



## International Covenant on Civil and Political Rights

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### Human Rights Committee 108th session

#### Summary record of the 2992nd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 16 July 2013, at 3 p.m.

*Chairperson:* Sir Nigel Rodley

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*Third periodic report of the Czech Republic*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Third periodic report of the Czech Republic (CCPR/C/CZE/3; CCPR/C/CZE/Q/3 and Add.1; CCPR/C/CZE/CO/2/Add.1, 2 and 3; HRI/CORE/CZE/2010)*

1. *At the invitation of the Chairperson, the delegation of the Czech Republic took places at the Committee table.*

2. **Ms. Baršová** (Czech Republic), summarizing the main developments in the implementation of the Covenant during the reporting period, drew particular attention to the adoption in 2009 of the Anti-Discrimination Act aimed at strengthening protection against discrimination in all areas. The Ombudsman had also signed an agreement with a lawyers' Association providing pro bono services, which had started to bear fruit. Legislative reform had continued with the adoption of two new codes: the Criminal Code, which had entered into force in 2010 and envisaged sanctions better tailored to individual crimes, including alternative sanctions to imprisonment, and paid particular attention to crimes with a racial motive, human trafficking, rape, sexual abuse of children, child pornography and other crimes covered by the provisions of the Covenant; and a new Civil Code, which was better adapted to modern needs. It would enter into force in January 2014 and would regulate all private relationships. Comprehensive strategies had also been adopted to promote the fundamental rights of different vulnerable groups, such as children, older persons, persons with disabilities, and Roma. A strategy for combating social exclusion had also been introduced.

3. Summarizing the replies of the State party to the list of issues, she said that the Czech Republic was focusing on maintaining the quality of its human rights protection system. In that context, the mandate of the Ombudsman had been progressively broadened to encompass new portfolios, such as equality and the fight against discrimination, or the protection of the rights of foreigners in prison, and expulsion procedures. The Ombudsman exercised many of the functions of a national human rights institution, in accordance with the Paris Principles, although it was not registered as such.

4. With regard to gender equality, the Government annually defined priority implementation measures to promote equal opportunities, and major awareness-raising campaigns addressing sexist stereotypes and domestic violence would soon be launched. The fight against racism and extremism remained a top priority of the Czech Republic; concerted efforts by the law enforcement and State authorities had succeeded in paralysing organized extremist activity, and community policing and cooperation with the public had fostered social integration, mutual respect and tolerance. The Government Commissioner for Human Rights regularly spoke out against any racist discourse or remarks inciting violence or intolerance, and anti-racism campaigns were organized on a regular basis. With regard to integration of the Roma minority, a strategy being prepared included new measures for the social integration of Roma and better protection of their rights. In assessing the size of the Roma minority, the Czech Republic used both self-identification — free and voluntary declaration of their ethnicity by the Roma community in the census, for example — and estimations based on objective or indirect criteria. Various pro-employment instruments had been devised to improve Roma's job prospects, and national legislation guaranteed the access of all, including Roma, to housing and provided protection against illegal eviction. The Government supported social assistance programmes for the Roma community run by municipalities and NGOs, including with regard to housing problems. Mindful of the importance of education for the future of the Roma community, the Czech Republic was addressing the overrepresentation of Roma children in the special education system through legislative changes and a reassessment of educational practices.

Placement of a child in a special education centre was now a last resort under the law and subject to expert recommendation and the parents' informed consent. Assistance was also provided to facilitate the access of disadvantaged Roma children to kindergartens and primary schools.

5. The new election law embodied a modernizing approach to the right to free election and facilitated the electoral possibilities of persons with disabilities. The new Civil Code would completely abolish full deprivation of legal capacity and would allow its limitation only with regard to the exercise of specific rights.

