

Minority Protection in the Czech Republic

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Minority Protection in the Czech Republic

I. Executive Summary

The goal of EU accession has generated significant activity in the Czech Republic aimed at addressing the widely documented social exclusion experienced by the Roma minority. The Czech government has acknowledged the existence of discrimination against Roma. However, official policy has yet to achieve any notable impact on the actual conditions of discrimination, marginalisation and fear of physical attack with which many Roma live. Furthermore, political will to bring about real and concrete change is unproven: a number of the key recommendations of official advisory bodies have been rejected or ignored by the government.

Since 1997, the year of the European Commission's Opinion and of the first systematic government report on problems facing Roma (the "Bratinka report"),¹ several salutary steps have been taken, culminating in a June 2000 Concept for Government Policy Towards the Roma Community ("2000 Concept"), scheduled to run through to 2020.² During this time, a government anti-racism campaign has been initiated and implemented; a new advisory body on Roma issues has been established; laws relating to citizenship and access to secondary education have been amended; and a law establishing minority rights, recognising, *inter alia*, the Roma minority, has been adopted. A new Ombudsman's Office commenced activities in 2001. Perhaps most commendable is the introduction, since 1997, of Romani advisors and assistants in schools and the civil service, creating an interface between Roma and non-Roma, making Roma more visible in public administration, and providing employment opportunities for Roma.

¹ Governmental Resolution No. 686, of 29 October 1997. "Report on the situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in Society." (Known as the "Bratinka report" after Minister without Portfolio Pavel Bratinka.)

² Decree of the Government of the Czech Republic No. 599 of 14 June 2000 concerning the Concept of the government policy towards the members of the Romany community, supporting their integration into society (hereafter "Concept 2000").

Despite this impressive list, there are few indications that conditions on the ground for the 200,000 or so Roma living in the Czech Republic³ are improving significantly. In the absence of official ethnic statistics, reports from NGOs, Roma organisations, and government advisory bodies all indicate a continuation of discrimination against Roma. In July 2001, the UN Human Rights Committee (HRC) remained “deeply concerned about discrimination against minorities, particularly the Roma.”⁴ Widely documented “de facto segregation in the areas of housing and education” remains the norm.⁵ Violent attacks against Roma continue at an alarming rate. Some public officials continue to voice anti-Roma sentiments. A range of goods and services remain effectively off-bounds to Roma. And, significantly, Roma victims of discrimination rarely obtain adequate redress in court or other public bodies.

A number of factors contribute to this state of affairs, including an insufficient legislative framework, weak oversight mechanisms, and inadequate follow through on programs.

Anti-discrimination legislation in the Czech Republic remains inadequate, falling far short of the requirements of the EU Race Equality Directive.⁶ Legal provisions prohibiting racial violence have yet to prove their worth, as courts generally do not recognise racial motivation in violent crime.⁷ A 2000 amendment addressing access to secondary education has yet to alter the relegation of a majority of Roma into special schools, or significantly to improve educational opportunities for special school graduates. The Concept proposes measures to improve conditions at special schools, an option that is unlikely to eliminate systematic segregation. No legislative amendments addressing access to housing are envisioned: the Concept calls for research into existing conditions and continued construction of cheap housing for Roma. It does not directly address discrimination by municipal authorities, which is a contributing factor in the widening gulf in housing conditions between Roma and non-Roma.

In addition, the government has to date resisted the introduction of independent institutions, as recommended by its primary advisory bodies, the Inter-ministerial Committee

³ For more on the demographics of the Roma population, see Appendix A.

⁴ UN Human Rights Committee, Press Release, Issues Final Conclusions and Recommendations, HR/CT/01/19, 27 July 2001. (Hereafter “UN HRC, July 2001”).

⁵ *Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic*, 01/05/2001. CERD/C/304/Add.109. (hereafter, *Concluding Observations/Comments*), 21 May 2001, para. 10.

⁶ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁷ The Concept includes the directive to “prepar[e] interactive seminars for selected judges and prosecutors, concerning the issue of dealing with the approach to racially motivated criminal acts.” Concept 2000, para. 1(b). Deadline: 31 August 2000. By 31 December 2000, this has been “partially fulfilled”.

for Roma Community Affairs (IMC) and the Commissioner for Human Rights.⁸ The IMC itself remains under-funded and unable to oblige ministries to fulfil their obligations in the field of minority protection. It is becoming clear that a six-month “Tolerance” publicity campaign, which ended in mid-2000, has not altered entrenched negative public attitudes toward Roma. To the contrary, recent polls show racist attitudes and membership of racist organisations both on the increase. Finally, the government has yet to carry out numerous tasks which its own official bodies have repeatedly identified as essential to improve the condition of Roma.

The Czech Republic’s Accession Partnership calls on the government to “implement actions contained in the Government Resolution of 7 October on Roma” – apparently a reference to the “Bratinka report” – which was judged to have “mostly been fulfilled” by the Commission in 1999.⁹ However, according to an evaluation submitted to the government on 31 December 2000, many tasks dating back almost four years remain far from complete.¹⁰ Most measures included in the “tasks for eight ministries” outlined in 1999 have not been adequately monitored.¹¹ The government’s commitment to enact effective measures aimed at fighting discrimination, including within the public administration, has yet to show results.¹²

Thus, despite clear government recognition of racism and discrimination, the short-term priorities of the Czech Republic’s Accession Partnership with the EU still remain, as noted in November 2000 by the Commission,¹³ insufficiently fulfilled.¹⁴ The impact

⁸ Concept 2000, Part IV, consisting of “A Report of the Government Commissioner for Human Rights on the Current Situation of Romany Communities”, 14 June 2000. (Hereafter “Commissioner Report 2000”).

⁹ *1999 Regular Report from the Commission on the Czech Republic’s Progress Towards Accession*, 1999, p. 17; *2000 Regular Report from the Commission on the Czech Republic’s Progress Towards Accession*, November 2000, p.16, (hereafter *2000 Regular Report*), <http://europa.eu.int/comm/enlargement/dwn/report_10_99/en/word/czech.doc> (accessed 16 August 2001).

¹⁰ By 31 December 2000, 15 of 39 listed tasks from the Bratinka report had not been fulfilled, and many more are listed as “partially fulfilled.” “Information on the fulfilment of the Government resolution concerning the integration of Roma communities and active strategy of the state administration in fulfilling the tasks adopted in those Resolutions to December 31, 2000”, Document No. 3625/00-LRV, presented by the Deputy Prime Minister, Ministry for Justice, Chair of the Council of Legislation, pp. 3–7 (hereafter “Government Evaluation 2000”).

¹¹ Government Evaluation 2000, pp. 3–7.

¹² DG Enlargement, *Czech Republic: 1999 Accession Partnership*, p. 4.

¹³ *2000 Regular Report*, p. 107.

¹⁴ OSI Roundtable, Prague, 22 March 2001. *Explanatory Note: OSI held a roundtable meeting in Prague in March 2001 to invite critique of the present report in draft form. Experts present included representatives of the government, Roma representatives, and civil organisations.*

of important innovations, such as the new Ombudsman's Office and the Minorities Law, remains to be seen. The latter is, however, unlikely to benefit Roma significantly, as few Roma communities reach the necessary population threshold of ten percent to take advantage of many of the Law's provisions.

II. Background

The Roma in the Czech Republic face entrenched prejudice, frequently expressing itself in vicious displays of violence – a phenomenon referred to as “the tip of the iceberg” by the Commissioner for Human Rights.¹⁵

The break-up of Czechoslovakia in 1993 had a double negative impact on Roma in the Czech Republic. First, strong Romani presence in post-Communist Czechoslovakia, with seven representatives in the first parliament, came to an end in 1992–93 and has not since been re-established. As one Roma leader commented, “the end of Czechoslovakia was also an end of Romani policy formation and Romani politics.”¹⁶

Second, and crucially, many thousands of Roma residents in the new Czech Republic became non-citizens immediately after the split. The great majority of Czech Roma had Slovak nationality, and did not automatically qualify for citizenship according to the 1993 Citizenship Law.¹⁷ In marked contrast to the Slovak citizenship law, which offered all persons who were Czechoslovak citizens as of 31 December 1992, the right to choose Slovak citizenship, the Czech law distinguishes 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. A disproportionate number of Roma could not satisfy these requirements. Amendments in 1996 and 1999 eliminated the worst obstacles to gaining citizenship,¹⁸ but by then, in the words of a UNHCR representative, “the road to hell had begun” for Czech Roma.¹⁹ The policy reduced Roma to a subclass and seemed designed to force them from the country. In addition, according to the Commissioner, “Romany [...] became, after the divorce from Slovakia, ‘the others’ [...] towards whom the projections of people’s disappointment and the uncertainties of the majority population were directed.”²⁰

¹⁵ Commissioner Report 2000, para. 8.1. Council of Europe, European Commission against Racism and Intolerance, Second Report on the Czech Republic, 2000, CRI (2000) 4, Executive Summary, p. 4: “The widespread lack of communication between, on the one side, the authorities and the majority population and, on the other, the members of the Roma/Gypsy community is an important issue of concern.”

¹⁶ Information from the Chair of the Association of Roma in Moravia, Brno, September 2000.

¹⁷ Law No. 40/ 1993 of the Coll. on Acquiring and Losing Citizenship of the Czech Republic. See CRI (2000) 4, paras. 4–6.

¹⁸ Law No. 159/ 1999 Coll., amending Law No. 40/ 1993 Coll. See also CRI (2000) 4, para. 5.

¹⁹ OSI Roundtable, Prague, 22 March 2001.

²⁰ Commissioner Report 2000, para. 8.10.

By 1997, the virtual absence of income and influence resulting from lack of access to citizenship, combined with escalating racist violence,²¹ reached crisis proportions, and a wave of Roma sought asylum in Canada, the United Kingdom, and several other countries.²² The high tide of asylum applications in July/August 1997 coincided with the release of the European Commission's Opinion, criticising Czech policy towards Roma,²³ which thus appears to have exerted influence on government policy.²⁴ In October 1997, the government adopted the "Bratinka Report" – the first systematic effort to analyse conditions for Roma, recognising the pervasiveness of discrimination, and recommending concrete measures to tackle this problem. Four years later, a number of the proposals in the Resolution remain unimplemented.

In July 2001, the UK placed consular officials in Ruzyně airport in Prague to screen travellers to Britain for potential asylum seekers. Czech Roma organisations attacked the racial basis of screening, and, despite protests by British officials to the contrary, a test conducted by Czech reporters appears to bear out these accusations.²⁵ Prime Minister Milos Zeman commented that the airport checks were a "sensible step" that could be implemented at "small expense."²⁶ Other Czech officials were less positive. The Cultural Minister stated his conviction that "skin colour is of major importance" in the decisions by British authorities about whether certain Czech citizens should travel.²⁷ President Havel went further, claiming that if the principles of human rights and data protection were violated, "the procedure would be no longer acceptable."²⁸ The only comment of a European Commission representative in the Czech Republic was that the Commission had little to say, as the checks involved sovereign states.

²¹ The Czech Police reported 779 racially motivated crimes for the period 1996–1997. Bratinka Report, Appendix 2, Section E, p. 112.

²² Applications for asylum in Canada leaped to 1,230 in 1997 from 144 in 1996. Information from the Canadian Immigration Board, 16 July 2001. By July 2001, a total of 6,000–8,000 Czech Roma had reportedly applied for asylum elsewhere. Interview with IMC member, Prague, July 2001. See also *Radio Prague*, "The Exodus of Czech Roma to Canada" 1997, <<http://www.radio.cz/romove/canada.html>> (accessed 11 July 2001); *Lidove Noviny*, 13 August 1997.

²³ Agenda 2000 – Czech Republic, *Opinion of the Czech Republic's Application for Membership of the European Union*, July 1997: noting *inter alia* that "[Roma] are the target of numerous forms of discrimination in their daily lives and suffer particular violence from skinheads, without adequate protection from the authorities or the police." para. B.1.2

²⁴ Information from the Chair of the Association of Roma in Moravia, Brno, September, 2000. See also D. Chirico, "Long. Hot Czech summer," in ERRRC, *Roma Rights*, Autumn 1997, pp. 35–40.

²⁵ "Airport Colour Bar", *The Guardian*, 30 July 2001.

²⁶ Transitions Online, "Czech Republic: Don't get on that Plane", 24 July 2001.

²⁷ RFE-RL Newline, "Czech Minister: British Checks Discriminatory", 27 July 2001.

²⁸ BBC, "Havel joins attack on UK asylum checks", 1 August 2001.

By the time the checks were halted, in early August 2001, approximately 120 persons, “almost all of whom were Roma”, had been stopped from boarding aircraft to the UK.²⁹

In recent years, numerous observers have drawn attention to continuing high levels of intolerance in Czech public life.³⁰ The government notes that “many policemen – like quite a substantial portion of the general public – perceive Romanies as a criminal subculture, whose members are *a priori* to be distrusted.”³¹ The Commissioner refers to “public opinion polls, according to which this xenophobia and intolerance as a whole is certainly not falling, but remaining significantly higher than in countries of the European Union towards which the Czech Republic is heading. Intolerance towards the Romany in particular remains, despite a partial decline, a distinctly major characteristic of the Czech population.”³²

This is the background to the extreme racist manifestations that have become commonplace in the Czech Republic since 1989. From 1989–1999, there were 13 racially motivated killings in the Czech Republic, and the level of racial assaults has been steady at 150–300 per year.³³ These are generally perpetrated by white supremacist skinheads, whose activities range from public rallies, marked by anti-Semitic and anti-Romani proclamations to arbitrary violent assaults on members of ethnic minorities.³⁴ In 2000, membership of such groups grew by about 25 percent to approximately 6,200, according to the Interior Ministry; “extremist” crimes directed against Roma and others increased by 15 percent in 2000.³⁵

On the very day the Ministry’s results were released, 16 July 2001, two more racist attacks on Roma were reported, in one of which, “a man was hospitalised with serious

²⁹ RFE-RL Newsline, “Czech Roma Meet with EC Representative,” 7 August 2001.

³⁰ See, *inter alia*, CRI (2000) 4; CERD/C/304/Add.109, May 2001; European Roma Rights Center, *Written Comments of the European Roma Rights Center Concerning the Czech Republic, For Consideration by the United Nations Human Rights Committee at its 72nd Session, July 11–12, 2001* (hereafter “ERRC HRC submission 2000”); European Roma Rights Center, *Racial Discrimination and Violence against Roma in Europe Statement submitted by the European Roma Rights Center for consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 57th Session, on the occasion of its Thematic Discussion on Roma, August 15–16, 2000* (“ERRC CERD submission 2000”); US State Dept. 1999.

³¹ Concept 2000, para. 8.5.

³² Commissioner Report 2000, para. 8.8.

³³ Commissioner Report 2000, para. 8.1.

³⁴ 1999 Report on the state of Human Rights in the Czech Republic. Section 9.2.5.

