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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 5 December, 2003, and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on the Czech Republic on 18 June 1999, progress has been made in a number of the fields highlighted in the report.

In 2000, the Czech Government adopted a Concept on Roma Integration providing a framework for efforts to improve the situation of Roma. Different measures have been implemented to improve the situation of Roma communities, including a number of successful initiatives such as zero-grade classes and teaching assistants. Amendments to the Czech Citizenship Law facilitated the acquisition of citizenship by Roma who have been long-term residents on Czech territory. The Cabinet has approved a draft comprehensive anti-discrimination law which is expected to come before Parliament in 2004. Measures have also been taken to address the problem of racially motivated violence, including steps to improve implementation of criminal law provisions. Moreover a national strategy on policing minorities has been developed to improve relations with minority communities.

A number of recommendations made in ECRI's second report, however, have not, or not fully, been implemented, notably as concerns the issue of combating discrimination and inequality at the local level, an issue which is of special concern to ECRI. There have been few detectable improvements in the situation of Roma whose marginalisation from mainstream society continues to take physical form through their ghettoisation into substandard housing complexes on the outskirts of cities. Many Roma children also continue to be sent to special schools for the mentally disabled and a disproportionately high number are removed from their families and placed in state institutions or foster care. Racially motivated violence and ill-treatment of Roma by police, including of children, continue to be problems of concern. Furthermore, ECRI raises a number of issues as regards asylum seekers and migrants, such as the concerning issue of the detention of children.

ECRI recommends in this report that the Czech authorities take further action in a number of fields. It calls, *inter alia*, for additional means to be put in place to combat discrimination at the local level and to ensure that local authorities implement policies aimed at improving the integration of Roma into Czech society. ECRI recommends urgent measures to prevent further evictions in the sphere of housing and to re-integrate Roma communities into mainstream society, including measures aimed at placing Roma children into regular schools. It also recommends the swift adoption of the draft anti-discrimination law and the provision of free legal aid to victims of discrimination without means. ECRI encourages the Czech authorities to take further measures to combat racially motivated violence, including the more effective implementation of criminal law provisions. ECRI furthermore urges the authorities to take firm action to counter the problem of police ill-treatment of members of minority groups. ECRI also formulates recommendations aimed at ensuring the rights of asylum seekers and migrants.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE CZECH REPUBLIC

International legal Instruments

1. In its second report, ECRI recommended that the Czech Republic make a declaration under Article 14 of ICERD, enabling individuals and groups of individuals to file petitions before the Committee for the Elimination of Racial Discrimination. ECRI also recommended that the Czech Republic sign and ratify the following international legal instruments: the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level. In addition, ECRI recommended that the Czech Republic ratify the revised European Social Charter.
2. ECRI is pleased to note that the Czech Republic made the necessary declaration under Article 14 of ICERD on 11 October 2000. ECRI is also pleased to note that on 9 November 2000, the Czech Republic signed the European Charter for Regional or Minority Languages, and on 7 June 2000 the Convention on the Participation of Foreigners in Public Life at Local Level.
3. The Czech Republic has not yet signed the European Convention on the Legal Status of Migrant Workers, the International Convention on the Protection of the Rights of All Migrant Workers or the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
4. The Czech Republic has not yet ratified the revised European Social Charter or the European Convention on Nationality.
5. ECRI is pleased to note that the Czech Republic signed Protocol 12 to the European Convention on Human Rights (ECHR) on 4 November 2000.
6. As concerns the incorporation and rank of international legal instruments in the Czech domestic legal system, ECRI notes that the relevant provisions of the Constitution have been amended so as to provide that international treaties duly promulgated and ratified form an integral part of the domestic legal order and take precedence over conflicting primary law.

Recommendations:

7. ECRI recommends that the Czech authorities sign and ratify the European Convention on the Legal Status of Migrant Workers, the International Convention on the Protection of the Rights of All Migrant Workers and the Additional Protocol to the Convention on Cybercrime. It recommends that the Czech authorities ratify the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level, the revised European Social Charter and the European Convention on Nationality. ECRI also strongly urges the Czech authorities to ratify Protocol 12 to the ECHR as soon as possible.

Constitutional provisions and other basic provisions

8. Article 1 of the Czech Charter of Fundamental Rights and Freedoms (*hereinafter Charter*) provides that people are “free and equal in their dignity and in their rights”. Article 3 of the Charter prohibits discrimination providing that: “fundamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, colour of skin, language, faith, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth or other status.” ECRI notes that the Constitutional Court may receive complaints of violations of these rights where they are breached by an effective decision issued during a judicial process or by any measure or other intervention of a public authority. ECRI has learned that the above-mentioned provisions of the Charter have not yet been applied to cases of racial discrimination and that the one case that was brought before the Constitutional Court concerning the issue of segregation of Roma children in special schools was dismissed on formalistic grounds and referred to the relevant authorities.

Recommendations:

9. ECRI urges the Czech authorities, and in particular judicial authorities, to make use of the non-discrimination provision of the Charter in order to address instances of racial discrimination by public authorities at local or national level. It also encourages the Czech authorities to ensure that authorities at all levels are made aware of Articles 1 and 3 of the Charter.

- *Citizenship law*

10. In its second report on the Czech Republic, ECRI recommended the swift adoption of the amendments to the citizenship law that were before Parliament when ECRI adopted its report (18 June 1999). It recommended various measures to ensure the effective implementation of the amended law including flexible administrative instructions concerning proof of residence and strict central government supervision over local offices that play a crucial role in accepting and processing applications for citizenship.
11. ECRI is pleased to note that the Czech Parliament adopted the amendments to the Czech citizenship Law facilitating the procedure for acquiring citizenship for nationals of the former Czechoslovakia who were long-term residents on Czech territory. These amendments introduced an alternate procedure for such persons through which they have the possibility of opting for Czech citizenship by proving residency in the Czech Republic from the date of the split of former Czechoslovakia (31 December 1992). This alternate procedure has resolved the difficulties in acquiring Czech citizenship of most Roma that have been long-term residents on the territory of the Czech Republic. Those who continue to encounter difficulties largely include Roma having problems proving factual residency - primarily persons without a fixed job or place of residence – and Roma whose residency is considered to have been interrupted as they left the country for a period of time in order to attempt to seek asylum abroad.

Recommendations:

12. ECRI recommends that the Czech authorities take the necessary action to resolve the remaining difficulties in acquiring citizenship encountered by Roma who were citizens of former Czechoslovakia and have been long-term or life-long residents on Czech territory. ECRI encourages the national authorities to adopt an approach that is as generous as possible, including towards those members of the Roma community who left the country applying for asylum.

