

**Written Comments of the European Roma Rights Center
Concerning the Czech Republic**

**For Consideration by the United Nations Committee on the Elimination of Racial
Discrimination at its Fifty-second Session, 6-9 March, 1998**

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Executive Summary

The European Roma Rights Center ("ERRC"), an international public interest law organisation based in Budapest, respectfully submits written comments concerning the Czech Republic for consideration by the Committee on the Elimination of Racial Discrimination ("the Committee") at the 1254th and 1255th meetings of its Fifty-second session on 6 and 9 March, 1998.

We are aware of the efforts undertaken by the government of the Czech Republic (the "government") to comply with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (the "Convention"), as detailed in its report to the Committee.¹ To date, however, these measures are insufficient to ensure the effective implementation of the Convention, particularly with regard to Articles 2, 4, and 5.

As to Article 2, twenty-nine years after the Convention's entry into force in the territory of the Czech Republic,² discrimination against Roma remains widespread, and the government has yet to enact legislation or administrative regulations expressly prohibiting racial discrimination.³ Accordingly, notwithstanding the existence of constitutional provisions, and criminal code sections directed primarily against racist speech and propaganda, victims of racial discrimination have no civil or criminal remedies available to them for acts of discrimination as such. "Clean" criminal record and residency requirements have rendered the 1993 Czech Citizenship law susceptible to arbitrary and discriminatory application with respect to Roma. As a result, large numbers of Roma have been denied access to citizenship, deprived of voting rights and social benefits, and -- for those convicted of crimes -- put at risk of expulsion from the country.

As to Article 4, prominent public officials have continued to disseminate racist hate speech, suggesting, among other things, that Roma must be housed in separate areas, preferably, outside the Czech Republic.

As to Article 5, the government has failed to ensure Roma and other racial minorities equal protection of the law. Roma suffer widespread discrimination in the justice system, and are the victims of an unchecked wave of violence at the hands of law enforcement authorities, skinheads, and others. Notwithstanding the routine practice of denying Roma admission to restaurants, pubs and similar establishments, the government has yet to secure by law the right of access on a non-discriminatory basis to public accommodations. Educational discrimination is particularly egregious, with grossly disproportionate numbers of Roma children -- 15 times more than the numbers of white children, according to recent statistics -- assigned to dead-end special schools for students branded "intellectually deficient." Roma experience large-scale discrimination in employment, and existing legal protections are ineffective.

In view of these deficiencies, the government should adopt and implement legislation expressly outlawing acts of racial discrimination and providing for civil, criminal and administrative remedies; abolish the practice of race-based educational segregation; adopt effective measures to prevent and punish manifestations of racial bias in the justice system;

¹ 17 July, 1997 State Party Report of the Czech Republic, CERD/C/289/Add.1 (hereafter the "Government Report").

² See Government Report, para. 3 ("The Convention entered into force in respect of the Czech Republic pursuant to article 19 on 4 January 1969").

³ For the purposes of this document, the term "racial discrimination" is synonymous with its definition in Article 1(1) of the Convention.

and intensify efforts to promote racial tolerance, in part through the conduct of educational and media campaigns to familiarise the public with the Convention and its standards.

Expertise and Interest of the ERRC

The ERRC is an international, non-governmental organisation which monitors the situation of Roma in Europe and provides legal defence to victims of human rights violations. Since its establishment in January 1996, the ERRC has undertaken first-hand field research in more than a dozen countries, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. Since November 1996, a full-time ERRC monitor has been stationed in the Czech Republic reporting regularly on human rights developments concerning Roma. ERRC publications about the Czech Republic and other countries, and additional information about the organisation, are available on the Internet at <http://www.errc.com>.

The ERRC believes that the upcoming session of the Committee offers an opportunity to highlight the most significant respects in which the government of the Czech Republic (the "government") has failed to fulfill its commitments under the International Convention on the Elimination of All Forms of Racial Discrimination (the "Convention"). We submit that our extensive factual research concerning the Czech Republic, and our participation in litigation there on behalf of Roma who have been the victim of racially-motivated crimes, warrant the attention of the Committee to our written comments.

