

CZECH REPUBLIC

A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE



Country Profile

2011-2012

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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1 About the Country Profile

The Czech country profile focuses strongly on violence against Roma, education and housing as key areas of work for the ERRC. It also looks at the following areas: coercive sterilisation, children's rights and Romani children in institutional care. The information is correct as of February 2013.

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2 Introduction and Background Data

2.1 Socio-Economic Data

According to the 2011 National Census, 13,109 Czech citizens reported that they belonged to the Roma ethnicity (5,199 declared themselves only Roma, without any combination with Czech or other nationalities).¹ Statistical information on Roma in the Czech Republic is in general limited. Legal prohibitions, and a lack of commissions for conducting representative statistical research in this area, limit the collection of ethnically disaggregated data, while in addition the majority of Roma do not typically declare their ethnicity in census-taking.

Census data does not reflect the actual number of Roma. According to different estimates, 150,000 to 300,000 Roma live in the Czech Republic (1.4 to 2.8 per cent of the population).² Research in 2006 found 60,000 to 80,000 Roma living in about 310 socially excluded, segregated communities.³ The 2011 census data indicates that the Roma population is relatively dispersed throughout the Czech Republic, with higher concentrations in the Ústecký Region, the Moravia-Silesia Region (Moravskoslezsko) and the Central Bohemia Region (Středočeský kraj).⁴

Most of the Roma living in the Czech Republic are descendants of Slovak, Romanian and Hungarian Roma who immigrated or were forced to reside in the Czech territory. Almost all Czech Roma and Sinti were either killed during the Second World War or sent to the extermination camp in Auschwitz-Birkenau in 1943 and 1944.⁵

Most Roma living in the Czech Republic are linguistically assimilated and they do not actively use Romanes as their primary language. According to the UNDP 2011 Education Survey,

1 Czech Statistical Office, *2011 National Census*, available at: <http://vdb.czso.cz/sldbvo/#!stranka=podle-tematu&tu=30628&th=&v=&vo=null&vseuzemi=null&void>. See also: Czech Minister for Human Rights, *The Roma Integration Concept 2010-2013*, note 6; and Romea, *The Census: Two thousand more declared Roma nationality than ten years ago*, available at: <http://www.romea.cz/cz/zpravy/scitani-lidu-k-romske-narodnosti-se-prihlasilo-o-dva-tisice-lidi-vice-nez-pred-deseti-lety>.

2 Minister for Human Rights, *The Roma Integration Concept 2010-2013*, available at: http://ec.europa.eu/justice/discrimination/files/roma_czech_republic_strategy_en.pdf. See also European Commission, *An EC Framework for National Roma Integration Strategies' Annex*: available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0173:FIN:EN:PDF>.

3 Agency for Social Inclusion, *Strategy for Combating Social Exclusion for the Period 2011-2015*, p. 4, available at: <http://www.socialni-zaclenovani.cz/dokumenty/strategie-boje-proti-socialnimu-vyloucení>.

4 Czech Statistical Office, *2011 National Census*; available at: <http://vdb.czso.cz/sldbvo/#!stranka=podle-tematu&tu=30628&th=&v=&vo=null&vseuzemi=null&void>.

5 M. Pape, *Nobody Will Believe You: A Document on the Concentration Camp Lety u Písku*, Prague, 1997, pp. 14, 17, 86. The ordered count of Roma, Sinti and “people living a gypsy life style” in August 1942 evidenced about 10,000 people. Unlike in Slovakia where only about 10% of Roma became victims of (Slovak) Nazism, the Roma and Sinti in the Czech Republic were almost all exterminated.

about 45% of Romani households use Romanes at home.⁶ There are four dialects of Romanes used in the Czech Republic: Slovak, Hungarian, Vlach and Sinti Romanes. The most commonly used is Slovak Romanes. Many Hungarian Roma are linguistically assimilated. There are a few Vlach Roma in the Czech Republic but their language is well preserved and it is spoken by all generations. Sinti Romanes is often 'hidden' as Sinti aspire to keep their language hidden from non-Roma. There is a very small number of Sinti in the Czech Republic.⁷

An opinion poll conducted by the Centre for Public Opinion Research (CVVM) in April 2011 showed that more than 80% of the population considers that Roma and non-Roma living together closely is problematic; for two-fifths it is "very bad". For only one in twenty Czechs is co-existence "satisfactory".⁸

Roma remain excluded from majority society, which also creates a financial burden for the Czech Republic. According to the modelling calculated by the World Bank, the Czech Republic loses 367 million EUR annually due to insufficient inclusion of Roma population and their low education level.⁹

The current human rights situation of Roma in the Czech Republic is cause for serious concern. Little or no positive progress has been made in the areas of education and women's and children's rights. Violent attacks against Roma and their property, and incidents of evictions, are widespread throughout the country.

The National Action Plan for the Decade of Roma Inclusion calls for improvements in ethnic data collection, and the EC Framework for National Roma Integration Strategies explicitly requests Member States to collect ethnically disaggregated data. Despite this, public authorities continue opposing the regular collection of ethnically disaggregated data by stating that such surveys would be in breach with the Czech Personal Data Protection Act.¹⁰ There are no provisions on ethnically disaggregated data collection listed in the Strategy.

There are few evidence-based governmental programmes and policies targeting people from socially-excluded communities in the Czech Republic. The most successful and influential ones are those implemented by the Governmental Agency for Social Inclusion.¹¹ Recently,

6 UNDP, *Roma Education in Comparative Perspective: Findings from the UNDP/WB/EC Regional Roma Survey*, 2011, p. 54.

7 M. Huebschmannova, *Romani chib – Romanes: Some basic information about the Romani language*, available at: <http://www.rommuz.cz/index.php/romsky-jazyk>.

8 CVVM, *Roma as Neighbors from the Perspective of the Czech Majority*, available at: <http://cvvm.soc.cas.cz/vztahy-a-zivotni-postoje/romove-a-souziti-s-nimi-ocima-ceske-verejnosti-duben-2011>.

9 World Bank, *Economic Cost of Roma Exclusion*, 2010, p. 3.

10 For the National Action Plan see: Czech Republic, *Decade of Roma Inclusion 2005-2015: National Action Plan*, available at: http://www.romadecade.org/files/downloads/Decade%20Documents/Czech%20action%20plan_engl.pdf; for the EC Framework see: European Commission, *An EC Framework for National Roma Integration Strategies up to 2020*, p. 13.

11 Viz. Agency for Social Inclusion (formerly the Agency for Social Inclusion in Roma Communities), <http://www.socialni-zaclenovani.cz/>.

the Czech Government started to collect ethnically disaggregated data on children in practical schools (schools designed for children with mild mental disabilities). This was part of its commitment towards the execution of the *DH and others v Czech Republic* judgment at the European Court of Human Rights (finding the Czech Republic discriminated against Roma in education). The recently adopted Action Plan for the Implementation of the DH judgment¹² envisages annual statistical surveys into the ethnic composition of pupils following practical school curricula, starting in 2013.¹³

Employment: The unemployment rate among Roma in the Czech Republic continues to be high. It is estimated that only 39% of Roma of working-age (15-64) were employed in the formal labour market in 2010, compared to 6% of non-Roma. Among Romani women, 48% are unemployed. The employment gap between Roma and Non-Roma thus remains large (the unemployment rate among Roma in productive age is more than six times higher).¹⁴ Out of the all unemployed Roma, almost 40% have not had any previous employment experience. The informal employment agreements are frequently offered to Romani workers as more than 20% of them reported informal employment, which is seven times higher than among non-Roma workers.¹⁵

Housing: According to the UNDP/WB/EC 2011 Regional Roma Housing survey, almost half of the Roma in the Czech Republic feel under the threat of evictions; over 48% feel worried that they will be evicted in the near future. This is the highest number of Roma who feel at threat of eviction in all 11 countries in the survey.¹⁶ Moreover, a considerably large share of Roma families (14%) live in ruined houses and slums, and one in ten households reported living in a very bad interior.¹⁷ Most socially disadvantaged Roma families face economic barriers and discriminatory practices in accessing housing on the official flat markets. Private residential dormitories typically overcharge for housing, requiring a higher contribution from Roma families which in most of the cases is covered by social benefits with a different nature (for example child benefits).

Health: In general, Roma in the Czech Republic benefit from public health insurance. Recent research indicates that only a small number (approx. 7%) are not covered by any health

12 Government of the Czech Republic, *Communication from the Czech Republic concerning the case of D.H. and others against Czech Republic (Application No. 57325/00)*; available at: <https://wcd.coe.int/ViewDoc.jsp?id=1846711&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FD864>.

13 European Court of Human Rights, Grand Chamber, *D.H. and Others v. The Czech Republic*, November 13, 2007, available at: <http://www.errc.org/cms/upload/media/02/D1/m000002D1.pdf>.

14 UNDP/WB/EC, *Regional Roma survey 2011*, available at: <http://europeandcis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

15 UNDP, *Roma and non-Roma at the Labor Market in Central and Eastern Europe*, 2012, p. 26. The Czech Republic and Slovakia are the only countries where the informal employment is more common among Romani men than women.

16 UNDP, *The Housing Situation of Roma Communities: Regional Roma Survey 2011*, p. 41.

17 UNDP, *The Housing Situation of Roma Communities: Regional Roma Survey 2011*, p. 31-32.

insurance scheme. However, as prescription drugs are not fully covered by public health insurance and requires individual co-financing, almost half of Roma households face serious difficulties in purchasing essential medication.¹⁸

Education: Research by the Czech Ombudsperson in 2012 highlighted that Romani children continue to be over-represented in schools and classes designed for children with mild mental disabilities, where they constitute around 35% of all children.¹⁹ Furthermore, the newest UNDP household survey emphasises that 17% of all Romani children between the ages of seven and 15 attend practical and special schools, and 60% of these Roma children are placed in ethnically segregated special/practical schools, with the majority of their schoolmates are Roma.²⁰ Although the government adopted measures strengthening safeguards against inadequate diagnostics as well as strengthening parental consent, child assessment continues to be inadequate and fails to take into account relevant factors relevant to Roma children.

18 UNDP/WB/EC, *Regional Roma survey 2011*.

19 Public Defender of Rights, *Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools*, Brno, 2012, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf.

20 UNDP, *Roma Education in Comparative Perspective*, 2012, pp. 67-68.

3 Summary of (Crosscutting) Laws, Policies and Structures

Roma are recognised among the 12 official national minorities in the Czech Republic.²¹ The legal recognition of national minorities is stipulated by the Act on the Rights of Members of National Minorities from 2001 (last amended in 2002).²² This act sets out a number of so-called minority rights, including freedom of association of members of minorities and the right to use and to be educated in their own language. Besides reserving seats for Romani representatives in the Government Council for National Minorities (advisory body).²³ In 1997, the Czech Government established a specific Government Council for Roma Community Affairs - a permanent advisory and initiative body on issues related to the Roma community (the original Interdepartmental Commission for Roma Community Affairs was renamed as a Council in 2001).²⁴

3.1 Prohibition Against Racial and Ethnic Discrimination

The Charter of Fundamental and Basic Freedoms forms a part of the constitutional order of the Czech Republic and incorporates the protection of a wide range of human rights.²⁵ The Charter, *inter alia*, prohibits discrimination, states that a person's affiliation to a national and/or ethnic minority may not be to his or her detriment, protects the right to health, the right to family life, the right to education and addresses the right to property and the principle of 'the inviolability of dwelling'.²⁶

The Czech Republic was the last country in the EU to adopt legislation to implement the requirements of the EU Race and Framework Directives.²⁷ Adoption of the law was a necessary step to avoid legal proceedings by the European Commission for failing to implement the obligations contained in the EU Equality Directives.²⁸ The Anti-Discrimination Law was

21 Government of the Czech Republic, *Government Council for National Minorities – An Overview*, available at: <http://www.vlada.cz/en/pracovni-a-poradni-organy-vlady/rnm/historie-a-soucasnost-rady-en-16666/>.