Criminal law provisions

13. In its second report, ECRI recommended a more effective implementation of criminal law provisions addressing acts inspired by racism and intolerance, at the different levels of the criminal justice system. It suggested a range of measures including improvements in the manner racially motivated crimes are recorded and followed-up as well as training aimed at judges.
14. Since ECRI's second report, the Czech authorities have taken a number of steps to try to improve implementation of the criminal law provisions aimed at racially motivated crimes. A Commission for Combating Extremism, Racism, and Xenophobia has been established including different relevant state actors. An Advisory Body to the Minister of the Interior, this Commission collects information and develops a co-ordinated approach by the state administrative bodies to the struggle against extremism, racism and xenophobia. As concerns the police, 140 officers have been specifically trained in fighting racially motivated violence and more general efforts have been undertaken in order to provide human rights education and build the confidence of minority communities.¹ Initiatives aimed at training prosecutors and judges have reportedly been less successful, with little interest being generated for proposed courses and resistance by judges to outside interference in their autonomy. The Chief Prosecutor has however issued an order to all prosecutors that these cases should be taken very seriously.
15. Various amendments have also been made to the Criminal Code, aimed at strengthening provisions against racially motivated crimes. For instance, the ground 'ethnicity' has been added to a number of relevant sections in order to address the problem of restrictive judicial interpretations of these provisions. The amendment clarifies that when the acts stipulated are committed against Roma, these provisions cover them. Stronger punishments have also been provided for certain acts committed by media bodies or racist organisations.
16. Despite these and other measures taken, implementation of criminal law provisions devoted to racially motivated crimes remains inadequate. Reports of racially motivated violence continue unabated. It is difficult to constitute a clear picture of the scope of the problem as a number of such crimes go unreported, those that are reported are often not classified as such, and those that are classified as racially motivated are grouped together with other 'extremist' crimes in available statistics. However, racially motivated attacks, mostly committed by skinheads, remain a problem of such scope that members of Roma communities as well as

¹ These more general efforts are described in more detail below under 'Conduct of law enforcement officials'.

other visible minorities feel insecure and regulate their movements in order to try to minimise the possibilities of being attacked. Besides attacks, other activities of skinhead and other racist organisations remain widespread, including demonstrations, concerts, publications and internet sites. Concerns have also been expressed over the wide distribution of certain recent publications that present racist and antisemitic views in a more “academic” manner and thus are reaching a more mainstream audience².

17. Problems of implementation continue to occur at all levels of the criminal justice system. Complaints of racially motivated crimes are sometimes refused by police, and, when accepted, are frequently misclassified. Investigations are often not followed up or are inadequate. Furthermore, the police themselves continue to be accused of committing acts of racially motivated violence³ impacting upon the willingness of victims to report crimes to police. NGOs have also raised concerns over the manner that trials are handled by courts, for instance pointing to repeated delays due to the absence of the accused. In cases where prosecution is successful, defendants are reportedly often charged with lesser crimes, handed down lenient sentences and their sentences suspended.

Recommendations:

18. ECRI is of the opinion that further steps are needed at all levels of the criminal justice system – police, prosecution and judiciary – in order to improve the effectiveness of criminal law provisions aimed at combating racially motivated crimes.
19. ECRI recommends that the Czech authorities undertake special efforts to improve the manner that complaints of racially motivated crimes are recorded, classified, investigated and prosecuted. To this end, there is a need to devote further human and financial resources and to consider adapting working methods to ensure that complaints receive the follow-up they require.
20. ECRI recommends that the police officers specially trained in fighting racially motivated violence be consistently involved in investigations of such crimes and that the effectiveness of their work be monitored. This measure could usefully be extended to other police officers across the country. Similarly, specially trained individuals should be designated within the prosecution to ensure that classification, investigation and prosecution of racially motivated crimes is carried out appropriately.
21. ECRI recommends that the Czech authorities considerably strengthen their efforts to train judges and judicial candidates on issues pertaining to the implementation of legislation concerning racially motivated crimes.
22. ECRI also encourages the Czech authorities to continue efforts to monitor the activities of skinhead and other racist organisations and develop methods to react quickly and effectively against planned or realised incidents and attacks.

² See also under “Antisemitism” below.

³ See below under ‘Conduct of law enforcement officials’.

23. ECRI furthermore urges the Czech authorities to monitor the implementation of Criminal Law provisions aimed at combating racially motivated crimes in a more thorough and detailed manner.

Civil and administrative law provisions

24. In its second report on the Czech Republic, ECRI recommended the establishment of comprehensive anti-discrimination legislation covering all fields of life, including employment, education, housing and access to services and public places.
25. ECRI is pleased to note that in September of 2003, the Cabinet approved of a draft version of a comprehensive Act concerning the provision of equal treatment and protection against discrimination. A more detailed paragraph version of this Act will now be prepared by government officials and once again put before the Cabinet for approval. If approved, the Act will then be put before Parliament for its approval.
26. ECRI welcomes the fact that a number of provisions contained in the approved draft Act reflect those recommended in ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, such as: including definitions of both direct and indirect discrimination and clarifying that affirmative action is not to be considered as discrimination; expressly stipulating that certain specific acts are forms of discrimination (such as harassment and persecution of persons seeking to exercise or assisting others to exercise protection against discrimination); including an open list of grounds; covering a wide number of fields of life; providing for the establishment of a specialised body to promote equality of opportunities free from discrimination; imposing a duty on private and public persons to ensure equal treatment in the performance of their duties according to special regulations.⁴
27. ECRI believes, however, that the Act could be further enhanced by taking into account further suggestions made in its General Policy Recommendation No 7, particularly concerning the following issues: acts that should be expressly stipulated as forms of discrimination (including segregation); the fields of life covered (including access to public places, activities of the police and other law enforcement officials, and border control officials); remedies (including the payment of compensation to victims for both material and moral damages, the restitution of rights which have been lost, and non-monetary forms of reparation); and the sharing of the burden of proof between the alleged victim and discriminator. Although the current draft Act does not address the issue of the burden of proof, a recent amendment to the Code of Civil Procedure provides for a shared burden of proof in cases of direct and indirect racial discrimination in a number of fields of life. The shift provided for in the code of Civil Procedure does not, however, apply to all forms of discrimination and all fields of life included in the draft anti-discrimination Act.

⁴ This aspect of the draft will be discussed below in the section entitled 'Specialised bodies and other institutions'.

Recommendations:

28. ECRI encourages the Czech authorities in their efforts to adopt a comprehensive Act concerning the provision of equal treatment and protection against discrimination. It urges the Czech authorities to ensure that, in developing legislation in this area, the need to grant the highest level of protection to victims of racial discrimination is taken into account. In this context, it strongly recommends that the Czech authorities take into consideration ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, notably as concerns the areas highlighted above.

Administration of justice

29. In its second report, ECRI recommended that the State provide free legal aid for victims of discrimination without means.
30. Non-government organisations report that difficulties in obtaining legal aid continue to be an important barrier preventing victims of discrimination from bringing cases before Czech courts. This difficulty is exacerbated by high court fees and the risk, in civil proceedings, of having to reimburse the expenses of the other party. There is currently a new draft Act on Legal Aid under preparation, however the text of this draft has not been made available to ECRI. According to the Czech authorities, there is not likely to be a specific provision concerning victims of discrimination.

Recommendations:

31. ECRI reiterates its recommendation that free legal aid be provided to victims of discrimination without means. It also draws attention to its General Policy Recommendation No. 7 in this respect.

Specialised bodies and other institutions

32. In its second report, ECRI recommended the establishment of a specialised body with powers, *inter alia*, to provide legal assistance to alleged victims of discrimination and to raise awareness in society of issues of racism and racial discrimination.
33. The draft Act concerning the Provision of Equal Treatment and the Protection Against Discrimination discussed above⁵ provides for the establishment of an independent body, the Centre for Equal Treatment, with the purpose of contributing to the suppression of racism and xenophobia and of promoting equal treatment of all persons. In its General Policy Recommendations, ECRI has provided detailed guidance as to the status, role and functions it believes should be attributed to these national specialised bodies⁶. ECRI notes that many aspects of the proposed Centre reflect ECRI's Recommendations. ECRI would, however, like to stress that in its General Policy Recommendation N° 7, it recommends that

⁵ See above under 'Civil and administrative law provisions'.

⁶ See ECRI's General Policy Recommendations No. 2 and 7.

the competence of national specialised bodies include: the powers necessary to carry out investigations of complaints, and the possibility of initiating and participating in court proceedings.