Discussion

Article 2

Review of events in the Czech Republic, as well as of the Government Report, makes clear that the government has failed to comply with its obligation to "pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms. . . ." (Art. 2(1)). Most tellingly, the government has yet to pass legislation implementing the non-discrimination clauses of the Czech Constitution and the Charter of Fundamental Rights and Freedoms. There still exists no law or administrative regulation expressly prohibiting racial discrimination by public agencies and institutions, notwithstanding the power of the government to promulgate such a rule for its own officers and agents.⁴ Thus, no civil or criminal remedies are available to victims of racial discrimination by public bodies, and criminal investigators have no lawful power to investigate acts of racial discrimination as such.⁵

Discrimination against Roma takes particularly serious form in the realm of access to citizenship. Adopted as Czechoslovakia dissolved into two separate states at the beginning of 1993, the Czech Citizenship Law⁶ granted citizenship to one category of persons then resident within the territory of the Czech Republic and specified conditions under which those citizens of the former state who were not then granted Czech citizenship would be eligible for citizenship in the new state. In marked contrast to the Slovak citizenship law, which offered all persons who were Czechoslovak citizens as of 31 December, 1992, the

⁴ See Council of Europe, European Commission Against Racism and Intolerance, "Legal Measures to Combat Racism and Intolerance in the Member States of the Council of Europe", 1996, pp. 69-82.

⁵ Criminal Code provisions cited in the Government Report, see paras. 27-32, target primarily racist speech. To the extent these laws are aimed at racially-motivated violence, they do not address acts of discrimination *per se*. Moreover, they have been applied inconsistently and with little deterrent effect. See *infra* Article 5.

⁶ Law on the Acquisition and Loss of Czech Citizenship (Law No. 40/1992).

right to choose Slovak citizenship, the Czech law distinguished between those former Czechoslovaks who possessed Czech republican citizenship and those who possessed Slovak republican citizenship. In order to gain Czech citizenship, the latter were required to present documentary proof of permanent residence and to demonstrate a clean criminal record for the previous five years.⁷

At the moment of enactment, tens of thousands of Roma then residing in the Czech Republic were suddenly designated aliens and deprived of all rights which they had previously enjoyed as Czechoslovak citizens. If not patently designed to remove many Roma from the new state,⁸ the law had that effect.

In April 1996, in response to international criticism, the Czech Parliament amended the law to allow the Ministry of Interior to waive the five year criminal record requirement on a case by case basis. Inadequate effort has been made however to inform affected people of the existence of the amendment. More importantly, the inherent arbitrariness of the waiver's application has rendered it inadequate as a remedy to the law's fundamental injustice.⁹

The deficiencies of the citizenship law's text have been magnified by its discriminatory and inconsistent application. In numerous cases government officials have used factors such as rent arrears and the applicant's criminal history prior to the established five-year period to prevent citizenship from being granted to persons who satisfy all legal requirements. This is made possible by the fact that administrative instructions governing

⁷ For a detailed analysis of the provisions of the Czech and Slovak citizenship laws and their implementation through early 1996, see Council of Europe, "Report of the Experts of the Council of Europe on the Citizenship Laws of the Czech Republic and Slovakia and Their Implementation, and Replies of the Governments of the Czech Republic and Slovakia", April 1996.

⁸ Subsequently leaked documents and public statements by Czech officials indicate that racial motivation may have influenced the drafting of the law, specifically that some of the drafters viewed the dissolution of the Czechoslovak federation as an opportunity to remove Roma from the Czech Republic. See the first version of the "Report on the Situation of the Romani Community in the Czech Republic", by the Council of Nationalities, a governmental advisory (referring to "lively discussions on the so-called 'gypsy issue' which preceded adoption [of] the [citizenship] law" and which were "substantially motivated by the increasing criminality rate in the Czech Republic as well as by a number of steps taken by the government and public administration officials. Let us mention at least the 'Catastrophe Scenario' elaborated by the government in preparation of the Federation dissolution"). Following circulation of this first draft to non-governmental organisations and members of the press in August 1997, the Government sent it back for two revisions. The final version body (hereafter Council of Nationalities Report), accepted by the government in October 1997, does not include the passages quoted above.