22 Government of the Czech Republic, *Act no. 273/2001 Coll. on the Rights of Members of National Minorities*, available at: <http://portal.gov.cz/app/zakony/zakon.jsp?page=0&nr=273~2F2001&rpp=15#seznam>.

23 Government of the Czech Republic, *Government Council for National Minorities – An Overview*.

24 Government of the Czech Republic, *Government Council for Roma Community Affairs – An Overview*, available at: <http://www.vlada.cz/en/ppov/zalezitosti-romske-komunity/the-council-for-roma-community-affairs--50634/>.

25 Resolution of the Presidium of the Czech National Council of 16 December 1992 on the declaration of the Charter of Fundamental Rights and Basic Freedoms as a part of the constitutional order of the Czech Republic, available at: <http://legislationline.org/documents/section/constitutions>.

26 *Ibid.* Article 12.

27 Trust for Civil Society in Central and Eastern Europe, "Czech Republic becomes last EU state to adopt anti-discrimination law", 25 June 2009, available at: <http://www.ceetrust.org/article/306/>.

28 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework of equal treatment in employment and occupation.

only adopted on 17 June 2009 by the Czech Chamber of Deputies breaking the President's veto, and came into force on 1 September 2009.²⁹

The Charter, together with the Act on Equal Treatment and on Legal Means of Protection against Discrimination (ADL) constitutes the general anti-discrimination framework in the Czech Republic.

According to the ADL, the prohibition of discrimination covers the following grounds: race, ethnicity, nationality, gender, sexual orientation, age, disability, religion, faith or belief.³⁰ The law secures protection for victims of direct and indirect discrimination, victimisation and harassment in all fields as required by EU directives, in particular access to employment, access to a profession, business or other self-employment, social security, access to education and its provision, access to goods and services including housing (if they are offered to the public or at the time when they are being provided).³¹ Anyone claiming that rights and duties arising from the right to equal treatment have been breached and who is affected by such breach or who is discriminated against has the right to defend his/her rights before courts.³²

The ADL does not regulate *Actio Popularis*, which would make it possible to file a legal action in discrimination cases with higher numbers and unknown identities of victims (e.g. in cases of discrimination in advertisements, systemic discrimination, etc.). The ADL provides for the right of associations to provide legal assistance to victims. The entitlement of associations with a legitimate interest to engage in judicial proceedings is regulated as a special type of representation under the Civil Procedure Code.³³

Czech legislation does not contain any definition of racial or ethnic origin, and according to data protection law ethnic origin belongs to the category of 'sensitive' data which can be gathered and processed under very strict conditions (e.g. the consent of the person concerned is required for collecting and processing sensitive data). The ADL does not contain any express provisions which would directly prevent the segregation of Romani children into separate schools, classes or study groups. The Czech anti-discrimination law and the Civil Procedure Code do not expressly mention or exclude statistical evidence in cases of discrimination, which means that statistics might be considered admissible evidence, but on a case-by-case basis.³⁴

The Anti-Discrimination Act furthermore established the Office of the Public Defender of Rights (Czech Ombudsperson) as the equality body, following the requirement of the EU

29 Parliament of the Czech Republic, *Antidiscrimination Act 198/2009* of 17 June 2009, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/pravni_predpisy/Antidiskriminacni_zakon.pdf.

30 Parliament of the Czech Republic, *Antidiscrimination Act 198/2009*, Article 2(1).

31 *Ibid.*, Article 1(1).

32 *Ibid.*, Article 10(1).

33 Pavla Boučková, *Report on the measures to combat discrimination: Directives 2000/43/EC and 2000/78/EC, Country Report 2011, Czech Republic: State of affairs up to 1st January 2012*, available at: http://www.non-discrimination.net/content/media/2011-CZ-Country%20Report%20LN_FINAL.pdf.

34 *Ibid.*

Directive 2000/43/EC. According to the law, the Ombudsperson contributes to combating racism and xenophobia and to the promotion of equal treatment of all persons, irrespective of sex, sexual orientation, age, disability, religion or faith.

The Ombudsperson has carried out and published important research on Roma discrimination issues, notably a report on coercive sterilisation in 2006 and a report on segregation in education in 2012.³⁵ However, several issues arise in relation to the Czech equality body and the enforcement of the right to equal treatment under the ADL. Firstly, the Public Defender of Rights has no judicial function, and is not entitled to represent victims of discrimination or to take part in court proceedings. Victims of discrimination, as well as potential victims, face difficulties enforcing their right to equal treatment, especially those coming from socially weaker backgrounds as they cannot afford to pay for legal representation. Questions may arise in terms of securing independence of the equality body, mainly regarding the political election process. The Ombudsperson is elected by the Chamber of Deputies. The candidates are selected and proposed by the President and by the Senate.

3.2 Government Policies on Roma Inclusion

As a member of the Decade of Roma Inclusion 2005-2015, the Czech Republic has politically committed to improving the socio-economic status and social inclusion of its Roma citizens. The government submitted its National Action Plan for the Decade of Roma Inclusion which sketches the intended policies in the four target areas of employment, education, housing and health.³⁶ The Czech Government Plenipotentiary for Human Rights was designated a role of the National Coordinator of the Decade in 2005 when the Decade was launched.

In September 2011, the government adopted the Strategy for Combating Social Exclusion 2011-2015.³⁷ The Strategy is a comprehensive document of the Czech government “to support the social inclusion of people in socially excluded localities in the Czech Republic, which are currently mainly populated by the Roma. The Strategy consists of an action plan with 77 measures in the fields of education, employment, housing, social services, family policy, healthcare, security and regional development.”³⁸ The relevant ministries responsible for the implementation of particular measures agreed to earmark funding from their budgets. Despite the government’s proclamation that the Strategy is a key document on the social inclusion of Roma, the current Czech government decided to respond the EC call for National Roma Integration Strategies by submitting the

35 Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures*, 2005; *Report of the Public Defender of Rights on the ethnic composition of pupils in the former special schools*, 2012.

36 Czech Republic, *Decade of Roma Inclusion 2005-2015: National Action Plan*, 2005, available at: http://www.romadecade.org/files/downloads/Decade%20Documents/Czech%20action%20plan_engl..pdf.

37 Agency for Social Inclusion, *Strategy for Combating Social Exclusion for the Period 2011-2015*, 2011, available at: <http://www.socialni-zaclenovani.cz/dokumenty/strategie-boje-proti-socialnimu-vylouceniu>.

38 Agency for Social Inclusion, *Strategy for Combating Social Exclusion for the Period 2011-2015*, p. 3.

previous and outdated Roma Integration Concept for 2010-2013³⁹ which is ‘a plan to have a plan’. It lacks clear measures, timelines and budget allocations requested by the EU Framework for National Roma Integration Strategies up to 2020 (NRIS).⁴⁰

In its first assessment of the National Strategies, the European Commission concluded that “most Member States have failed to allocate sufficient budgetary resources for Roma Inclusion”.⁴¹ This conclusion also applies to the Czech Republic, which besides expressing a readiness to use EU funds, did not indicate any funding allocations from the national budget. The European Commission also underlined that the Czech Strategy needs more concrete targets and corresponding measures to tackle segregation of Roma children in the educational system, better measures to provide non-discriminatory access to housing, including good quality social housing, a more detailed description of the timeframe, monitoring and evaluation system as well as ensuring the sustainability of funding.⁴²

3.3 Relevant Government Structures, Political Participation and Representation

The Section for European Affairs of the Government Office, which in general does not have expertise in Roma issues and social inclusion, was appointed as the NRIS Contact Point, instead of the Agency for Social Inclusion or the Office of the Commissioner for Human Rights which also operates under the Government Office.

Since November 2012, the Czech Government has been preparing a plan to restructure the Government Office. The planned changes will significantly affect human rights, social inclusion and the Roma minority agenda. The plan will dissolve the Section of Human Rights and distribute its agenda among different ministries. The Agency for Social Inclusion will be attached to the Ministry of Labour and Social Affairs. Meanwhile, the Director of the Governmental Council for Roma Community Affairs resigned; civil society sent an open letter to the Prime Minister in which they demanded the government maintains its human rights section.⁴³

39 Minister for Human Rights, *The Roma Integration Concept 2010-2013*, 2009, available at: http://ec.europa.eu/justice/discrimination/files/roma_czech_republic_strategy_en.pdf.

40 European Commission, *An EU Framework for National Roma Integration Strategies up to 2020*, available at: http://ec.europa.eu/justice/policies/discrimination/docs/com_2011_173_en.pdf.

41 European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: National Roma Integration Strategies: a first step in the implementation of the EU Framework*, 2012, p. 14-15.

42 European Commission, Staff working document accompanying document to the National Roma Integration Strategies: a first step in the implementation of the EU Framework, SWD (2012) 133 - 21 May 2012, report available at: http://ec.europa.eu/justice/discrimination/files/roma_nat_integration_strat_en.pdf.

43 Romea, *Czech Govt proposes closing Human Rights Section*, available at: <http://www.romea.cz/en/news/czech/czech-govt-proposes-closing-human-rights-section>; or *Romani activists ask Czech Government not to close Human Rights Section*, available at: <http://www.romea.cz/en/news/czech/romani-activists-ask-czech-government-not-to-close-human-rights-section>.

4 Key Issues by Theme

4.1 Hate Speech and Violence

4.1.1 LEGAL AND POLICY FRAMEWORK

In relation to hate crimes and hate speech, the Czech Criminal Code⁴⁴ contains criminal offences which have a basis in racial hatred, and prescribes penalties if convicted of these crimes. The Czech Criminal Code criminalises some forms of hate speech, e.g. verbally threatening a group of citizens or an individual (violence against a group of people and against an individual⁴⁵); defamation of a nation, race or belief;⁴⁶ incitement to national, racial and ethnic hatred;⁴⁷ establishing, support and propagation of groups which aim at suppression of rights and freedoms of others.⁴⁸ Other criminal offences where racial and ethnic motive is especially important are: genocide;⁴⁹ attack against humanity;⁵⁰ apartheid and discrimination of a group of people⁵¹ and persecution of citizens.⁵² In addition to these specific offences, Article 42(b) of the Czech Criminal Code establishes racial motivation as an aggravating circumstance to some other offences.⁵³

4.1.2 BACKGROUND AND ERRC ACTIVITIES

Attacks against Roma and their property are widespread in the Czech Republic. Such violence includes both police abuse and violence by non-state actors. Anti-Romani statements in the public domain are common in the Czech Republic, and sometimes may fuel violent attacks or hate crimes against Roma.

Between January 2008 and June 2012, the ERRC reported 47 attacks against Roma and/or their property in the Czech Republic.⁵⁴ Of those attacks, at least five Romani individuals died; in two

44 Article 42(b) of Act 40/2009 Coll. (Criminal Code) prohibits crimes committed on the basis of greed, revenge, of national, racial, ethnic, religious, class or other similar hate or other particularly reprehensible motives, available at: www.mvcr.cz/soubor/sb011-09-pdf.aspx.

45 *Ibid.*, Art. 352(2).

46 *Ibid.*, Art. 355.

47 *Ibid.*, Art. 356.

48 *Ibid.*, Art. 403.

49 *Ibid.*, Art. 400.

50 *Ibid.*, Art. 401.

51 *Ibid.*, Art. 402.

52 *Ibid.*, Art. 413.

53 *Ibid.*, Art. 42(b).