34. In its second report, ECRI recommended that the Public Defender of Rights (Ombudsman) be given full competence and authority to permit an effective and durable improvement of the situation as concerns racism and discrimination in the country. ECRI also recommended that this institution be given sufficient resources and adequate representation at the local level throughout the country.
35. Established in 1999, the Ombudsman has dealt with certain cases of discrimination, usually when these were components of other cases dealing with social issues. ECRI addresses the issue of local representation in section II of this report.⁷
36. In its second report, ECRI encouraged the Czech authorities to address difficulties in the functioning of the Government Council for Human Rights, the Government Council for National Minorities, and the Government Council for Roma Community Affairs (*hereinafter Council for Roma Affairs*), notably through ensuring that these bodies are provided with adequate resources.
37. ECRI believes that these bodies play a key role in Czech society and, in particular, have provided spaces for dialogue between state institutions and civil society organisations and minority representatives. They have also been central to developing co-ordinated policies in issues concerning racism and intolerance. Increased resources allowing for these bodies to directly implement programmes, particularly measures conceived under the 'Roma Integration Policy Concept', would permit a more effective and co-ordinated implementation and evaluation of these programmes.

Recommendations:

38. ECRI encourages the Czech Republic in its efforts to create a Centre for Equal Treatment and urges the Czech authorities to grant this body the necessary competences to fulfil its mandate as effectively as possible. ECRI urges the Czech authorities to draw inspiration from its General Policy Recommendations N°2 and N°7, notably as concerns investigation powers and the possibility for specialised bodies to initiate and participate in court proceedings.
39. ECRI recommends that the Ombudsman continue to accord special attention to the possible racist or discriminatory aspects of complaints and cases brought to its notice.
40. ECRI recommends that the Czech authorities ensure that the Ombudsman and Councils discussed above have the necessary financial and human resources to function as effectively as possible. In particular, it recommends that the Czech authorities consider increasing the resources available to these Councils to carry out activities aimed at fighting racism and intolerance, such as the 'Roma Integration Policy Concept'.

⁷ *Situation of Roma at the local level.*

Reception and status of non-citizens

- *Refugees and asylum seekers*

41. In its second report, ECRI noted instances of intolerant statements concerning non-citizens on the part of some public figures circulated via the media, and stressed that such statements contribute to creating a climate of tension which can ultimately encourage the development of intolerant behaviour and ideas. ECRI recommended that the Czech authorities ensure a more rigorous supervision of the application of measures aimed at facilitating integration of refugees, particularly at the local level. ECRI also recommended that training of officials who deal with refugees, asylum applicants and other vulnerable groups should expressly include awareness programmes about other cultures and human rights education.
42. Various amendments to Czech legislation in the field of asylum and immigration since ECRI's second report have tightened conditions in these areas, with the overt purpose of preventing misuse of the asylum system by economic migrants seeking to remain in the Czech Republic or illegally migrate to other countries. These amendments have included withholding for a period of one year the possibility for asylum seekers to work in the country and limiting the provision of financial assistance to those staying outside accommodation centres to three months. A special accelerated asylum procedure has also been established at the Prague airport. As concerns employment, NGOs report that after a year has passed and asylum seekers have a right to work, they remain in a precarious and vulnerable position as the aliens police generally only extends their visa for two months at a time.
43. A recent amendment to the asylum procedure has put in place a judicial appeal procedure, giving the administrative court competence to review both points of law and points of fact. In theory, the asylum procedure is to take a total of several months. In practice, however, NGOs report that on average the procedure lasts about two and a half years. Most asylum seekers spend this time in the accommodation centres where they are housed, which are, for the most part, former army barracks in remote locations cut off from the rest of Czech society.
44. ECRI is concerned that the adoption and presentation of the above-mentioned restrictive measures as a means of tackling economic migration could lead to a stigmatisation of foreigners in the eyes of the public and contribute to the progression of racism and xenophobia. It has been pointed out that the length of the process, combined with the isolation of asylum seekers, increases the psychological and physical difficulties they experience, and unnecessarily delays the integration into Czech society of those to whom asylum is granted. Measures such as restricting possibilities for employment and limiting financial assistance for asylum seekers that stay in private flats exacerbate these problems.

Recommendations:

45. ECRI recommends that the Czech authorities review legislation and policies as concerns asylum-seekers and migrants bearing in mind their potential repercussions on the general climate of opinion as concerns minorities and persons of foreign origin as well as on racist and xenophobic extremist movements. Policies should also reflect the fact that these persons are not

criminals, but simply persons seeking either freedom from persecution or from economic and social hardship.

46. ECRI highlights the importance of providing asylum seekers with opportunities to participate in the local society during the examination of their asylum applications. It therefore recommends that the Czech authorities integrate accommodation centres into the local community, encourage private accommodation, permit employment as rapidly as possible, ensure children are granted access to education, provide language training and consider other measures that would increase contacts with Czech society.
47. ECRI stresses the need to ensure that the introduction of accelerated asylum procedures at the airport does not represent a weakening of the rights of asylum seekers.
48. ECRI recommends that training be provided to officials working in the area of asylum and migration, including human rights education and awareness raising about the circumstances and conditions at the root of migration.

- ***Migrants in an illegal situation***

49. ECRI is concerned over the widespread use made of detention of migrants whose identity cannot be confirmed or who are considered likely to evade a deportation order. Detained persons include unidentifiable persons who request asylum after having been taken into police custody. After a six-month period in a detention centre, asylum seekers are transferred into an ordinary accommodation centre. Conditions in detention centres are widely described as prison-like, with persons being detained in cells and severe limitations on movement and on contact with the outside world. Furthermore, NGOs report difficulties accessing these detention centres, as they are only permitted contact if an asylum seeker specifically asks for their assistance. However, in most cases, detained persons are reportedly not even aware of the existence of such organisations and therefore do not ask for their assistance. In Section II of this report, ECRI addresses the issue of detention of minors.⁸
50. NGOs report that persons placed in detention centres that cannot be identified after six months are released with an exit visa, usually for a five-day period. Thus, these persons are placed in a situation where whatever they do, they will necessarily be in a situation of illegality. They cannot legally cross a border without documentation and they cannot stay legally in the Czech Republic. This makes these persons particularly vulnerable to trafficking or to exploitation of other forms, such as in the sex industry or illegal employment market. The Ministry of Interior has recently begun a program on voluntary returns in co-operation with the International Organisation for Migration through which a certain number of such persons have been repatriated.
51. The Czech Republic is at once a country of destination, source and transit for trafficking for purposes of sexual exploitation, slavery, labour and other forms of exploitation. The Czech government has recently developed an Action plan to combat trafficking for purposes of sexual exploitation that includes a model of victim protection. Victims have the possibility to receive assistance from

⁸ See under 'Children from vulnerable groups'.

organisations focusing on this problem and for longer-term assistance if they co-operate with police. In addition, the Criminal Code was recently amended so that trafficking includes any victim irrespective of age or gender. However, as presently worded the provision only punishes trafficking for purposes of sexual exploitation, rather than also addressing trafficking for other purposes.

Recommendations:

52. ECRI considers that detention of asylum seekers and migrants should be resorted to as infrequently as possible and that lengths of stays in the facilities should be kept to the strict minimum, with frequent judicial control. ECRI also encourages the Czech authorities to improve conditions in these facilities and ensure that those in detention have adequate information and access to NGOs and other organisations providing assistance.
53. ECRI urges the Czech authorities to avoid placing persons without documentation in a situation of continuing illegality and instead to work for a solution that is humane and respectful of human rights.
54. ECRI encourages the Czech authorities in their efforts to combat trafficking and to consider extending the program of victim protection to cover not only those victims who co-operate with police, but all victims. ECRI also suggests that the Czech authorities consider extending measures aimed at addressing this problem to trafficking for purposes other than sexual exploitation, such as practices similar to slavery or forced labour.