⁹ Further discussion of problems associated with the Czech citizenship law, its amendments, and their implementation, may be found in, *inter alia*, U.S. Commission on Security and Cooperation in Europe, "Ex Post Facto Problems of the Czech Citizenship Law", September 1996; United Nations High Commissioner for Refugees (UNHCR), "Citizenship in the Context of the Dissolution of Czechoslovakia", September 1996; UNHCR, "The Czech and Slovak Citizenship Laws and the Problem of Statelessness", February 1996. See also European Roma Rights Center, "Letter to the Council of Europe", August 6, 1997; European Roma Rights Center, "Statement of the European Roma Rights Center on the Occasion of the Acceptance of the Czech Republic, Hungary and Poland into NATO", July 10, 1997, as well as monitoring reports in the quarterly newsletter *Roma Rights*; monitoring reports by the Prague-based non-governmental organisation *Hnutí občanské solidarity a tolerance* (Movement for civic solidarity and tolerance) published in the monthly newsletter *Most*; Human Rights Watch/Helsinki, "Roma in the Czech Republic: Foreigners in Their Own Land", June 1996; The Tolerance Foundation, "The Non-Czech Czechs", August 1995; The Tolerance Foundation, "Notes on the Czech Citizenship Law's Background", February 1995; The Tolerance Foundation, "A Need for Change, The Czech Citizenship Law: An Analysis of 99 Individual Cases", November 1994; The Tolerance Foundation, "Report on the Czech Citizenship Law: The Effect of the Citizenship Law on the Czech Republic's Roma Community", May 1994.

implementation of the citizenship law allow authorities in the applicant's municipality to append to each application an opinion on his or her worthiness for Czech citizenship. The Ministry is not required to heed this recommendation, but in practice has done so on numerous occasions.¹⁰

The denial of citizenship to thousands of Roma residing in the Czech Republic has further deprived them of access to a range of rights and benefits to which only Czech citizens are entitled. Non-citizens may not vote or run for office, and many have difficulty obtaining proof of permanent residence, a prerequisite to qualification for government social assistance, including child benefits. In addition, as non-citizens, Czech Roma can be and often have been sentenced to the punishment of expulsion for committing a crime. This penalty forces them to 'return' to a country, Slovakia, which many do not know and to which they lack effective ties. According to the Prague based monitoring organisation, *Tolerance Foundation*, 846 Slovak citizens were sentenced to expulsion by Czech courts in the period January 1993, to June 1997. Roma constituted the overwhelming majority of defendants in the approximately 167 cases individually monitored by *Tolerance*.¹¹

Article 4

Notwithstanding the government's obligations to "prohibit organisations . . . which promote and incite racial discrimination," Art. 4(b), and not to "permit public authorities or public institutions, national or local, to promote or incite racial discrimination," Art. 4(c), openly racist organisations thrive, and prominent public officials have in the past year disseminated racist speech targeting Roma.

The Republican Party in the Czech Republic, whose members sit in Parliament, is unique in Europe for having anti-Roma rhetoric as the centrepiece of its party platform. Miroslav Sládek, the leader of the Republican Party, has gone on record -- in mid-1996 -- stating that the first crime of Roma is birth.¹²

More centrist public officials have also made anti-Romani public statements. In July 1997, Zdeněk Klausner, Senator from the then-ruling Civil Democratic Party (*ODS*) and Mayor of Prague 4, published an article in the Prague 4 municipal newspaper *Tučňák*, in which he attributed alleged difficulties landlords had with "large problem families" to the prior regime's failure to "assimilat[e] ... the Romani minority."¹³ Senator Klausner recommended that landlords in Prague pursue the "solution" adopted by one of their counterparts: moving the Roma out of Prague. Despite statements of disapproval by the Prime Minister and the Minister of the Interior, the Civil Democratic Party undertook no disciplinary measures against this prominent public official.

