education Programme of Remedial Special Schools for Pupils of the Romani Ethnicity” which sees special schools as a medium for integration of Roma.<sup>100</sup> Indeed, according to the information provided by the European Roma Rights Centre, the decree elaborates an educational programme for Roma based upon the assumption that remedial special schools have a strong educational value for Roma children.<sup>101</sup>

Article 7(1) of the Special Schools Decree provides that the process by which a child is placed in a special school depends upon the decision of the special school’s director, the consent of the legal guardian of the child, and the opinion of an educational psychology centre.<sup>102</sup> Evidence of Roma children’s enrolment in special schools without professional evaluation, because of linguistic differences, as well as the disproportionate number of Roma children recommended for the psychological evaluation required to justify their placement in remedial special schools confirms that a large number of officials and institutional bodies consider remedial special schools as schools for Roma.

Moreover, OMCT notes with concern that in many instances reported by the European Roma Rights Centre, Roma parents have been abused with regard to their consent to placing their children in special schools.<sup>103</sup> It is reported that either special school directors failed to acquire consent at all, that pressure was exerted on Roma parents or that they gave their consent without being fully informed of the consequences of placement in a special school.<sup>104</sup>

In this regard, OMCT notes with concern that there is a double language surrounding the definition of special schools. On the one hand, the School Law clearly states that these schools are established to respond to the needs of handicapped children, while, on the other hand, numerous officials and the Ministry of Education itself regards them as appropriate for the education of Roma children.

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<sup>99</sup> Government of the Czech Republic, *Resolution No. 686 of October 29<sup>th</sup> 1997*, para 1(e)

<sup>100</sup> *Ibid.*

<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

<sup>104</sup> *Ibid.*

#### 5.4.2. *Ill-treatment of Roma children in the school system*

A matter which remains of utmost concern to OMCT is the reported ill-treatment of Roma children in both special schools and in regular schools. Abuses in the latter often force Roma parents into placing their children in special schools, where such acts take place on a lesser scale. Abuses by teachers in regular schools involve preventing Roma children from going to the toilet, verbal insults and humiliating references to ethnic origins.<sup>105</sup> In most instances these abuses are not reported, or when they are, no administrative measures are taken by the school authorities against the teachers. In its 1997 concluding observations, the Committee on the Rights of the Child noted “that internal school regulations do not contain provisions explicitly prohibiting corporal punishment”.<sup>106</sup> In this regard, OMCT would like to draw the attention of this working-group to General Comment No. 20 of the Committee on the Rights of the Child which states that this prohibition “must extend to corporal punishment, including excessive chastisement ordered as a punishment for a crime or an educative or disciplinary measure”.<sup>107</sup>

Finally, OMCT would like to draw the attention of the HRC to the fact that this pattern of placing Roma children in special schools not only violates these children’s right to education, but also constitutes a form of inhuman, cruel and degrading treatment.

#### 5.4.3. *Lack of effective remedies*

OMCT remains worried by the lack of proper and efficient remedies to challenge the placement of Roma children in special schools and to transfer them to regular schools. In theory, parents seeking the transfer of their child to regular schools first have to submit a request to the director of the special school and, if they are turned down, they can appeal to the school bureau.<sup>108</sup> In case of the school bureau’s refusal, the parents can lodge an appeal with the Ministry of Education. The filing of an appeal at the Constitutional Court constitutes the final legal recourse at the national level.<sup>109</sup> According to information provided by the European Roma Rights Centre, the decision to transfer children to normal schools remains, in practice, the sole prerogative of the school authorities: the European Roma Rights Centre has not heard of any successful cases in above-mentioned procedures.<sup>110</sup> In this regard, OMCT would like to draw the attention of the HRC to the fact that, for the moment, the national law lacks adequate provisions to provide recourse for persons alleging discrimination in the field of education, as highlighted by the following case.