6. Regarding the right to life, violence against women, and the prohibition of torture, since 2012 the practice of sterilization and other medical interventions was regulated by the new Health Services Act which made sterilization subject to the informed consent of the patient and, in the case of persons deprived of legal capacity, to the approval by an independent expert commission and the court. Sterilization not being lifesaving surgery could not be performed against the patient's will; and any victim of an unlawful sterilization could claim damages from the hospital in which it had been performed. Moreover, a patient could be hospitalized and treated without prior consent only in the event of a life-threatening emergency, and consent for hospitalization could not be given by a legal representative or guardian. A proposal by the Government Council for Human Rights on compensation for victims of past unlawful sterilization was currently under consideration. On the issue of domestic violence, while the primary countermeasure was a court injunction banishing the perpetrator from the home to prevent further attacks, the most serious cases were criminally prosecuted. Police officers responsible for investigating such incidents received specific training in psychology and communication. By virtue of the new Act on Victims of Crimes, victims of domestic violence received the necessary assistance from the law enforcement authorities, as well as legal, psychological and social assistance from non-governmental service providers. The new General Inspection of Security Forces, operational since 2012, was responsible for independent investigation of crimes committed by members of the Czech Police Force, Prison Service or Customs Authority.

7. The Czech Republic was developing multi-year strategic plans to address human trafficking, both with regard to prevention and victim assistance. The strategies took into account new forms of exploitation, including labour exploitation and domestic servitude. A special programme for victim protection and support, run by the Ministry of the Interior and specialized NGOs, offered victims the necessary assistance and housing and enabled foreign victims to regularize their situation in the country, provided that they participated in the prosecution of the perpetrators.

8. As to the right to freedom and personal safety, the provision of social services was subject to the free and informed consent of the client or his or her legal representative or guardian. If the person disagreed with placement in a social care institution, he or she could ask the court to evaluate the validity of the measure. The rules would be expanded so as better to protect the rights and interests of persons with limited legal capacity, and the Ministry of Labour and Social Affairs was also running a project for the deinstitutionalization of persons with disabilities. Lastly, strict rules were applied to the use of restrictive measures, and cage beds were forbidden.

9. The detention of foreigners awaiting expulsion was considered to be a last resort and could exceed standard limits only in cases of persistent lack of cooperation with the authorities. Unaccompanied minors could be detained only in cases of serious danger to public security, and underage foreigners were, for the most part, placed with their families or, if unaccompanied, in special educational facilities. Asylum seekers were not detained, but merely placed in open reception centres. Prison overcrowding had been dealt with by legislative amendments to limiting the number of prison sentences, and by an increase in

prison capacity. The Prison Service was trying to provide appropriate work and remuneration for prisoners capable of working and to exempt those not fit to work. Prisoners with no income, juveniles and those participating in educational activities did not pay compensation for imprisonment costs.

10. The protection of children against violence remained at the core of the Czech legal system. Serious physical attacks and sexual attacks on children were regarded as crimes and prosecuted and punished accordingly. Although Czech law did not specifically proscribe corporal punishment, it explicitly prohibited any excessive punishment that violated the child's health or dignity in all settings, including the family home. Excessive punishment could result in either criminal or administrative sanctions or in the limitation or deprivation of parental authority. Information campaigns were organized to raise awareness about positive parenting, and education without violence. As to the crime of slander, a fair balance had been struck between freedom of expression and the protection of personal honour and reputation, and only the deliberate communication of false information about a natural person was considered a crime.

11. **The Chairperson** thanked the delegation for its opening statement and invited Committee members to ask questions.