Shortly after Senator Klausner made his remarks, the deputy mayor of Ostrava, Radoslav Štědroň, also of the Civil Democratic Party, responded to criticism of a

¹⁰ The recommendation of the local authority on an application for citizenship is foreseen in paragraph 5 (2) of an "Instruction of the Ministry of the Interior of the Czech Republic on the conduct of the local authorities in the application of Law 40/1993 on acquiring and losing citizenship of the Czech Republic", no. VSC/2-5O/8200/92, dated 31.12.1992.

¹¹ In February 1998, applying his constitutional power to issue "amnesties", President Havel annulled the sentences of all persons sentenced to expulsion for crimes carrying a maximum applicable sentence of five years or less. Since a great number of the expulsion sentences have been imposed for crimes with a maximum applicable sentence in excess of five years, the amnesty will not affect the expulsion sentences of many Roma.

¹² See *Mlada Fronta Dnes*, July 1996; Czech Helsinki Committee, Annual Report 1996, p. 34.

¹³ *Tučňák*, July 1997.

segregationist housing policy by stating, "Most Roma don't know how to behave and the town hall must find some way to deal with them; what Klausner suggested seems to me a sensible solution."¹⁴

During the flooding in the summer of 1997 in the north-eastern Czech Republic, Liana Janáčková, Mayor of the Mariánské Hory district of Ostrava, speaking on a television programme on August 12, offered to pay Roma who wanted to move to Canada two thirds of the money for their flight, provided that they return the rights of tenancy to their flats and cancel their official residence. Mayor Janáčková also stated, "This is how I see it: there are two groups living here, Roma and whites, and the situation doesn't suit either of them. They don't want to live together. Why shouldn't one of the groups make a friendly gesture towards the other? This is not a racist act. On the contrary, we want to help the Roma. If they don't want to live here, it is a friendly gesture for the administration to help them. We are contributing two-thirds of their ticket. To pay the whole amount would be immoral."¹⁵ Mayor Janáčková's deputy, Jiří Jezerský commented at the time, "They are mostly problem families who terrorise other people. Roma don't respect the night-time ban on noise, they encourage their children to rob cars, they spit on people and throw rubbish in places other than rubbish bins, thereby constantly increasing the threat of rats and fleas."¹⁶

Article 5

Article 5(a) The right to equal treatment before the tribunals and all other organs administering justice

Numerous reports of both participants and observers indicate that Roma suffer widespread discrimination in the Czech justice system. In particular, repeated allegations of differential treatment of Roma victims (inadequate investigation of their complaints by law enforcement authorities) and Roma defendants (subjected to more frequent and longer periods of pre-trial detention, and disproportionately severe sentences) suggest that the second class status of Roma in Czech society does not end at the courthouse door. Conclusive verification of these discriminatory patterns will be difficult absent concerted government efforts to monitor systematically indicators of racial bias in the justice system.

Roma lacking citizenship suffer the additional burden of often being placed in pre-trial custody on flight-prevention grounds, notwithstanding the fact that they are "foreigners" in name only, with families, friends and other connections to the Czech Republic. Anecdotal evidence suggests that Roma complaints are less likely to obtain a fair hearing in court, and/or will encounter more prolonged delays.¹⁷ The testimony of Roma witnesses and victims often confronts a pre-disposed scepticism on the part of judges and prosecutors, some of whom continue to use racial characterisations in assessing credibility. Finally, Roma suffer disproportionately from legal provisions which unduly limit access to legal counsel for indigent defendants.¹⁸

¹⁴ See, e.g., *Mlada Fronta Dnes*, August, 1997.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ In one well-publicised case, a Romani family was forcibly evicted from flats which they legally occupied in the northern Bohemian city of Ústí nad Labem, their rental contracts were confiscated, and under continuous police escort they were put on a train to Slovakia. Although a complaint was filed at the Ústí nad Labem District Court on 19 May, 1993, the court did not address the claim for three and a half years. During this period, the plaintiffs lived in parks and abandoned garages around the city. *Roma Rights*, Spring 1997, p. 14.