³⁵ Radio Prague, “Interior Ministry: rise in support for extremist groups”, 16 July 2001.

injuries after being stabbed repeatedly by four skinhead youths.”³⁶ Since then, on 21 July 2001, a Romani man was stabbed and killed by a skinhead shouting racist epithets in a bar in Svitavy, East Bohemia.³⁷ Thus it is hardly surprising that, according to a recent poll, 46 percent of Czech Roma live in fear and one in four is contemplating seeking asylum elsewhere.³⁸

Ultra-nationalist politics are also alive in the Czech republic, the prime example being the Republican Party of Czechoslovakia (SPR – RSC), which maintains an open relationship with the skinhead movement.³⁹ The party’s weekly publication, *Republika*, has printed racist epitaphs against Roma consistently since 1992.⁴⁰ A 1999 opinion piece proclaimed: “we must remember Gypsies are not the original inhabitants of our country: they came from India, invited and welcomed by no one.”⁴¹ In 2000 a party deputy allegedly told the *Romano Hangos* newspaper office that the party would contribute to a paid trip to Auschwitz for Romani children.⁴²

In 2001, the UN CERD registered concern that “some organisations, including political parties, promoting racial hatred and superiority are hidden behind legally registered civic associations whose members are promoting xenophobia and racism.”⁴³ The government states that the number of such organisations, both registered and not, increased by 40 percent from 1997 to 1998, especially in those areas with a high

³⁶ Radio Prague, “Further racist attacks on Roma”, 16 July 2001.

³⁷ RFE-RL Newline, “Czech Rom Killed in Racist Attack”, 24 July 2001.

³⁸ RFE-RL Newline, “Czech Romany Population Lives in Fear”, 8 August 2001, citing a poll conducted by *Mladá Fronta Dnes*.

³⁹ J. Unger, P. Kolar, T. Buzek, “Allies of Skins are Republicans”, *Mlada Fronta Dnes*, 9 September 2000, p.4; See also *Lidove Noviny*, 7 September 2000. A series of photographs of Tomas Kebza, chair of the party’s affiliated “Republican Youth”, together with members of the Neo-nazi organisation “National Resistance” were published in the Czech press. Kebza was immediately suspended from his job.

⁴⁰ In 1997 the editor of *Republika*, Josef Krejsa, compared Roma to garbage that has to be burned or recycled, and explicitly suggested that Roma should be exterminated. Sabina Slonkova “Policie chce stíhat Krejsu za jeho casopis Republika” (“Police want to prosecute Krejsa for his magazine *Republika*”) *Mlada Fronta Dnes* 1997, p. 1. In the 1998 parliamentary electoral campaign SPR – RSC used a billboard poster containing the slogan “Republicans reject favouring Gypsies”. A criminal investigation triggered by NGO complainants was halted by the police, who deemed the poster to be a call for equality. *Mlada Fronta Dnes*, “Campaign provoked protests of Roma activists”, 5 May 1998.

⁴¹ *Republika*, 1999. For a list of instances of hate speech in articles published in 1999. See Ministry of the Interior, Report on the Issue of Extremism in the Czech Republic in 1999, 2000, <<http://www.mvcr.cz/extremis/1999/angl/index.html>> (accessed 6 June 2001).

⁴² Information from K. D., journalist for *Romani Hangos* journalist, Brno, October 2000.

⁴³ CERD/C/304/Add.109, May 2001, para. 11.

density of Roma inhabitants and incidence of racially motivated crimes.⁴⁴ Elsewhere the government comments that “extremist doctrines have spread especially by means of illegally printed publications – about 50 titles are known in the Czech Republic. In these publications racist, fascist and neo-Nazi texts are being uninhibitedly published.”⁴⁵

Racist messages and propaganda are spread through underground publications and “fanzines,”⁴⁶ and are currently proliferating through electronic media.⁴⁷ At the end of February 2000, a computer game appeared was posted on the internet, viciously caricaturing the Usti nad Labem wall incident (see below under “housing”). The goal of the game is to “fight for the rights of the white race,” by shooting at non-white figures attempting to dismantle a wall: the game proclaims “shoot first, ask questions later” and “the only good gypsy is a dead gypsy.”⁴⁸ On 4 September 2000, an SMS message flooded users of the Eurotel mobile phone network, purporting to offer free network access for each Roma killed.⁴⁹

In 1999–2000, a ten million CZK (€ 295,680) government-initiated anti-racism campaign, “Tolerance”,⁵⁰ promoted multiculturalism through advertisements, training programs and campaigns in schools.⁵¹ The project lasted six months and was tentatively evaluated as a success by the government.⁵² However, two indicators in July 2001 show that all is far from well. First, a recent poll concluded that tolerance for extremism is actually increasing in the Czech Republic – skinheads are considered “beneficial” to society by nine percent, compared with six percent in 2000 and four percent in 1999; the number who consider skinheads “harmful” meanwhile dropped, from 86 percent in 2000 to 78 percent in 2001.⁵³

⁴⁴ Ministry of Interior of the Czech Republic, Security Police Section, *Report on the Issue of Extremism in the Czech Republic in 1998, 1999*, pp. 1–8.

⁴⁵ Ministry of Interior of the Czech Republic, *Report on State Strategy in Punishing Criminal Offences Motivated by Racism and Xenophobia or Committed by Supporters of Extremist Groups*, 1998, para. 3.2.2. (hereafter “Government Extremism Report 1998”).

⁴⁶ CRI (2000) 4, para. 29.

⁴⁷ The US State Department reports a failure to prosecute racist declarations distributed on the Internet. 1999 Report on the State of Human Rights in the Czech Republic, para. 9.2.7.

⁴⁸ *Lidove Noviny*, “Na internetu se siri hra: Zastrel si sveho Cikana” (“A game is spreading over the internet: Shoot your own Gypsy”), 25 February 2000.

⁴⁹ See Romano Hangos, 2000, No. 13, year 2.

⁵⁰ Resolution No. 34/1999 of 11 January 1999.

⁵¹ Concept 2000, para. 8.12.

⁵² Information from IMC member, Budapest, July 2001.

⁵³ RFE-RL Newline Vol. 5, No. 128, Part II, 10 July 2001, citing CVVM institute poll.

Second, preliminary results of the 2001 census show only 11,716 Roma admitting their ethnic identity, one third of the number who declared Roma ethnicity a decade earlier and fewer than 10 percent of the “true number” of Roma in the Czech Republic.⁵⁴ This result comes despite a one million CZK (c. € 29,500) government campaign to encourage Roma self-declaration, through funding Romani assistants to the census takers in Roma inhabited areas. According to one sociologist, the results “reflect the negative attitude by Czech society toward the Romany minority and the confrontations that Roma face from skinheads and other nationalists.”⁵⁵

Clearly, the call in the last Regular Report for “further efforts [...] in particular to combat anti-Roma prejudice and to strengthen the protection provided by the police and the courts” remains valid today.⁵⁶

⁵⁴ Radio Prague, “Ever less citizens consider themselves members of Roma community”, 5 July 2001.

⁵⁵ Ivan Gabal, cited in RFE-RL Newline, “Czech Roma hide National Identity in 2001 Census”, 9 July 2001, citing CTK, 4 July 2001.

⁵⁶ *2000 Regular Report*, p. 26.

III. Minority Protection: Law and Practice

The Czech legal framework prohibiting racial discrimination is inadequate, a fact noted by numerous observers including the government.⁵⁷ Racial violence directed against Roma remains an acute problem in the Czech Republic, but adequate laws in this area are not yet applied consistently. A newly adopted Minorities Law finally offers a framework for Roma rights in education and language use. Its application in practice remains to be seen. The Czech Republic has ratified the major international treaties addressing discrimination and minority rights,⁵⁸ and the Constitution gives human rights treaties precedence over domestic law.⁵⁹ However, judges have proven slow to draw on international legal provisions in relevant cases, such as those addressing segregation in education. A 1991 “Charter of Fundamental Rights and Freedoms” (the “Charter”), providing basic human rights declarations, is incorporated into the Constitutional Order.⁶⁰

A. Protection from Discrimination

Numerous provisions of the EU Race Equality Directive have yet to be transposed into Czech law.⁶¹ The Commissioner notes that “specific guarantees against racial discrimination in individual areas of life, especially in the social sphere [...] in housing policy, in health, the prison service, the army, etc., are missing from the legal code.”⁶²

⁵⁷ “To prosecute discrimination in services is difficult, as the restriction of rights and freedoms alone [...] is not punishable by law. Also missing is legal regulation laying down sanctions for discrimination in the educational and health systems, in employment, in social care, penitentiaries, and other spheres of life.” United Nations Human Rights Committee, *Initial report of the Czech Republic on the implementation of the International Covenant on Civil and Political Rights for the period 1993–1999*, CCPR/C/CZE/2000/1, 4 May 2000, para. 393. (Hereafter “Government ICCPR Report 2000”).

⁵⁸ See Appendix A to Overview Report. The Czech Republic also ratified the UNESCO Convention Against Discrimination in Education on 14 December 1962. Bilateral treaties with Poland, Slovakia and Germany protect relevant minority populations, not including the Roma minority – these are respectively Law No. 416/1992 Coll; Law No. 235/1993 Coll; Law No. 521/1992 Coll.

⁵⁹ Constitution of the Czech Republic, Law No. 1/1993, Art. 10.

⁶⁰ Law No. 23/ 1991 Coll. introduces the Charter of Fundamental Rights and Freedoms as a constitutional law of the Czech and Slovak Federative Republic (hereafter, the “Charter”). The Constitution incorporates the Charter into the “Constitutional Order” through Law No. 2/1993, Art. 3.

⁶¹ *2000 Regular Report*, p. 69: “Legislation transposing the EC Directive based on Art. 13 of the Treaty relative to discrimination on the grounds of race or ethnic origin will have to be introduced and implemented.”

⁶² Commissioner Report 2000, 2.1.2. He adds, “except for the consumer law and employment law, the legal code does not contain administrative sanctions concerning racial discrimination.”

International monitors concur. The UN Committee on the Elimination of Racial Discrimination (CERD) recently “reiterate[d] its concern at the lack of criminal, civil or administrative law provisions expressly outlawing racial discrimination in education, health care, social care, the penitentiary system, as well as in the private sphere.”⁶³ A Council of Europe body (ECRI) goes further: “given that discrimination against Roma/Gypsies especially is reported to be pervasive in virtually all spheres of life, ECRI urges the authorities urgently to consider the establishment of a comprehensive anti-discrimination law which would cover all fields of life.”

Currently, broad protection of equal rights is guaranteed to “everyone [...] without regard to [...] race, colour [...] national or social origin” in the Charter (Art. 3(1)). Article 24 states that “the national or ethnic identity of any individual shall not be used to his or her detriment.” Besides these declarations, discrimination is specifically prohibited only in laws on consumer protection and, recently, employment (see below). Otherwise, a number of laws contain clauses guaranteeing equal treatment, without specifying discrimination or providing legal sanctions or remedies.⁶⁴ As yet, there is no definition of discrimination, either direct or indirect and no provisions allow for reversal of the burden of proof, as required by the Directive. An EU-funded expert from the UK has recently joined the government to advise *inter alia* in the analysis of existing Czech anti-discrimination legislation.⁶⁵

To date, however, it is not clear that moves to improve the legislative framework are under serious consideration. Proposed measures addressing discrimination have been rejected by the Cabinet or, if adopted, diluted in Parliament. Prominent officials charge that legislative amendments have been repeatedly delayed despite widespread recognition of the insufficiency of current laws.⁶⁶ A 1999 resolution tasked eight ministries with “creating conditions” to “restrict racial (or other) discrimination” including legislative amendments,⁶⁷ but draft criminal legislation submitted to Parliament in December

⁶³ CERD/C/304/Add.109, 2001, para. 13. The report continues: “The Committee recommends that the State party undertake legislative reform to safeguard the enjoyment, without any form of discrimination, by all segments of the population, of the economic, social and cultural rights listed in article 5 of the Convention. It further recommends that such reform should include the provision of adequate reparation for victims of racial discrimination.”

⁶⁴ These include the Civil Code and Code of Civil Procedure; the Administrative Code; the Law on Associations; the Law on Court and Judges; the Advertising Law; and the Radio and Television Broadcasting Law.

⁶⁵ OSI Roundtable, Prague, 22 March 2001.

⁶⁶ OSI Roundtable, Prague, 22 March 2001.

⁶⁷ Government Resolution No. 279/1999.

2000 did not include provisions of this kind.⁶⁸ The June 2000 Concept restates these goals, with the emphasis shifted to “analysis of the legal code.”⁶⁹ The recently adopted Law on Minorities envisages an amendment to the Law on Misdemeanours to incorporate a definition of discrimination in line with the Race Equality Directive.⁷⁰ The Law itself does not contain anti-discrimination measures.

Existing anti-discrimination legislation has rarely been implemented in the Czech Republic. The Commissioner reports no known successful cases in the field where the law is most precise – employment.⁷¹ A number of factors impede the application of anti-discrimination legislation. First, there is a *de facto* prohibition on the collection of ethnic data in fields where discrimination is rife, such as education and employment, as a result of the so-called “civic principle.” The principle originates in an interpretation of Article 3(2) of the Charter as a prohibition on the collection of ethnic statistics: “everybody has the right to a free choice of his or her nationality. Any form of influencing this choice is prohibited.”⁷² Although collection of ethnic statistics is not illegal, once appropriate safeguards to privacy are taken, this article has been invoked by authorities to explain the absence of such statistics.

Second, “the Czech state authorities are unable even to safeguard the observance of current laws.”⁷³ This is partly due to the absence of specific enforcing bodies. The mandate of the Inspectorate of Czech Business, for example, is far wider than its obligation to examine complaints of discrimination in the provision of services. However, discrimination can only be proven through inspections specifically conducted by this body. Finally, there is widespread ignorance of rights among Roma and others likely to be victims of discrimination. Thus, “achieving redress through the legal system in civil cases is virtually impossible for citizens without legal education and financial backing.”⁷⁴

⁶⁸ Government Evaluation 2000, p. 62.

⁶⁹ Concept 2000, para. 2. “After the Ministers of Justice and of the Interior, in cooperation with the Government Commissioner, submit an analysis of the legal code concerning discrimination and integration [deadline 31 December 2001], relevant ministers will prepare necessary legislative changes [no deadline].”

⁷⁰ Law on Minorities, para. 14(1e). The reference is to acts “caus[ing] harm on grounds of affiliation to a national minority, ethnic origin, race, colour of skin [...]” Unofficial translation.

⁷¹ Commissioner Report 2000, 2.1.5.

⁷² This interpretation is also applied to the Law on the Protection of Personal Data in Information Systems, which appropriately considers ethnic data “sensitive” but does not in fact disqualify all possible uses of such data.

⁷³ Commissioner Report 2000, 2.1.7.

⁷⁴ Commissioner Report 2000, 2.1.2.

1. *Education*

The educational system of the Czech Republic remains alarmingly biased against Roma; Roma students are segregated and treated as intellectually deficient. Numerous accounts attest to the prejudice faced by Romani children in schools, including stereotyping by teachers and school administrators, bullying and exclusion from their non-Roma classmates and non-Romani parents.⁷⁵ By far the most urgent problem, however, is the quasi-automatic channelling of Roma students into special schools for “physically and mentally handicapped pupils.”⁷⁶ Despite calls from numerous international and domestic organisations, the Czech government has thus far failed to address the root causes of this problem, and has not introduced adequate legislative or other means to tackle it.