54 ERRC, *Attacks against Roma in the Czech Republic: January 2008-July 2012*, available at: <http://www.errc.org/cms/upload/file/attacks-list-in-czech-republic.pdf>.

of these five deaths occurred after incidents involving police. The attacks left at least 22 people, including three minors, with injuries; two of which were life-threatening. In at least 10 cases fire-bombs were used; one case involved a tear gas grenade; in at least two cases shots were fired; in at least 13 cases Romani property was vandalised; in at least 11 cases Roma were beaten; at least seven cases of violence involved minors as victims.⁵⁵

Cases resulting in death of Roma with suspicion of racially motivated crime			
Date	Place	Victim	Main Suspects
26.11.2011	Děčín	Disabled man	Policemen
1.1.2012	Tanvald	Father of two children	Non-Roma neighbour, (case dropped)
1.2012	Praha 3	Homeless woman	Young neo-Nazis (accused)
26.4.2012	Chotěbuz	Father of two children	Sports archer and house owner (the perpetrator charged by the prosecutor)
7.5.2012	Kynšperk	Father of three children	Policemen (on-going investigations)

From July 2007 to June 2012, Czech police investigated at least 15 arson attacks against Romani family homes. Eleven of the cases were dropped without prosecutions. Even though the courts started considering arson attacks as an attempt of a multiple murder, only two of the cases led to a legally valid verdict so far. Two other cases are still pending.⁵⁶

From September 2011 to May 2012 – after an outbreak of anti-Roma riots in the Šluknovsko region in September 2011 – the ERRC registered a significant increase of violent attacks directed against Roma.⁵⁷

Czech police, however, introduced some positive measures to curb anti-Roma violence, such as the establishment of Anti-Conflict Departments across the country to combat and prevent violence and aggressive behaviour in 2010.⁵⁸ Furthermore, the Organised Crime Detection Unit (ÚOOZ) launched raids against right-wing extremists, and the police started operations protecting Roma in the Šluknovsko region.⁵⁹ However, a more comprehensive response of the police - including training for police officers to address violence against Roma and hate crimes, and implementing programmes to increase the number of Roma in the police forces - is still needed to adequately respond to the deteriorating situation.⁶⁰

55 *Ibid.* p. 1. The research involved monitoring attacks as reported by the media and is therefore not exhaustive.

56 ERRC, *Monitoring of violent attacks*, available upon request.

57 ERRC, *Anti-Roma Violence in Czech Republic Must End*, May 2012. Available at: <http://www.errc.org/article/anti-roma-violence-in-czech-republic-must-end/3969>.

58 Ministry of Interior, *Anti-conflict or Conflict Teams*, available at: <http://www.mvcr.cz/clanek/antikonfliktni-nebo-konfliktni-tymy.aspx>.

59 Czech Radio, *Special police force reinforced in the Šluknovsko region*, 1 February 2012, available at: http://www.rozhlas.cz/zpravy/regiony/_zprava/sluknovsko-se-dockalo-policejnich-posil-ze-specialni-jednotky--1012078.

60 ERRC, Life Together, and the Group of Women Harmed by Forced Sterilization, *Parallel Report to the Human Rights Council, within its Universal Periodic Review – Czech Republic*, April 2012. Available at: <http://www.errc.org/cms/upload/file/czech-republic-un-upr-submission-10-april-2012.pdf>.

In 2011, Czech media focused on minor cases of violence and property damage, allegedly committed by Roma against non-Roma. This media focus capitalised on and intensified an atmosphere of anxiety and racial hatred among the Czech majority. Local politicians and policemen who have regularly spread disinformation which supports anti-Roma sentiments have not been sanctioned to date.

In 2011, it emerged that Petr Jakubec, a member of the Regional Council of the Ústecký Region, had been paying a local activist who was spreading anti-Roma sentiments. There have been no charges issued and no official call for holding him (indirectly) responsible for what evolved into a series of anti-Roma riots in the region. Mr Jakubec was also repeatedly nominated by the Social Democrats party (ČSSD), and re-elected to the regional assembly in the aftermath of the riots.⁶¹

In the summer of 2011, local police headquarters reported two allegedly racially-motivated attacks of Roma against non-Roma in Northern Bohemia.⁶² These incidents initiated a series of anti-Roma marches in the region; the ERRC monitored at least nine marches called to spread anti-Roma sentiments.⁶³ The mob with the most serious consequences occurred on 26 August 2012, when locals went on a spontaneous march to houses inhabited by Roma and attacked their houses or flats by throwing stones or branches. Despite the fact that the march was not officially registered with authorities, police forces did not act to dismantle it; moreover they lost control over the mob which resulted in damage to the property of local Roma.⁶⁴ In the following months the region experienced dozens of hate rallies against Roma, some of which included thousands of locals, and resulting in physical conflicts with police forces. Numerous protests and demonstrations organised by both residents and extreme right wing organisations against Roma turned violent, with several attacks on Romani property. In response, national authorities dispatched 120 riot police to the region to protect Romani residents from harm.⁶⁵

Intensive public action of several NGOs and the governmental Agency for Social Inclusion in cooperation with state police headquarters succeeded in calming down the riots. Simultaneous investigations by the Czech Ministry of Interior and NGOs found that the two alleged attacks

61 Lidovky.cz, *The Social Democratic Party in Děčín stands behind Mr Jakubec: he is nominated to the regional elections*, available at: http://usti.idnes.cz/decinska-cssd-jakubce-podrzela-radni-je-na-volebni-kandidatce-p51-usti-zpravy.aspx?c=A111107_1680986_usti-zpravy_oks; Lidovky.cz, *The recordings prove that the councillor collaborated with a controversial activist*, available at: http://usti.idnes.cz/nahravka-dokazuje-spolupraci-raniho-jakubce-s-kontroverznim-aktivistou-1q7-/usti-zpravy.aspx?c=A111105_091630_usti-zpravy_alt..

62 Romea, *First Charge of Racially-motivated Battery-filled in Rumburk Attack*, available at: <http://www.romea.cz/en/news/czech/first-charge-of-rationally-motivated-battery-filled-in-rumburk-attack>; and Romea, *Nový Bor: Five minutes of silence for victims of machete attack*, available at: <http://www.romea.cz/en/news/czech/novy-bor-five-minutes-of-silence-for-victims-of-machete-attack>.

63 ERRC, *Map of incidents 2011-2013*, available upon request.

64 Romea, *Ethnic Czechs Attack Roma Housing in Rumburk*, available at: <http://www.romea.cz/en/news/czech/ethnic-czechs-attack-roma-housing-in-rumburk>. See also video report: <http://www.romea.cz/romeatv/index.php?id=detail&source=t&vid=b6Gs0DhuuJQ&detail=b6Gs0DhuuJQ>.

65 ERRC, *Violence against Roma*; available at: <http://www.errc.org/article/violence-against-roma/4055>.

by Roma against non-Roma were not racially motivated attempts at “a massacre” as local police spokesmen claimed, but brawls among local people who had known each other for many years.⁶⁶

The riots also sparked anti-Roma sentiments in other regions. In the town of Břeclav, a 15-year-old boy told the police that he was attacked by three unknown Roma in the evening of 15 April 2012.⁶⁷ Soon after the incident, the far-right Worker’s Social Justice Party announced an anti-Roma march in the town that was attended by some 2000 people on 22 April 2012.⁶⁸ After weeks of investigation, the alleged victim admitted that he had invented the whole story and caused the injury himself by accident. The police did not find grounds for charging the boy with the criminal offence of inciting ethnic hatred, but his mother apologised publically to the Roma community for her son’s story and for her media statements negatively depicting Roma.⁶⁹

In addition, on 4 September 2012 the Czech Council for Radio and Television Broadcasting stated that the private TV station NOVA had been inciting racial hatred against Roma on a long term basis. The Council, however, did not accompany their criticism with any sanction.⁷⁰

Since 2008, the ERRC has been contacting the relevant State authorities responsible for investigating crimes, hate crimes in particular, requesting information about the status of investigations into specific cases of violence against Roma. The responses, or non-responses, by relevant State authorities constituted the basis for the ERRC report “Imperfect Justice: Anti-Roma Violence and Impunity” which analyses the manner in which State authorities, mainly prosecutorial authorities, address, investigate and prosecute violent crimes against Roma.⁷¹

The most striking case was an attack against a Romani juvenile J.H. by 12 masked persons., on 8 November 2008 in Havířov. Twelve people disguised with face-masks and hoods and armed with truncheons, chased and attacked J.H. and his friend P.S. They violently punched and kicked J.H. on his head and arms for about five minutes. P.S. managed to escape.⁷² The attackers then

66 The development of anti-Roma marches and the ‘carrier’ of the local popular leader who stood behind some of the marches are documented in a recent movie commissioned by the Czech Television: David Vondráček (dir.), *Na divokém Západu* September 2012, available in Czech at: <http://www.ceskatelevize.cz/porady/10327192109-na-divokem-severu-sluknovsko-2011-2012/21156226402>.

67 Idnes.cz, *The police suspended the case in Breclav, the boy invented the attack*, available at: http://brno.idnes.cz/napadeni-v-breclavi-000-/brno-zpravy.aspx?c=A120716_112711_brno-zpravy_dmk.

68 Romea, *2000 People march against Roma in Breclav*, available at: <http://www.romea.cz/en/news/czech/czech-republic-2-000-people-march-against-roma-in-breclav-neo-nazis-try-to-raid-romani-neighborhoods>.

69 Prague Monitor, *Mother apologises her sons made Roma attack*, available at: <http://praguemonitor.com/2012/05/25/Mother-apologises-her-sons-made-roma-attack>.

70 Romea, *Czech Council for Radio and TV Broadcasting: TV NOVA illegally inciting hatred against Romani People*, available at: <http://www.romea.cz/en/news/czech/czech-council-for-radio-and-tv-broadcasting-tv-nova-illegally-inciting-hatred-against-romani-people>.

71 ERRC, *Imperfect Justice: Anti-Roma Violence and Impunity*, March 2011, available at: <http://www.errc.org/cms/upload/file/czech-hungary-slovakia-imperfect-justice-06-march-2011.pdf>. The ERRC plans to publish another report on state response to violence for 2012.

72 Romea, *The Police investigates a racially motivated attack in Havířov, several attackers were taken in custody*, available at: <http://www.romea.cz/cz/zpravy/policie-vysetruje-rasove-motivovany-utok-v-havirove-cast-utocniku-je-ve-vazbe>.

drove to another Havířov quarter, where they chose T.O., a Roma man, who managed to escape the attack. Finally, they tried to attack another Romani individual, who impulsively hid in the porter's lodge of a closed workers' dormitory, where workers from Ukraine prevented a further attack. J.H. was left with serious injuries, suffering head injuries. After the attacks, he faced mental problems and remains partially paralysed. His medical treatment and employment disability lasted almost three months. An expert witness has testified that if the professional reaction of doctors had not been timely, the defendant would have died.

Following the attacks, eight men were indicted, all of them recorded in the police database as aggressive soccer hooligans or ultra-right nationalists, of causing grievous bodily harm with racist motivation. Later, following a request by the regional prosecutor in Karvina, the attacks were re-qualified as attempted murder.⁷³ On 24 February 2011, the Regional Court in Ostrava handed down three sentences without the possibility of parole, and three suspended sentences. Six out of seven defendants were convicted of a racially motivated attempt of grievous bodily harm and rioting. Three of them were sentenced to between three and four years in prison, while another three were given suspended sentences of two years in prison. Neither racial motivation nor intent to murder was confirmed.

The regional state attorney appealed the judgment and returned the case to the court for new proceedings.⁷⁴ On 23 March 2012, the Regional Court in Ostrava confirmed its first verdict. The regional state attorney, as well as the defendants' and victim's lawyers appealed the second verdict.⁷⁵ The case was processed at the High Court in Olomouc until 23 January 2013. The appeal court confirmed a racially-motivated attempt of grievous bodily harm and rioting. It further sentenced one defendant to a four-year non-custodial sentence. In the case of the other two, the court changed the sentence to a three-year custodial sentence, suspended on probation for a period of five years. The appeal court also refused to apply financial compensation and referred the victim to civil proceedings.⁷⁶ Even after the appeal the sentences remained unacceptably low.