¹⁸ Articles 36-39 of the Criminal Code provide for appointment of counsel at state expense under certain conditions, but a substantial number of criminal cases do not give rise to mandatory state-paid legal assistance. By virtue of their indigence, Roma are adversely affected by the requirement of

Article 5(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution

Since 1989, Roma have been subjected to a wave of unremedied violence by state officials and private individuals. According to non-governmental monitoring organisations, 1250 racially-motivated attacks have taken place in the Czech Republic since 1991, the majority against Roma.¹⁹ Moreover, during this time, ten Roma, one Turk mistaken for a Rom and one Sudanese student have been killed in racially-motivated violence.

Law enforcement officers are rarely, if ever, disciplined or prosecuted for anti-Roma violence. Even where the perpetrators are non-state actors, the racially-motivated crimes provisions of Czech law are ineffectively and all too rarely applied. In addition, in cases of group violence, prosecutors frequently charge far fewer individuals than the evidence warrants. Defendants accused of racially-motivated crime are not uncommonly released pending trial, and often commit further crimes, giving rise to reticence among Roma about reporting abuses.

The following illustrative cases do not purport to present a comprehensive survey.

1. Cases of unremedied racially-motivated violence against Roma by state authorities

a. On 8 June, 1994, a Romani man named Martin Červeňák was arrested in the village of Jenikovice, near the town of Horšovský Týn in western Czech Republic. At 3:30 pm he was seen being brought to a hospital. When his family phoned, the police gave two conflicting explanations, first that he had fallen on a rock, then that he had fallen on a heater. Červeňák died of a gunshot wound to the head shortly thereafter. A government report dated 30 September, 1994, absolved the police of any wrong-doing in the incident.²⁰ However, no thorough investigation has ever been carried out to dispel persisting suspicion of police responsibility for the death.

b. In May 1997, the Ad Hoc Working Group for Romani Nationality Affairs of the Council of Nationalities, reported to the Ministry of Interior its findings concerning the following three cases of physical abuse by police of Roma. According to the Working Group, as of the end of 1997, not a single police official had been disciplined or charged with any offence.²¹

1) On 7 January, 1997, police detained a ten-year-old Romani boy in the southern Bohemian town of Písek and interrogated him for three hours, during which time he was allegedly physically abused and compelled to give a written statement. The police neither informed the boy's parents of his arrest, nor permitted them to see his statement.²²

Article 29 of the Law on the Constitutional Court, which requires that a complaint to that Court must be submitted by a qualified attorney, but creates no mechanism for appointment of counsel to those unable to secure representation on their own.

¹⁹ See especially monitoring reports by the Prague-based non-governmental organisation *Hnutí občanské solidarity a tolerance* (Movement for civic solidarity and tolerance) published in the monthly newsletter *Most*.

²⁰ See Human rights Watch/Helsinki, "Roma in the Czech Republic: Foreigners in Their Own Land", June 1996, pp.12-13.

²¹ ERRC interview, Prague, 13 December, 1997.

²² See *Roma Rights*, Summer, 1997, p. 9-10.