Legal Provisions

No provisions against discrimination in access to education exist in Czech legislation, despite the declaration in the Charter that “[e]veryone has the right to education. [...] Citizens have the right to free education at elementary and secondary schools, and depending on the citizen’s ability and the potential of society, also at university-level.”⁷⁷

Special Schools

According to the government, up to 75 percent of Roma children receive primary education at special schools, where Roma constitute more than half of pupils.⁷⁸ In the city of Ostrava, Roma outnumber non-Roma in special schools by a factor of more than twenty-seven to one, according to research conducted by the European Roma Rights Center (ERRC) in 1998/99.⁷⁹ Although Roma represent fewer than five percent of all primary school-age students in Ostrava, they constitute 50 percent of the special school population.⁸⁰ As recently as July 2001, the UN HRC claimed to be “deeply

⁷⁵ ERRC CERD submission 2000, p. 32; C. Cahn, D. Chirico, C. McDonald, V. Mohacsi, T. Peric, A. Szekeley, “Roma in the education systems of central and eastern Europe,” *Roma Rights*, Summer 1998, p. 31. V. Lavicka, “How young Roma live,” *Roma Rights*, p. 47 Information from primary school teacher, Brno, September, 2000.

⁷⁶ Law No. 29/1984 of the Coll., Law on the System of Elementary Schools, Secondary Schools and Post-secondary Optional Schools, as amended, Art. 28.

⁷⁷ Charter of Fundamental Rights and Freedoms, Art. 33 (1); (2).

⁷⁸ Commissioner Report 2000, 6.10. See also ERRC CERD submission 2000, p. 31; ERRC, *A Special Remedy: Roma and Schools for Mentally Handicapped in the Czech Republic*, European Roma Rights Center, 1999 (“ERRC 1999”), p. 16; Save the Children, *Denied a Future*, (forthcoming publication).

⁷⁹ C. Cahn, “ERRC hosts family meeting in Ostrava, Czech Republic,” *Roma Rights*, Summer 1998, pp. 67–68; See also ERRC CERD submission 2000.

⁸⁰ ERRC, *Roma Rights*, Summer 1998, pp. 67–68.

concerned... [about] the disproportionate number of Roma children who were assigned to special schools designed for mentally disabled children.”⁸¹

The system institutionalises racial segregation, not only through systematic discrimination on the basis of ethnic origin, but also by stigmatising Roma pupils, discouraging them from attending educational institutions generally, and ultimately hindering further education, skilled work and participation in mainstream society. The practice was condemned in 2001 by CERD,⁸² and in 2000 by ECRI.⁸³

The framework which channels Roma children into schools for the handicapped has been well documented. First, in assessing special school placements, “the evaluation process is highly discretionary – allowing large scope for the influence of racial biases.”⁸⁴ At the request of schools or others,⁸⁵ children are tested for placement by psychologists, following whose approval, parental consent is then sought. ERRC research shows conclusively that psychologists’ opinions cannot be effectively challenged; that parents are frequently “blustered” into accepting the school’s arrangement; and that Roma far outnumber non-Roma at the testing stage.⁸⁶

Second testing methods are perceived to be culturally biased, making no concessions to the differing background, and even language, of non-ethnic Czechs.⁸⁷ The recognised bias of IQ tests is here compounded by the use of linguistic concepts that are unusual

⁸¹ UN HRC, July 2001.

⁸² *Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic*, 1 May 2001, CERD/C/304/Add.109, para. 10: “In particular, concern is expressed at measures taken by some local authorities leading to segregation and at the practice of school segregation by which many Roma children are placed in special schools, offering them lesser opportunities for further study or employment.”

⁸³ CRI (2000) 4, para. 33: “Most Roma/Gypsy children are consequently relegated to educational facilities designed for other purposes, offering little opportunity for skills training or educational preparation and therefore very limited opportunity for further study or employment.”

⁸⁴ OSCE, High Commissioner on National Minorities, *Report on the situation of Roma and Sinti in the OSCE area*, 2000 (“OSCE 2000”), p. 78.

⁸⁵ According to the 1997 Special Schools Decree, Article 7(2), the placement can be recommended by “the pupil’s legal guardian, the school already attended by the pupil, an educational psychologists’ center, a health establishment, an organ for family and child care, an education center or a diagnostic institute of social care for mentally-handicapped youth.”

⁸⁶ ERRC 1999, pp. 25–29. “The educational psychologists’ centre in the northern Bohemian town of Most reported to the ERRC that approximately 39 percent of the children recommended to their centre for evaluation during the 1997/1998 school year were Romani”, p. 28.

⁸⁷ OSCE 2000, p. 78.

or absent among Roma.⁸⁸ In addition, there is no standard test – the choice is entirely at the tester’s discretion. One study found 12 different tests in use in 63 testing centres.⁸⁹

The ERRC assisted a group of Romani parents in challenging racial segregation of Roma in special schools in Ostrava in June 1999. The case was rejected by the Constitutional Court of the Czech Republic in a decision of 20 October 1999, which acknowledged the “persuasiveness” of the arguments, but rejected the complaint, ruling that it had no authority to consider evidence demonstrating a pattern of racial discrimination either in Ostrava or the Czech Republic. The Court “effectively refused to apply applicable international legal standards for proving racial discrimination.”⁹⁰ On 18 April 2000, eighteen Romani children from Ostrava filed an application with the European Court of Human Rights in Strasbourg.

Government Measures

Steps to address the prevalence of Roma students in special schools have been insufficient to date. Actions so far have been largely cosmetic, and proposed initiatives fail to address the demonstrable discriminatory practices that lead to racial segregation in the first place.

Amendments of January 2000 to the Law on Schools lifted a restriction disallowing special schools’ graduates from applying to secondary school.⁹¹ In practice, as pointed out by one NGO, this changes little as “[t]he education provided in special school system is far from satisfactory to prepare children for successful education in a higher school system.”⁹² While welcoming the move, CERD nevertheless called on the Czech government to “undertake effective measures to eradicate promptly practices of racial segregation, including the placement of a disproportionate number of Roma children in special schools.”⁹³

⁸⁸ ERRC CERD submission 2000, pp. 30–31.

⁸⁹ D. Jiri, H. Palatova, “Results from research on the use of psychological tests in pedagogical psychological advice centres”, in *Vychovne poradenstvi*, No. 16, August, 1998, p.31. Cited in ERRC 1999, p. 32.

⁹⁰ ERRC Press release “Strasbourg Application by Roma Challenges Racial Segregation in Czech Schools”, 18 April 2000, <http://errc.org/publications/letters/2000/cz_april_18_2000.shtml> (accessed 11 July 2001).

⁹¹ Law no 19/2000 Coll. amending Law on Schools no. 29/1984, Art. 19, Section 1 of the School Act. The amend-ment was initiated by Romani MP Monika Horakova. See Concept 2000. Part II. p. 22.

⁹² See Counselling Centre for Citizenship/Civil and Human Rights, *Comments on the Report on the Czech Republic on Performance of the Obligation Arising from the Convention on the Elimination of All Forms of Racial Discrimination*, 2000 (“CCC/CHR 2000”), <http://www.pili.org/library/brief_bank/comments_to_the_czech_report.htm> (accessed 30 June 2001).

⁹³ CERD/C/304/Add.109, para. 10.

The 2000 Concept does not evaluate the problem in terms of racial segregation and does not offer legis-lative proposals to tackle this issue.⁹⁴ Instead the Concept outlines the possibility of transforming special schools into standard elementary schools, and sees increased “preparatory classes”, with the help of Romani assistants, as “the most effective way for a gradual decrease in the number of special schools.”⁹⁵ It is not clear in the Program how educational levels in special schools will rise to achieve the proposed “transformation”, given that preparatory classes are not be introduced in the special schools themselves.⁹⁶ Such a move is unlikely to diminish segregation; indeed the program refers to the need for “children from the same family [to] remain in one school”, noting that “[d]ue to the different family upbringing, Romany children have a flawed structure of concepts, deficiencies in the teaching language and in the concept of obedience.”⁹⁷

Few steps have been taken to re-examine the testing system as recently recommended by ECRI.⁹⁸ Allegedly, there are moves to standardise the tests,⁹⁹ but not to monitor their implementation, or ensure that Roma do not remain disproportionately represented. The Ministry of Education recently acted to create conditions to allow capable Roma pupils to transfer from special schools into primary schools: in 1999 thirty-seven of 140 applicants succeeded. Due to the great gap in curricula, however, transfer to standard schools of special school students at higher levels has proven practically impossible.¹⁰⁰

⁹⁴ The Ministry for Education has since recommended the introduction of a provision prohibiting racial discrimination in access to primary schools “along the lines of [recent amendment to] the Law on Employment.” I.e. Art. 1(1) of Law 167/1999, prohibiting discrimination. Government Evaluation 2000, p. 18.

⁹⁵ Concept 2000, para. 6.10; 6.11. Methodological decree, No. 25 484/2000–22, establishing preparatory classes with special pedagogical assistance, took effect on 25 December 2000. In 1999 the Ministry of Education, Youth and Sport spent 10.8 million CZK (c. € 300,000) on preparatory classes for Romani children.

⁹⁶ Concept 2000, para. 6.7: “introduction of these preparatory classes at special schools is regarded as counter-productive.” No further explanation is provided.

⁹⁷ Concept 2000, 6.11; 6.10.

⁹⁸ CRI (2000) 4, para. 33: “ECRI therefore considers that the practice of channeling Roma/Gypsy children into special schools for the mentally-retarded should be fully examined, to ensure that any testing used is fair and that the true abilities of each child are properly evaluated.”

⁹⁹ Education of members of the Roma community in the Czech Republic. 2000, unpublished IMC working paper.

¹⁰⁰ OSI Roundtable, Prague, 22 March 2001.

2. *Employment*

Unemployment among Roma is estimated at close to 70 percent, rising in some areas to 90 percent, as against a national rate of 9 percent.¹⁰¹ High levels of unemployment can be attributed partly to low levels of education, resulting largely from standard placement in special schools of Romani individuals. The situation is aggravated by discriminatory hiring practices on grounds of ethnicity, such as, for example, the retraction of jobs offered by telephone on meeting Roma interviewees in person.¹⁰² Despite clearer and more specific provisions than in other fields, no successful cases challenging discrimination in employment have yet been brought: the Commissioner recently noted that “discrimination against Romany on the labour market [...] has not been ameliorated – it remains a problem.”¹⁰³ In addition, many Roma are long-term unemployed and thus do not qualify for unemployment benefits.¹⁰⁴

Legal Provisions

The legal environment to tackle racial discrimination in employment has recently improved, but still remains deficient from the perspective of the Race Equality Directive. Racial discrimination in hiring has been prohibited since amendments to the Law on Employment were introduced in 1999.¹⁰⁵ Recent amendments to the Labour Code further prohibit discrimination within employment relationships, including in salary allocation and promotion.¹⁰⁶

However, both amendments were introduced primarily in response to EC Directives on Equal Opportunities, and are not adequate to tackle discrimination on the grounds of race. Grounds for discrimination are not defined in the Labour Code, and implementation is left to the general supervisory authority of the Ministry of Labour and Social

¹⁰¹ Bratinka Report 1997; Ministry of Employment and Social Affairs, *Seřřideni uradu prace podle miry nezamestnanosti za cerven 2001*, (“Sequence of regions by unemployment rate – June 2001”). As of early 2001, the areas with highest unemployment correlate with areas with the largest numbers of Roma, particularly: Most (21.7 percent), Karvina (18.7 percent), Těplice (17 percent), Ostrava (16.8 percent), Usti nad Labem (14.8 percent) and Jeseník (12.5 percent), <<http://www.mpsv.cz/scripts/1ssz/nezamestnanost/default.asp>> (accessed July 2001).

¹⁰² Information from Romani accountant, Brno, September 2000.

¹⁰³ Commissioner Report 2000, 2.1.10.

¹⁰⁴ CCC/CHR 2000. Art. 5(e).

¹⁰⁵ Law No. 1/1991 of the Coll., Law on Employment, as amended by Law No. 167/1999 of the Coll. Art. 1(1); 1(2).

¹⁰⁶ Law No. 65/1965 of the Coll., the Labour Code, as amended by Law No. 155/2000 of the Coll. The amendment came into effect on 1 January 2001.

Affairs together with employment agencies.¹⁰⁷ Significantly, there are no provisions to obtain an injunction against discriminatory treatment or to remedy the effects of discrimination.¹⁰⁸ Provision for reversal of the burden of proof in employment-related claims exists only with regard to discrimination on the grounds of gender.¹⁰⁹

The amended laws have not been applied in courts to date and job applicants and employees alike are generally uninformed of their rights. In the words of one NGO, “without public awareness and more extensive measures to ensure racial equality, the law [on Employment] will prove completely ineffective.”¹¹⁰

Moreover, provisions in the Law on Trades and Businesses requiring applicants to demonstrate an appropriate “moral character” leave considerable room for indirect discrimination in the granting of licenses for establishing businesses.¹¹¹ As noted above, a great number of Roma lost their Czech citizenship in the nineties, leading in many cases to minor violations of *inter alia* immigration laws. Records of such violations are sufficient to disqualify applicants from obtaining licences.¹¹²

In the absence of systematic monitoring by the government and others, the full extent of discriminatory practices cannot be effectively established.

Government Measures

Although efforts have been made by the government to address the large-scale unemployment of the Roma, few positive measures have been adopted, largely due to the perception that this would violate the “civic principle.”¹¹³ The IMC has reportedly

¹⁰⁷ Law No. 9/1991 of the Coll., the Law on Employment and Jurisdiction of Authority of the Czech Republic in the Employment Sector.

¹⁰⁸ By contrast, with regard to gender discrimination, the Law on Employment stipulates that in case of “a violation of rights and freedoms arising from equal treatment between men and women, an employee has a right to request a stop to discriminatory treatment, removal of the effects of such treatment and to receive adequate satisfaction.” Art. 7(4).

¹⁰⁹ Civil Procedure Code, Art. 133a: “In labour cases, the court considers alleged circumstances on direct or indirect discrimination on grounds of her gender as proven, unless otherwise proved in the procedure.”

¹¹⁰ CCC/CHR 2000, Art. 5(e).

¹¹¹ Law No. 455/1991 of the Coll., the Law on Trades and Business, Art. 6 (1).

¹¹² See Research Directorate Immigration and Refugee Board, *Roma in the Czech Republic: Selected Issues*, 1999.

¹¹³ OSI Roundtable, Prague, 22 March 2001.