12. **Ms. Motoc** noted that the Ombudsman's Office had only limited powers and did not meet the criteria for a human rights institution in accordance with the Paris Principles, since it was not an independent body and had no authority to investigate complaints of Covenant violations filed by individuals or to arrange redress for proven violations. She would like to know what steps the State party was taking to rectify the situation. With regard to the Human Rights Committee's recommendations on the communications it received, she wished to know whether the State party had altered its position or still considered them not binding. As to sexist stereotypes, it would be interesting to learn what measures had been taken to change patriarchal and discriminatory attitudes. Regarding special schools and practical elementary schools, she enquired about the status of the National Plan of Action for Inclusive Education, the obstacles encountered in its implementation, how many Roma children still attended special schools, and the steps taken to integrate them in the ordinary school system. In relation to the forced sterilization of Roma women, she wished to learn how the clear and freely given consent required under the new law was obtained from the women concerned and whether the requirement to obtain their consent could be waived. The delegation might also inform the Committee whether anyone had been prosecuted and convicted for the forced sterilizations committed in the past and whether the victims had received any assistance. Since the Czech Republic was a country of both origin and destination for women victims of trafficking, what measures were being taken to combat criminal trafficking networks?

13. **Ms. Waterval** asked whether the Government's priorities established annually since 1998 with regard to equal opportunities had been actively pursued. There being currently only one female minister in the Government, which was in fact a backward step, she would like to know if there were any female regional governors. The delegation could perhaps indicate how many women sat on the Committee for Equal Representation of Women and Men in Politics and explain why it had dropped its own proposal to establish a 30 per cent quota for female candidates in parliamentary and regional elections. More information on that committee's work and its links with the Government would be appreciated. As to the right to vote and be elected, she requested detailed information on procedures for suspending the activities of political parties and movements. Under the new Civil Code, due to come into force in 2014, the courts could limit the legal capacity of persons with disabilities. What impact would that have in general and on implementation of article 25 of the Covenant?

14. **Mr. Shany** noted that the State party had taken measures to combat the most vicious verbal and physical assaults against the Roma community but that attitudes towards Roma remained hostile in the political arena and the media. He wished to know how the Government intended to tackle that deeply entrenched phenomenon and whether any specific objectives had been established for so doing. Details on the budget allocated to the campaign for a hate-free culture, particularly on the role played by the Government Council for Roma minority affairs in that campaign, would be appreciated. He would also like to hear the delegation's comments on allegations that the media had spread sensationalist news or erroneous information to deliberately stigmatize the Roma. He requested further information on police recruitment procedures, which were supposed to screen out extremists. It would be useful to learn whether the police database contained information on militant extremists who did not have criminal records, as well as on those who had been prosecuted and convicted. Were the police given special training to raise their awareness of racist offences and had steps been taken to increase the number of Roma police officers?

15. As to the 2010–2013 Roma Integration Policy, Government measures seemed not to be having the desired effect for want of clear objectives and adequate means. He asked how the results of the housing assistance project run by the Agency for Social Inclusion in 33 municipalities were assessed and whether information was available on the similar project mentioned in paragraph 2 of the additional comments of the Czech Republic concerning some of the recommendations made by the Committee in its concluding observations (CCPR/C/CZE/CO/2/Add.3). The delegation could perhaps indicate how the Government intended to achieve measurable progress on integration of the Roma community when it did not have accurate statistics on the community or on its members' living conditions. Since local measures to boost the employment of Roma had been ineffective, he wondered whether the Government intended to improve coordination and monitoring at the national level and to what extent local authorities could restrict access to social housing on the basis of possibly discriminatory criteria. Details about the objectives and funding of the new State-run social housing programme and the measures planned to prevent the forced eviction of Roma families would be appreciated. As the State party had no statistics on the number of Roma in the civil service, the delegation might provide examples of Roma, if any, in positions of responsibility. He wished to know if employers who refused to hire Roma workers were prosecuted and whether local employment agencies received instructions on the subject.

16. **Mr. Fathalla** requested more information on the judicial response to cases of domestic and sexual violence against women. Was the only appropriate sentence in such cases imprisonment? And could the victims secure adequate reparation, in addition to any financial and other assistance they might claim? As to the activities of the General Inspection of the Security Forces, he wished to know how many cases had been processed and the penalties imposed. In relation to the figures presented in annex 6 of the State party's written replies, how many victims had benefited from the 140,000 koruny paid out as compensation?