2) In another case, a Romani man was beaten by police in a public park in Písek in April 1996. Police who had been called in to restore order in a pub began to harass a group of Roma nearby. When one Romani man asked to see the officers' identification numbers, the police forced him to the ground and beat him with truncheons on his body and head, then insulted him and took him to the police station. The police also allegedly confiscated the medical protocol which the man had requested while still in custody. On the day following the beating however, a second doctor certified him unfit to work for several days as a result of his injuries. The victim faces charges for allegedly injuring a finger of one of the policemen.²³

3) In the same month, the police in Písek took a Romani man to the police station at about 7:00 pm one evening, where they allegedly beat him before releasing him at about midnight without charging him with any crime.²⁴

c. Another incident of police abuse in Písek took place on the evening of 27 November, 1997. A 23-year-old Romani woman told ERRC that she, her cousin, and her boyfriend were physically attacked by off-duty policemen in the pub Na Radosti, at approximately 10:00 pm. She also stated that when her boyfriend managed to pull the policeman off her cousin, the four or five friends of the policeman joined in. The woman related that, when she shouted for help, one of the police officers "ran up to me and said 'Don't shout, you black whore, or I'll shoot you.'" The officer allegedly threatened her with his pistol.²⁵

2. Cases of unremedied or inadequately remedied racially-motivated violence against Roma by others

a) According to testimony provided to ERRC, at approximately 11:30 pm one evening in May 1997, two Romani men were beaten and chased by a mob of fifteen men in the western Czech town of Klatovy. The attackers shouted taunts such as, "We will kill you" and "We will get you now, Gypsies." The attackers pursued one of the victims to a house, where they tried to break down the door, shouting, "We want your children. We'll put them in the fire. We'll roast your children." The second victim was so severely injured that he had to be hospitalised for ten days. To date, only one person has been charged in connection with this incident. He has since been released from custody. The investigation against another suspect was dropped for lack of evidence.²⁶

b) On 30 October, 1995, two white youths threatened to beat up and throw four Romani passengers from a train running between Hradec Králové and Sadova, and one of the Roma was kicked as he was getting off the train.

Both perpetrators were subsequently prosecuted and charged with violation of Sections (1) and (2) of Article 196 of the Czech Criminal Code concerning violence against a group of inhabitants and individuals.²⁷ On November 20, 1996 the District Court in

²³ Id.

²⁴ Id.

²⁵ ERRC Interview, Písek, Czech Republic, December 1997.

²⁶ See *Roma Rights*, Summer 1997, p. 10-11.

²⁷ Section 1 makes it a crime to "threaten[] a group of inhabitants with death, injury to health or the infliction of damage of great extent." Section 2 makes it a crime to "use[] violence against a group of inhabitants or against an individual, or [to] threaten[] them with death, injury to health or infliction of damage of great extent for their political convictions, nationality, race, creed, or because they have no creed..." See Government Report, para. 27.

Hradec Králové found the defendants guilty under Art. 196(1), but acquitted them of the charge under Art. 196(2) (the racially-motivated crimes provision).²⁸ The Court reasoned, in part, that this provision did not apply, because (i) it prohibits violence or threats carried out on account of, among other things, the "race" of the victims, and (ii) the Romani victims "belonged to the same race" as the defendants.²⁹

The premise of the District Court Opinion was that members of the Roma minority are not a distinct racial group in the Czech Republic, and thus that prohibitions against threats or violence motivated by the race of the victims do not apply to them. In so holding, the District Court relied on a narrow, biologically-rooted notion of race according to which Roma, like Czechs, are members of the same, "Indo-European" race.³⁰

The District Court's cramped, anthropological interpretation of the concept of "race" was at odds with international jurisprudence, which, over several decades, has affirmed that prohibitions against racial discrimination and racially-motivated threats or violence - such as those contained in Art. 196(2) - are to be interpreted broadly, to provide the broadest possible protection to victims of abuse. The opinion thus demonstrated the danger that other courts might similarly undermine the clear intention of racially-motivated crimes provisions in refusing to apply them to Roma victims. Although the Supreme Court has since reversed the lower court ruling, it failed to make clear the obligation of Czech courts to apply international standards in interpreting racially-motivated crimes provisions. Thus, the risk remains that future courts may -- through incorrectly narrow construction of the legislation -- decline to apply such protection to Roma or other vulnerable victims.