In June 1999, twelve Romani children in Ostrava and their parents filed an action in the Constitutional Court of the Czech Republic against five directors of Ostrava special schools, the Ostrava School Bureau and the Ministry of Education, challenging and seeking remedies for racial discrimination in Czech schools.<sup>111</sup> In Ostrava, it is reported that although Roma represent less than five percent of all primary school-age students, they constitute more than 50 percents of the special school population.<sup>112</sup> The lawsuit alleged that the general practice of the education system resulted in *de facto* and *de jure* racial segregation and discrimination of the twelve Romani applicants.<sup>113</sup> On October 20<sup>th</sup> 1999, the

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<sup>105</sup> *Ibid.*

<sup>106</sup> *Concluding Observations of the Committee on the Rights of the Child: Czech Republic, 27/10/97, CRC/C/15/Add.81., para 18*

<sup>107</sup> Committee on the Rights of the Child, General Comment No. 20, 1992, para 5

<sup>108</sup> EUROPEAN ROMA RIGHTS CENTRE, *A Special Remedy: Roma and Schools for the Mentally Handicapped in the Czech Republic*, 1999

<sup>109</sup> *Ibid.*

<sup>110</sup> *Ibid.*

<sup>111</sup> ERRC, *The ERRC legal strategy to challenge racial segregation and discrimination in Czech schools*, 2000, [http://errc.org/rr\\_nrl\\_2000/legaldel.shtml](http://errc.org/rr_nrl_2000/legaldel.shtml), as consulted 18/04/01

<sup>112</sup> *Ibid.*

<sup>113</sup> ERRC, *The ERRC legal strategy to challenge racial segregation and discrimination in Czech schools*, 2000, [http://errc.org/rr\\_nrl\\_2000/legaldel.shtml](http://errc.org/rr_nrl_2000/legaldel.shtml), as consulted 18/04/01

Constitutional Court dismissed the case on the basis that the allegations of racial discrimination were unsubstantiated.<sup>114</sup> While the Court acknowledged the persuasiveness of the applicants' arguments, it stated that it was not competent to consider evidence demonstrating a pattern of racial discrimination and that the applicants failed to demonstrate that discrimination took place on an individual basis.<sup>115</sup> In its ruling, the Court added that the parents had all, with one exception, consented in writing to the placement of their children in special schools.<sup>116</sup> Responding to the parents' argument that they were not informed as to the consequences of their children being placed in special schools, the Court held that the responsibility in this case lies with the parents who could have requested such information but failed to do so.<sup>117</sup>

OMCT notes with concern that the outcome of this case poses serious and well-founded doubts about the available remedies for discrimination in the field of education as well as about the justiciability of economic, social and cultural rights before national courts. Indeed, the ground for dismissal were not the non-verification of the facts, but rather the applicants' failure to prove their claims on an individual basis.<sup>118</sup> As the issue at stake is an institutionalised form of discrimination with regard to the enjoyment of the right to education, OMCT remains very preoccupied by the precedence and the possible impact of the following ruling. Moreover, OMCT strongly regrets that the ruling of the Court, which holds the parents ultimately responsible and refuses to assert its competence in an obvious case of discrimination, failed to take into account the multidimensional complexity of the Roma question and the discrimination they suffered in relation to economic, social and cultural rights. Indeed, according to the European Roma Rights Centre, a number of Romani parents admit to consenting to their children's placement in special schools out of fear of racial hostility in regular schools.<sup>119</sup>

#### ***5.4. The right to adequate housing: discrimination and ghettoisation of the Roma***

The overall housing conditions of the Roma remains very poor, characterised by a lack of appropriate facilities and sanitation, as well as insecurity of tenure. Cases of eviction are frequent and lead to the ghettoisation of the Roma community.<sup>120</sup>

OMCT believes that the current housing situation of the Roma does not fulfil the criteria set by the Committee on Economic, Social and Cultural Rights in its general Comment No. 4 on the right to adequate housing with regard to the availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility and location.<sup>121</sup>

Direct discrimination against Roma, as well as indirect discrimination based on apparently neutral criteria, characterise the current housing situation of the Roma and raise serious and well-founded questions with regard to articles 2 and 17 of the ICCPR.