*The meeting was suspended at 4.25 p.m. and resumed at 4.50 p.m.*

17. **Mr. Machačka** (Czech Republic) said that the Ombudsman's Office was an independent body to which all natural and juridical persons could appeal and which was empowered to conduct investigations. Its mandate in the defence of human rights had been expanded to include monitoring of expulsion procedures and the fight against discrimination. It also served as the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, its jurisdiction was limited to the public sector. It organized awareness-raising activities and could make recommendations, including on legislative matters, and could call on the Constitutional Council to evaluate the

constitutionality of decrees and decisions. In addition, the protection of human rights was guaranteed by the courts and various public consultative bodies that addressed specific issues, such as those of Roma and persons with disabilities.

18. **Ms. Baršová** (Czech Republic) added that the existence of the Ombudsman's Office made it difficult to set up another human rights institution, which might well be superfluous.

19. **Mr. Hlinomaz** (Czech Republic) said that the application of the Committee's decisions was provided for in Act No. 186 of 2011, which required public authorities to take the necessary individual and general measures. The Office of the Government representative to the European Court of Human Rights was responsible for coherent implementation of the decisions of the European institutions, as well as those of the Human Rights Committee as specified in its mandate. Once the measures to be taken had been determined, a report was submitted to the Ministry of Justice, and the relevant authorities were then informed of the violations noted, and instructed to take appropriate measures. It should be noted that since 2005 the only violations for which the Czech Republic had had to answer referred to article 26 of the Covenant and the rules for the acquisition of Czech nationality. The State party stood by its position.

20. **Ms. Baršová** (Czech Republic) said that the Government's measures to promote gender equality had had mixed results. Female representation had not improved after the last elections. None of the country's regional governors were currently women, which had not always been the case. The Committee for Equal Representation of Women and Men in Politics, whose mandate had been expanded to cover the representation of women in decision-making positions, comprised 16 women and 9 men. The bills it had drafted on the composition of electoral lists had not been passed into law, for lack of consensus among politicians and the population at large. The Committee had successfully undertaken several awareness-raising and education initiatives, including a seminar on increasing women's participation in decision-making, which had been organized with the Government Council for Equal Opportunities for Women and Men. To increase the number of women in government posts, the Committee for Equal Representation of Women and Men in Politics had framed a strategy whereby one woman would be added to the number in government each year until they attained the 30 per cent mark. The Government would shortly be considering the proposal. There was no simple explanation of women's huge underrepresentation in politics. The problem lay partly in male domination of political parties; their workings were governed by the Constitution. So it was that, in addition to the barriers associated with the persistence of sexist stereotypes among political parties and the general public, there were practical obstacles because any affirmative action, such as quotas, would require constitutional amendment. That was essentially why the 2010 bill to introduce quotas for women had ultimately been withdrawn, which did not mean, however, that women were totally absent from public life. There was a high proportion of women in the judiciary (61 per cent) and the prosecution service (over 50 per cent).

21. Patriarchal stereotypes were still rife in the Czech Republic, but the Ministry of Labour and Social Affairs had for several years been pursuing an active information and education policy to eradicate them. In 2010–2011, for example, it had implemented with excellent results a programme to encourage men to be more involved in childcare. The Ministry was currently preparing a vast gender equality campaign that would address reconciling working and home life, and aspects of the fight against violence and sexist stereotypes.