On 20 August 2012, a 49-year-old Romani man was racially abused and physically attacked by two men (18 and 21 years old). The victim suffered a severe foot injury and minor head injuries. According to Havířov Police, "The assailants punched and verbally insulted the man because of his membership of an ethnic group. The victim managed to ward off some of the blows and tried to flee, but the youths caught up with him on the grass of a traffic roundabout

73 Romea, *Romani man, paralyzed after neo-Nazi attack, has to learn to speak all over again*, available at: <http://www.romea.cz/en/news/czech/romani-man-paralyzed-after-neo-nazi-attack-has-to-learn-to-speak-all-over-again>; and, Romea, *Pogrom against Roma in Havirov, two acquittals, others get four years or less*, available at: <http://www.romea.cz/en/news/czech/pogrom-against-roma-in-havirov-two-acquittals-others-get-four-years-or-less>; and <http://www.romea.cz/en/news/czech/czech-republic-young-romani-man-from-havirov-still-seeks-justice>.

74 Romea, *The pogrom attempt in Havirov: the first judgment after 2,5 years*, available at: <http://www.romea.cz/cz/zpravy/pokus-o-pogrom-v-havirove-pod-dvou-a-pul-letech-soudnich-tahanic-prvni-rozsudek>.

75 Romea, *Perpetrators were sentenced. An almost killed young Roma from Havirov however continues enjoying justice*, available at: <http://www.romea.cz/cz/zpravy/malem-zavrazdeny-mlady-rom-z-havirova-stale-ceka-na-spravdnost>.

76 ERRC, *Monitoring of violent attacks*, available upon request.

and assaulted him again, shouting racist insults once more. The aggressive youths did not stop their assault until passers-by started shouting at them. The victim has suffered fractures that will take three months to heal.” A police bike patrol managed to find the suspects and detain them shortly after the attack. “A 28-year-old suspect was detained for questioning in the case, but police were unable to prove he had participated in the assault and released him from custody. A 21-year-old man was then remanded in custody on suspicion of having been the assailant. The Police Commissioner initiated criminal proceedings against him and charged him with committing grievous bodily harm because of the victim’s actual or assumed race, membership in an ethnic group, or nationality.”⁷⁷ In January 2013, the first-instance court sentenced the man to three years in prison without parole (a low sentence because of his youth) and ordered him to pay damages to the victim in the amount of CZK 100,000 (EUR 3,900). According to the court, the defendant committed racially motivated grievous bodily harm and rioting.⁷⁸ Unusually, the court ordered financial redress despite the fact that the prosecutor did not ask the court to sentence the defendant to compensate the victim for the harm caused.

4.2 Access to Education

4.2.1 LEGAL AND POLICY FRAMEWORK

The Anti-Discrimination Act, when taken together with other related Czech law (including Act No. 40/1964 Coll, Civil Code, the Education Act, Decree No. 72/2005 on the Provision of | 10 | Counselling Services in Schools and School Counselling Facilities and Decree No. 73/2005 Coll. on the Education of Children, Pupils and Students with Special Education Needs and Children, Pupils and Students, who are Exceptionally Gifted), appears to provide substantive protections and adequate procedures against discrimination as required by the European Union’s Race Equality Directive. The Anti-Discrimination Act is a comprehensive legal act prohibiting direct and indirect discrimination. However, as far as we know, there have not been any cases testing its provisions as a safeguard against discrimination in education brought in the Czech courts to date. The Act does not contain any express provisions which directly prevent the segregation of Romani children into separate schools, classes or study groups. Similarly, there is no known Czech case law which clearly condemns or forbids segregation. In practice, the Act’s ability to serve as an effective safeguard against discrimination in education is still to be proven.⁷⁹

The Decree on Special Education (*No. 73/2005 & 147/2011 resp.*) focuses mainly on children with disabilities, and fails to sufficiently regulate measures required for socially disadvantaged children. The term “social disadvantage” is defined within the amended Decree as “a student

77 Romea, *Czech police seek witnesses to assault on Romani man in Havířov*, available at: <http://www.romea.cz/en/news/czech/czech-police-seek-witnesses-to-assault-on-romani-man-in-havirov>.

78 Romea, *Czech court issues remarkable sentence in case of racist attack of Romani workers*, available at: <http://www.romea.cz/en/news/czech/czech-court-issues-remarkable-sentence-in-case-of-racist-attack-on-romani-worker>.

79 See: OSJI, ERRC, COSIV, *Eight Communication to the Committee of Ministers on the DH Judgment Implementation*, available at: <http://www.errc.org/cms/upload/file/eighth-communication-to-the-committee-of-ministers-on-judgment-implementation-18-may-2012.pdf>.

who lacks Czech language skills or who does not receive necessary educational support, including co-operation between their guardians and the school”.⁸⁰ The process and responsibility for determining which students qualify as having a “social disadvantage” remains unclear. This means students who are entitled to support as a consequence of “social disadvantage” might miss out on the assistance they need. Such support could include measures such as an individual education plan, counselling services or the help of a teaching assistant. Even if children with a “social disadvantage” were adequately identified, no clear funding source exists to ensure that the services to which they are entitled would in fact be provided. This loophole in the *Decree* may mean its provisions will not act as an adequate safeguard to ensure that (Romani) children who are “socially disadvantaged” get the support they need to succeed in mainstream schools, which in turn would constitute a breach of the *Czech Education Act 2004*, which grants each student the right to an education in line with his or her educational needs.⁸¹

In response to numerous protests and submissions by several international and national institutions and NGOs, in 2011 the Czech Ministry of Education, Youth and Sport amended two decrees directly connected to the system of special education. Decree 72/2005 on the Provision of Counselling Services in Schools and School Counselling Facilities (“Decree on Counselling (No. 116/2011)”) and Decree 73/2005 on the Education of Children, Pupils and Students with Special Educational Needs and Exceptionally Gifted Children, Pupils and Students (“Decree on Special Education (No. 147/2011)”) with effect from 1 September 2011.⁸² Some of the most problematic provisions of these two decrees were amended before their passage.⁸³ For example, Section 10 of Decree on Special Education (No. 73/2005) was modified so it no longer allows for children without disabilities to constitute up to 25 per cent of classes for children with disabilities, absent safeguards to help to counter discrimination against Romani children. Moreover, temporary placements in practical school (a so-called ‘diagnostic stay’) will be abolished, and integration in mainstream schools will be preferred. Finally, an annual re-assessment of children placed in practical schools is being introduced.

The Czech Republic adopted the National Action Plan on Inclusive Education (NAPIE) in March 2010,⁸⁴ to address the problem of discrimination of Romani children in access to education and to implement the European Court judgment in the *DH* case. In November 2007, the

80 See para 6 of the Decree 147/2011.

81 ERRC & OSJI, *Seventh Communication to the Committee of Ministers on the DH Judgment Implementation*, available at: <http://www.errc.org/cms/upload/file/seventh-communication-to-the-committee-of-ministers-on-judgment-implementation-7-november-2011.pdf>; and the ERRC, OSJI, and COSIV, *Eighth Communication to the Committee of Ministers on the DH Judgment Implementation*, available at: <http://www.errc.org/cms/upload/file/eighth-communication-to-the-committee-of-ministers-on-judgment-implementation-18-may-2012.pdf>.

82 Ministry of Education, *Amendments no. 116/2011 and 147/2011 of the Ministerial Decrees no. 72/2005 and no. 73/2005*, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1962655&SecMode=1&DocId=1797718&Usage=2>.

83 See: ERRC, OSJI, COSIV, *Eight Communication to the Committee of Ministers on the DH Judgment Implementation*.

84 Ministry of Education, *National Plan for Inclusive Education*, 2010, available at: <http://www.msmt.cz/socialni-programy/narodni-akcni-plan-inkluzivniho-vzdelavani>.

European Court of Human Rights (ECtHR) ruled in a landmark judgement (*D.H. and Others v Czech Republic*) that the Czech Republic discriminates against Romani children by disproportionately placing them in special schools designed for children with mild mental disabilities.⁸⁵ The case was filed by the ERRC in 1999 on behalf of 18 Romani pupils who sued the Czech government for fast tracking them into special education due to their ethnicity. The case included statistical evidence which showed that in some regions of the Czech Republic, Romani children were 27 times more likely to be placed in special schools in comparison to non-Romani children.

Serious concerns remain regarding the content of the NAPIE, as it does not include concrete targets.⁸⁶ The Plan also includes an unacceptably slow time frame for implementation given the urgency of the issue – practical effects on the ground are not anticipated until 2014 - and it does not identify funding.⁸⁷ Furthermore, the NAPIE does not address the need for extra educational support structures for Romani children within mainstream education. The document has been further criticised for its failure to explicitly address racial discrimination within the Czech educational system.⁸⁸

The Czech Republic has also developed a competing inclusive education plan amid its larger strategy for Roma. In September 2011, the Czech government approved the Strategy for the Fight against Social Exclusion 2011-2015.⁸⁹ The education component of the Strategy, developed by the Agency for Social Inclusion in Romani Localities, is regarded by Czech education experts and civil society actors alike as an impressive document that is premised on the notion that a fair and efficient education system is central to the fight against the perpetuation of social disadvantage from one generation to the next. It envisions a 50% increase in per capita financing available for socially disadvantaged children (including Romani children), and an array of support measures that would help children transition from “practical” schools to mainstream education. The Strategy includes plans for subsidies for meals, school supplies and transportation to ensure that all children are learning under the same conditions. Yet serious doubts remain as to its implementation. Despite calling for an increase in funding to address exclusion, no budget has been allocated to implement this Strategy, nor is it binding on any government department. No consensus exists as to whether this Strategy, or the NAPIE, prevails or if either has any political or financial backing and support.⁹⁰

85 European Court of Human Rights, *Case of D.H. and Others v. The Czech Republic*, 13 November 2007, available at: <http://www.errc.org/cms/upload/media/02/D1/m000002D1.pdf>.

86 *Ibid.*

87 ERRC and OSJI, *Submission to the Committee of Ministers of the Council of Europe on the D.H. and Others v. The Czech Republic*, March 2012, available at: <http://www.errc.org/cms/upload/file/eighth-communication-to-the-committee-of-ministers-on-judgment-implementation-18-may-2012.pdf>.

88 Amnesty International, *Submission to the Committee of Ministers of the Council of Europe on the D.H. and Others v. The Czech Republic*, October 2011, available at: <http://www.amnesty.org/fr/library/asset/EUR71/005/2011/en/65f6ddcd-17df-4756-874a-cd121427f210/eur710052011en.pdf>.

89 Agency for Social Inclusion, *Strategy for Combating Social Exclusion for the Period 2011-2015*.

90 OSJI, ERRC, COSIV, *Eight Communication to the Committee of Ministers on the DH Judgment Implementation*, available at: <http://www.errc.org/cms/upload/file/eighth-communication-to-the-committee-of-ministers-on-judgment-implementation-18-may-2012.pdf>.

Finally, in November 2012, the Czech government submitted a New Consolidated Action Plan to the Council of Europe's Committee of Ministers.⁹¹ It remains unclear whether the new plan essentially replaces, or should be seen in addition to, the current NAPIE, nor how it relates to the Czech Strategy for Combating Social Exclusion 2011-2015.

4.2.2 BACKGROUND AND ERRC ACTIVITIES

The situation of Romani children in education in the Czech Republic remains alarming. Despite the landmark judgement by the (ECtHR) *D.H. and Others v Czech Republic*, in November 2007, little has changed in the experience of the Czech Romani children.

“Practical schools” (former special schools) which many Roma children have to attend do not contribute to developing a personality able to cope with the challenges of modern society, nor do they prepare them to participate in a competitive labour market. Rather these schools foster the vicious cycle many Roma are caught in, and severely limit their social mobility.⁹²

Since 2009, the Czech authorities have carried out five inquiries (see the table below) into the ethnic composition of practical schools.⁹³ Although each survey was conducted with different methodology, they all provided evidence that Romani children are significantly over-represented in the education system designed for children with disabilities. In the school year 2011/2012, the Office of the Czech Ombudsperson looked into a representative sample of 67 former special schools⁹⁴ throughout the country, which provide education under curricula for pupils with mild mental disabilities. According to the findings of the Ombudsperson, 35% of the pupils in these schools and classes were Roma.⁹⁵ These numbers are strikingly at odds with the official population estimates, according to which Roma represent 1.4 to 2.8% of the total population living in the Czech Republic, and there is no evidence to show that Roma are prone to suffer with mental disabilities in larger numbers than any other group. The Ombudsperson concluded that even five years after the Czech Republic was convicted of discriminating against Romani children, they continue to be substantially overrepresented in practical schools and classes. Such overrepresentation, the Office stated, amounts to segregation which

91 Government of the Czech Republic, *Consolidated Action Plan for the Execution of the Judgment of the European Court of Human Rights in the Case of D.H. and Others v. The Czech Republic*, available at: <https://wcd.coe.int/View-Doc.jsp?id=1846711&Site=CM&BackColorInternet=DBCDF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>.