Government Concept 2000, p. 7. See also *Information on fulfilling Resolution No. 686 from 29 October 1997 on the Report on the situation of Roma community in the Czech Republic and on contemporary situation in Roma community*, 30 April 2000, drafted by the IMC, submitted by the Ministry of Justice, pp. 28–30.

proposed special Roma employment programs to the Ministry of Industry and Trade without success.¹¹⁴ The Ministry for Agriculture alone has taken positive measures, providing for contracts with “Roma firms” – i.e. those run by Roma or where Roma make up 60 percent of the workforce.¹¹⁵

Other government schemes do not target Roma directly. A 1999 government resolution proposes measures to support the employment of “persons that are difficult to place on the job market,”¹¹⁶ by which the state refunds a part of the employee’s salary. The 2000 Concept merely calls for “continually clarifying, specifying and making public the term ‘persons with difficulties finding a job on the labour market’ – with regard to members of the Romany community.”¹¹⁷ A program entitled “Special”, proposed in 2000 by the Ministry of Industry and Trade, targets “citizens from problematic groups,” with wage subsidies to an amount of 4000 CZK (114 US\$) a month. Evaluation of the impact of these programs on Roma is severely complicated by the obstacle on compiling ethnic statistics posed by the “civic principle”.

3. *Housing and Other Goods and Services*

Housing

Housing is yet another area in which Czech Roma are victims of treatment requiring urgent action by Czech authorities.¹¹⁸ An increasing number of Roma families are vulnerable to eviction. Local authorities apply a range of discriminatory practices, ranging from arbitrary tenancy requirements disqualifying Roma applicants to the segregation of many Roma into substandard “social housing”, the construction of which has been encouraged by authorities.

Legal Provisions

No laws address discrimination in access to housing.

¹¹⁴ OSI Roundtable, Prague, 22 March 2001.

¹¹⁵ Concept 2000, part IV. Also Government Evaluation 2001, p. 57.

¹¹⁶ Governmental Resolution No. 640/1999. The formulation repeats that of an earlier Resolution No. 686/1997, further embracing “persons of Roma origin”, which led to no significant developments.

¹¹⁷ Concept 2000, para. 3(c).

¹¹⁸ The Commissioner for Human Rights describes housing as the “worst situation” for Roma. Commissioner Report 2000, para. 3.7.

Eviction Leading to Ghettoisation

The housing insecurity of many Roma in the Czech Republic today has its roots in the particular history of Czech Roma, most of whom were brought from Eastern Slovakia as cheap labour between 1950 and 1970 and housed in low quality state-owned apartments around the country.¹¹⁹ After 1989, many Roma lost both their employment and their citizenship – and thus the right to social welfare – resulting in an inability to pay municipal rents and vulnerability to eviction during the recent wave of privatisation.¹²⁰

Eviction of Roma tenants is facilitated by a number of factors. First, many Roma immigrants from Slovakia were not given valid lease agreements on taking up residence in factory-owned residences, and are now technically illegal – with no onus on owners to provide substitute housing.¹²¹ Second, following denationalisation of property, new owners, taking advantage of the poor financial situation of many Roma families, “in many cases, moved the Romany into basically worse and smaller flats,” in exchange for a “suitable payoff.”¹²² Third, municipal authorities not only do not protect Roma from eviction, they often actively contribute to the problem. In the words of the Commissioner for Human Rights: Moving often happens not only on court orders, but rather under pressure from town halls with the help of various, sometimes even unlawful, procedures which disadvantage the Romany. At the same time the office of municipal government can exploit the Romany tenant’s almost complete ignorance of the law and the universal aversion of the non-Romany population towards the Romany and their attempts to get rid of them.¹²³

The net result has been, in the words of ECRI, “ghettoisation,” as apartments in central locations are bought up and Roma are moved to the outskirts of cities, inhabiting cramped buildings or flats¹²⁴ wherein “for example, the kitchen, shower and WC are together in the corridor; there is no hot water or gas.”¹²⁵

¹¹⁹ Commissioner Report 2000, paras. 3.2; 3.3; I. Zoon, *On the Margins*, Open Society Institute, 2001, pp. 162–163.

¹²⁰ Zoon 2001, p. 163; CRI (2000) 4, para. 4; Commissioner Report para. 3.10; OSI Roundtable, Prague, 22 March 2001.

¹²¹ Zoon 2001, p. 16

¹²² Commissioner Report 2000, para. 3.8.

¹²³ Commissioner Report 2000, para. 3.10.

¹²⁴ CRI (2000) 4, para. 40: “there are large concentrations of Roma/Gypsies on the outskirts of cities, where these people often live in poor hygienic conditions, far from work and educational opportunities and where they are essentially separate from the rest of society.” According to one Romani advisor, Roma live up to six per room in flats in the town of Strakonice, South Bohemia. See “Notes of Gejza Horvath” *Romano Hangos*, No. 7, 1 June 1999, p. 4.

¹²⁵ Commissioner Report 2000, para. 3.9.

Local authorities use their considerable discretion in the allocation of municipal housing (encompassing 25 percent of the total housing stock)¹²⁶ in discriminating against Roma tenants both directly – in outright refusal to offer flats to Romani families – and indirectly.¹²⁷ The latter takes the form of apparently neutral criteria that function specifically to the disadvantage of Roma – such as requirements for employment, permanent residence, “moral credit” or a clean criminal record – encoded, in some municipalities, in a “point system” separating those worthy of flat allocation from the “undeserving.”¹²⁸

De facto segregation of Roma into ghetto-like neighbourhoods is exacerbated by the wholesale transfer of Romani families into “holobyty” – housing for evictees and people unable to pay rent. “Holobyty” are substandard flats and apartments, generally located on the outskirts of cities, often poorly served by public transportation or municipal facilities such as garbage collection.¹²⁹ They are overwhelmingly inhabited by Roma – in proportions varying from 60 percent in Tachov to 100 percent in Slany and Rakovnic.¹³⁰ Conditions are described as follows: “no gas, no warm water, and other amenities such as bathing facilities or toilets are usually available to be shared by all in the building and often for a fee.”¹³¹ Municipalities sometimes impose stringent rules, restricting or banning visitors, yet obliging access to officials at any time of the day.¹³² Despite the fact that “holobyty” were designed for low-income families, municipalities reportedly often impose high rents on residents.¹³³

Officially Sanctioned Segregation

Outright segregation was notoriously imposed in the city of Usti nad Labem in October 1999, when a reinforced concrete wall was constructed, with the aid of an eighty-

¹²⁶ Ministry for Regional Development of the Czech Republic, *Housing Policy Concept*, 4. Cited in Zoon 2001, p. 167 at endnote 65.

¹²⁷ Zoon 2001, pp. 168–169, citing “thirteen cases in which the [housing] commission unjustifiably denied a Romani applicant a municipal apartment.” (see also at endnote 77, pp. 229–230).

¹²⁸ Zoon 2001, pp. 171–175. See e.g. Rules for Renting Municipal Flats, Chomutov.

¹²⁹ Zoon 2001, pp. 177–181. In May 2000, the Deputy Mayor of Sleszka allegedly described “holobyty” as “nothing more than an apartment with a common bathroom and toilets and nothing to steal, nothing to destroy.” p. 179.

¹³⁰ Zoon 2001, p. 181.

¹³¹ CCC/CHR 2000, Art. 3.

¹³² Zoon 2001, p. 181.

¹³³ CCC/CHR 2000, Art. 3: Residents of “Mexiko” [holobyty] pay between 510 [€ 15] and 1,080 CZK [€ 32] *per person* a month, not including gas or electricity; the average state-subsidised housing in the Czech Republic is 1,400 CZK [c. € 41] *per flat* a month.”

strong police escort, to separate Roma from their “white” neighbours.¹³⁴ Despite inquiry from the UN CERD,¹³⁵ the government did not react to the municipal decision to build the wall for one year after the plans were submitted, “recommending” that the decision be reversed, and waiting six more months before acting to halt the municipality.¹³⁶ The belated action followed immediately on exhortations in the 1999 Regular Report, and appears to demonstrate the power of EU accession requirements, when properly highlighted by the Commission, to affect government conduct. The wall was torn down in November 1999, but segregation nevertheless prevailed in Usti nad Labem, as the houses of non-Romani residents were purchased by the municipality, and they moved out.¹³⁷

Authorities in Ostrava failed to treat Roma and non-Romani families even-handedly following heavy flooding in the Lower Hrusov neighbourhood in 1997. The area was condemned and declared uninhabitable. Those few Roma who were granted new flats “were often only transferred to other flats within Hrusov while non-Roma residents were transferred to housing in other parts of the city.”¹³⁸ The deputy mayor of Slezka Ostrava, refused to re-house Roma from Lower Hrusov in newly built flats in Ostrava Hermanice, claiming, “Gypsies steal chickens and fruits from the gardens,” and furthermore, “Hermanice is my neighbourhood, I live there.”¹³⁹ Almost five years after the initial floods, approximately 150 Roma families (500 people) continue to live in Hrusov, despite “inhumane conditions”.¹⁴⁰

¹³⁴ See ERRC, *Roma Rights*, Summer 1998, pp. 7–10; No. 1, 1999, pp. 7–8; No. 4, 1999, pp. 7–9; No. 2, 2000, p. 31. Also, United Nations Press Release HR/CERD/99/19, 11 March 1999. A Romani resident of Maticni Street has filed a lawsuit against the local government of Usti nad Labem claiming, *inter alia*, breach of personal dignity. Following appeal of an initial rejection of the claims on 1 February 2000, the High Court in Prague recently returned the case to the Regional Court for retrial, which subsequently dismissed the case on the grounds that the wall was “proportionate to public interest”. The ruling is to be appealed.

¹³⁵ CERD, “Decision 2(53) on the Czech Republic: Czech Republic,” A/53/18 par. IIB2, 11 August 1998.

¹³⁶ In a submission to the UN CERD, the government maintained that construction of the 65 meter long wall around an area inhabited by 150 Roma “does not suggest physical isolation much less segregation.” See CERD, *Additional Information pursuant to Committee Decision: Czech Republic*, 21 October 1999, CERD/C/384, para 3.

¹³⁷ Allegedly, one third of a government grant of ten million CZK (c. € 295,680) was spent on purchasing the houses of three non-Romani families. See ERRC, *Roma Rights*, No. 2, 2000, p. 31 Other funding has been used for social support for the local Roma, including a program for Romani children at special schools to “help them find the right lifestyle.” *Romano Hangos*, “*Penize pro Maticni byly rozdeleny*” (“Money for Maticni divided up”), Vol 2. No. 9, June 22, 2000; pp. 1–2.

¹³⁸ CCC/CHR 2000, Art. 3.

¹³⁹ See E. Sobotka, “Life under a bridge: ghettoisation of Roma in Ostrava.” *Roma Rights* No. 2, 2000, pp. 52–55; Information from NGO activist, Brno, April 2000.

¹⁴⁰ ERRC HRC submission 2001, p. 16; CCC/CHR, 2000, Art. 3.

Government Measures

To date the government has not sought to provide legal instruments for combating discrimination in housing, nor have measures been adopted to curtail discriminatory practices on the part of local authorities.

The report accompanying the 2000 Concept explicitly recognises housing discrimination against Roma on the part of municipal authorities.¹⁴¹ However, the resolution itself restricts action to the development of “methodological procedures for municipalities, concerning solutions [...] that would not deepen the social exclusion of these citizens, and that would not create an undesirable concentration of them.” It also calls for monitoring of “places with high concentrations of Romanies where social, housing and other problems cumulate.” The Concept further provides for the “continual development of the policy of supporting cheap housing for families from disadvantaged socio-cultural backgrounds” and construction of “rental flats and technical infrastructure, and housing projects for Romanies,” with the participation of Romani labourers, preferably “the future users of the flats.”¹⁴² Previous support for the reconstruction of flats in several Czech cities employing Roma construction firms and builders has reportedly been successful.¹⁴³

Notwithstanding these good intentions, government financing for Roma housing projects has been delayed. Thus, both a 1999 decision to support a project in the city of Ostrava entitled “Village Co-existence”¹⁴⁴ and a more recent project benefiting from a Council of Europe Development Bank loan, have yet to be implemented.¹⁴⁵

*Other Goods and Services**Legal Provisions*

Discrimination in access to goods and services is prohibited by the Law on Consumer Protection,¹⁴⁶ which states that “when selling products or providing services, the seller may not [...] in any way discriminate against the consumer” (Art. 6). In practice, although

¹⁴¹ Commissioner Report 2000, 3.7–3.11 (Concept 2000, part IV).

¹⁴² Concept 2000, para. 4(a),(d).

¹⁴³ Government Evaluation 2001, pp. 64–65. Two sets of flats were reconstructed in Valasske Mezirici and Staskov–Vodochody, and both are now reportedly inhabited.

¹⁴⁴ Government Resolution no. 978/1999. The Ministry of Regional Development was ordered to provide 16,500,000 CZK (c. € 488,072). According to an NGO involved in the project, delays are due to the discovery of possibly explosive gas deposits in the area of construction. Information from “Common Coexistence”, Ostrava, March 2001.

¹⁴⁵ Government Evaluation 2001, pp. 64–65.

¹⁴⁶ Law No. 634/1992 of the Coll., the Law on the Protection of Consumer, as Subsequently Amended.

Roma are regularly refused entry into restaurants, pubs, discotheques, and other public places, the law rarely functions to protect them.

Significantly, the Consumer Protection anti-discrimination clause does not specify what grounds are im-permissible. Application is further complicated by the fact that the body empowered to sanction trans-gressions of the law, the Inspectorate of Czech Business (ICB), can only find discrimination in the course of its own investigations – independent investigations are not considered adequate. This is problematic, according to the Commissioner for Human Rights, firstly, because the ICB’s mandate is wider and more general than protection against racial discrimination. Second, the ICB has discretion as to whether or not to investigate, following its own decisions and/or suggestions (i.e. complaints) of citizens. Third, “the majority of the aggrieved [...] do not complain of discriminatory acts, or they complain to the wrong places.”¹⁴⁷

As a result, a tiny minority of complaints of racial discrimination are ever proven. For example, when in 1999, an Indian member of the Czech Council for Human Rights and a British diplomat were refused entry into a discotheque in Prague, the ICB ruled out discrimination upon discovering that “other dark skinned people were allowed entry.”¹⁴⁸ According to the ICB, 40 of 43 complaints of racial discrimination brought by Roma between 1996 and 1999 could not be substantiated.¹⁴⁹

In addition, although the ICB may impose sanctions of up to one million CZK (€ 29,568), it cannot provide remedy to victims. Complainants who seek judicial redress for discrimination must rely on a provision of the Civil Code protecting “personal dignity.”¹⁵⁰ Success is more likely in the event of media coverage, when discrimination affects a known personality, such as the legal challenge initiated by Romani activist Petr Horvath, who filed a lawsuit after being refused service in November 1998 in the Hotel Imperial in Ostrava.¹⁵¹ The case resulted in a court-approved settlement in which the hotel agreed to pay 25,000 CZK (€ 740) and send a letter of apology.¹⁵²

¹⁴⁷ Commissioner Report 2000, para. 2.1.3.

¹⁴⁸ US State Department, 1999 Report on the State of Human Rights, 2000, Section 9.1.4.

¹⁴⁹ Commissioner Report 2000, para. 2.1.3.