Antisemitism

55. ECRI is concerned about the entry into mainstream society of antisemitic ideas under the guise of “scientific” publications. In particular, the Jewish community has expressed concern over the wide distribution of a recent publication entitled ‘Taboos in Social Science’ that propagates antisemitic stereotypes. This development is particularly worrisome as it is not limited to extremes of society, but is instead reaching a wider public.

Recommendations:

56. ECRI urges Czech opinion leaders, such as politicians, journalists and intellectuals to speak out publicly against antisemitic ideas, including those promoted in a scientific fashion. ECRI recommends awareness raising and training initiatives to ensure that antisemitic views do not gain a foothold amongst the Czech public, and especially the youth. ECRI also recommends that the Czech authorities ensure that relevant criminal law provisions are applied to prosecute the publication and distribution of works that promote racial hatred.

Employment

57. In its second report on the Czech Republic, ECRI recommended efforts aimed at producing long-term positive effects on the employment situation of members of disadvantaged minority groups, such as motivating members of these groups to

participate in training courses, making such courses widely available and supporting Roma initiatives, including support for Roma entrepreneurs.

58. The Czech authorities have undertaken a variety of initiatives targeting long-term unemployment among “persons difficult to place on the labour market”. Information is unavailable concerning the impact of these various initiatives upon disadvantaged minority groups, such as the Roma, due to the impossibility of collecting data on an ethnic basis.
59. Despite these initiatives, unemployment among Roma is estimated to be particularly high. Furthermore, there are widespread reports of discrimination against Roma, especially during recruitment. Members of other minority communities, such as Muslims, also report discrimination on the labour market at point of recruitment when employers hear a foreign name or accent. Existing legislation has not provided an effective remedy to victims of discrimination. However, in addition to the anti-discrimination Act discussed earlier in this report,⁹ amendments to legislation in the field of employment are also under preparation, including clear definitions of direct and indirect discrimination.
60. The updated Roma Integration Policy Concept approved by the government in March 2003 suggests that existing measures could be complemented by other special measures specifically directed at improving unemployment among members of the Roma community. It is suggested that advantages could be offered to entities employing Roma (or ‘persons difficult to place on the labour market’) such as: tax advantages; the payment of a fixed sum for each such person employed; special treatment during public procurement.

Recommendations:

61. ECRI recommends that further efforts be made to improve the employment situation of the Roma community. It considers that, given the widespread and endemic nature of disadvantage and discrimination faced by Roma on the labour market, special measures (affirmative action) should be implemented aimed at overcoming the high levels of unemployment among Roma communities. In this regard, ECRI encourages the Czech authorities to *inter alia* follow through on the measures set out in the updated Roma Integration Policy Concept (March 2003).
62. ECRI encourages the Czech authorities in efforts to adopt legislation in the field of employment and recommends that it provide effective remedies for instances of discrimination at all stages of the employment process.

Media

63. In its second report on the Czech Republic, ECRI noted harmful representations of Roma by the media, promoting negative stereotypes as well as highlighting behaviour that is different and “problematic” for Czechs. ECRI recommended the adoption by the media profession of codes of self-regulation to ensure a more balanced reporting of information concerning members of minority groups. It also recommended that the Czech authorities remain vigilant in identifying cases where the media transgresses the law.

⁹ See above under ‘Civil and administrative law provisions’.

64. While there don't seem to have been codes of ethics adopted across sectors of the media, certain publications or channels have adopted policies concerning coverage of minority issues. The Czech media are generally said to pay more attention to issues of racially motivated violence and discrimination against Roma and the manner that these subjects are covered. However, there continue to be mainstream print and electronic media outlets that promote negative stereotypes about minority groups, particularly Roma, and foster a climate of racism.

Recommendations:

65. ECRI reiterates its recommendation to media professionals to adopt codes of self-regulation concerning the manner of reporting about issues involving members of minority groups. ECRI also recommends that the Czech authorities remain vigilant in identifying cases where media professionals transgress the law through fostering racial hatred.

Racially motivated violence

66. In addition to more effective implementation of criminal law provisions,¹⁰ in its second report on the Czech Republic, ECRI recommended a multi-agency approach to the problem of racially motivated violence on the part of extremist groups. ECRI also stressed the importance of a broader approach to this problem, noting that these crimes are also linked with problems of disaffected youth, unemployment and widespread stereotypes and prejudices about Roma and members of other minority groups.
67. The Ministry of Education, Youth and Physical Education has developed a Concept for combating extremism involving teacher training and the development of educational materials aimed at fighting against racism, xenophobia and extremism. The strategy aims to introduce subjects such as 'Education of a Democratic Citizen' and 'Intercultural Education' into different types of education (primary, special, secondary, vocational). Given the considerable powers of local level school officials to select the subjects and materials, it is not clear to ECRI how the Ministry intends to ensure that this strategy is consistently implemented at the local level and monitor the manner that these subjects are taught.
68. The Ministry of Labour and Social Affairs has also developed a Concept aimed at preventing extremism through working with children and youth coming from groups likely to be tempted to become involved in extremist movements. No information has been received by ECRI concerning concrete projects carried out as part of this Concept.
69. In addition to criminal law provisions, a number of other legal avenues exist for dissolving or preventing the registration of racist organisations or political parties as well as for prohibiting assemblies of such organisations. However, given the prevalence of skinhead organisations and activities in the Czech Republic, there seem to be few instances where these laws are applied, something the Ministry of Interior explains by the fact that most racist organisations neither apply for registration nor inform authorities of their upcoming assemblies.

¹⁰ See above under 'Criminal law provisions'

Recommendations:

70. ECRI reiterates its recommendation to the Czech authorities to develop a multi-agency approach to the problem of racially motivated violence on the part of extremist groups. This would imply close co-operation between such instances as the police, prosecuting authorities, local authorities responsible for housing, education and social services, voluntary organisations as well as the establishment of local multi-agency panels sharing information among members, monitoring incidents of racial attacks and developing coordinated policies.
71. ECRI recommends that the Czech authorities develop means to ensure a more vigilant application of legislation aimed at prohibiting the activities of skinhead and other racist organisations. ECRI also recommends the thorough implementation of legal and other measures aimed at fighting against such organisations.”
72. ECRI encourages the Czech authorities in their efforts to develop educational measures aimed at fighting racist tendencies in schools. ECRI recommends that such subjects become a fundamental part of the curriculum implemented across all localities at all levels.

Conduct of law enforcement officials

73. In its second report on the Czech Republic, ECRI recommended that the Czech authorities establish an independent mechanism to investigate all allegations of police ill-treatment of members of minority groups and make clear publicly and at a high level that all such incidents will be impartially investigated and those found responsible punished. ECRI also recommended the development of methods to encourage victims to come forward with complaints.
74. Effective from January 1, 2002, an amendment to the Criminal Procedure Code (265/2001) extended the powers of the state attorney in the area of police investigations of crimes committed by police officers. Civil society organisations have commented, however, that this change to the investigation procedure is only cosmetic. In practice, it remains customary procedure for the Interior Ministry Inspectorate to carry out the initial investigation into cases.
75. ECRI is particularly concerned about continuing reports of incidents of police mistreatment and violence against members of the Roma minority, including incidents of death in custody. Although some investigations have been carried out and criminal cases brought, it does not appear that perpetrators have been brought to justice.
76. There also seems to be a continuing tendency to view Roma through stereotypical lenses, as potential perpetrators of crimes rather than as victims. This means that Roma are too easily considered as suspects when crimes are committed and, on the other hand, when they are victims of crimes, their complaints are too often not taken seriously or handled appropriately. ECRI has also received information concerning misbehaviour towards Roma children that will be discussed in Section II of this report¹¹.