c) On 24 September, 1993, a group of approximately 40 skinheads chased four Roma into the Otava River in Písek. When the Roma attempted to climb out of the river, they were beaten and kicked back in, until one of the Romani boys, 17-year-old Tibor Danihel, drowned. The account presented in the Government Report (see paras. 37-38) is misleading and incomplete. That account neglects to mention that the investigation was hindered early on, when the first instance court judge and the Písek deputy mayor publicly belittled the case. More than two years elapsed before any defendant was placed in custody, during which time a number of potential Romani witnesses were allegedly intimidated by the continued presence in the town of some of the responsible skinheads. In the end, on 18 June, 1997, the České Budějovice regional court affirmed convictions for only four defendants and sentences of no more than 31 months' imprisonment. No one was charged with murder. The Supreme Court is scheduled to review the case on 26 February, more than four years after the crime.³¹

²⁸ The Court declined to impose punishment on either defendant, citing their minor status and the absence of a prior criminal record. The Court opined that the fact that the defendants had been required to appear in court to defend themselves against the charges constituted "sufficient remedy".

²⁹ District Court Opinion, 20 November, 1996.

³⁰ *Id.*

³¹ Indeed, racially-motivated violence against Roma has continued into early 1998. In autumn 1997, a Romani woman died of an epileptic seizure during an attack on her home by skinheads. (See *Roma Rights*, Autumn 1997, pp. 14-15.). As of February 1998, a Romani woman named Emilie Žigová remained in critical condition after having undergone three plastic surgery operations following the firebombing by skinheads of her residence -- which was known to be inhabited by Roma -- on January 17, 1998 in the northern Moravian town of Krnov. Police sources told the press that the attack was the seventeenth "extremist attack" against Roma in the town since 1993. (ČTK News Service, January 18, 1998.). The Czech press reported that, on the night of 15 February, 1998, skinheads assaulted a 26-year-old Romani woman in the town of Vrchlabi in north-east Bohemia, beat her unconscious and threw her into the Labe (Elbe) River, where she died. (ČTK News Service, February 18, 1998.).

Article 5(e) Economic, social and cultural rights

Racial discrimination is pervasive in virtually all spheres of public life. Roma in particular suffer persistent marginalisation and *de facto* discrimination in the enjoyment of their economic, social and cultural rights. To date, the government has made insufficient effort to gather, maintain, and publish accurate demographic data concerning Roma and other racial minorities in education, culture, and employment. Accordingly, efforts to quantify and remedy discrimination have been severely hampered.

(i) The rights to work and to free choice of employment

Roma experience widespread discrimination in employment. The Council of Nationalities Report indicates 70% unemployment among Roma -- up to 90% in certain areas -- while the overall unemployment rate in the Czech Republic as a whole has never risen above 5%. Lack of adequate education and skills preparation (see *infra*, Article 5(e)(v)) is compounded by widespread discrimination on the part of employers. ERRC has received numerous reports from Roma, from personnel working in government employment offices, and from others that, even when Romani job applicants present the requisite qualifications, they are turned down solely due to the colour of their skin. We are aware of similar cases in Prague, Písek, Tanvald, Karlovy Vary, Brno, Krnov, Ústí nad Labem, and Ostrava.

Notwithstanding these grave problems, legal protections remain largely ineffective. Labour Code provisions formally protecting the right to "choose employment" without discrimination are not clearly binding; "no employers who infringe [these rules] have ever been fined."³²

(v) The right to education and training

The Czech Schools Law provides for a system of special schools, parallel to the nine-year elementary school system, and catering to "pupils [...] who have intellectual deficiencies such that they cannot successfully be educated in elementary schools."³³ In practice, the law is administered so as to relegate disproportionate numbers of Romani children to second-class educational facilities offering little opportunity for skills training or educational preparation. Few graduates of such schools go on to higher education.³⁴

According a study published in 1991 by a working group of the Federal Ministry of Work and Social Affairs, Romani children are 15 times more likely to be placed in schools for children with learning disabilities than non-Roma.³⁵ More recent statistics confirm the

³² Council of Europe, European Commission Against Racism and Intolerance, "Legal Measures to Combat Racism and Intolerance in the Member States of the Council of Europe" (1996), p. 81.