¹⁵⁰ Civil Code, Art. 11: “Every individual (natural person) has the right to protection of his personhood (personality), in particular his life and health, civic honor and human dignity, as well as his privacy, his good name and expression of a personal nature.”

¹⁵¹ Information provided by Migration Policy Group, Interights and European Roma Rights Center under the auspices of the joint project, “Implementing European Anti-Discrimination Law, July 2001.” (“MPG, Interights, ERRC 2001”)

¹⁵² See *Roma Rights*, 1999, No. 4, p. 13. The defendant reportedly said “he is well aware of the fact that they do not serve Roma here, the District council of Ostrava knows it, the Roma civil initiative knows it and all Roma are used to it.”

However, even in high profile cases, success is not assured, as in the case of Czech Roma MP Monika Horakova suggests. On September 17, 1999, Ms. Horakova was denied entry to a club in Brno, and so filed a complaint under Article 11 of the Civil Code.¹⁵³ With only one witness to corroborate her account, and evidence as to previous discrimination against Roma ruled inadmissible, Ms. Horakova failed to meet her burden of proof, and lost the case. As a result she was required to pay court costs – a condition that few Roma are in a position to meet. The incentives against mounting such a court case are thus significant.¹⁵⁴

According to the ICB, discrimination against Roma in access to services and goods appears to be increasing in frequency.¹⁵⁵ Nevertheless, given the problems associated with complaining, the full extent is difficult to gauge – the primary result is that “the Romany do not go to places where there is known discrimination against them.”¹⁵⁶

4. *Health Care and Other Forms of Social Protection*

Legal Provisions

Article 31 of the Charter provides a general guarantee of health care and a range of laws govern the provision of public health care, through insurance, to all Czech citizens.¹⁵⁷ However, none of these laws prohibit discrimination in access to health care. The only such provision is contained in the Ethical Code of the Medical Chamber, according to which doctors are obliged to “preserve health and life [and] reduce suffering regardless of nationality, race, skin colour [...] reputation of the patient or the subjective feelings of the doctor.”¹⁵⁸ No specific sanctions are provided for infringement of the Code.

¹⁵² See *Roma Rights*, 1999, No. 4, p. 13. The defendant reportedly said “he is well aware of the fact that they do not serve Roma here, the District council of Ostrava knows it, the Roma civil initiative knows it and all Roma are used to it.”

¹⁵³ Decision 1 Co 6/2001 – 90, 18 April 2001.

¹⁵⁴ MPG, Interights, ERRC 2001.

¹⁵⁵ Reportedly, in 1996 there were 40 cases of discrimination (on all grounds, not only racial) reported to the ICB but none were investigated. In 1998 the number of cases grew to 65, 11 of which were reported to be racial discrimination against members of the Roma community. By 1999, 14 out of 62 reported cases involved racial discrimination, and between January and May 2000, there were 13 cases of racial discrimination reported. Letter from the Inspectorate of Czech Business, 27 June 2000.

¹⁵⁶ Commissioner Report 2000, para. 2.1.3.

¹⁵⁷ Law No. 20/1966 of the Coll. on Care of Public Health; Law No. 258/2000 of the Coll. on Protection of Public Health and on the Amendment of Relating Laws; Law No. 48/1997 of the Coll. on Public Health Insurance.

¹⁵⁸ Instruction of the Ministry of Health No. 10/1986 Bulletin of the Ministry of Health (registration No. 21/1986 of the Coll.), Statutory Regulation No. 10 of the Czech Medical Chamber, Art. 1.

Health Among the Roma Minority

The state of health of members of the Romani community is “significantly worse than in the rest of the population”, the Commissioner reports,¹⁵⁹ and this view is supported by 69.7 percent of Czech medical practitioners.¹⁶⁰ A 1998 survey found Roma to suffer disproportionately from epidemic diseases, including enteritis and hepatitis A, B and C, as well as from heart disorders and asthma.¹⁶¹

A primary cause of poor health among Roma is low quality housing conditions, to which many Roma are subjected as outlined above.¹⁶² In addition inferior diets and infrequent care from medical personnel have been cited.¹⁶³ Roma parents report that in some health care centres children are referred to as “Gypsy children”, a pejorative term, especially in Moravia and Silesia, with connotations of dishonesty and lack of hygiene.¹⁶⁴ The designation of a disproportionate number of Roma children as “mentally retarded” in their medical records remains a long-term disabling factor.¹⁶⁵

Violations of access to other forms of social protection have also been recorded. In June 2000 in Lipnik nad Bécvou, in the north-east Czech Republic, where 90 percent of the 200 Roma citizens are unemployed, a public official distributed a portion of social benefits in the form of food tokens, specifying approved retailers.¹⁶⁶

Government measures

Although appalling health conditions among Roma are noted in the Commissioner’s Report,¹⁶⁷ the Concept itself sets no tasks for the Ministry for Health and limits measures to the provision of information to Roma communities through Roma assis-

¹⁵⁹ Commissioner Report 2000, 3.12.

¹⁶⁰ L. Nesvadbova, A. Kroupa, J. Rutsch, S. Sojka, I. Vajnarova, *Zdravotni stav romske populace v CR, Pilotni studie*, (“The state of health of the Romani population in the Czech republic. Pilot study”), 1998, IGA MZ CR 3621/ 3. p. 29.

¹⁶¹ Nesvadbova et al, 1998, p. 8.

¹⁶² OSCE. 2000, p. 120.

¹⁶³ Commissioner Report, 3.12.

¹⁶⁴ Nesvadbova et al, 1998, p. 30

¹⁶⁵ Nesvadbova et al, 1998, pp. 24–25. The report notes that such complaints are often considered spurious by doctors, and may be grounded in depression or other neuroses.

¹⁶⁶ Romano Hangos, “*V Lipniku Romum predepisuji, kde maji kupovat potraviny*” (“Roma in Lipnik are told in what shop to buy groceries”), Vol. 2. No. 9, 22 June 2000, p. 2. The practice stopped following a visit from an advisor to the Minister of Social Affairs.

¹⁶⁷ Commissioner Report, 3.12.

tants.¹⁶⁸ This is despite the fact that previous officially proclaimed tasks to combat racial discrimination and prejudice in health care remain unfulfilled.¹⁶⁹

5. *Criminal Justice*

Equality before the courts is set forth in the Charter (Art. 37(3)) and in the Law on Courts and Judges, which declares that all persons are equal before the courts and entitled to the protection of their rights, freedoms and legally-protected interests.¹⁷⁰

It has been alleged that, in the Czech Republic, Roma believed to have committed a crime are more likely than members of the majority to be arrested, detained and prosecuted and, if convicted, sentenced harshly. ECRI has noted “evidence of differential treatment of members of minority groups, especially Roma/Gypsies, on the part of some Czech national and municipal law enforcement officials.”¹⁷¹

The Ministry of Interior claims that there are no statistics on the proportion of Roma in prisons or under investigation. However, according to one NGO, contrary to the Charter, which prohibits prescription of ethnicity, police investigators in fact register Roma ethnicity during the investigative process, in official forms on accused.¹⁷² ECRI recommends “carefully-prepared studies which respect the anonymity and dignity of persons.”¹⁷³

According to an ethnic Indian member of the Czech Council for Human Rights, police regularly assume his ethnicity to be Romani and demand documentation. In one incident, on his refusal to show documents, he was taken to the police station and strip-searched. On the discovery of an ID and a Swiss army knife, one police offer allegedly shouted “You have a knife, so in addition you are armed, Gypsy!”¹⁷⁴

¹⁶⁸ Concept 2000, para. 4.28.

¹⁶⁹ Government Resolution No. 279/1999, “Tasks for eight Ministries”, was reported to be unfulfilled at the end of 2000. Government Evaluation 2001, p. 6.

¹⁷⁰ Law No. 335/1991 of the Coll. on Courts and Judges, Art. 7(1).

¹⁷¹ CRI (2000) 4, para. 16.

¹⁷² Charter, Art. 3. Information from CCC/CHR, Prague, November 2000. During investigation, police investigators fill in forms entitled “Tisk MN c. skl. 612”, where the ethnicity of “statistically significant groups” is given a “numerical identification” – Roma are assigned the number “1” in this system.

¹⁷³ CRI (2000) 4, para. 15.

¹⁷⁴ Information from the Council for Human Rights, Brno, April 2000; *Lidove Noviny*. August 2000.

Preliminary results from an NGO study conducted in a range of Czech courts in 2000/2001, indicate serious discrepancies in the judicial treatment of accused and convicted Roma as compared with non-Roma in similar situations. Roma accused were placed in pre-trial detention in 80 percent of cases of petty theft, as against only 57 percent of those involving non-Roma.¹⁷⁵ Convicted Roma were rarely sentenced to community work, and sentences were longer than those of non-Roma by an average of 8.2 months in cases of assault, 12.9 months for murder, 17.1 months for robbery and 27.4 months for causing harm to health.¹⁷⁶

B. Protection from Racially Motivated Violence

Anti-Roma violence originates with both private individuals and public bodies, notably the police forces. Roma victims are loath to report offences “since they often – with some justification – lack confidence in the possibility of redress and fear further reprisals.”¹⁷⁷ Indeed redress for racially motivated violence is rarely forthcoming.

Legal Provisions

Acts motivated by racial hatred are punished under specific provisions of the Criminal Code.¹⁷⁸ Since 1995, sentences under these sections are increased if “such a criminal offence is committed [...] due to a person’s race [or] national identity.”¹⁷⁹

However, serious concerns have been raised by all observers, including the European Commission, about deficiencies in the application of these laws.¹⁸⁰ The UN CERD

¹⁷⁵ Information from CCC/CHR, Prague, March 2001.

¹⁷⁶ Preliminary results of the “First Step” project, Tolerance and Civil Society, cited in B. Bukovska, “Romani men in black suits: racism in the criminal justice system in the Czech Republic, in ERRC, *Roma Rights*, No. 1 2001, <http://errc.org/rr_nr1_2001/noteb4.shtml> (accessed 18 June 2001).

¹⁷⁷ CRI (2000) 4, para. 18.

¹⁷⁸ Specifically, under the following articles: 196 (Violence against a group of inhabitants and against individuals); Section 198 (Defamation of race, nation or conviction); 198a (Incitement to national and racial hatred); 260 (Sponsoring and promotion of movements aimed to suppress the rights and freedoms of citizens); 261 (public expression of sympathy for fascism or any other similar movement); and 263 (Persecution of Inhabitants). Crimes under Sections 260 and 261 are usually prosecuted in conjunction with crimes such as Section 221 (bodily harm); 213 (restriction of personal liberty); 234 (robbery); 238 (arbitrary interference with home); 235 (extortion); 257 (property damage); 247 (larceny); or 249 (murder). See *Second periodic reports of States parties due in 1996: Czech Republic*, 17/07/97. CERD/C/289/Add.1. (State Party Report).

¹⁷⁹ Amendment to Criminal Law No. 152/1995 Coll., September 1, 1995.

¹⁸⁰ *2000 Regular Report*, p. 26. The 1999 Regular report also noted, “[a]s illustrated by recent judgements of district courts, sentences for criminal offences motivated by racism or national intolerance often remain inadequate.” European Commission, *Regular Report from the Commission on Progress of Accession*, 13 October 1999.

in May 2001 “reiterate[d] its concern about the lack of effectiveness and confidence in the ability of the criminal judicial system to prevent and combat racial crimes,” and “concern is also expressed at the ineffective implementation of existing legislation to prosecute the perpetrators of incitement to racial hatred and support to racist movements.”¹⁸¹ Also in May 2001, the UN Committee Against Torture (CAT) voiced concern about “continuing reports of violent attacks against Roma and the alleged failure on the part of police and judicial authorities to provide adequate protection, and to investigate and prosecute such crimes, as well as the lenient treatment of offenders.”¹⁸² The UN HRC, in July 2001, purported to remain concerned at violence and harassment by some groups with respect to the Roma minority, and the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes.”¹⁸³

ECRI’s analysis is comprehensive: “the Czech Republic disposes of an adequate legal battery to combat racist violence. However [...] the implementation of the relevant legal provisions is still unsatisfactory. Problems arise at different levels of the judicial process. Firstly, police and investigators appear often to misclassify racially motivated crimes and do not follow through investigations. [...] Secondly, problems arise at the level of prosecutors. These often seem to have difficulties gathering and organising the evidence necessary to prove such motivation, partly due to the unwillingness of witnesses to testify. A certain reluctance has also been noted in some cases to prosecute this type of crime[...] Thirdly, the interpretation of ‘racial motivation’ rendered by some judges is a very restrictive one.”¹⁸⁴

Following the July 2001 murder of a Roma man by a repeat offender, the current Commissioner for Human Rights, Jan Jarab, noted that the judicial system treats racist attacks “benevolently”. Lenience extends “from police investigators, who do not want to investigate such cases as racial crimes, to state attorneys and judges, who pass the lowest possible sentences.” According to Jarab, these patterns can only be explained by “conscious – or unconscious – sympathies with the offender.”¹⁸⁵

A number of examples are provided in a recent ERRC submission to the UN Human Rights Committee (HRC). Thus, “commenting on a major skinhead attack against Roma in the town of Decin on 18 December 1999, local police chief Frantisek Pelhart stated

¹⁸¹ CERD/C/304/Add.109, May 2001, paras. 11,14.

¹⁸² UN Committee against Torture, *Concluding Observations: Czech Republic*, 14 May, 2001, CAT/C/XXVI/Concl. 5/Rev.1, para. 8(b).

¹⁸³ UN HRC, July 2001.

¹⁸⁴ CRI (2000) 4, para. 30.

¹⁸⁵ RFE-RL Newline, “Czech Courts Lax on Racist Crime?”, 25 July 2001.

that there was no evidence of racial motivation behind the attack. He told the ERRC, “[t]he men were drunk and wanted to fight. It was a coincidence that they ran into Roma. None of them is a sympathiser of an extremist movement. Today it is fashionable to have short hair.”¹⁸⁶ Likewise, “on 22 February 2001, the District Court of Bruntal returned a second verdict acquitting all three defendants charged with a firebomb attack against a Romani woman and her family on January 17, 1998, in the northern Moravian town of Krnov.” The ruling was the second of its kind from the court, an earlier acquittal having been overturned by an appeals court.¹⁸⁷

Racial bias within the criminal justice system was recently illustrated in a biographical book by a leading state prosecutor, Miroslav Antl, now Chief of the Office of Investigations, published in April 2001. His account places criminality firmly within an ethnic context. At one point the author comments: “One thing I could never stand is that when a Rom kills a Czech, it was, according to our standards, only ‘criminality.’ [...] But when a Czech harms a Rom, then [...] everybody always gets up in arms to have it administratively denounced as a racially motivated crime.”¹⁸⁸ Appearing at the book’s launch, Interior Minister Stanislav Gross reportedly referred to Antl as “a model” for all Czechs.¹⁸⁹

Violence by Non-State Actors

The rise since the early nineties of organised skinhead white supremacist groups has been well documented by international, government and other domestic sources.