¹¹ See below under 'Children from vulnerable groups'.

77. In its second report, ECRI suggested a range of measures to build confidence and improve relations between the police and Roma communities, including: further efforts to recruit police officers from minority groups; appointing members of Roma communities as advisors or liaison officers to the police at local level; and providing police with further initial and on-going training concerning minority groups. ECRI also recommended that the authorities ensure that national policing priorities are reflected at the local level.
78. A number of steps have been taken that aim to improve relations and build trust between police and minority communities, including: measures aimed at increasing the representation of members of minority groups within the police force; the introduction of new programmes into police training schools to familiarise future police officers with ethnic and cultural issues and the fight against racism, xenophobia and discrimination; and offering a number of police officers specific training in policing in minority communities.
79. The Ministry of the Interior recognises that the above measures are only a beginning and has developed a concept for a “National Strategy on Policing Minorities” designed to improve relations with traditional minority communities as well as new communities such as temporary residents, immigrants, asylum seekers and refugees. This ambitious strategy includes a wide range of measures such as: further research into the existing situation as concerns minority relations with the police; improving and developing further training programmes; continued efforts to recruit members of minority groups into the police force; a program aimed at community resolution of problems; and the introduction of police assistants from Roma communities.

Recommendations:

80. ECRI urges the Czech authorities to ensure that allegations of police ill treatment of members of minority groups are thoroughly investigated and perpetrators of criminal acts brought to justice. ECRI recommends that the procedure related to the investigation of complaints be conducted by an independent investigatory mechanism, whereby all phases of the investigation are conducted and overseen by a body independent of the Police and Ministry of the Interior.
81. ECRI stresses that cases of police violence that are brought to court should be heard as rapidly as possible and perpetrators appropriately sanctioned, in order to transmit the message to society that such behaviour on the part of the police is not tolerated and will be punished.
82. ECRI recommends that mechanisms be put in place that will encourage victims of police mistreatment to lodge complaints. For instance, this might include the appointment of contact points, independent from the police force, with responsibility for receiving and following-up such complaints as well as the provision of free legal aid for victims where necessary.
83. ECRI urges the Czech authorities to thoroughly implement the measures envisaged by the National Strategy on Policing Minorities, including at the local level across the country, and to devote the resources necessary for its success.

Monitoring the situation

84. In its second report, ECRI recommended the establishment of a monitoring system that enables the collection of information about the situation of the various minority groups, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. It recommended the carrying out of studies, paying due respect to the principles of confidentiality and self-identification in different areas.
85. It continues to be illegal in the Czech Republic to collect data including ethnic origin. A wide range of actors noted that the lack of data makes it difficult to measure the extent of discrimination in these various fields and to evaluate the impact of measures put in place to improve the situation.

Recommendations:

86. ECRI reiterates its recommendation to the Czech authorities to establish a monitoring system that enables the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. This system should pay due respect to the principles of confidentiality and the voluntary self-identification of persons belonging to a particular group. Such monitoring should also take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

II. SPECIFIC ISSUES

Situation of Roma at the local level

- Separation of Roma communities from mainstream society

87. In its second report on the Czech Republic, ECRI underlined that separation of majority and minority communities should be avoided and discouraged as far as possible. ECRI recommended that municipal authorities encourage Roma participation and decision-making in the local community. ECRI also called for efforts to educate the general public to accept that Roma people form an integral part of Czech society and of the necessity of devoting resources to improving their situation of disadvantage in many fields of life, including housing.
88. ECRI expresses deep concern at the deplorable situation of Roma at the local level. Roma communities continue to suffer from a cumulation of social and economic disadvantage, aggravated by changing economic conditions, discrimination and a lack of willingness by local officials and communities to adopt the necessary measures to improve the situation. There have been few detectable improvements since ECRI's second report. Instead, Roma communities are being increasingly pushed out of Czech towns into ghetto-like neighbourhoods where their condition of marginalisation intensifies.

89. It is in the sphere of housing that this separation takes on physical form. Discrimination against Roma in both the public and private housing market seems to have continued, and even accelerated, since ECRI's second report. A wide variety of sources report discrimination by municipal authorities in the allocation of local council housing. One form of discrimination is the allocation of substandard housing to Roma applicants using knowledge of Roma family names to distinguish such applicants from others. Another common practice of municipalities is the establishment of allocation criteria that although neutral on their face have the effect of disqualifying a disproportionately high number of Roma, for instance requiring employment and permanent residency status in the municipality. A further example of such a criterion is requiring a clean criminal record, something that a disproportionately high number of Roma lack due in particular to discrimination in other fields of life, such as in the administration of justice and in the previous process of acquiring citizenship. Various sources also point to the lack of timely and appropriate action by municipal officials in the event of non-payment of rent by families dependent on social support, a situation that often means their legal eviction after a minimum of three months of non-payment. ECRI has also received reports about particularly unhelpful attitudes of local officials involved in the provision of social benefits, who deny benefits to Roma who do not properly fill in forms or provide correct documents without taking the time to explain what is required. In the private sector, landlords reportedly refuse to rent flats or houses to Roma, or evict them from buildings after acquiring the property, sometimes with the complicity of local authorities.
90. As a response to evictions and the housing problems faced by Roma, municipal authorities often offer families substandard housing on the outskirts of cities, thus leading to their physical ghettoisation. Many such Roma families are housed in what have come to be called 'bare flats' (holobyty), in which it is estimated that Roma comprise between sixty to one hundred percent of residents. Built for "socially unadaptable people", living conditions are often so poor as to pose a health risk. Usually flats are too small to house the families that inhabit them, and basic sanitation facilities are shared amongst numerous residents in a building, if not lacking altogether. Residents are also often forced to accept restrictive contract terms, including conditions such as no visitors and permanent access to the flats by the authorities. Furthermore, these flats are frequently far more costly than the tenants' previous flats.
91. Since the publication of ECRI's second report, the Czech Government adopted, in 2000, a Concept on Roma Integration providing a framework for efforts to improve the situation of Roma. Implementation of the Concept is evaluated and updated yearly. As concerns the housing sector, the Czech central authorities publicly recognise the above problems and the need to take urgent actions to counter these segregating trends. However, central authorities also point to difficulties in addressing these problems as powers lie with municipalities. In certain municipalities, short-term solutions have been sought through providing additional cheap housing or undertaking projects to improve conditions in the holobyty. The Council for Romany Affairs seeks to react through a program scheduled to begin in 2004 that will support NGOs in providing assistance to families in order that they might maintain their flats. However, for the moment, actions by municipalities remain marginal compared to the scope of the problem. Moreover, non-governmental observers have commented that more efforts should be devoted to relocating Roma communities into the majority communities rather than improving settlements and building social housing, since this may actually perpetuate and increase segregation.