Such discriminatory patterns as well as a tendency to segregate the Roma population are widely supported at both national and local levels, notably within the administration and the housing department.<sup>122</sup> The report of the Open Society Fund on Housing in the Czech Republic highlights that the government itself recognised that one out of every three housing department employees is in "favour of concentrating Roma".<sup>123</sup> On the other hand, OMCT notes with concern that in its additional information presented to the Committee on the Elimination of all Forms of Racial Discrimination, the

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<sup>114</sup> *Ibid.*

<sup>115</sup> *Ibid.*

<sup>116</sup> *Ibid.*

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*

<sup>120</sup> OPEN SOCIETY FUND, *Housing in the Czech Republic*, p. 163

<sup>121</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 4: the right to adequate housing*, E/1992/23, para 8

<sup>122</sup> *Ibid.*, p. 166

<sup>123</sup> *Ibid.*, p. 166

Czech government stated that except for the situation in Usti nad Labem, it was “not aware of any other efforts in the Czech Republic to subject Roma to certain forms of isolation.”<sup>124</sup>

OMCT focuses in particular on cases of direct and indirect discrimination against Roma with regard to the administration of municipal apartments as the majority of the housing stock in the Czech Republic remains state-owned.<sup>125</sup> However, OMCT would also like to draw the attention of the HRC to the fact that the government is currently in the process of privatising state-owned apartments, which will have strong implications for the Roma population. As the privatisation process often goes together with a sharp rise in rents, recent developments linked to the privatisation of housing show that a large number of Roma find themselves unable to pay their rent and face possible eviction.<sup>126</sup>

OMCT would like to draw the attention of the HRC to the fact that, in the wake of the World Bank’s recommendations of March 2001, and in the light of the current context, this emerging trend of eviction might well herald a series of evictions which will affect the Roma in a disproportionate way and seriously threaten their right to adequate housing. (see section 5.1.)

According to the European Commission Against Racism and Intolerance (ECRI), the Czech national housing law does not contain any specific provisions explicitly outlawing racial discrimination by public institutions or private persons.<sup>127</sup> Furthermore, ECRI notes that no legal aid is offered to indigent victims of discriminatory practices.<sup>128</sup> Linked to this, OMCT notes that the Czech government fails to prevent, prohibit or eradicate racial discrimination against Roma in the realm of housing.

The allocation of municipal apartments is in the hands of local authorities.<sup>129</sup> According to the ECRI, Roma face direct and indirect discrimination with regard to the provision of housing by municipal authorities, which often leads to the isolation/ghettoisation of Roma on the periphery of cities, where they often live in poor conditions, lacking access to basic services.<sup>130</sup>

According to the Open Society Fund, direct discrimination in the assignment of municipal apartments takes two forms: refusal to rent apartments to Roma or refusal to offer Roma the same terms and conditions as other applicants.<sup>131</sup> In several cases, Roma applicants are offered substandard apartments, apartments in unsafe areas or apartments in buildings designed “for people evicted from their homes for not paying the rent”.<sup>132</sup> The following cases demonstrate the ongoing process of ghettoisation of the Roma, as well as the Czech government’s failure to take appropriate action to prevent the segregation and condemn it. Indeed, OMCT would like to draw the attention of this Committee to the fact that beyond failure to prevent and condemn, the following examples show that the Czech municipal authorities’ action have indeed led to further ghettoisation of the Roma community.

- Following the building of a 2 meter wall separating Roma from a non-Roma neighbourhood in the town of Usti nad Labem<sup>133</sup>, OMCT notes that, while the wall was eventually removed, the

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<sup>124</sup> Committee on the Elimination of Racial Discrimination (CERD), *Additional Information Pursuant to Committee Decision: Czech Republic*, CERD/C/348/21.01.99, para 1

<sup>125</sup> The private rental sector in the Czech Republic constitutes no more than 6% of the housing stock, See *Supra* note 75, p. 175

<sup>126</sup> OPEN SOCIETY FUND, *Housing in the Czech Republic*, p. 163

<sup>127</sup> ECRI, *Second Report on the Czech Republic Adopted on 18 June 1999*, para 9-10

<sup>128</sup> *Ibid.*, para 11

<sup>129</sup> OPEN SOCIETY FUND, *Housing in the Czech Republic*, p. 167

<sup>130</sup> *Ibid.*, p. 168

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> The construction of the 2 meter wall between Roma and non-Roma housing on October 1999, was based on a decision of the municipality of September 15<sup>th</sup> 1998. In November 1999, after a public outcry and international pressure, the authorities removed the wall.

authorities helped the non-Roma to move out of the neighbourhood, this failing to address the problem of segregation and in fact contributing to further ghettoisation of the Roma.<sup>134</sup>