22. **Mr. Nešpor** (Czech Republic) said that the Act on Political Parties and Movements listed a number of violations that could lead to the dissolution of a political party or movement. In the event of a violation, activities would be suspended for one year, during which time the party or movement was required to rectify the situation, on pain of

dissolution. Only the Supreme Administrative Court could issue a suspension order, which was lifted at the end of the one-year deadline, but only once the reasons for its imposition no longer existed. Suspensions could not be imposed during elections in case they were exploited for political ends. The new Civil Code, due to come into force in 2014, provided that the legal capacity of a person with mental and/or psychosocial disabilities could be limited to a greater or lesser extent, depending on the severity of the disability and its impact on the person's powers of discernment. Each case was assessed on an individual basis, and the limitation of legal capacity did not necessarily involve deprivation of the right to vote or to be elected. Although the deprivation of those rights was provided for in the Electoral Code, it was subject to strict conditions based on, *inter alia*, the principles listed by the European Commission for Democracy through Law (Venice Commission) in Opinion No. 190/2002, which stated that such deprivation must be provided for by law, must observe the proportionality principle and must be imposed by a court of law. Also, legal capacity was automatically restored after three years if the decision to withdraw it had not been re-examined during that period. There was therefore no reason to fear that the provisions of the new Code might be incompatible with article 25 of the Covenant.

23. **Mr. Stárek** (Czech Republic) said that, although 35 per cent of pupils attending schools for children with mild intellectual and/or psychosocial disabilities in 2009–2010 were Roma, the proportion had fallen to 26.4 per cent in 2011–2012. There had thus been some progress in that regard, even if further efforts were required. The National Action Plan: Education All had not really seen the light of day, as the post-preparatory work never got off the ground. A comprehensive strategy to overhaul the education system had been devised to guarantee access to education for all by 2020. It was currently still the subject of lively debate between the Government and civil society organizations, but should be finalized by the end of 2013. Among other measures, it provided for a complete review of the methods of assessment used for determining whether a child should be placed in a special school, the aim being to prevent children's unnecessary attendance at such schools, as might have happened in the past. To that end, a start had been made on data collection on the composition of the classes in such establishments at the beginning of each school year in order to build up statistical records.

24. **Mr. Nešpor** (Czech Republic) said that the names of all applicants for jobs in the police force were checked against the police database to eliminate candidates whose names appeared on the lists of known members of extremist groups kept in that database. The Ministry of the Interior had put in place new strategies to improve cooperation between the Roma community and the police and thus more effectively tackle delinquency among Roma, and the resulting social tensions. Since 2009, the police had deployed crime prevention officers of Roma origin, who established direct contact with influential members of the Roma community with a view to convincing them to help the police combat crime. It had produced excellent results since, due to their origins, the prevention officers often had greater authority in the eyes of the Roma community than the police and helped to ease relations between Roma and other communities. After two years in the post, they were eligible to join the ranks of the police, and a survey showed that more than 50 per cent were considering doing so. The Ministry of the Interior was convinced that a larger proportion of Roma and other minorities in the police would benefit everyone. It had therefore introduced a training support programme for candidates from minority backgrounds to encourage their greater representation in the police force.

25. **Mr. Pilař** (Czech Republic) said that the Government had issued public apologies to the women who had undergone forced sterilizations, and taken steps to ensure that such acts would never be repeated. The Health Services Act adopted in 2012 specifically established that only adults could undergo sterilization and only with their unequivocal consent. It set out rigorous procedures for performing sterilizations: the physician needed to inform the patient of the nature, consequences and potential risks of the intervention in the presence of

another member of the medical profession and, if requested by the patient, in the presence of one or more witnesses of the patient's choosing as well. After the interview, a statement that the patient had received and understood all the necessary information had to be signed by all the parties. Final consent could be given only after a mandatory 14-day period of reflection.

26. **Mr. Machačka** (Czech Republic) said that, following a reversal of the case law of the Supreme Court, which had been validated by the Constitutional Court, the reparation available to the victim of a forced sterilization was subject to the statute of limitations. To the best of his knowledge, compensation had been granted to victims in three cases. The Ombudsman had referred 58 complaints to the public prosecutor, but most had not owing to lack of proof of a violation. A further four cases had not proceeded, the statute of limitations having expired.

27. **The Chairperson** thanked the Czech delegation for its replies and invited it to resume its answers to the Committee's questions at the next meeting.

*The meeting rose at 6 p.m.*