- **Actions at local level to combat discrimination and exclusion**

92. In its second report on the Czech Republic, ECRI recommended that the Czech authorities ensure that national policies and legislation against discrimination be fully applied at the local level, *inter alia* through stricter central government supervision over the actions of local authorities and providing incentives to local authorities to prioritise such initiatives. ECRI also emphasised the importance of involving members of minority groups in initiatives and recommended the establishment of formal structures providing a common space for collaboration at local level.
93. ECRI deeply regrets that the majority of local authorities seem not to be motivated to take actions to improve the situation of Roma as such actions are reportedly not popular with local communities and can be politically costly. On the contrary, some local leaders attempt to reap political gains through exploiting racism and taking actions that exclude Roma from local communities. This is all the more worrisome as local authorities have been given jurisdiction over most fields of life influencing the daily existence of Roma communities, either through the execution of their own competencies or through the execution of 'transfer' powers, delegated from the central level. For instance, decisions and the implementation of powers in the fields of housing, social services, education and health are executed at the local level. The local level is also responsible for Roma integration.
94. Despite these responsibilities, avenues for addressing local level discrimination are sorely lacking. Judicial supervision of discriminatory decisions or actions by local authorities is hindered by the absence of effective civil and administrative law provisions covering discrimination in the relevant fields of life. The adoption of the draft comprehensive anti-discrimination Act, discussed earlier in this report,¹² would be a very positive development in this respect. Administrative supervision is likewise hindered due to the absence of administrative bodies with a mandate allowing them effectively to control or sanction discrimination at the local level. The Ombudsman has jurisdiction to investigate and report on local authorities actions to the extent that these authorities are exercising transfer powers (such as the field of social insurance). However, the fact that the Ombudsman does not have local branches or the resources to effectively cover the whole territory diminishes the control that this body can exert upon local authorities.
95. ECRI's attention has also been drawn to paragraph 35(2) of the Act on Municipalities (Act 128/2000) which provides that municipal actions need be in accord with local conditions and local custom. Non-governmental sources have expressed their concern that this provision provides municipalities with the possibility of justifying discriminatory practices, such as segregation, as based on local conditions or custom.
96. Furthermore, governmental and non-governmental sources alike indicate that following the recent reform of the public administration, it is increasingly difficult for the central authorities to ensure local implementation of national policies, such as the "Roma Integration Policy Concept." Thus various strategies (concepts) developed by central authorities to address discrimination and the disadvantaged situation of Roma in different fields of life, are implemented in an inconsistent fashion, depending on the willingness of the local authorities to carry them out.

¹² See above under 'Civil and administrative law provisions'.

This has all too often meant that in those municipalities where the measures outlined in the strategies would be most needed, they are not implemented. An unwillingness on the part of some local authorities reportedly persists despite financing of the measures from the central level. As concerns the political parties to which local authorities belong, ECRI has been informed by a wide range of sources that none are willing to make issues of racism and discrimination a priority.

97. Prior to the administrative reforms, Roma advisors and assistants, appointed at district level played a key role in the implementation of national policies aimed at combating discrimination and promoting the integration of Roma at local level. Roma representatives, non-governmental organisations as well as the Czech Commissioner for Human Rights and Council for Roma Affairs have expressed to ECRI their deep regret that these positions have not been replaced following the elimination of the district level by the administrative reform process. ECRI is also deeply concerned about this situation. The Government Council for Roma Community Affairs has proposed that municipalities making up a former district enter into a public law agreement that would allow them to share a Roma advisor. In addition, no formal mechanisms for local level participation of Roma communities in the development and implementation of measures have been created.

Recommendations:

98. ECRI reiterates in this context its recommendation to swiftly adopt comprehensive anti-discrimination legislation that will cover discrimination by local officials executing powers both within their own competence and transfer powers.
99. ECRI recommends that the Czech authorities urgently put in place additional means of supervising municipal actions to ensure that they act in accord with Constitutional guarantees of equality and non-discrimination. In this respect, ECRI considers that it would be useful to establish regulatory bodies overseeing municipal actions, particularly in those fields of life in which discrimination is likely to occur. ECRI also encourages the Czech authorities to establish local agencies of the Ombudsman or similar institutions that are competent to monitor discrimination by local authorities.
100. ECRI stresses the urgent need for the Czech authorities to develop appropriate mechanisms to ensure that local authorities implement national strategies and policies, such as the Roma Integration Policy Concept, aimed at improving the integration of Roma into Czech society and improving their situation in key fields of life. ECRI also recommends that widespread targeted training be aimed at public officials in different sectors of life working at the local level, involving not only general anti-discrimination training, but also awareness raising of legal obligations as concerns equality and non-discrimination as well as relevant national priorities.
101. ECRI encourages Czech municipalities on the territory of former districts to enter into public law agreements so that the work of a Roma Advisor could be shared by all of them.
102. ECRI recommends involving the concerned Roma communities as full participants in the development, implementation and assessment of measures aimed at addressing their situation. ECRI suggests establishing local mechanisms which

provide a common space for consultation with members of Roma communities.

103. ECRI considers that the principal objective of housing and social policies should be to maintain and foster Roma communities living as part of majority communities. Urgent measures therefore need to be carried out to prevent further evictions, including appropriate and coordinated intervention by social care agencies and measures to put an end to and sanction discriminatory practices at the local level in both the private and public sectors. As far as those Roma communities who are already segregated from the majority society, resources need to be devoted to re-integrating these persons into majority society. ECRI also stresses the need for efforts to combat the negative attitudes and stereotypes within the majority population that sustain these discriminatory practices.
104. ECRI recommends that resources also be devoted to improving the housing situation of Roma, and particularly to ensure that Roma families who are currently living in substandard conditions are provided with a decent standard of housing and infrastructure. Measures should also aim to assist families to break the cycle of poverty and dependence in which they find themselves.
105. ECRI recommends that local authorities act as leaders in the fight against racism and discrimination. ECRI encourages political parties to act swiftly to address any acts of racism or discrimination at local level by members of their political parties. ECRI also urges Czech law enforcement officials to be vigilant in applying relevant criminal code provisions to racist actions by local authorities.

Children from vulnerable groups

- Roma children's access to education

106. In its second report on the Czech Republic, noting the quasi-automatic channelling of Roma children into special schools for the mentally retarded, ECRI recommended that such practice be fully re-examined to ensure that any testing used for assignment of children to schools is fair and that the true abilities of each child are properly evaluated. ECRI stressed the importance of making Roma parents aware of the need for their children to attend regular education. It also recommended that measures, such as information and incentive campaigns, be aimed at Roma parents, to improve attendance of Roma children at kindergarten level. Furthermore, ECRI urged the Czech authorities to extend the 'zero grade' initiative, notably through provision of adequate resources and information campaigns for the Roma community.
107. ECRI is concerned that Roma children continue to be sent to special schools which, besides perpetuating their segregation from mainstream society, severely disadvantage them for the rest of their lives. The Czech Ministry of Education has developed a standardised test aimed at improving the assessment of a child's mental level made by the psychological and counselling centres involved in decisions to send children to special schools. These tests, however, are not mandatory, and they are only one of a battery of tools and methods recommended to the centres.
108. As far as the other element required in order to send a child to a special school – the consent of a parent or legal guardian of the child – parents making such decisions continue to lack information concerning the long-term negative

consequences of sending their children to such schools. On the contrary, administrative and economic changes have meant that schools compete for students, and so, special schools try to preserve their Roma pupils and attract new pupils in order to fill their classes. Parents of Roma children are therefore encouraged to send their children to such schools. Although parents making such decisions do so for a variety of reasons, these reportedly frequently include a belief that their children will experience difficulties in normal schools, such as a lack of acceptance, discrimination and even violence. Special schools are often presented to parents as an opportunity for their children to receive specialised attention and be with other Roma children.