- According to information provided by the Counselling Centre for Citizenship, Civil and Human Rights, a whole area in the town of Ostrava was converted into a Roma neighbourhood following measures taken by the municipal authorities.<sup>135</sup> According to information received, the town of Ostrava was affected by floods during the summer 1997 which seriously damaged the Hrusov area, which was at the time a mixed low income Roma and non-Roma neighbourhood.<sup>136</sup> It is reported that the Main Office of the Architect of the City of Ostrava declared the area as unacceptable for housing and recommended that the buildings be demolished because of flood damage and risk of future flood.<sup>137</sup> According to the information provided, the municipality responded to the Hrusov residents' request for housing transfer by giving priority to non-Roma inhabitants over Roma inhabitants, regardless of the housing conditions.<sup>138</sup> Moreover, many Roma residents who were granted a transfer were allegedly often only relocated to other flats within the same neighbourhood.<sup>139</sup> As a result, the municipal authorities of Ostrava converted the area, which had been declared inappropriate for housing, into a Roma ghetto.

Beyond these examples of direct and overt segregation, OMCT also notes a pattern of indirect discrimination against the Roma in the field of housing. Indirect discrimination against Roma in the allocation of municipal apartments is fuelled by apparently neutral eligibility requirements, which have a disparate impact on Roma and often bar their access to municipal apartments.<sup>140</sup> Such eligibility requirements often include a clean criminal record, proof of employment, a permanent residence, while recipients of social support are often not eligible.<sup>141</sup>

As briefly mentioned above, another outcome of the direct and indirect discrimination against Roma is their concentration in ghettos which are often isolated from the centres and lack basic facilities. The over-representation of Roma in buildings designed "for people evicted from their homes for not paying the rent", also called "holobyty", is but one example of the ghettoisation process faced by the Roma in the Czech Republic. While in theory these houses are meant to ensure accommodation for certain categories of evictees, regardless of ethnic concern, data show that Roma account for 60 to 100 percent of these tenants, even though they constitute less than 3 percent of the Czech population.<sup>142</sup> According to the Open Society Institute's report, based on governmental estimates, Roma represent respectively 60 percent of the residents in "holobyty" housing in Havlickuv Brod and Tachov, 70 in Chrastava, 75 in Prague-Vychod and Karvina, 79 in Beroun, 80 in Nymburk, and 100 in Rakovnic.<sup>143</sup> A large number of Roma families face eviction procedures for failure to pay the rent or for overcrowding.<sup>144</sup> According to Czech law, the evicted are entitled to alternative accommodation, which can either be a shelter or a substitute accommodation when children are among the evicted.<sup>145</sup>

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<sup>134</sup> COUNCELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>135</sup> COUNCELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> See for example Rules on Renting Flats, Decision no. 68/1997, adopted by Teplice City Council, February 5<sup>th</sup> 1997, as amended by Decision no. 435/99, June 23<sup>rd</sup> 1999, art. 3 para 3; Rules for the Administration of Municipality Flats of the City Jihlava, February 10<sup>th</sup> 2000, art. 3; Regulation of the Pardubice City Council on the Lease of Municipal Flats, adopted by the City Council, entered into force on March 1<sup>st</sup> 2000, art. 6 para 3(a); Rules for Renting Municipal Flats, Decision no. 119/99, adopted by the Chomutov City Council, March 8<sup>th</sup> 1999; City of Vsetin Decree no. 11/1995, adopted on December 19<sup>th</sup> 1995, art.2 para 2

<sup>142</sup> OPEN SOCIETY FUND, *Housing in the Czech Republic*, p. 181

<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*, p. 178

<sup>145</sup> See Civil Code, Section 712, para 2, 4, 5; Section 711, para 1

As many Roma live in extended families with children, they are generally entitled, under the law, to alternative accommodation. This entitlement is determined by a Court's ruling while the decision on the location of the new accommodation is made by the municipality.<sup>146</sup> As local authorities remain completely free, under the law, to choose the new accommodation, OMCT notes with concern that in several cases Roma are only offered "holobyty housing" situated at the edge of cities, with a frequent lack of hot water, basic facilities and sanitation.<sup>147</sup> Cases of apartments without showers and toilets, as well as of a single source of water for an entire building are frequent.<sup>148</sup>

The housing of Roma in "holobyty" facilities has strong implications with regard to other economic, social and cultural rights such as the right to education and the right to health. Indeed, the location of the "holobyty" housings, which are generally at the outskirts of cities seriously restricts access to school, health facilities and other services, and therefore negatively impact on the enjoyment of the right to education and the right to health.