92 The new School Act (2004) named the schools and classes designed for children with mild mental disabilities newly as practical schools and classes. The term ‘special school and classes’ was limited to schools educating children with medium and severe mental disabilities.

93 *Ibid.*

94 The 2004 School Act transformation of special schools allowed schools teaching according to the curricula for children with mild mental disabilities to be officially listed either as ‘practical elementary schools’ or regular elementary schools – consequently, many former special schools started operating hidden as regular elementary schools. This situation applies until nowadays.

95 Public Defender of Rights, *Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools*, Brno, 2012, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf.

predestines future generations of Roma to a life in poverty. The Ombudsperson's report called on the government to take measures that will ensure the inclusion of Romani pupils into the mainstream educational system. What is clear from the various inquiries carried out by Czech government bodies is that segregation of Romani children in education continues practically unchanged, regardless of any advertised government policy measure.

Romani children in (former) special schools: The Statistical Evidence⁹⁶

Ministry of Education 2009a: Education Paths and Education Chances of Roma Pupils in Elementary Schools in the Neighbourhood of Socially Excluded Localities: Half of the monitored schools had more than 50% Romani pupils.

Ministry of Education 2009b: Analysis of an individual teacher's approach to the Pupils with Special Educational Needs: The monitored schools had more than 44% Romani pupils.

Institute for Information in Education 2009: Monitoring of the General Education Program (RVP), Prague, Institute for Information in Education: The monitored schools had more than 35% Romani pupils.

Czech School Inspectorate 2010: General Information from the Thematic Inspection in the Former Special Schools, Prague, Czech School Inspectorate: The monitored schools had more than 35% Romani pupils.

Public Defender of Rights 2012: Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools, Brno, Public Defender of Rights: The monitored schools had more than 32% Romani pupils.

Czech School Inspectorate 2012: Thematic Report on the Progress in Transformation of Former Special School in the School Year 2011/2012: 26.4% of the pupils

96 MŠMT 2009a: *Education Paths and Education Chances of Roma Pupils in Elementary Schools in the Neighbourhood of Socially Excluded Localities: The Final Report of the Czech Ministry of Education Project – Sociological Research Focused on Analysis of Forms and Causes of Segregation of Children, Pupils and Young People from Socially Disadvantaged Environment*, Prague, Ministry of Education: Available at: www.msmt.cz/uploads/Skupina_6/VZDELANOSTNI_DRAHY.pdf

MŠMT 2009b: Analysis of An individual teacher's approach to the Pupils with Special Educational Needs: *The Final Report of the Czech Ministry of Education Project*, Prague, Ministry of Education, available at: http://www.google.hu/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCIQFjAA&url=http%3A%2F%2Fwww.msmt.cz%2Fuploads%2Fsubory%2Ftiskove_zpravy%2FAnaliza_individualniho_pristupu_pedagogu_k_zakum_se_specialnimi_vzdelavacimi_potrebami_PLNE_ZNENI.pdf&ei=vs48UPepI-14QSzgYHwCA&usg=AFQjCNGxEnR2scpX4nVfoBIxfKTP67myzQ&sig2=AXOYWkK3716uLtQ0rE46tA

ÚIV 2009: Monitoring of the General Education Program (RVP), Prague, Institute for Information in Education, available at: <http://www.ferovaskola.cz/data/downloads/monitoring%20RVP.pdf>

ČŠI 2010: General Information from the Thematic Inspection in the Former Special Schools, Prague, Czech School Inspectorate, available at: <http://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Zprava-z-kontrolni-cinnosti-v-byvalych-zvlastnich>

VOP 2012: Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools, Brno, Public Defender of Rights, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf

ČŠI 2012: Thematic Report: Progress in Transformation of Former Special School in the School Year 2011/2012, Prague, Czech School Inspectorate, available at: <http://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-Postup-transformace-byvalych-zvla>

were Romani. This methodological validity of the survey has been challenged by the Public Defender of Rights and the ERRC.⁹⁷

As part of its legal advocacy to end segregated education in Czech Republic, the ERRC regularly submits reports on the status of implementation of the *D.H.* judgment by the Czech government to the Committee of Ministers at the Council of Europe, the body in charge of supervising the implementation and states' compliance with ECtHR judgments.⁹⁸ Moreover, in 2011-2012, the ERRC submitted two reports on the ongoing practice of segregated education to UN Committees.⁹⁹ In July 2011, the ERRC submitted a report to UN Committee on the Elimination of Racial Discrimination (CERD).¹⁰⁰ In April 2012, the ERRC submitted (jointly with domestic partners) a report to the UN Human Rights Council's Universal Periodic Review session on the Czech Republic, and jointly with Amnesty International and OSJI conducted advocacy rounds with permanent representations in Geneva.¹⁰¹ In direct connection to the advocacy rounds, segregation of Romani children in education was a major issue of the UPR review. The UK, Austria, Denmark, and Finland made recommendations calling for implementation of a plan to end segregation and ensure that Roma children are transferred to mainstream schools. Austria specifically referred to the government's obligation to implement *DH*. Many states called for the full implementation of the NAPIE (Indonesia, Kyrgyzstan, Finland, Denmark, US, Australia, Austria, Belgium, Canada), while others simply called for an end to discrimination in education and for integration (Thailand, Sri Lanka, Spain, Norway, Mexico, Slovenia).¹⁰²

The ERRC has also conducted advocacy efforts in meetings with country representatives in the Committee of Ministers together with *DH* applicants and other international and domestic non-governmental organisations. In the Czech Republic, the ERRC has worked to push for desegregation with the Together to School (Jekhetane Andre Škola) Coalition – a group

97 The Czech School Inspectorate report is based on 2 sources – a) 41 (out of 58) former special schools in which the Inspectorate found misconduct in 2010 b) 158 returned (out of 210 distributed) questionnaires to the Headmasters of former special schools. There is no specification of their distinctive indicators and on the way how Roma students were identified by the Headmasters (qualified estimate). Data from the Headmasters questionnaires (26,4%) are less valid than the Ombudsperson data based on the teachers questionnaires (35%) – if we assume that teachers are more qualified to make estimates due to their ordinary contact with pupils. About 25% of the questionnaires were not returned. The selection of 41 out of 58 failing schools is not methodologically justified. Additionally, 146 of 210 schools under 2012 review were also inspected in 2010 (2010: 171 inspected schools), with no justification provided for listing out 25 schools that were included in 2010 review.

98 All ERRC submissions to the Committee of Ministers related to the implementation of the *DH* case can be found here: <http://www.errc.org/cikk.php?cikk=3559>.

99 ERRC, *Submission to UN CERD on the Czech Republic*, July 2011, available at: <http://www.errc.org/article/errc-submission-to-un-cerd-on-the-czech-republic-july-2011/3915>. ERRC, Life Together, & The Group of Women Harmed by Forced Sterilization, *Submission to the UN HRC UPR review on the Czech Republic*, available at: <http://www.errc.org/cms/upload/file/czech-republic-un-upr-submission-10-april-2012.pdf>.

100 ERRC, *Submission to UN CERD on the Czech Republic*.

101 ERRC, Life Together, & The Group of Women Harmed by Forced Sterilization, *Submission to the UN HRC UPR review on the Czech Republic*.

102 UN HRC, *UPR review of the Czech Republic*, Geneva, 22 October 2012.

consisting of 17 Roma and pro-Roma NGOs, advocating for *DH* judgment implementation and inclusive education reforms.¹⁰³

In June and July 2012, the ERRC and Amnesty International conducted research with public officials, education experts, civil society representatives, school directors, teachers and teaching assistants. The most essential part of the research, however, was the time spent among Romani families in Ostrava. Researchers interviewed 19 pupils enrolled in three Roma-only schools in the district of Ostrava-Přivoz, and pupils enrolled in another school in Ostrava-Vítkovice. The final report is informed by the experience of Romani children and parents living in the same neighbourhoods and attending the same schools as the *DH* applicants. This report concentrates on two key factors affecting the education of Romani children: their disproportionate placement in a system of education of lower academic achievement, and their segregation in “Roma-only schools”. These factors demonstrate the continuing systematic discrimination against Romani children in the Czech education system. The report provides evidence that Romani children continue to be over-represented in schools and classes designed for children with mild mental disabilities. It provides evidence that the current arrangements are not in the best interest of the children.¹⁰⁴

The report was officially launched in Prague on 8 November 2012 when the ERRC and AI Europe and Central Asia Directors held a meeting with the Czech Minister of Education, two of his Deputies and the Human Rights Commissioner, as well as a media conference and flashmob in front of the Ministry of Education.¹⁰⁵ The report was further advocated in Brussels and Strasbourg where the ERRC staff held meetings with the EC/DG justice representatives and permanent representations at the Council of Europe’s Committee of Ministers and Roma Support Team, respectively. The report serves as the basis of a joint call (the ERRC together with Amnesty International and Open Society Justice Initiatives) for the more decisive involvement of the European Commission, including the launch of infringement proceedings against member states violating provision of the Equality Directive which guarantees equal access to quality education for all children.

4.3 Coercive Sterilisation

4.3.1 LEGAL AND POLICY FRAMEWORK

Cases of coercive sterilisation of Romani women have been documented and reported across Europe including in the Czech Republic.¹⁰⁶ In former Czechoslovakia, a Public Decree

103 Coalition Together to School: <http://spolecnedoskoly.cz/koalice/>.

104 ERRC & Amnesty International, *Five More Years of Injustice: Segregated Education for Roma in the Czech Republic*, 2012, available at: <http://www.errc.org/article/five-more-years-of-injustice-segregated-education-for-roma-in-the-czech-republic/4067>.

105 Amnesty International, *Action not words needed to end discrimination against Roma in schools*, available at: <http://www.amnesty.org/en/news/czech-republic-action-not-words-needed-end-discrimination-against-roma-schools-2012-11-09>.

106 ERRC, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, 2006, available at: <http://www.errc.org/cms/upload/media/01/E6/m000001E6.pdf>.

on Sterilisation¹⁰⁷ from 1972 enabled the government to take programmatic steps to encourage the sterilisation of Romani women in order to reduce the birth-rate of the Romani population, which they characterised as “high [and] unhealthy”.¹⁰⁸ This legal provision resulted in giving the government more or less free reign to systematically sterilise Romani women without their full and informed consent.

The coercive sterilisation of Romani women was a state sanctioned practice during communism which continued in the post-communist Czech Republic. The shameful practice of coercive sterilisations seems to have continued until 2007 in the Czech Republic.¹⁰⁹ To date, these women are still seeking justice. The government, however, has failed to acknowledge the responsibility of state institutions in the practice of forced sterilisation, or to establish a redress mechanism and full compensation for the victims.

4.3.2 AN OVERALL BACKGROUND ON INVOLUNTARY AND COERCIVE STERILISATION

ERRC research from 2002-2004 in the Czech Republic, Slovakia and Hungary¹¹⁰ showed that Romani women continued to be sterilised despite the commitments of the new democratic governments to respect and safeguard individual human rights set forth in the Constitution, as well as in international human rights treaties duly ratified by the Czech Republic.

A report of the Public Defender of Rights (Ombudsperson) published in 2005 documented and filed criminal complaints to the General Prosecutor in 50 cases of unlawful sterilisations (out of 87 requests).¹¹¹ All of these cases were dismissed for procedural reasons (e.g. doctors met objective standards, there was signed consent form, documents had been lost etc.) or statute of limitation (victims could only claim compensation within a three year period since they acknowledged the act). The Ombudsperson estimated that, since 1973, thousands of women may have been sterilised throughout former Czechoslovakia.¹¹² The Ombudsperson’s findings pointed out that the practice of sterilisation was directly encouraged by eugenic state policy until at least 1991.