109. ECRI has also received reports of Roma parents being turned away from regular schools. With the economic competition, some mainstream schools are reportedly fearful that their school will be labelled a 'gypsy' school and non-Roma parents will not send their children there. ECRI has also been informed that it has in fact become easier for mentally healthy children to be accepted into special schools, as a provision in the law now provides for this possibility if the situation calls for it. It is therefore now possible for children to enter these schools directly without having to be assessed by psychological and counselling centres.
110. ECRI has received very positive feedback concerning the success of 'zero grade courses' (preparatory classes) at preschool level in increasing the number of Roma children who attend regular schools. Although the number of these classes is growing each year, there are many places, and even entire districts, where no preparatory classes have been opened due to lack of interest of the management or founders of schools, who are responsible for making decisions to establish such schools. ECRI has also received information suggesting that in some cases, Roma families do not wish to send their children to pre-school classes as this would represent a loss of social benefits for that child.
111. The School Act that entered into force in January 2000 provides the opportunity for graduates of special schools to apply for admission to secondary schools. According to various sources, this remains largely a theoretical possibility as special schools do not provide children with the knowledge required in order for them to attend regular schools. Children graduating from special schools do not have adequate preparation for regular schools and the headmasters in charge of making admission decisions do not accept them. There are no measures in place to provide additional education to students who have gone through the special school system to bring them to a level where they would be adequately prepared for regular secondary schools.
112. ECRI expresses its concern over a new trend to maintain the system of segregated education in a new form – this involves special classes in mainstream schools. ECRI has received reports from various sources expressing concern that this trend will be maintained in the new School Act that is currently under preparation. In fact, a number of concerned actors are worried that the new draft Act creates the possibility for even further separation of Roma through the introduction of a new category of special programmes for the 'socially disadvantaged'. It is feared that those Roma who now attend regular classes may, subsequent to this Act, be labelled as 'socially disadvantaged' and thus separated on this basis.

113. As concerns Roma students who do attend mainstream schools, in its second report, ECRI drew attention to the extremely reduced participation of Roma in education beyond the primary school level. ECRI suggested a range of initiatives to the Czech authorities including: investigating the role played by stereotypes among teaching staff; targeted teacher training; recruitment of Roma teaching staff; and extending the hiring of Roma teaching assistants.
114. The Ministry of Education has informed ECRI that there are currently 350 assistant teachers, mostly assigned to primary schools, although some are also assigned to secondary schools. There are widespread positive evaluations of this initiative, however, like the preparatory classes, decisions to hire an assistant rest with the management or founders of schools at local level and in many areas they have decided not to do so. Further initiatives have also been taken such as training programmes for teachers aimed at overcoming negative stereotypes and discrimination as well as revision of the primary school curriculum to include: teaching about Roma culture, history and language; other minorities; tolerance and multiculturalism. Despite these measures, the problem of low levels of Roma participation in secondary and tertiary level education described by ECRI in its second report persists.

Recommendations:

115. ECRI recommends that the Czech authorities urgently step up their efforts to ensure that Roma students who are not mentally disabled are not placed in special schools for the mentally disabled.
116. ECRI recommends that the Czech authorities ensure that the new School Act does not create a new form of separated education for Roma children.
117. ECRI urges the Czech authorities to make special efforts to ensure that Roma parents receive accurate information concerning the long-term negative consequences of sending their children to special schools. It also urges local authorities to devote resources toward fostering communication between Roma parents and mainstream schools.
118. ECRI recommends that urgent measures be taken to address the educational needs of students currently in such special schools, including individual programmes and compensatory classes, in order to assist these children in achieving a level whereby they can be integrated into the mainstream educational system. ECRI urges the Czech authorities to monitor and evaluate the process of reintegration in order to ensure that those Roma children who went through the special school system are given adequate support.
119. ECRI also stresses the importance of awareness raising measures to the general public, local school directors as well as teachers concerning the importance of integration. ECRI also recommends that teachers and school directors receive further anti-discrimination training and training in multicultural education.
120. ECRI encourages the Czech authorities to extend successful initiatives such as preparatory classes and Roma teaching assistants to all areas of the Czech Republic where the need exists. ECRI also encourages the Czech authorities to monitor the manner that these and other initiatives are carried out on the local level.

121. ECRI urges the Czech authorities to take positive steps to ensure that Roma children have equal opportunities to continue on to higher levels of education.

- ***Removal of Roma children from families***

122. ECRI is deeply concerned over reports that a disproportionately high number of Roma children are being removed from their families and placed in state institutions or foster care. Although precise data is unavailable due to restrictions concerning the collection of such data, civil society organisations active in this field estimate that the number of Roma children placed in institutional care makes up at least one fourth of the total number of children in institutional care. Moreover it is estimated that almost one half of such cases are placed in institutional care for welfare reasons, that is reasons of poor living conditions and poverty.

123. Children can initially be removed from families upon the decision of a social worker confirmed by a preliminary judgment of the court within 24 hours of the removal decision. Civil society organisations report that when faced with Roma families without means, social workers often conclude that it would be better for children to be taken away from the parents. On the other hand, when faced with non-Roma families in similar situations, social workers more often operate on the presumption that the interests of the child are better served through remaining with his or her natural parents, and, therefore decide that the family should be given preferential treatment by social services rather than removing the child. Proposals of social workers are apparently routinely accepted by the magistrates who need to confirm removal decisions.

124. Once children are placed in either foster care or institutional care, possibilities for contact with their families are often limited. These Roma children are therefore effectively removed from their communities and Roma culture.

Recommendations:

125. ECRI recommends that the Czech authorities conduct research in order to assess the reasons that a disproportionately high number of Roma children are removed from their families and adopt measures to address the factors leading to any discriminatory decisions. ECRI recommends that specific training be directed at social workers aimed at making them aware of possible racist prejudices and assumptions that might influence the manner that they deal with Roma families.

- ***Ill-treatment of children from vulnerable groups***

126. ECRI is deeply concerned over reports of harassment of Roma children by law enforcement officials. Roma children are reportedly sometimes placed in detention and coerced into confessing to minor crimes resulting in a criminal record. Roma children are also reportedly sometimes subject to ill treatment at the hands of police officers, on the street or in detention.

127. ECRI is also concerned about reports that minors are among those non-citizens held in the detention centres described earlier in this report.¹³ In these detention centres, where there are no special activities for children and no opportunity for them to attend school, children are subject to the same prison-like conditions as adults. The Czech authorities have indicated that a special detention centre adapted for families with children has recently been opened. However, when its capacity is exhausted, families with children continue to be placed in other detention centres.

Recommendations:

128. ECRI urges that any harassment of children be immediately stopped and that reports of such behaviour by law enforcement officials be impartially investigated.
129. ECRI urges that children not be detained in prison-like conditions and that migrant children be granted basic rights as well as special care appropriate to their difficult situation.
130. Concerning both of the above issues, ECRI draws the attention of the Czech authorities to the United Nations Convention on the Rights of the Child.

¹³ See above under 'Reception and status of non-citizens.'

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the Czech Republic

ECRI wishes to point out that the analysis contained in its third report on the Czech Republic, is dated 5 December 2003, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on the Czech Republic was subject to a confidential dialogue with the Czech authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Czech authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

Addendum to the Draft Third Report on the Czech Republic adopted by the European Commission against Racism and Intolerance on 5 December 2003

Due to difficulties arising from time constraints, the Czech Government was not in a position to have the comments by individual ministries discussed and edited in terms of a Government Resolution, or even at the level of the Government Council for Human Rights as the key advisory body to the Government. Thus, the addendum represents views of three ministries, of Interior, Labour and Social Affairs and of Justice.

Comment of a general nature:

In view of the Ministry of the Interior and the Police, the Draft Third report on the Czech Republic issued by ECRI in December 2003 cannot be considered as a fair and balanced source of information about the situation of Roma minority, asylum seekers, refugees and illegal migrants because it uses a large number of ill-founded, incomplete and misleading statements. The sources for such information are vaguely designated like „various sources“, „civil society organisations“, „nongovernmental observers“ etc. Some of these statements then create a biased picture about the extent of discrimination and mistreatment by law enforcement bodies.