Moreover, OMCT notes that the placement of Roma in this type of housing also raises serious concern with regard to the enjoyment of the right to privacy (article 17 of the ICCPR). Indeed, the rules regulating the renting of "holobyty" flats apart from prohibiting the tenants from receiving visitors, also allow any municipal authorities, including the police, to have access to the building at any time.<sup>149</sup>

According to the information provided by Counselling Centre for Citizenship, Civil and Human Rights, the lease of the flats in the "holoboty" in Slany, owned by the municipality, provides that Roma residents must allow any person appointed by the municipal authorities to have access to the buildings at any time in order to check the premises.<sup>150</sup> The lease also stipulates that Roma residents are not allowed to receive any visitors in the building.<sup>151</sup>

In the light of the living conditions which currently prevail in the "holobyty" housing –which include blatant violations of the right to adequate housing, as well as infringement of the right to privacy- OMCT believes that the placement of the Roma in these facilities.

## 6. Conclusions and Recommendations

OMCT is gravely concerned about the overall human rights situation of the Roma in the Czech Republic, and in particular about the discriminatory practices the Roma face with regard to their enjoyment of all human rights including civil and political as well as economic, social and cultural. Despite the fact that the situation of the Roma in the Czech Republic is characterised by a high degree of complexity - where prejudice from both sides intermingle with historical legacies and socio-economic marginalisation- OMCT notes that it carries strong implications with regard to the obligations of the state party under the ICCPR.

Violence perpetrated against the Roma by the police takes place on a large scale and constitutes a factor of grave concern for OMCT. The lack of independent mechanism to scrutinise the behaviour of the police entertains a climate of impunity which hampers further improvement with regard to the protection against torture and other cruel, inhuman or degrading treatment. Allegations of ill-treatment by the police are often not properly investigated and go unpunished. Threats of reprisal as well as the fear of being held responsible make also that several cases of police violence against the Roma are simply not reported. Roma victims of police violence do generally not receive proper compensation or

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<sup>146</sup> See Law 102/1992

<sup>147</sup> *Ibid.*, p. 180

<sup>148</sup> *Ibid.*, p. 180

<sup>149</sup> *Ibid.*, p. 181

<sup>150</sup> COUNSELLING CENTRE FOR CITIZENSHIP, CIVIL AND HUMAN RIGHTS, [www.poradna-prava.cz](http://www.poradna-prava.cz), as consulted 12/06/01

<sup>151</sup> *Ibid.*

rehabilitation. OMCT would therefore recommend that the Czech government investigate all allegations of violence thoroughly and impartially, identify those responsible, bring them before a competent civil tribunal and apply the penal, civil and/or administrative sanctions provided by law and provide proper compensation and rehabilitation to the victims. OMCT would also urge the Czech authorities to establish an independent mechanism to investigate allegations of torture and other forms of cruel, inhuman or degrading treatment by the police. It would also recommend the Czech government to appoint members of the Roma community as advisers or liaison officers to the police for receiving allegations of violence against the Roma by the police.

OMCT is also extremely worried about the violence perpetrated against the Roma by private individuals. The judiciary's failure to exert due diligence in the investigation, prosecution and punishment has resulted and continues to result in the high rate of impunity for racially motivated crimes against the Roma population. Victims are generally not properly compensated and rehabilitated. The government's inappropriate answer to this problem reveals that it cannot be solely circumscribed to right-wing circles. OMCT would therefore urge the Czech government to investigate all allegations of violence thoroughly and impartially, identify those responsible, bring them before a competent civil tribunal and apply the penal, civil and/or administrative sanctions provided by law and provide proper compensation and rehabilitation to the victims.

While access to justice in the Czech Republic is not only a problem affecting the Roma, their socio-economic marginalisation, given the current legislation regulating the provision of free legal aid, leads to the conviction of a high proportion of Roma defendants without a lawyer. The Roma's lack of economic resources constitutes, in cases where the provision of free legal aid is not mandatory, a serious financial barrier to their access to justice. In this regard, OMCT would recommend the Czech government to consider indigence or poverty as mandatory cases for the provision of free legal aid.