Racist attacks by skinheads are regularly news in the Czech Republic: according to the government, there were 316 “racist and extremist” crimes in the Czech Republic in 1999.¹⁹⁰ In October 2000, six Romani students were beaten by skinheads armed with knives and baseball bats in the town of Most.¹⁹¹ On 8 September 2000, a gang of skinheads attacked a 34-year-old Romani man in the same town, hospitalising him

¹⁸⁶ ERRC, *Written Comments of the European Roma Rights Center Concerning the Czech Republic For Consideration by the United Nations Human Rights Committee at its 72nd Session, July 11–12, 2001*, June 2001, p. 11. For a more detailed account of the incident, see ERRC, *Roma Rights*, No. 1, 2000, pp. 13–14.

¹⁸⁷ ERRC HRC submission 2001, p. 10. For a more detailed account of the judgement, see ERRC, *Roma Rights*, No. 1, 2001, p. 17.

¹⁸⁸ M. Antl, *Gaunery nemam rad!* (“I don’t like Hooligans!”), *Nakladatelství Prejada*, p. 90.

¹⁸⁹ *Pravo*, 26 April 2001, p. 1.

¹⁹⁰ Ministry of Interior of the Czech Republic, *Report on the Situation in the Area of Public Order and Inner Security on the Territory of the Czech Republic*, 1999, Appendix 2, para. 2. (hereafter “Government Inner Security Report, 1999”).

¹⁹¹ ERRC, *Roma Rights*, No. 4, 2000, p. 13.

with wounds to the head and body.¹⁹² And in July 2000, a group of approximately 15 men reportedly attacked nine Roma, including women and children, in Houznan near the south-western Czech town of Vimperk. According to the testimony of the Romani victims, the men shouted racist slogans such as “black whores” and “go back to India,” and threatened to kill them. One victim was allegedly thrown into a ditch and shot at, while attackers injured another with a power saw, stealing his money and mobile telephone.¹⁹³ Similar attacks in the Czech Republic are reported by international and domestic organisations.¹⁹⁴

On 14 July 2000, two youths threw a Molotov cocktail into the house of Jiri Gina in Rokycany. The two attackers were charged with “violence against a group of people and an individual” with no mention of racial motivation. Romani activist Ondrej Gina reported the incident – subsequently anonymous telephone callers referred to him as a “black bastard” whom they wished to “send to heaven.” On 19 July, the windows of Gina’s organisation, the “Romany Cultural Association”, were broken and petrol was poured inside. Deputy Mayor Miluse Vykopalova, when interviewed by Czech press, dismissed the significance of the act, stating that “a mountain is being made out of a molehill” and that Gina probably felt “isolated” and “wanted to be talked about.”¹⁹⁵

Violence by Police Officers

Violence by police officers against Roma is not uncommon. ECRI has expressed “concern[] at harassment and excessive use of force, deliberate prolonging of investigations, wrongful arrests and ill-treatment of detainees belonging to [Roma ethnicity].” The report also noted that “it is claimed that racist attitudes are widespread among the police, some of whom sympathise with right-wing extremist groups.”¹⁹⁶ Two UN Committees voiced concern in 2001 about “degrading treatment by the police of members of minority groups.”¹⁹⁷ The UN CAT further noted “the lack of a mechanism of external control of the work of the police.”

¹⁹² ERRC, *Roma Rights*, No. 4, 2000, pp. 12–13.

¹⁹³ ERRC, *Roma Rights*, No. 3, 2000, pp. 12–13; ERRC HRC submission 2001, pp. 7–8.

¹⁹⁴ See e.g. Human Rights Watch, *World Report, 2001*, <<http://www.hrw.org/wr2k1/europe/czech.html>> (accessed 2 July 2001); Amnesty International World Report 2001, <<http://web.amnesty.org/web/ar2001.nsf/webeurcountries/CZECH+REPUBLIC?OpenDocument>> (accessed 2 July 2001); ERRC Czech Republic Country Index page, <<http://errc.org/publications/indices/czechrepublic.shtml>> (accessed 2 July 2001).

¹⁹⁵ CTK (Czech News agency), 20 July 2000.

¹⁹⁶ CRI (2000) 4, para. 16.

¹⁹⁷ CAT/C/XXVI/Concl.5/Rev.1, May 2001, para. 8(b). CERD/C/304/Add.109, May 2001, para. 14.

A recent example of anti-Roma police violence dates from May 2001, when a 13 year old Romani child was hospitalised with injuries to the spine after an attack by two police officers for having broken a window in an abandoned laundry house.¹⁹⁸

Government Measures

Government monitoring of racial violence began in the mid-nineties. However, despite recognition that “the general public has become aware of the problem of extremism especially through attacks by skinheads against the Roma (Gypsies) and other dark-coloured citizens,” these crimes are nevertheless subsumed under the general label “extremism”.¹⁹⁹ As a result, figures in this and other government reports fail to give a coherent picture of their primary concern – racially motivated assault against Roma. The 2000 Concept calls for analysis of legislation addressing racial violence, although it is widely considered sufficient. The Interior Ministry is further charged with “informing the Government about the results of criminal cases since January 1996 in which an attack was made [on a racial basis], including information about the [...] investigation procedures in all cases when the victim or perpetrator of such attacks were [...] a Romany, if this ethnic information was registered.”²⁰⁰

Other bodies have called, in particular, for independent monitoring of the police. Among its recommendations addressed to the Czech Government, the UN CAT stressed “in particular” the need to “increase efforts to combat and adequately sanction police ill-treatment of minorities” and requested that “the State party ensure the independence and thoroughness of investigations of all allegations of ill-treatment” and “take appropriate measures to ensure the independence of investigations of offences committed by law enforcement officials by introducing a mechanism of external control.”²⁰¹ Acknowledging the problem, a government report to the UN Human Rights Committee notes that

¹⁹⁸ ERRC HRC submission 2001, p. 4.

¹⁹⁹ Government Extremism Report 1998, para. 1: “The reason for this [terminology] is that in case of skinhead activities it is difficult just to separate racially motivated conflicts and emphasize these among their other activities, which are all related.” (para. 1) However, the report also notes that “there is no consistent, generally accepted definition of extremism, not even in western democracies.” (para. 2).

²⁰⁰ Concept 2000, Part I, para. 1(a), 2(a).

²⁰¹ CAT/C/XXVI/Concl.5/Rev.1, 14 May 2001, paras. 8 and 9. UN CERD also “recommends that the State party strengthen law enforcement to ensure that [racist] organizations are dismantled and their members prosecuted,” and “strengthen the measures already undertaken to intensify enforcement of the criminal law against racially motivated crimes.” CERD/C/304/Add.109, May 2001, paras. 11 & 12. ECRI notes that “ECRI notes that “measures to counter such actions seem to be inadequate. The police itself conducts investigations into misconduct by its officers and appears reluctant to acknowledge any incidence of racist behaviour on its part. In addition, a serious lack of transparency is reported.” CRI (2000) 4, para. 17.

“the existing inspection mechanism is being criticised [...] for its lack of openness. The rate of success in dealing with complaints by citizens against undue behaviour, abuse of official position and, namely, use of physical violence remains rather low though the number of complaints accepted as justified slowly grows.”²⁰²

Generally, when cases receive substantial media and international attention, the courts tend to impose more severe sentences and are more likely to interpret the crime as racially motivated. Following concerns expressed by international and local human rights organisations, suspended sentences given to the four murderers of Milan Lacko, a Romani man, were overturned and, in a recent judgement, two skinheads were convicted.²⁰³ In a March 2001 ruling on a skinhead attack on Roma guests in a public house in Ceske Budejovice from November 1999, 21 of the 23 accused were found guilty of racially motivated violence. The judge found the attack “horrifying and full of hatred.”²⁰⁴ However, it appears that in the absence of concentrated pressure from international and other bodies, judges/courts remain reluctant to find racial motivation.

C. Minority Rights

The Charter of Fundamental Rights grants comprehensive rights to minorities in general, without either specifying the groups that are to be recognised as minorities or fully defining the means by which those rights can be realised; it calls for these specifications to be made in a separate law.²⁰⁵ In May/June 2001, a Law on Ethnic and National Minorities (hereafter “Minorities Law”) was finally approved by the Czech Chamber of Deputies, entering into force on 1 July 2001. The Commissioner for Human Rights has described its adoption as “a fundamental about face” – where previously the state granted concessions to minorities at its discretion, now “members and elected authorities of these minorities will have the right to have the state obligations fulfilled.”²⁰⁶ Nevertheless, the adopted law offers minorities considerably less protection than early drafts en-

²⁰² Government CCPR Report 2000, para. 126.

²⁰³ For detailed accounts of the case, see *Roma Rights*. 1998. No. 2, pp. 6–7, 1999, No. 2, p. 6, pp. 15–16.

²⁰⁴ Most of the attackers were members of neo-nazi organisations and have been prosecuted for violent conduct before. Ten were given conditional sentence for three years and the rest were given unconditional sentences from 18 to 20 months.

²⁰⁵ Charter, Section III, Articles 24 and 25.

²⁰⁶ Commissioner Report, para. 1.6.2.

visioned,²⁰⁷ and it may have little relevance for Roma, given the ten percent threshold for application.

1. *Identity*

The Charter guarantees free choice of national identity, and prohibits the exercise of any form of pressure aimed at the suppression of national identity.²⁰⁸ In the context of the new minorities law, the “civic principle” has been widely discussed: the Commissioner notes that for the proper implementation of the law, “objective” registers of minorities, compiled by authorities, preserving the anonymity of specific individuals, will be necessary.²⁰⁹

The Minorities Law recognises twelve minorities, including the Roma minority, and contains a general definition of national and ethnic minorities: “a group of citizens [...] residing on the territory of the current Czech Republic, that differ from other citizens usually by common ethnic origin, language, culture and traditions, create a substantial minority of the population, and at the same time reveal their will to be considered as a national minority in order to retain and develop their own diversity, language and culture and in order to declare interests of the group.”²¹⁰ However no criteria for asserting minority status are established. The Law further reaffirms the principle of freedom of affiliation: “All means of pressure leading to assimilation with the majority are forbidden.”²¹¹

2. *Language*

A total of 24,224 individuals claimed Romani languages as their native language in the 1991 census, about half those who claimed Roma nationality. A further third

²⁰⁷ According to Jan Jarab, present Commissioner for Human Rights, “[minority representatives] often declare that they would have wished to have even broader minority rights granted in the proposal. On the other hand many MPs in the lower house already consider this draft ‘dangerously radical’. So there is a need for compromise [...] because it is fairly obvious that if the rights which some of the minorities are asking for [...] had been included, the law would never have won approval in the lower house.” *Radio Prague*, “Senate holds public debate on rights of minorities”, 15 June 2001.

²⁰⁸ Charter, Art. 3.

²⁰⁹ Commissioner Report 2000, paras. 1.7.1–1.7.10.

²¹⁰ Minorities Law, part I. Unofficial translation.

²¹¹ Minorities Law, Art. 4(1). Unofficial translation.

claimed Czech and about nine percent spoke Slovak.²¹² Given that the 1991 figure is estimated to represent no more than 15 percent of Roma, the total number of Speakers of Romani languages is presumably considerably higher.

Under the Charter, minorities are guaranteed “under conditions set by law” the right to communicate, receive and disseminate information in their own languages, the right to education in their own language, the right to use their languages in official contacts and the right to participate in decision-making concerning national and ethnic minorities.²¹³ The Minorities Law of 2001 finally implements these principles. The law stipulates that officially recognised minorities may display bilingual signs in localities where they constitute ten percent or more of the population, if 40 percent so demand. In these localities, minorities are granted the right to use minority languages in official contacts with state and local administration.²¹⁴ Previous to the adoption of the minorities law, these provisions were not in use for the Roma minority, and there were no provisions to oblige their use. It is doubtful whether the law will change this situation to any significant degree, as few Romani communities are considered to reach the threshold.

The Civil Code of 1993 provides for the right to use minority languages in court and obliges courts to provide appropriate facilities.²¹⁵ Similarly, the Criminal Code of 1961 states that everybody is entitled to use his/her “mother tongue” in contact with law enforcement authorities and in court.²¹⁶ However, the government notes “in respect of the Romany national minority, an unresolved problem is an entirely insufficient number of Romany interpreters.”²¹⁷

3. *Education*

Article 25 of the Charter provides for education in minority languages. The 1990 Law on Education, gives the school authorities the opportunity (but not obligation) to

²¹² 1999 Population Census.

²¹³ Charter, Chapter 3, Arts. 24–25.

²¹⁴ RFE-RL Newline, “Czech Roma Divide over Ethnic Minorities Law,” Vol. 5, No. 100, Part II, 25 May 2001.

²¹⁵ Czech Civil Code, Art. 18.

²¹⁶ This right is guaranteed to every individual in the Czech Republic, making no distinction between citizens, foreigners or minorities. Czech Criminal Code, Art. 14/2.

²¹⁷ Report Submitted by the Czech Republic Pursuant to Art. 25, para. 1 of the Framework Convention for the Protection of National Minorities” (Received on 1 April 1999), ACFC/SR (99) 6 (hereafter “FCNM State Report”), Art. 10.

ensure instruction in languages other than Czech according to local conditions and requirements.²¹⁸ The Minorities Law guarantees the right to be educated in the minority languages from nursery school level through to secondary schools.²¹⁹

This provides a legal opportunity for Czech Roma to learn in Romani languages.²²⁰ The Concept further promises that “state financial support may be offered [...] to private, church or foundation schools and classes for Romany children, with the Romany teaching language [...] as long as their curriculum focuses on the Romany cultural emancipation and on the integration of Romanies into society.”²²¹ The urgency of education in Romani languages has been questioned by some Roma leaders, however, given the difficulty of accessing ordinary general education for many Czech Roma.²²²

Use of Romani languages in schools has already been increasing since the introduction of Romani pedagogical assistants to primary schools from 1997, to facilitate the integration of Romani children in mainstream schooling.²²³ As of April 2000, 180 of these assistants were employed in 114 preparatory classes for 1,425 pupils at kindergartens, primary and special schools.²²⁴ They provide tutoring, language assistance and mediation between the school and children’s families.²²⁵ However, Romani assistants are often themselves graduates of special schools, leading to grave deficiencies in the payment they receive (based on qualifications and experience).²²⁶

Efforts to include Romani history and culture in schools exist: a Roma children’s magazine, *Kereka* (Circle), is distributed in many schools, and the government has also introduced optional Romani history and culture programs.²²⁷ Two private schools for Roma exist

²¹⁸ Law on Education, Art. 6.

²¹⁹ Minorities Law, Art. 11.

²²⁰ In practice, only the Czech Polish minority learn through their native language to date.

²²¹ Concept 2000, para. 6.23.

²²² RFE-RL Newslines, 25 May 2001.

²²³ This employment initiative began as a project of several Roma and pro-Roma NGOs. It is further supported by the “Step by Step” program for Roma integration, available to schools on a voluntary basis and supported by OSI Budapest.

²²⁴ Information from IMC member, Brno, November 2000.

²²⁵ Information from Romani assistant, Brno, November 2000.

²²⁶ Information from IMC member, November 2000.