Paragraphs 10 and 12

Provision of Section 18a of Act No. 40/1993 Coll., as amended, concerning the acquisition and loss of citizenship of the Czech Republic which the given report is relating to, enables natural persons who were the CSFR nationals at the time of the split of the Czechoslovak federation and since then continue to live in the territory of the Czech Republic, to acquire Czech citizenship in an accelerated procedure, namely by way of declaration. The Interior Ministry refuses to connect problems related to the application of the said provision to ethnic identity of the applicants. The conditions set out in this provision apply equally to all individuals, regardless of their ethnic identity. It is clear that it is difficult for persons without permanent employment or residence in the territory of the Czech Republic to prove their continual residence on the territory of the CR; but according to law, the burden of proof is up to him/her. Nonetheless, the relevant authorities make checks concerning actual residence of the declaring person even in cases when the declaring person refuses to co-operate with the authority. There does not seem to be a need for the adoption of any particular measures concerning this matter.

Paragraph 41

The Interior Ministry states, concerning ECRI's recommendation to train officials dealing with asylum seekers, that all new staff members of the Interior Ministry are subject to an extensive entrance training including, as a significant part, the human rights issue.

Furthermore, it should be emphasized that the purpose of protection in the form of asylum is not to secure employment but to provide protection for reasons stipulated by law. So it is allowed, naturally, to work only until the application for the protection in the form of asylum has been decided about. Otherwise, the institute of asylum as such might be abused.

Concerning the average length of the time period necessary for the administrative authority to issue its decision within the administrative proceedings, we can generally state that in the recent period, it has been considerably shortened, which is mainly due to legislative measures adopted for this purpose. The “restrictive measures” mentioned in the report were adopted not to aggravate the position of asylum seekers, but on the contrary, to distinguish “unqualified” asylum seekers from those who really comply with the criteria for granting the refugee status within the intention of the Geneva Convention. This distinction then substantially contributes to the improvement of conditions of protection provided for “qualified” asylum seekers as well as to the effectiveness of the whole system.

Paragraphs 49 and 52

Act No. 222/2003 Coll., by which Act No. 326/1999 Coll. was amended, concerning residence of aliens in the territory of the Czech Republic and the alteration of certain laws, has changed the relevant legislative provisions addressing the issue of placing illegal migrants in strict detention regime in a detention centre. As from 1 January 2004, in connection with the said amendment, aliens are not placed in strict regime any more only due to the fact that their identity cannot be proven. Another alteration to this legal provision is under preparation in another prepared amendment.

Paragraphs 50 and 53

Illegal migrants are placed in the detention centre following the decision of the competent Alien Police Authority after their administrative deportation proceedings are over. If there are asylum seekers in the detention centre, it is only because they made an asylum application in the course of detention for the purpose of administrative deportation. The fact that the Czech asylum law enables aliens detained for the purpose of administrative deportation to make asylum applications in the detention centre goes far beyond the framework of the 1951 Convention on legal status of refugees and the Protocol to the 1967 Convention. The assertion that non-governmental organisations do not have easy access to detention centres is inaccurate. The only factor which limits their possibility to visit a detention centre is the capacity of visiting rooms of that centre.

The assertion that the deported aliens usually receive the exit visa for 5 days is misleading. What matters is whether the diplomatic mission of the alien concerned is based or is not based on the territory of the Czech Republic. The exit visa is, as a rule, issued for 15 to 30 days.

Paragraph 75

The Interior Ministry expresses its deep concern about the accusation of racially motivated police „mistreatment and violence against members of the Roma minority, including incidents of death in custody“. There has been only one case of death in custody investigated by the Inspection of Interior Ministry (case of Mr Vladimír Pecha, 19 June 2002, Kralovo Pole Police station in Brno). Mr Pecha jumped out of a bathroom window. It is not true that „perpetrators have not been identified and brought to justice“; the conclusion of the investigation was in this case there was neither an intentional crime against the person, nor a case of negligence. This decision was appealed, but the state prosecutor rejected this complaint as unfounded.

Paragraph 89

Various kinds of discrimination by municipal authorities in the allocation of local council housing may be practiced, but the claim about „using knowledge of Roma family names“ to distinguish Roma applicants from others seems to be totally unfounded. As a matter of fact, it would be often very difficult to tell Roma family names from non-Roma family names.

The Ministry of Justice cannot accept the implication that Roma are convicted of criminal offences on discriminatory grounds or in any connection with the administration of justice.

Paragraph 122

The paragraph brings views of some NGOs (without giving their names) that “the number of Roma children placed in institutional care makes up at least one fourth of the total number of children in institutional care” and that “it is estimated that almost one half of such cases are placed in institutional care for welfare reason, that is reasons of poor living conditions and poverty”. However, these appear to be mere guesses without real evidence - there are no statistical data about the percentage of Roma children in institutional care. Only the Ministry of Health keeps records - within the framework of its statistical surveys - on the number of Roma children aged up to 3 years placed in institutional care. From these data it is obvious that since 1990 the number of Roma children placed in these institutions has been decreasing (in 1990 around 900 children were placed in these institutions, and in 2002 some 500 children were placed in institutional care).

Paragraph 123

This paragraph is also based on the statement by unnamed NGOs that social workers have a different approach to Roma children as compared with non-Roma children. According to this statement ...” when faced with Roma families without means, social workers often conclude that it would be better for children to be taken away from parents. On the other hand, when faced with non-Roma families in similar situations, social workers more often operate on the presumption that the interests of the child are better served through remaining with his or her natural parents”... Activities of social workers in protection of children are regulated by Act No. 359/1999 Coll., on social-legal protection of children, which lays down the interests of the child as a primary point of view in practice of social workers. The Ministry of Labour and Social Affairs has no information which would support the given statement, and it has not dealt with any complaint about discriminatory conduct of social workers. Therefore, the statement must be taken only as a personal view of representatives of some NGO who, however, have not expressed it in public; if they had done so, the issue would have been dealt with.

Paragraph 126

The Interior Ministry strongly rejects the allegation that any children are being placed in detention and coerced into confessing to minor crimes, which then results in a criminal record. According to Czech law, no child under 15 is criminally liable, so they cannot be sentenced or get a criminal record, and for juvenile offenders aged 15-18 a special law was adopted in June 2003 which prioritizes educational measures over punitive ones..

Paragraph 127

The conditions in detention centres came under detailed scrutiny following the April 2002 inspection visit of the CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment). The final report by the CPT did not allege human rights abuses or racial motivated violence in the various types of detention centres.

At the Bělá-Jezová facility, where families with children have been placed in a single establishment, the children go to school. At the Bělá-Jezová asylum centre, in whose building the detention facility for foreigners is located, preschool children can attend a children's centre; toys and children's games are available for all the children. The detention facility for foreigners in Bělá-Jezová is designed for mothers with children, or for large families with small children, and was set up as an establishment to house families with children on 10 June 2002. The facility can house 56 persons, providing a lenient regime and offering the inhabitants the opportunity of movement throughout the area of the facility. For children who are at an age requiring compulsory school attendance, regular attendance at the school in the neighbouring municipality is arranged. In cases where foreigners' clothes do not meet appropriate hygiene and aesthetic conditions, the facility management provides them with civil clothing. In this respect, the facility management cooperates with the social services of the Bělá-Jezová asylum centre and the Czech Catholic Charity. Detained foreigners can use a laundry room with an automatic washing machine. If the facility's capacity is exceeded, foreigners with children may exceptionally be placed in another facility, but only for a maximum period of two or three days.

The planned amendment to the Aliens Act will create conditions for a wider range of leisure activities. Issues of children's residence in detention centres will also be addressed by the upcoming amendment of the Aliens Act.