Discriminatory practices against the Roma in the justice and prison systems remain widespread and constitute a factor of great concern for OMCT. Statistical data clearly shows that for a similar offence Roma defendants are more likely to get greater sentencing than their non-Roma counterparts. Stigmatisation of the Roma occurs at all stages within the justice and prison systems, during the period of investigation and prosecution, as well as after conviction and or/release, which includes the period of reintegration into society. In this regard, OMCT would urge the Czech government to monitor and collect data to determine the scope of discrimination against the Roma in the justice and prison systems and to take appropriate action. It would also use the modalities of affirmative action to appoint members of the Roma community at all stages of the justice and prison systems and consider the establishment of a monitoring system allowing for disciplinary measures to be taken in cases of discrimination.

OMCT would like to reiterate that a significant improvement with regard to the problem of violence against the Roma and the Roma's relationship with the justice and prison systems requires the consideration of the larger picture which include the Roma's socio-economic situation. Violations of the civil and political rights of the Roma cannot be considered as separate and isolated items but need to be put in perspective with their overall human rights situation and notably with regard to their enjoyment of economic, social and cultural rights. OMCT would therefore urge the Human Rights Committee to look at violations of economic, social and cultural rights of the Roma and formulate appropriate recommendations in this regard.

While the transition to market economy has had an overall negative impact on the enjoyment of economic, social and cultural rights throughout the Czech Republic, OMCT notes that the Roma population has been and continues to be affected in a disproportionate way by the economic restructuring. Of grave concern is the possible negative impact of future reforms in the social, educational and housing sector recommended by the World Bank in March 2001. In this regard, OMCT would urge the Czech government to take appropriate measures in order to guarantee that the implementation of economic reforms do not impair the full enjoyment of all human rights and in particular of economic, social and cultural rights of the Roma.

Discrimination against the Roma in the field of economic, social and cultural rights, and notably with regard to the right to work, the right to education and the right to adequate housing remain widespread.

OMCT remains seriously concerned by the fact that discriminatory practices by private employers or the administration seriously impair the integration of the Roma in the labour market. More than 70 percent of the Roma remain unemployed while this figure is as high as 90 percent in some areas, as compared to the average unemployment rate which is around 5 percent. Many Roma have also been driven into the informal sector characterised by precariousness in terms of wages, security of employment, conditions of work and access to social benefits.

The placement of a disproportionate number of Roma children into special schools, which are intended for disabled children, also remain a factor of grave concern for OMCT. In many instances, Roma parents have been abused with regard to their consent to placing their children in these special schools, while OMCT notes a lack of effective remedies to challenge the placement of Roma children in these institutions. A matter which also remains of utmost concern to OMCT is the reported ill-treatment of Roma children in both special schools and in regular schools. Abuses in the latter often force Roma parents into placing their children in special schools, where such acts take place on a lesser scale. Abuses by teachers in regular schools involve preventing Roma children from going to the toilet, verbal insults and humiliating references to ethnic origins. In most instances these abuses are not reported, or when they are, no administrative measures are taken by the school authorities against the teachers.

The overall housing situation of the Roma also remains a factor of grave concern for OMCT as it fails short to guarantee the right to adequate housing and leads to the effective segregation and ghettoisation of the Roma. Direct and indirect discriminatory practices result in placing the Roma in isolated ghettos at the outskirts of the cities with difficult access to services, poor facilities and leasing conditions which violate the right to privacy.

While OMCT welcomes the recent promulgation of an amendment on the illegality of racial discrimination at work, it notes that so far the Czech government has failed to enact legislation and administrative regulations expressly prohibiting racial discrimination in other fields related to economic, social and cultural rights. OMCT would urge the Czech government to pass an effective legislation to combat racial discrimination in the field of economic, social and cultural rights and notably with regard to the right to education and the right to adequate housing. Furthermore, OMCT would insist that the authorities monitor closely the implementation of this law, as well as the law which prohibits discrimination in employment.

Finally, in the light of the link and interrelatedness between violations of civil and political rights and economic, social and cultural rights, OMCT would like to reiterate the need to adopt a multi-agency approach to the Roma issue. Such approach implies a close cooperation between the police, prosecuting authorities, housing and labour authorities, as well as education and social services, the labour sector with regard to the sharing of information, the monitoring of discriminatory practices and policies, as well as the development of coordinated approaches and policies. In this regard, OMCT would recommend the establishment of local multi-agency panels which could act as coordinating units.