107 Government of the Czech Republic, Decree on Sterilisation. *Bulletin of the Ministry of Health of the Czech Socialist Republic* (29 February 1972).

108 ERRC, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, 2006.

109 ERRC, *Parallel Submission to the Committee on the Elimination of All Forms of Discrimination Against Women for the Czech Republic*, October 2010, available at: <http://www.errc.org/cms/upload/file/cz-cedaw-sterilisations-errc-czech-republic.pdf>.

110 ERRC, *Ambulance Not on the Way: The Disgrace of Health Care for Roma in Europe*, Budapest, 2006, pp. 44-49.

111 Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures*, 2005; available at: http://www.upr-info.org/IMG/pdf/PDR_CZE_UPR_S1_2008anx_MatterofSterilisation.pdf; between 2005 and 2010, 101 sterilised women requested the Ombudsman office to launch investigation in the unlawful nature of the sterilisation act.

112 Public Defender of Rights, *Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures*, 2005.

In November 2009, Czech authorities acknowledged individual failures and expressed regret for forced or coercive sterilisations.¹¹³ However, the governmental response did not go any further to introduce any form of redress mechanism or safeguards.

Significant barriers to access to justice persist for the victims of coercive sterilisation, most of whom are Romani women. The primary challenge is that the three-year statute of limitation, dating from the moment of sterilisation, which prevents the majority of victims from bringing civil claims for damages. Although in September 2011, the Supreme Court in Czech Republic ruled that the three-year statute of limitations restricting civil court claims for damages in very specific circumstances can be lifted, it is unclear whether courts will follow this judgment. Meanwhile, the Ministry of Justice was asked to analyse lifting the statute of limitations in this category of cases.¹¹⁴

To date there have been only three court cases where forced or coercively sterilised women have been financially compensated. Two cases were considered by the European Court of Human Rights and one by the domestic court. The women, sterilised in 1997, 2001 and 2003 respectively were compensated either by the court decision or in an extrajudicial settlement.¹¹⁵

In June 2012, the Czech Constitutional Court rejected an appeal for a higher compensation award for a woman who was sterilised without her consent following a Caesarean delivery. Revising a District Court decision, the Supreme Court awarded the same financial compensation of 150,000 CZK. The woman challenged the adequacy of the financial redress given that she cannot have more children and her husband had divorced her. She sought compensation of 1 million CZK (approximately EUR 40,000). However, the Constitutional Court ruled the previous lower courts' decision on financial redress did not violate the woman's fundamental rights.¹¹⁶

The most recent ECtHR case, *R.K. v the Czech Republic*¹¹⁷ ended with a friendly settlement between the applicant and the Czech Republic in November 2012. The settlement followed four years of the case pending at the ECtHR and previous positive decisions of District and Regional Courts, which had established the rights violation and ordered financial redress. The parties agreed to the financial award of EUR 10,000. The government again only acknowledged the individual failure.¹¹⁸

113 The Government of the Czech Republic, *Resolution of the Government of the Czech Republic 1424*, November 23, 2009, available at: [http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/0/6430E40ED2EFF39AC1257674004347C2/\\$FILE/1424%20uv091123.1424.pdf](http://racek.vlada.cz/usneseni/usneseni_webtest.nsf/0/6430E40ED2EFF39AC1257674004347C2/$FILE/1424%20uv091123.1424.pdf).

114 The Government of the Czech Republic, Decision 770/2011 of 19 October 2011, available at: [http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/87725D06F85FE727C1257956002CC333/\\$FILE/770%20uv111019.0770.pdf](http://kormoran.vlada.cz/usneseni/usneseni_webtest.nsf/0/87725D06F85FE727C1257956002CC333/$FILE/770%20uv111019.0770.pdf).

115 European Court of Human Rights, *Ferenčíková v the Czech Republic* (Application no. 21826/10), *Červenáková v the Czech Republic* (Application no. 26852/09); and *R.K. v the Czech Republic* (Application no. 7883/08).

116 League of Human Rights, *Constitutional court rejected the claim of a sterilized women which sought higher financial compensation*, available at (in Czech): <http://lp.cz/2012/06/us-odmitl-stiznost-zeny-jez-chtela-vyssi-nahradu-za-sterilizaci/>.

117 European Court of Human Rights, *R.K. v The Czech Republic*, application no. 7883/08, available at: <http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#%7B%22fulltext%22:%5B%227883%2F08%22%5D,%22sort%22:%5B%22kdate%20Descending%22%5D%7D>.

118 Lidovky.cz, *Czech State yielded to a forcefully sterilized woman*, available at: http://www.lidovky.cz/cesky-stat-ustupuje-zene-za-nucenou-sterilizaci-zaplati-pew-/zpravy-domov.aspx?c=A121211_121044_in_domov_ase.

4.3.3 BACKGROUND AND ERRC ACTIVITIES

The ERRC, jointly with the Group of Women Harmed by Forced Sterilisation and the NGO ‘Life Together,’ has been advocating for the establishment of a collective compensatory mechanism to address and provide financial remedy to all victims of coercive sterilisation in the Czech Republic.

On 17 February 2012, the Czech Government’s Human Rights Council passed a recommendation urging the Government to introduce a mechanism for adequate financial redress for victims of involuntary sterilisation.¹¹⁹ The Council advised establishing a systematic and transparent compensation mechanism for women subjected to involuntary sterilisations. In this regard, the motion suggests creating a compensation committee that would review the cases of sterilisation and propose remedies.¹²⁰

According to the Czech Government’s Human Rights Council’s Committee against Torture’s estimates, as few as 50 (the cases previously documented by the Czech Ombudsman), and as many as thousands (an estimate based on the Swedish experience) of women could be entitled to compensation. The Committee’s recommendation proposed compensation of between 300,000 to 400,000 CZK, depending on the degree of harm caused and the degree to which existing regulations were violated.

However, the governmental response to date has not moved forward to create any form of redress mechanism or safeguards. The Czech Government’s Human Rights Council’s recommendation has not been discussed by the parliament or the responsible ministries to come with any measures.

In April 2012, the ERRC together with Elena Gorolova, Head of the Group of Women Harmed by Forced Sterilization from Ostrava, advocated for a collective compensation scheme with the UN permanent representations in Geneva. As a consequence, a number of States raised concerns about the forced sterilisation of Romani women during the UN HRC UPR review on the Czech Republic. Greece recommended that the government review the three year statute of limitation for bringing claims of coercive sterilisation. South Africa suggested that the government establish a roadmap with clear timelines for ensuring reparations is granted to victims. Spain recommended that reparations should be guaranteed. In its replies, the government said that it had expressed regret at past sterilisations and had put measures in place to ensure that it would not happen again. These included reinforced patient rights and a clear process for obtaining a woman’s consent to sterilisation. With respect to compensation, the government stated that it is considering a new complex set of rules to facilitate access to legal aid.

¹¹⁹ *Human Rights Council*, Recommendation related to the sterilization of women executed in the Czech Republic in breach with the law, 2012, available at (in Czech): <http://www.vlada.cz/cz/ppov/rlp/cinnost-rady/zasedani-rady/zasedani-rady-dne-17--unora-2012-98737/>.

¹²⁰ More details can be found in an ERRC/partner letter of concern, *NGOs Welcome Czech Republic Recommendation on Forced Sterilisation*, available at: <http://www.errc.org/article/ngos-welcome-czech-republic-recommendation-on-forced-sterilisations/3971>.

4.4 Romani Children in Institutional Care

4.4.1 LEGAL AND POLICY FRAMEWORK

On 5 September 2012, the Lower House of the Czech Parliament approved an amendment of the Social-Legal Protection of Children Act¹²¹ introducing alternative measures to institutionalisation. Even though the Czech president vetoed the amendment on 12 September 2012,¹²² the Parliament overrode the presidential veto, and the amended Act came into force on 1 January 2013. The amendment gives priority to alternative types of childcare and professional fostering, which should lead to a significant transfer of children from institutional care to foster families.¹²³

In early 2012, the Czech Ministry for Social Affairs published a National Strategy for the Protection of Children's Rights for the years 2012-2015.¹²⁴ The document promotes positive parenthood, active family support, the development and professionalisation of foster care, and an active search for alternative parents.

4.4.2 BACKGROUND AND ERRC ACTIVITIES

ERRC research on Romani children in institutional care conducted in 2010, revealed that a disproportionate number of Romani children end up being institutionalised.¹²⁵ The research showed that many factors contribute to the overrepresentation of Romani children which can be broken down into two main categories: those related to the situation of the family and those related to the child protection system itself. Discrimination is an aggravating factor in both of these categories.

According to data from the 2001 census and the 2009 Report on the Situation of Human Rights in the Czech Republic, Romani children account for around 3% of all children under the age of three in the Czech Republic.¹²⁶ In 2009, the Institute of Health Information and Statistics of

121 Parliament of the Czech Republic, *Amended Social-Legal Protection of Children Act*, 27 November 2012, available at: <http://www.epravo.cz/top/zakony/sbirka-zakonu/zakon-ze-dne-5-zari-2012-kterym-se-meni-zakon-c-3591999-sb-o-socialne-pravni-ochrane-deti-ve-zneni-pozdejsich-predpisu-a-dalsi-souvisici-zakony-19234.html>.

122 Prague Monitor, *Klaus vetoes foster care legislation*, available at: <http://praguemonitor.com/2012/09/13/klaus-vetoes-foster-care-legislation>.

123 Ministry of Labour and Social Affairs, *Press release – Lower chamber of the parliament passed the amendment of the social-legal protection of children act*, available in Czech at: http://www.mpsv.cz/files/clanky/13504/tz_060912b.pdf.

124 Ministry of Labour and Social Affairs, *Action Plan for the Fulfillment of the National Strategy to Protect Children's Rights 2012-2015*. Available at: http://www.mpsv.cz/files/clanky/13457/AP_2012.pdf.

125 ERRC, Bulgarian Helsinki Committee, Milan Simecka Foundation, and Osservazione, *Life Sentence: Romani Children in Institutional Care*, June 2011, available at: <http://errc.org/cms/upload/file/life-sentence-20-june-2011.pdf>.

126 An estimated 188,000 Roma lived in the Czech Republic in 2009. Assuming that their age structure was similar to that during 2001 census (when 5.53% of the population was under three years) there were 10,592 Romani children under three in 2009; overall there were 354,079 children under the age of three in the Czech Republic in 2009. See: Czech Statistical Office, available at: [http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/\\$File/400310007.xls](http://www.czso.cz/csu/2010edicniplan.nsf/t/0C001BB2A3/$File/400310007.xls).

the Czech Republic (UZIS) reported that nationally Romani children constituted on average between 27 and 32% of institutionalised children aged three and under.¹²⁷ The highest proportions were found in the Karlovarský (49%), Plzeňský (44%) and Královohradecký (35%) regions.¹²⁸

Czech authorities stop collecting disaggregated data on children in institutional care after the age of three. But according to unofficial expert estimates, 30 to 60% of all children (up to 18 years) in the Czech institutional care are Roma. In 17 out of 22 children's homes visited during research, Romani children were reported to make up 302 of 776 (39%) children living in institutions. Even though poverty was rejected by the Constitutional Court as a reason to put a child in state care,¹²⁹ poverty-related factors were most frequently reported as the reason for removing a child from their family in the case of Roma.