³³ Zákon o soustavě základních škol, středních škol a vyšších odborných škol (školský zákon) (Law on the system of basic schools, middle schools and higher specialised schools (schooling law), in Sbíрка zákonů české republiky 1996 (Collected laws of the Czech Republic 1996), C.77 (10 October 1996), Article 31(1).

³⁴ A child who is at a special elementary school does not follow the same course of study as a child at a "normal" elementary school, and has very limited possibilities of education after the age of 15. Indeed, a special school child can not obtain the certificate [maturita] necessary for further study. Zákon o soustavě základních škol, středních škol a vyšších odborných škol (školský zákon) (Law on the system of basic schools, middle schools and higher specialised schools (schooling law), in Sbíрка zákonů české republiky 1996 (Collected laws of the Czech Republic 1996), C.77 (10 October 1996), Article 19(1), Article 32(4), Article 32a(2).

³⁵ Návrh zásad státní politiky společenského vzestupu romského obyvatelstva v ČSFR (Proposal for principles of state policy on the social elevation of the Romani population of the Federal Republic of Czechoslovakia), written by a working group of the Federal Ministry of Work and Social Affairs, C.

severe racial disparity: while only 4.2% of all primary-aged children attended special schools in 1996-1997, the figure among Romani children was 62.5%.³⁶ The Council of Nationalities has acknowledged "hitherto prevailing practices which led to excessive numbers of Romani children being placed in special schools without any conclusive evidence as to their intellectual and learning capacity."³⁷ In fact, however, racial segregation continues unabated.³⁸

The Government's efforts to remedy the problem have been halting and insufficient. The Council of Nationalities Report recommends, among other things, the hiring of 20 Romani assistants, but how they will deal with over 20 000 Romani children in 88 school districts is left unsaid. Other proposed projects, such as preparatory pre-school years, have no specific budget set aside for them, giving rise to concerns that, with the Czech school system in serious deficit, they will not materialise.

Article 5(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafés, theatres and parks

Roma throughout the Czech Republic are routinely denied admission to restaurants, pubs and similar establishments. In 1996, a survey conducted in five Bohemian towns by the monitoring organisation *HOST* showed that well-dressed Roma were refused service in 24 of 40 restaurants. Dark-skinned foreigners mistaken for Roma have also reported being refused service in Czech public establishments.³⁹ Nonetheless, the government has yet to secure by law the right of access on a non-discriminatory basis to public accommodations.

jek. F33-25653-7151, Prague 14.1. 1991. The report indicates that, although 46.4% of Romani children are placed in schools for children with learning disabilities, only 3.2% of non-Romani children are similarly designated.

³⁶ Statistická ročenka školství 1996/7 (Statistical yearbook of schooling 1996/7), report by Institute for Information in Education, pp. C-5, C-45 and F-11.

³⁷ Decree, 29 October 1997, Recommendation 1(e).

³⁸ The Government Report unintentionally reveals some of the biases which underlie educational discrimination by highlighting supposed "linguistic, social and cultural handicaps which prevent Romani children from completing elementary education," (para. 133), and identifying "different personality development, different sets of values and social and cultural attitudes prevailing in Romani families" as some of the "factors underlying poor school performance." (Para. 134). In fact, Romani children who do start elementary schools often are alienated by the absence of any reference to Roma in Czech schoolbooks, by attitudes from non-Romani pupils (which are not addressed by multicultural education) and by ill-trained teachers, of whom only a few receive any information about Roma before arriving in the classroom.

³⁹ See Human Rights Watch/Helsinki, "Roma in the Czech Republic: Foreigners in the Their Own Land", June 1996, p.14.