²²⁷ The “Alternative Special School Education Programme for Pupils of Roma Origin”, offered by the Ministry for Education, Youth and Sport, is open to all schools.

in Ostrava and Kolin,²²⁸ although opinions vary as to the quality of education in these institutions.²²⁹

4. *Media*

Under the Law on Radio and Television Broadcasting,²³⁰ operators are obliged to ensure that programs do not violate the Constitution or the Charter, and that they contribute to the preservation and development of minority, as well as Czech, identity.²³¹ Violations can lead to the revocation of broadcasting licenses. There are no special provisions providing state support for minority media or allocating airspace in public or private media to minorities. The Law on Czech Television and the Law on Czech Broadcasting are to be amended in the light of the recent Minorities Law.

A number of Roma media initiatives exist in the Czech Republic. Czech Radio houses a Romani editorial department, which produces a weekly one-hour program, *O Roma vakheren* (“The Roma speak”). Czech TV also produces and broadcasts Romani and Romani-language programming.²³² Four Roma periodicals receive funding from the Ministry of Culture, one of which, the bimonthly *Romano Hangos* (“Romani Voice”), boasts 3,500 subscribers.²³³

²²⁸ The school of Premysla Pittra in Ostrava was founded in 1993. By 1999 it had 218 students, 89 percent of whom were of Roma origin. The private Roma Social Secondary School in Kolin is now incorporated into the Czech schooling system and 60 percent funded by the Ministry of Education, Youth and Sport.

²²⁹ Information from the Chair of the Association of Roma in Moravia, Ostrava, December 2000; information from a student at the Roma social secondary school in Kolin, Brno, September 2000.

²³⁰ Law No. 468/1991 of the Coll. on Radio and Television Broadcasting.

²³¹ Law on Radio and Television Broadcasting, Art. 5(1a); Art. 2.

²³² J. Balazova, “Role romských novinářů a funkce romsky orientovaných medií ve společnosti,” (“The role of Roma journalists and function of Roma media in the society”), in *Roma in the Czech Republic*, Socioklub, 1998, p. 330.

²³³ The newspapers, *Romano Kurko* and *Romano Hangos*, and the magazines *Amaro Gendalos* and *Kereka*. According to one Romani journalist working in *Romano Hangos*, a network of local distributors is “developing very smoothly”. Information from Romani journalist, Brno, August 2000. Purchase and distribution of all Roma publications amounted in 1999 to 3.2 million CZK (c. € 94,618). Information from the Ministry of Culture, Bratislava.

5. *Public Participation*

The Constitution notes merely that “Minorities shall be protected by the majority in decision-making.”²³⁴ The Charter further offers minorities “the right to participate in the settlement of matters concerning the national and ethnic minorities,”²³⁵ implemented in the new Minorities Law.²³⁶

Citizenship

The debilitating effects of the extended difficulties many Roma have experienced in gaining access to citizenship persist.²³⁷

Notwithstanding legislative modifications designed to remove discriminatory obstacles, an unknown number of Czech Roma still lack citizenship: the government has been asked to make “targeted and consistent efforts [...] to raise the awareness of some members of the Roma/Gypsy community of the need to acquire citizenship of the Czech Republic and the necessary application procedures to follow.”²³⁸ The OSCE notes that “special efforts may be required to ensure that bureaucratic obstacles do not block Romani applicants from claiming their fundamental right to citizenship in accordance with the new law.”²³⁹ Furthermore, according to ECRI, “In view of persistent allegations of discriminatory attitudes by local officials towards members of the Roma/Gypsy community, including misinformation and discouragement in pursuing applications, strict central government supervision over local offices is urgently required.”²⁴⁰

Public Employment

Roma are under-represented in public employment. A recent recruitment drive has brought about twenty Roma into police departments and another twenty are studying in the Police Academy. The 2000 Concept further mentions the possibility of recruiting Roma into the army, which “has never suffered from racial or other

²³⁴ Constitution Art. 6.

²³⁵ Charter Art. 25(2c).

²³⁶ Minorities Law, Art. 6(1): “Members of national minorities have a right to actively participate in cultural, social and economical life and in public matters, especially in those concerning national minority they belong to, both on the level of municipalities, districts and state level.” Unofficial translation.

²³⁷ According to a UNHCR representative, 1993 was when “the road to hell” began for Czech Roma. OSI Roundtable, Prague, 22 March 2001.

²³⁸ CRI (2000) 4, para. 6.

²³⁹ OSCE 2000, p. 157.

²⁴⁰ CRI (2000) 4, para. 6.

discrimination.”²⁴¹ There are four Roma employed in the Inspectorate of Czech Business.²⁴² Roma are represented in government advisory bodies on Roma issues: there are twelve Roma members of the Inter-ministerial Commission for Romani Community Affairs,²⁴³ three on the Council of National Minorities, and the Council for Human Rights also has several Roma representatives.

Romani Advisors

Since 1997, the government has hired “Romani advisors” to work at various ministries and at the municipal level.²⁴⁴ This solution was offered as a way to increase employment and qualifications among Roma (Romani advisors receive training to increase educational levels), while at the same time offering an interface between the authorities and Roma communities. The government considers the initiative successful and plans to increase the numbers of Roma advisors.²⁴⁵ The 1999 National Phare Programme allocated € 100,000 for the training of Roma advisors, assistants and social workers. However no government funding has been allocated to ensure their employment afterwards.²⁴⁶

Doubts have been raised as to the efficacy of this system, notably by the Commissioner for Human Rights. For a start, largely as a result of the “civic principle”, the ethnicity of employees cannot be affirmed – some suggest that only 50 percent of “Romani advisors” are ethnic Roma.²⁴⁷ Second, while the original IMC proposal envisaged Romani advisors under district offices of the Interior Ministry, they have instead been employed in lower ranking positions under the Ministry for Social Affairs.²⁴⁸ As a result, job descriptions are often poorly suited to their positions and the advisors have complained about a lack of coordination in their work.²⁴⁹ Furthermore, the effectiveness of the

²⁴¹ Concept 2000, para. 4.8.

²⁴² Commissioner Report 2000, para. 2.1.3.

²⁴³ Information from IMC members, Bratislava, December, 2000.

²⁴⁴ Presently all 73 district municipality offices employ one Romani advisor. Information from member of the IMC, December 2000. District Offices are to be phased out in coming years, but the positions of Romani Advisors will be retained under Chief Clerks as originally intended. Concept 2000, para. 3.1.1–3.1.6.

²⁴⁵ Concept 2000, para. 3.1.2, 3.1.3.

²⁴⁶ OSI Roundtable, Prague, 22 March 2001.

²⁴⁷ OSI Roundtable, Prague, 22 March 2001.

²⁴⁸ Commissioner Report 2000, para. 2.2.1.

²⁴⁹ Concept 2000, para. 3.1.4. See Government Evaluation 2000, p. 4, detailing the refusal of the ministry for Social Affairs to include Roma advisors in their catalogue of activities.

Romani advisors is largely dependent on the political will of local district officials (particularly mayors), which, according to some, is often lacking.²⁵⁰

More problematically, in mediating between the authorities and Roma communities, “the Romany advisors themselves often state that it is like being between millstones – the state authorities, the local government and the Romany.”²⁵¹ According to the Commissioner, there is a “tendency of some Romany advisors under pressure to assimilate the Romany, [to] act against the Romany ‘radicals,’ to unilaterally ignore and excuse faulty procedures of the state authorities’ powers (especially the police force) when dealing with Romany.” This leads to a “failure to criticise the anti-Romany attitude of the state administration’s representatives.”²⁵²

Political Representation

There are no special rights ensuring parliamentary participation for minorities, and today a single Romani MP sits in the Czech Parliament.²⁵³ Parliamentary representation for Roma reached a brief peak between 1990–1992, when seven Romani members represented major parties. The Czech Republic’s only Romani political party, the “Romani Civil Initiative” has not succeeded in winning seats since then and Roma candidates rarely top the five percent threshold for election.²⁵⁴

There is in fact no common representative for Romani positions in issues that affect the minority as a whole, although such a possibility has been discussed.²⁵⁵ The Minorities Law provides the possibility of creating municipal minority councils in areas where minorities reach at least ten percent of the population.²⁵⁶ In practice, as noted, there are few areas where self-declaring Roma reach this proportion of the population.

²⁵⁰ In the words of one Romani representative: “The municipality plays a big role in the work of a Romani advisor and if there is no interest to solve the problems, the Roma advisor is helpless...” OSI Roundtable, Prague, 22 March 2001.

²⁵¹ Commissioner Report 2000, para. 2.2.3.

²⁵² Commissioner Report 2000, para. 2.2.3.

²⁵³ Monika Horakova was elected in 1998 national elections as a candidate of the Union of Freedom party.

²⁵⁴ See e.g. *Romano Hangos*, “I don’t want to associate with people who I don’t understand”, Vol. 1. No. 5, 29 April 2000.

²⁵⁵ Including the Association of Roma in Moravia, Gremium of Regional Roma Representatives, Roma Civil Initiative and Romani Alliance. Information from the Chair of the Association of Roma in Moravia, Brno, September 2000.

²⁵⁶ Minorities Law, Art. 15.

The Czech Republic is the only country to have recognised the Romani nation (in April 2001), through contacts between the International Romani Union (IRU) and the Czech Foreign Ministry. A memorandum between the two parties calls for further cooperation, improvement of living conditions for Roma within the Czech Republic, and support for “Europeanisation” of the Romani issue.²⁵⁷

²⁵⁷ *Memorandum o porozumeni a spolupraci mezi Internacionalni romskou unii Ministerstvem zbranicich veci CR*, (“Memorandum on understanding and cooperation between the International Romani Union and the Ministry of Foreign Affairs of the Czech Republic”), January 2001, Emil Scuka (IRU), Martin Palous (Ministry of Foreign Affairs). The move has generated criticism from Czech Roma leaders as offering superficial international publicity for the government without providing solutions for Czech Roma. OSI Roundtable, Prague, 22 March 2001.

IV. Institutions for the Protection of Minorities

There is no independent body specifically monitoring racial equality in the Czech Republic, and there are no known plans to establish such a body, although the idea has been much discussed. A proposal in the draft Concept to establish an independent Office for Ethnic Equality and Integration to monitor discrimination was rejected in favour of the “possible creation” of an “Office for the Rights of National Minorities (for ethnic equality and integration),” details of which are not elaborated.²⁵⁸ The Concept notes that the introduction of a body with powers similar to the UK Commission for Racial Equality was discussed and rejected.²⁵⁹ A proposal in the draft Minorities Law, for a strengthened Council for National Minorities, with a cabinet member at the head, was likewise rejected.²⁶⁰ In July 2001, the UN HRC expressed concern “about the lack of independent mechanisms for monitoring the practical implementation of rights.”²⁶¹

In the absence of such a body, a newly formed Ombudsman’s Office formed to defend the rights of citizens may provide some protection from racial discrimination. A number of bodies fulfil an advisory function to the government on Roma and other minority issues. There are further a small number of civil society organisations working on behalf of Roma rights.

A. Official Bodies

Inter-Ministerial Commission for Roma Community Affairs

Primary among the advisory bodies to the government is the Inter-ministerial Commission for Roma Community Affairs (IMC).²⁶² The IMC’s main role is to prepare and review

²⁵⁸ Concept 2000, para. 3.2. “Much work is still to be done to achieve an agreement in which all Parliamentary parties would express their common will to enhance the integration of Romanies into society, recognize the need for an institutional support for this task and agree to give enough financial means towards fulfilling this aim.” Among the arguments presented in the Cabinet, while rejecting the proposal, were that such a body “would destabilise the Czech state and would significantly deter Czechness.” Information from the former Commissioner for Human Rights, Prague, 6 April 2001.

²⁵⁹ Concept 2000, para. 3.2.4: “[A] different structure and authority is recommended because the situation in the Czech Republic is not the same.”

²⁶⁰ The former Commissioner for Human Rights notes that these moves demonstrate a lack of government commitment to tackling racial discrimination. OSI Roundtable, Prague, 26 March 2001.

²⁶¹ UN HRC, July 2001.

²⁶² Concept 2000, para. 3.3.1: “Unless the Office [on the Rights of National Minorities] is established in any of the variants mentioned, the [inter-Ministerial] Commission still remains the body considered both by Romanies and the rest of society as the executor of the government policy towards Romany communities.”

policy on Roma issues for consideration by the government – the 2000 Concept was prepared by the IMC. The Commission is composed of 24 members: twelve Roma and twelve non-Roma deputy ministers headed by the Commissioner on Human Rights.²⁶³ Although the IMC has helped focus government policy on Roma issues since its establishment in 1997, a number of serious criticisms of its functioning and efficacy have been raised.

Lack of authority is a fundamental problem. Under the 1997 chairmanship of the Minister without Portfolio, Pavel Bratinka, the IMC developed considerable influence, which it has failed to maintain after 1998, when he was replaced by a non-Cabinet member.²⁶⁴ The IMC cannot oblige ministries to fulfil tasks in approved policies. As a result it has been described as “toothless” by both critics and senior members.²⁶⁵ Furthermore – in the words of one respected Roma member of the Commission: “Unfortunately European institutions, as well as many people in this country [...] believe that the IMC represents Roma. This is a mistake. Real Roma representation does not exist.”²⁶⁶ Indeed, Roma leaders frequently find themselves in conflict with the IMC on policy questions.²⁶⁷ An IMC plan to have regionally elected Roma representatives to the Commission was never implemented.²⁶⁸

IMC activities are further restricted by insufficient budgetary arrangements – indeed the Commission has no operating budget at all.²⁶⁹ For example, regional meetings planned in 1998 to gain consensus on the projected employment of Roma advisors and assistants, had to be abandoned due to lack of funding. As a result Roma advisors were appointed through a largely top-down process, and in some localities they are not accepted by the local Roma community.²⁷⁰ Without changes to the mandate and

²⁶³ Statute of the Inter-Ministerial Commission for Roma Community Affairs, Governmental Decree No. 640 from 15 October 1997.

²⁶⁴ OSI Roundtable, Prague, 22 March 2001.

²⁶⁵ OSI Roundtable, Prague, 26 March 2001.

²⁶⁶ OSI Roundtable, Prague, 26 March 2001. Similar opinions were expressed by non-IMC members of the Inter-national Romani Union and the Roma National Congress.

²⁶⁷ OSI Roundtable, Prague, 26 March 2001.

²⁶⁸ OSI Roundtable, Prague, 26 March 2001.

²⁶⁹ “In 1998 the Government provided [the IMC] with five million CZK (c. € 147,840) for grant projects, out of which its secretariat was able to use less than two million (c. € 59,136). In 1999 it got nothing from the state budget and in 2000 the Government approved 21 million crowns [€ 620,928], especially as scholarships for Romany students and the higher qualifications of advisors and assistants.” Commissioner Report 2000, para. 1.5.3.

²⁷⁰ OSI Roundtable, Prague, 22 March 2001.

powers of the IMC, it is unlikely to be able to ensure effective implementation of government policy as outlined in the Concept (see below).