ERRC research indicates that many factors contribute to the overrepresentation of Romani children in institutional care, including discrimination, poverty and material conditions (such as unemployment, indebtedness and inadequate housing), school absenteeism, single parenthood, unwanted pregnancies and migration. Child abuse was considered a very small factor in the placement of Romani children in State care. Preventative measures are often inadequate or not offered, and institutionalisation is often the first selected measure. There are an insufficient number of skilled social workers and an absence of community-level prevention services in isolated Romani neighbourhoods due to insufficient funding. Moreover, social workers and other child protection services operate without qualified supervision. Romani children experience physical abuse, ill-treatment and ethnic discrimination in and out of the homes. Most homes do not offer support structures for the development of Roma ethnic identity. Given that a disproportionate number of Romani children are in institutional care, that they are unlikely to return to their biological families, and that many are not chosen for adoption, a significant proportion of Romani children spend their whole childhood in an institutional setting. The existing system creates a cycle from which it is extremely hard, especially for disadvantaged Romani families, to escape.¹³⁰

4.5 Housing and Evictions

4.5.1 LEGAL AND POLICY FRAMEWORK

The Czech Republic is party to international and regional human rights treaties, which guarantee the protection of the right to adequate housing. These treaties include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and

127 Institute of Health Information and Statistics of the Czech Republic, *Activity of institutes for infants and homes for children up to 3 years of age and other institutions for children in 2009, Actual Information 13*, Prague (11 May 2010). See: ERRC, *Doživotní trest*, p. 9.

128 ERRC, *Doživotní trest: Romské děti v ústavní péči v České Republice* [Life Sentence – Romani Children in Institutional Care in the Czech Republic], p. 25.

129 *Ibid.* p. 29.

130 ERRC, Bulgarian Helsinki Committee, Milan Simecka Foundation, and Osservazione, *Life Sentence: Romani Children in Institutional Care*, June 2011.

Political Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Discrimination and the Revised European Social Charter.

The UN Committee on Economic, Social and Cultural Rights has emphasised that “[a]dequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind and other threats to health, structural hazards, and disease vectors.”¹³¹ It must also contain “certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”¹³²

In the Czech Republic, there are a number of laws dealing with housing issues: construction and demolition,¹³³ rent,¹³⁴ ownership¹³⁵ and cooperative housing.¹³⁶

There are several reasons why Roma in the Czech Republic are evicted. The most frequent include: Roma do not pay rent; the living conditions and the state of building/flat does not allow them to live there without health and safety risks; Roma houses are built on land that does not belong to them, or without building permissions. The evictions are usually exercised in an organised way and affect several families.¹³⁷

The most-frequently used laws for evictions are the Building Act¹³⁸ and the Czech Civil Code¹³⁹. The Building Act allows the Building Office to order demolition of a building which was constructed without a building permission,¹⁴⁰ or if a building threatens the lives and health of others, or the security, environment or property of others.¹⁴¹ The Building Act gives the owners of such buildings the opportunity to legalise their buildings.¹⁴² However, the procedure is administratively complicated.

The Czech Civil Code sets out the legal framework for buildings which are constructed illegally on land that doesn't belong to the builder. The owner of the land can ask the court

131 See: <http://www.unhchr.ch/tbs/doc.nsf/0/469f4d91a9378221c12563ed0053547e>.

132 *Ibid.*

133 Act no. 183-2006 Coll. Building Act.

134 Act no. 40/1964 Coll. the Civil Code; Act no.128/2000 Coll. on Municipalities.

135 Act no. 72/1994 Coll. on Ownership of Flats.

136 Act no. 40/1964 Coll. Civil Code; Act no. 513/1991 Coll. Commercial Code.

137 Czech Helsinki Committee, *Romové a potřeby bydlení*, 2008, available at: <http://www.helcom.cz/view.php?cisloclanku=2009042106>.

138 Act no. 183-2006 Coll. Building Act, note 116.

139 *Ibid.*, *Supra*, note 117.

140 *Ibid.*, Art. 129 (1,b).

141 *Ibid.*, Art. 129 (1,a).

142 Act no. 183-2006 Coll. Building Act, Art. 129 (2,3).

to order the demolition of such illegally erected buildings, in civil proceedings.¹⁴³ If demolition of the building would not be reasonable, the court can order that ownership of the building is transferred to the owner of the land (with his/her consent) as due compensation.¹⁴⁴ However, the court can also settle relations between the owner of the land and the owner of the building in a different way, e.g. by registering an easement for the owner of the building upon due compensation.¹⁴⁵

In relation to social housing for the most socially disadvantaged groups of society, the legal framework cannot be considered conceptual and systemic. The Czech Republic does not have any special laws governing social housing. In July 2011, the Government adopted Resolution No. 524 Concept of Housing in the Czech Republic until 2020.¹⁴⁶ The aforementioned concept aims at improving access to housing for persons endangered with social exclusion and persons disadvantaged in access to housing.¹⁴⁷

It is important to note that in the Czech Republic, there is a difference between ‘municipal’ and ‘social’ housing. Flats offered at ‘regulated’ rents are mainly rented out to the municipality’s employees. For others, only a so-called ‘public competition rental’ is available, i.e. flats are rented to the highest bidders. Social housing programmes are almost non-existent, and municipalities do not receive funding from the government for this purpose.¹⁴⁸ Municipalities do not have enough resources to build and create satisfactory and adequate living conditions.

In the last couple of years a new trend has emerged in the Czech Republic in relation to the accommodation offered to Roma – accommodation in private residential hostels. In this case, tenants have a lower level of legal protection. This type of housing is usually based on short-term contracts with the possibility of immediate termination.¹⁴⁹

4.5.2 BACKGROUND AND ERRC ACTIVITIES

According to the EC/UNDP/WB 2011 Regional Roma Housing survey, almost half of the Roma in the Czech Republic feel under the threat of evictions; 18% feel worried and 30% very worried that they will be evicted in the near future. In the comparative perspective of all 11 countries, the situation with eviction threats is the worst in the Czech Republic, where the largest share of Roma is afraid of evictions.¹⁵⁰

143 *Supra*, note 117, Art. 135c (1).

144 *Ibid*, Art. 135c (2).

145 *Ibid*, Art. 135c (3).

146 Ministry of Regional Development, *Concept of Housing in the Czech Republic until 2020*, 2011, available at: <http://www.mmr.cz/getmedia/66bfa9e5-dcca-402e-a8ae-1d3fbfe415ef/Koncepcce-bydleni-CR-do-roku-2020.pdf>.

147 *Ibid*.

148 Pavla Boučková: *Report on Measures to Combat Discrimination, Directives 2000/43/EC and 2000/78/EC, Country Report 2011 – Czech Republic*, p. 56.

149 Institute of Urban Zoning, *Private residential hostels as long-term housing for socially disadvantaged people*, December 2012, p. 3.

150 UNDP, *The Housing Situation of Roma Communities: Regional Roma Survey 2011*, p. 41.

The following two descriptions of evictions in Ostrava and Ústí nad Labem demonstrate the procedure applied by the authorities and the consequences for the affected Roma.

Case Study 1: Eviction: Ostrava – Přednádraží Street

In the morning of 3 August 2012, the Head of Ostrava's Construction Office delivered an eviction notice to more than 80 Romani families living in rented housing on Přednádraží Street, Ostrava-Přívoz, giving them just over 24 hours to leave the premises voluntarily. The eviction order declared the houses of Přednádraží Street unsafe for human habitation due to damage to the structure and electrical installations, as well as inadequate sanitation. If the inhabitants had failed to leave, they would have risked having the police enforce the eviction order. The private owner was requested to refuse access to the buildings and when he appealed the demolition order and refused to secure any measures,¹⁵¹ the municipality employees taped the access to most of the houses.¹⁵² Not all the evicted families were provided with alternative accommodation.

The sanitation problem was caused by a failure of the property owner and local authorities to maintain the sewerage system, which left numerous houses polluted with raw sewage. After an initial dispute between the private owner and the Ostrava municipality over the ownership of the damaged sewage system, in which neither side took responsibility, the town changed its position and declared the sewage lines were owned by the state (specifically, by Czech Railways), and requested a declaratory judgment on the issue from the District Court in Ostrava.¹⁵³

In a joint statement addressed to the Ostrava municipality, the ERRC and Amnesty International requested local authorities to explore all feasible alternatives first and to provide evicted families with a sustainable solution.¹⁵⁴ Several families decided to move out immediately after the eviction order. Fourteen families were provided with contracts for alternative housing in private dormitories, though the organisations were concerned that some of them signed the agreements under duress – some residents told the organisation they do not want to move. The remaining 30 families were not provided alternative housing arrangements at the imminent threat of becoming homeless.

The dormitories offered as alternative housing were inadequate as they assigned in most cases one room to each family, some of which have up to nine members. Several evicted families have to share cooking and sanitation facilities. Four families shared two toi-

151 Romea, *Ostrava Ghetto Landlord appeals demolition order*, available at: <http://www.romea.cz/en/news/czech/czech-republic-ostrava-ghetto-landlord-appeals-demolition-order>.

152 Romea, *Czech Municipality Gets Tough on Ostrava Ghetto Residents*, available at: <http://www.romea.cz/en/news/czech/czech-municipality-gets-tough-on-ostrava-ghetto-residents-again>.

153 *Ibid.*

154 ERRC, Amnesty International, *Roma families at imminent risk of forced evictions*, available at: <http://www.errc.org/article/czech-republic-roma-families-at-imminent-risk-of-forced- eviction/4034>.

lets and two shower facilities, while approximately sixteen families shared one kitchen. Moreover, rental prices for a room at the dormitories are more than double what the families were previously paying for a flat and this raised serious concern about their ability to afford the proposed alternative. Finally, similarly bad sanitary conditions, which served as a main argument for evictions, were found in the private dormitories where some of the evicted Roma suffered from dysentery.¹⁵⁵

Most importantly, since the local authorities completely failed to consult the Roma families adequately before the planned eviction and provided only one day's notice, their activity most likely amounted to an illegal forced eviction. Numerous residents were not adequately informed about the alternative housing options available to them.¹⁵⁶

Despite a deadline set by the local authorities, most of the families stayed in the houses in Přednádraží Street, facing difficulties in enjoying their right to adequate housing, particularly in relation to access to basic services. Access to water was severely limited, and on 18 September electricity was cut off in three of the houses, leaving the families in complete darkness and with no access to cooking and heating facilities.

Local authorities continued refusing to allocate housing alternatives other than dormitories to the Roma inhabitants throughout the whole autumn and winter period. Although many of the Romani families did not want to move initially, most of them finally had no choice, due to fear of eviction and the risk of homelessness. They moved to dormitories as they did not meet the eligibility criteria set by local authorities for social housing. The criteria include a requirement of regular employment or being retired, which were not met by most of the Roma from Přednádraží Street.¹⁵⁷

On 21 September 2012, almost two months after the eviction order, when the situation had still not been adequately dealt with by the Ostrava authorities or the private owner, the ERRC and Amnesty International sent another letter of concern calling upon the Ostrava municipality to urgently provide a sustainable housing solutions and fulfil the right to adequate housing of the Roma still living in Přednádraží Street, who were cut off from electricity and water.¹⁵⁸

The families resisting the eviction order attempted to improve the conditions of the houses with support from the NGO "Life Together" and other organisations,

155 Romea, *Dysentery on the rise in Ostrava residential hostels*, available at: <http://www.romea.cz/en/news/czech/czech-republic-dysentery-on-the-rise-in-ostava-s-residential-hotels>.

156 Romea, *Czech Municipality says evictions are landlord's responsibility*, available at: <http://www.romea.cz/en/news/czech/czech-municipality-says-evictions-are-landlord-s-responsibility>.

157 Romea, *Power cut to ghetto, Romani residents plan temporary move*, available at: <http://www.romea.cz/en/news/czech/czech-republic-power-cut-to-ghetto-romani-residents-plan-temporary-move>.

158 ERRC, Amnesty International, *Ostrava Municipality must Act Now to Provide a Sustainable Housing Solution for Roma*, available at: <http://www.errc.org/article/ostava-municipality-must-act-now-to-provide-a-sustainable-housing-solution-for-roma/4056>.

addressing the arguments of the Construction Office in the eviction note. “Life Together” managed to sign an agreement with the private owner and to collect donations, enabling it to start repairing one of the houses (sanitation, static, roof, electrical networks, water supply). Currently, the house Přednádraží Street No. 8 is fully functional and home to several families.

In direct connection to the assistance provided to the remaining Roma in Přednádraží Street, the authorities of Ostrava-Přívoz cancelled a leasing agreement with “Life Together” for its main office and its legal and social counselling centre. “Life Together” was thus forced to relocate its offices to a new address in January 2013.¹⁵⁹ The Ostrava authorities also considered suing the director of “Life Together” for defamation.¹⁶⁰

Case Study 2: Ústí nad Labem – Předlice and Krásné Březno

On 2 November, 2012, Romani families (36 adults and 27 children) living in a brick building in the segregated Předlice district of the town Ústí nad Labem were ordered to move out of their homes by the construction office. They were told this was due to the poor condition of the building following neglect by its private owner, who bought the building from the town two years previously. The owner rented the flats to Roma families at a high rate; residents were not able to find other accommodation on the open housing market.¹⁶¹ The construction office assessed the house following an incident in another house in the area that collapsed and killed one Romani woman and injured another.¹⁶²

The Roma residents received an eviction note two weeks in advance. Most of the families moved to an adjacent elementary school gym; however this was an emergency solution given that no family managed to secure alternative housing as they all relied on the private owner of the building who had a legal obligation to offer them alternatives. Besides providing a van for transporting their belongings, a container for trash, and storage space, neither the private owner nor public authorities assisted the evicted families in finding alternative accommodation.¹⁶³

The Agency for Social Inclusion urged the municipality to actively support the evicted families and to refrain from moving the families to private dormitories (for

159 Czech Television, *Life Together got a notice: it is related to Přednádraží said Vishwanathan*, available at: <http://www.ceskatelevize.cz/zpravodajstvi-ostrava/zpravy/212768-vzajemne-souziti-dostalo-vypoved-je-to-kvuli-prednadrazi-rika-vishwanathan/?mobileRedirect=off>. See also: <http://www.infoportaly.cz/ostravsko/ostava/13172-obcanske-sdruzeni-vzajemne-souziti-dostalo-vypoved>.

160 Romea, *Municipality Hopes to Sue Human Rights Activist for Defamation*, available at: <http://www.romea.cz/en/news/czech/czech-republic-municipality-hopes-to-sue-human-rights-activist-for-defamation>.

161 Konexe NGO, *Disaster Předlice*, available at: <http://oskonexe.wordpress.com/2012/10/27/predlicka-katastrofa/>.

162 Aktualne.cz, *Ústí intends to demolish the house where a collapsed ceiling buried a woman*, available at: <http://aktualne.centrum.cz/domaci/regiony/ustecky/clanek.phtml?id=760896>.

163 Romea, *Romani tenants removed from dangerous building to gym*, available at: <http://www.romea.cz/en/news/czech/czech-republic-romani-tenants-removed-from-dangerous-building-to-gym>.

people unable to find accommodation at the flat market) outside the town which would be not be an adequate or responsible solution.¹⁶⁴

A week later, Romani families moved from the gym to a residential hostel in the town district of Krasné Březno, which they had previously rejected due to poor sanitary conditions and high rents.¹⁶⁵

At the end of January 2013, however, the management announced that the residential hostel would be closed because of its unsatisfactory sanitary standards, and following an instruction by the company owning the premises.¹⁶⁶

The municipality repeatedly failed to suggest alternatives and put the blame for the situation on the families.¹⁶⁷ Activists managed to find alternative housing for all families.¹⁶⁸ However the temporary rental contracts that the families signed includes a built-in-termination note, which prolongs their vulnerable housing situation.

The ERRC has monitored the whole eviction process from the very beginning and urged relevant authorities to actively seek solutions for affected families. The ERRC also reminded relevant authorities that evictions during winter are incompatible with international human rights standards.

The lack of appropriate housing is also a concern. There is no systematic policy on social housing in the Czech Republic. A previously centralised state housing stock was, through previous decentralisation policies, transferred to the administration of regional and local authorities. Since the 1990s, most of the regional and local authorities decided to privatise their housing capacities. This privatisation meant many socially disadvantaged people found themselves in a vulnerable position in relation to private owners and their housing-market interests.

For many Romani families the only way to find accommodation is through privately-owned residential hostels. The allocation of housing subsidies is at the discretion of

164 Agency for Social Inclusion, *Agency's statement to the situation with closing down of the residential hostel in Usti*: available at: <http://www.socialni-zaclenovani.cz/tiskove-prohlaseni-agentury-k-uzavreni-ubytovny-v-usti-nad-labem>, see also: <http://www.romea.cz/cz/zpravodajstvi/tiskove-zpravy/mesto-by-melo-zacit-konat-vzkazuje-agentura-ustecke-radnici-k-situaci-v-ubytovne-ktera-bude-dnes-uzavrena>.

165 Romea, *Romani evacuees leave gym for residential hostels*, <http://www.romea.cz/en/news/czech/czech-republic-romani-evacuees-leave-gym-for-residential-hotels>.

166 Romea, *The police detained 12 people after the demonstration against evictions*, available at: <http://www.romea.cz/cz/zpravodajstvi/domaci/po-demonstraci-proti-vystehovani-v-usti-zadrzela-policie-12-lidi>.

167 Romea, *The Ústí municipality: families from residential houses are fully responsible for their situation*, available at: <http://www.romea.cz/cz/zpravodajstvi/domaci/vedeni-usti-nad-labem-rodiny-z-ubytovny-se-do-spatne-situace-dostaly-vlastni-vinou>.

168 Romea, *Czech Initiative finds housing for Romani residential hotel evictees*, available at: <http://www.romea.cz/en/news/czech/czech-initiative-finds-housing-for-romani-residential-hotel-evictees>.

the local authorities, and they are most often paid directly to the landlords of residential hostels. State support is calculated as a proportion of the rent, depending on the subjective assessment of a local officer, and there is no cap on the amount.¹⁶⁹

The current system of state housing subsidies does not facilitate access to the housing market for many vulnerable Romani families; moreover, it leads to residential segregation in low-quality and overpriced residential hostels owned by private persons.

¹⁶⁹ Czech Radio, *Interview with Martin Šimáček, Director of the Agency for Social Inclusion*, available at: http://www.rozhlas.cz/zpravy/politika/_zprava/za-nefungujici-kanalizaci-v-prednadrazi-muze-mesto-ostrava-rika-martin-simacek--1101638.

Annex 1

Human Rights Treaty Ratification and Reservation Table

International Humanitarian Law	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
Geneva Conventions I, II, III, IV 1949	05.02.93	
Additional Protocol I 1977	05.02.93	
Additional Protocol II 1977	05.02.93	
Additional Protocol III 2005	05.02.93	
Hague Conv. 1954	26.03.93	
Hague Protocol 1954	26.03.93	
Hague Protocol 1999	08.06.07	
ENMOD Conv. 1976	22.02.93	
International Human Rights Law	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
ICERD 1965	22.02.93	
ICCPR 1966	22.02.93	
ICCPR - OP1 1966	22.02.93	
ICCPR - OP2 1989	15.06.04	
ICESCR 1966	22.02.93	
CEDAW 1979	22.02.93	
OP-CEDAW 1999	26.02.01	
CAT 1984	22.02.93	
OP-CAT 2002	10.07.06	
CRC 1990	22.02.93	
CRC Optional Protocol Armed Conflict 2000	30.11.01	
CRC Optional Protocol Sale of Children 2000		Signature only on 26.01.2005
ICRMW 1990		
Disability Rights Convention 2006	28.09.09	

ANNEX 1: HUMAN RIGHTS TREATY RATIFICATION AND RESERVATION TABLE

Convention on Enforced Disappearances [not yet in force]		
Weapons	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
Geneva Gas Protocol 1925	16.08.38	
Biological Weapons Convention 1972	05.04.93	
Chemical Weapons Convention 1993	06.03.96	
Convention on Certain Conventional Weapons 1980	22.03.93	
CCW Protocol I 1980	22.02.93	
CCW Prot. II 1980	22.02.93	
CCW Prot. III 1980	22.02.93	
CCW Prot. IV 1995	10.08.98	
CCW Protocol II (amended) 1996	10.08.98	
CCW Amendment 2001	06.06.06	
CCW Prot. V 2003	06.06.06	
Ottawa Treaty 1997	26.10.99	It is the understanding of the Government of the Czech Republic that the mere participation in the planning or execution of operations, exercises or other military activities by the Armed Forces of the Czech Republic, or individual Czech Republic nationals, conducted in combination with the armed forces of States not party to the [Convention], which engage in activities prohibited under the Convention, is not, by itself, assistance, encouragement or inducement for the purposes of Article 1, paragraph 1 (c) of the Convention.
Convention on Cluster Munitions 2008		Signature only on 03.12.2008
Refugees	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
Refugee Conv. 1951	11.05.93	
Refugee Prot.1967	11.05.93	
International Criminal Law	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
Slavery Convention 1926	22.02.93	
Genocide Convention. 1948	22.02.93	

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity 1968	22.02.93	
ICC Rome Statute 1998		Signature only on 13.04.1999
Terrorism	Adherence Date	Commentary (including relevant reservations, derogations and declarations)
Convention Against the Taking of Hostages 1979	22.02.93	
Convention for the Suppression of the Financing of Terrorism 1999	27.12.05	
Convention for the Suppression of Terrorist Bombings 1997		Signature only

Source: Geneva Academy, available at: http://www.geneva-academy.ch/RULAC/international_treaties.php?id_state=180.

Annex 2

Statistics – Employment, Education, Health, Housing¹⁷⁰

EDUCATION	Male		Female		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Literacy rate (16+)	97%	100%	96%	100%	97%	100%
Literacy rate (16-24)	99%	100%	99%	100%	99%	100%
Pre-school enrolment rate (3-6)	28%	64%	27%	64%	27%	64%
Gross enrolment rate in compulsory education (7-15)	91%	96%	94%	94%	93%	95%
Gross enrolment rate (Upper-Secondary Education 16-19)	42%	86%	38%	83%	40%	85%
Average years of education (25-64)	7,11	11,10	6,24	11,34	6,68	11,21
Av. Years of Education (16-24)	9,83	11,56	9,98	11,94	9,91	11,75

EMPLOYMENT	Male		Female		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Unemployment rate (15-64)	33%	5%	48%	6%	39%	6%
Unemployment rate (15-24)	59%	20%	64%	24%	61%	21%
No employment experience rate (15-64)	32%	21%	41%	20%	37%	21%
No employment experience rate (15-24)	67%	60%	91%	50%	77%	56%

HEALTH	Male		Female		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Access to medical insurance*	91%	98%	94%	97%	93%	98%
No access to essential drugs	44%	10%	45%	11%	44%	11%
Access to health services	86%	98%	88%	99%	87%	99%

170 For the following data sets see: UNDP/WB/EC regional Roma survey 2011, available at: <http://europeand-cis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

ANNEX 2: STATISTICS-EMPLOYMENT, EDUCATION, HEALTH, HOUSING

HOUSING	Roma	Non-Roma
Rooms per HH member	0,67	1,12
Square meters per household member	13,86	25,63
Share of the population not having access to secure housing	17%	5%
Share of the population not having access to improved water source	15%	15%
Share of the population not having access to improved sanitation	13%	8%
Access to electricity	95%	99%
Preference of living in mixed areas	70%	

POVERTY	Roma	Non-Roma
Absolute poverty rate PPP\$ 4.30 income based	2%	2%
Absolute poverty rate PPP\$ 4.30 expenditures based	1%	0%
Absolute poverty rate PPP\$ 2.15 income based	1%	2%
Absolute poverty rate PPP\$ 2.15 expenditures based	0%	0%
Relative poverty rate (60% equalized median income)	71%	22%

MIGRATION	Roma	Non-Roma
Migration intention*	23%	9%
Top 3 target countries Roma		
1. United Kingdom/England	40%	
2. Canada	27%	
3. USA	11%	
Top 3 target countries non-Roma		
1. United Kingdom/England	40%	27%
2. Canada	27%	23%
3. USA	11%	8%

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