Council for Human Rights

The Council for Human Rights (CHR) is an advisory body to the government on the protection of rights and freedoms. The CHR monitors the implementation and fulfilment of the Constitution and the Charter, and compliance with the Czech Republic's international obligations under UN and Council of Europe treaties.²⁷¹ The CHR examines government proposals and policies, and submits proposals for measures and initiatives for the improvement of human rights. The head of the Council is the Commissioner for Human Rights, appointed by the Government, who also chairs the IMC. Reports on human rights in the Czech Republic by both the Council and the Commissioner are written and treated as government policy documents rather than as independent evaluations.²⁷²

Council for National Minorities (also "Council of Nationalities")

The Council for National Minorities acts as an advisory body to the government on issues relating to Czech national minorities. Both the CHR and the Inter-Ministerial Commission work closely with the Council for National Minorities.²⁷³

Ombudsman's Office (Public Defender of Rights)

Victims of discrimination can complain to the Ombudsman's Office, established in early 2000, but only filled in December that year.²⁷⁴ Since its launch, the office has been flooded with over 600 written submissions per month in January, February and March.²⁷⁵ Reportedly, however, these complaints have not generally concerned racial discrimination.²⁷⁶

The Ombudsman's mandate is to defend persons against official actions (or omissions) that are inconsistent with the law, or offend the principles of a democratic legal state and good administration.²⁷⁷ The Ombudsman's jurisdiction extends beyond ministries and

²⁷¹ Statute of the Human Rights Council of the Government of the Czech Republic, Appendix to the Governmental Decree No. 132 from 17 February 1999; Governmental Resolution No. 809 of 9 December 1998 established the composition of the CHR.

²⁷² US State Dept 1999, p. 2.

²⁷³ The Council for National Minorities was originally established by Governmental Resolution 259/1994, and was reorganised under Resolution 580 of 9 September 1998.

²⁷⁴ Law no. 349/1999 of the Coll. on the Public Defender of Rights, came into effect on 28 February 2000.

²⁷⁵ See <<http://www.ochrance.cz/main.php?>> (accessed 10 August 2001).

²⁷⁶ Information from the Deputy Ombudsman, Prague, May 2001.

²⁷⁷ Law on the Public Defender of Rights, Art. 1(1).

other administrative bodies to the administrative agencies sub-ordinate to them: district councils, municipalities under state administration, the police forces, the army, the prison service and institutions of detention, imprisonment, education, training or protective care.²⁷⁸ Jurisdiction does not extend to acts of Parliament, the President of the Republic and the Government, the Supreme Control Office, the Czech intelligence services, police investigators, state prosecutors and courts.²⁷⁹

The Office can act either on its own initiative, following a complaint from an individual, or following an initiative addressed to MPs of both parliamentary chambers.²⁸⁰ The Ombudsman can enter any administrative office without prior warning, and carry out investigations, including examining documents, questioning employees, speaking with persons in custody or prisons or other state correctional institutions.²⁸¹

The Ombudsman has no direct sanctioning power. The Office may, inter alia, propose corrective measures, including the initiation of criminal prosecution and legislative amendments, notify superior bodies or the government, and publicise cases.²⁸²

1. Concept on Government Policy Towards Members of the Romany Community Supporting Their Integration into Society

The Concept was drafted in early 1999 by the IMC and revised before approval by the government in June 2000.²⁸³ The IMC presented two possibilities – the first, calling for an independent Office for Ethnic Equality and Integration with a separate budget line and legislative powers – was rejected in a cabinet vote in favour of the current, less ambitious, Concept.²⁸⁴ In the words of Petr Uhl, former chair of the

²⁷⁸ Law on the Public Defender of Rights, Art. 1(2).

²⁷⁹ Law on the Public Defender of Rights, Art. 1(2).

²⁸⁰ Law on the Public Defender of Rights, Art. 9.

²⁸¹ Law on the Public Defender of Rights, Art. 15.

²⁸² Law on the Public Defender of Rights, Art. 19.

²⁸³ Government Resolution No. 599 of 14 June 2000. The first draft Concept was published in Government Decree No. 279 of April 7 1999. Ten months later, on 2 February 2000, the document was returned to the IMC with comments for revision. Concerns were expressed about the institutional arrangements, the large number of tasks for ministries, and certain affirmative action proposals. The Prime Minister requested a confidential analysis of the Concept, on which basis he voted against its adoption. The analysis has not been made public. Information from the former Commissioner for Human Rights, Prague, 6 April 2001.

²⁸⁴ Four of seventeen cabinet members voted for the first option. That same day, 2 February 2000, the government also rejected a draft of the Minorities Law, which would have established a cabinet member as head of the Council for National Minorities. Information from the former Commissioner for Human Rights, Prague, 6 April 2001.

IMC and former Commissioner for Human Rights, the government recognised and approved the principle of Roma integration but not the administrative arrangements necessary to execute it.²⁸⁵

Although it is still too early to evaluate implementation of the Concept, several important setbacks are already apparent in its implementation and in the overall work of the IMC, as outlined above. The Concept reiterates a series of tasks for ministries outlined in the 1997 “Bratinka report” and in other resolutions since then. Several tasks pending since 1997 still remain unfulfilled, according to the deputy chair of the IMC, and relevant ministries have refused responsibility, arguing that the proposals are outside of their competence.²⁸⁶ These tasks form part of the Czech Republic’s Accession Partnership with the EU, which thus remains unfulfilled.²⁸⁷

B. Civil Society Organisations

Since 1989, organisations led and founded by Romani activists have proliferated, and there are an increasing number of other civil society initiatives conducting activities on behalf of Roma, the latter often with foreign sponsorship.²⁸⁸ Although it is not possible to obtain a clear picture of the extent of government support for these organisations,²⁸⁹ the amount has increased since 1997, when the Bratinka Report urged state support for Roma activities.²⁹⁰ Funding for organisations, composed of and/or promoting the interests of Roma, is available through grant schemes at individual ministries: government support focuses on education and culture, as reflected in funding

²⁸⁵ OSI Roundtable, Prague, 22 March 2001.

²⁸⁶ OSI Roundtable, Prague, 22 March 2001. For example, the 1997 report charged the Ministry of Industry and Trade with creating employment opportunities for Roma in the framework of small and medium enterprises support. This task remained unfulfilled by December 2000. Government Evaluation 2000, p. 6.

²⁸⁷ *Accession Partnership 1999, Czech Republic*, p. 4; p. 7.

²⁸⁸ J. Siklova, “*Roma and Non Governmental Organisations: Roma and Non Roma helping to integrate this ethnic group*” *Socioklub*, Praha, 1998, pp. 271–289. There are currently 120 Roma organisations registered. Commissioner Report 2000, para. 11.1.

²⁸⁹ One official gives a rough estimate of annual total funding for all Roma-related issues (including fulfilment of ministerial tasks and support for scholarship programs) at between 80–100 million CZK (• 2.3–2.9 million). OSI Roundtable, Prague, 22 March 2001.

²⁹⁰ Resolution No. 686/1997 ordered support for both Roma and pro-Roma organisations.

from the relevant ministries.²⁹¹ To date the government has provided little support for legal defence and anti-discrimination activities.

The government has acknowledged a problematic lack of co-ordination between ministries in the criteria for and allocation of grants.²⁹² The IMC does not co-ordinate support for organisations – funding channelled through the Commission is directed at scholarships for Romani students and higher education for Roma assistants and advisors.²⁹³ Moreover, the relatively small grants available from individual Ministries do not allow for meaningful organisational development of the myriad minority organisations competing for funding.²⁹⁴

Romani NGOs have achieved consensus and a common voice on issues of particular importance to the Roma population as a whole, such as obtaining government support for Romani assistants in schools and Romani advisors in district offices. Furthermore, civil society organisations have been behind many of the major initiatives dealing directly with discrimination as experienced by Roma in numerous fields. One Roma-led organisation conducted a project to help Romani children transfer from special schools to regular schools.²⁹⁵ Another provides assistance to Roma facing housing emergencies.²⁹⁶ A third has focused on obtaining compensation for Romani victims of the Holocaust

²⁹¹ Funding for Roma and “Pro-Roma” organisations, 1997–2001 from selected ministries

| Year | Ministry of Education | | Ministry of Culture |
|------|----------------------------|----------------------------|--------------------------|
| | Roma Organisations | “Pro-Roma” Organisations | N/a |
| 1997 | 630,000 CZK (€ 18,628) | 750 000 CZK (€ 22,000) | N/a |
| 1998 | 3 million CZK (€ 88,704) | 4 million CZK (€ 118,000) | N/a |
| 1999 | 4.3 million CZK (€ 27,000) | 11 million CZK (€ 325,000) | 2,632,000 CZK (€ 78,000) |
| 2000 | N/a | N/a | 1,755,000 CZK (€ 52,000) |

SOURCE: Ministries of Education and Culture, 2001.

²⁹² Commissioner Report 2000, para. 11.1. “Individual ministries announce grant competitions without centralised closing dates and with widely varying criteria. [These] often overlap in content. So it happens that one project may be funded twice while another not at all, despite deserving support as well.”

²⁹³ Commissioner Report 2000, para. 1.5.3. The IMC received 21 million CZK (€ 621,000) to this end in 2000, and 25 million CZK (c. € 700,000) for 2001. Information from the Deputy Chair of the IMC, Prague, March 2001.

²⁹⁴ See US State Department, 1999 Report on the State of Human Rights in the Czech Republic.

²⁹⁵ The Association of Roma in Moravia (ARM). Information from Romani assistants coordinator, Brno, November 2000; Information from the Chair of the Association of Roma in Moravia, Brno, August 2000.

²⁹⁶ Common Coexistence helped establish emergency accommodations after floods in Ostrava in 1997 destroyed a number of flats inhabited by Roma. Information from NGO activist, Brno, April 2000.

and pressing for official commemoration of victims.²⁹⁷ Numerous Roma organisations promote Romani culture in the Czech Republic.²⁹⁸ Several Roma-led NGOs have joined to create the Gremium of Regional Romani Representatives (GRRR), an umbrella for numerous regional Romani initiatives, which has lobbied on human rights issues.²⁹⁹ There is also evidence of coalition-building among organisations engaged in Roma issues at a regional level.³⁰⁰

Numerous NGOs have engaged in promoting and defending the rights of Roma; a number have played a vital role in providing legal assistance.³⁰¹ An independent network of Citizens Advisory Bureaux (CAB) located in major Czech cities provides legal and other advice.³⁰² CABs frequently assist Romani clients – applications rose tenfold in 1998 and again in 1999, and an estimated 80 percent of cases are reportedly resolved satisfactorily.³⁰³ State support for CABs does not yet exist, although a bill providing for this has been under development since 1998.³⁰⁴ Nevertheless, it is support for initiatives like these that will ultimately contribute to better race relations in Czech society. In the words of the Commissioner for Human Rights, “the participation of the wider society in the integration of the Romany community into Czech society is a [*sine qua non*] of the success of the whole [2000 Concept] program.”³⁰⁵

²⁹⁷ The Committee for the Compensation of Romany Holocaust has pressed for the removal of a pig farm from the site of a former concentration camp – Lety u Pisku – and the restoration of a cemetery in Mirovice, where Romani victims from the camp were buried in two mass graves between 1942 and 1943. Information from ERRC monitor, Prague, September 2000.

²⁹⁸ Including the Museum of Romany Culture, Association of Friends of the Museum of Romany Culture, Romano Dzaniben Foundation, Association of Wallachian Roma in the Czech Republic, The Fund of Hope and Understanding, The Romani Matrix, Civic Association of Roma. A list of Roma-centred organisations can be found at <<http://www.romove.cz/found.html>> (accessed 1 July 2001).

²⁹⁹ See D. Milan, “*Romska reprezentace v Cechach vnika z dola*” (“Roma representation has been created from grassroots”), *Romano Hangos* Vol. 2, No. 7, 16 May 2000, p. 1.

³⁰⁰ For example, the Brno-based Roma Centre for Central and Eastern Europe monitors the position and rights of Roma in the region and facilitates information exchange. Information from the Chair of the Association of Roma in Moravia, September 2000.

³⁰¹ For example, the CCC/CHR was established mainly to support thousands of Roma left stateless following the split of Czechoslovakia. The Centre now monitors and litigates discrimination in housing, employment and the criminal justice system. Information from CCC/CHR, Prague, September 2000. Monitoring is further carried out by the Civil Rights and Tolerance Movement (HOST), the Documentation Centre for Human Rights, the Helsinki Citizens Assembly – Roma Section; and the Drom Community Centre.

³⁰² See Commissioner Report 2000, para. 10.

³⁰³ Commissioner Report 2000, para. 10.1.

³⁰⁴ Commissioner Report 2000, para. 10.2.

³⁰⁵ Commissioner Report 2000, para. 11.2.

V. Recommendations to the Government

In addition to the recommendations elaborated in the Overview Report, the following measures would contribute to enhanced minority protection in the Czech Republic:

1. Take immediate steps to reverse the segregation of Roma children in separate and inferior classes and schools.
2. Establish monitoring and disciplinary mechanisms to address practices by public authorities which reinforce racial segregation in housing, including arbitrary rent raises disproportionately affecting Roma, channelling Roma into low standard social housing (“holobyty”), and discriminatory eviction policies.
3. Invest the Inter-Ministerial Commission on Roma Affairs with sufficient authority to effectively oblige ministries to fulfil their obligations under Resolution 686 of 1997, Resolution 279 of 1999 and Resolution 588 of 2000. The government should ensure that IMC resolutions are heeded and promptly acted upon.

Appendix A

Demography

The government estimates the total minority population of the Czech Republic to be under five percent, asserting that Moravians (13.2 percent of the population, according to the 1991 census) and Silesians are ethnically identical to the Czechs, and should not be counted as national minorities. The report places Slovaks as the largest minority in the Czech Republic, with 2.5 percent of the population. Other minorities are listed as follows: Poles (59,383; 0.6 percent), Germans (48,556; 0.5 percent), Roma (32,903; 0.3 percent) Hungarians (19,932; 0.2 percent) and Ukrainians (10,146; 0.2 percent).³⁰⁶

Estimates of the number of Roma in the Czech Republic vary between 150,000 and 300,000 (1.5–3 percent).³⁰⁷ However, only 32,903 persons declared Roma nationality in the 1991 census, and in 2001 the number dropped to 11,716. The reason for reticence to admit to Roma ethnicity is widely attributed to fear of persecution – Roma in the Czech Republic were largely annihilated during the Romani Holocaust of 1940–45.³⁰⁸ The severe drop in the numbers claiming Roma ethnicity between 1991 and 2001 is a blow to the government which had taken steps to increase representation, including the employment of Romani assistants to the census takers in localities with high numbers of Roma, at a cost of one million CZK (c. € 29,500).³⁰⁹ The low number claiming Romani origin suggests a massive loss of confidence in the last decade.

³⁰⁶ FCNM State Report, Part I, footnote 8. Estimates taken from the 1991 public census.

³⁰⁷ E. Davidova, *Romano Drom 1945–1990*, Olomouc: Univerzita Palackeho, 1995, p. 39; J.P. Liegois, *Roma, Gypsies, Travellers*, Council of Europe, 1994; FCNM State Report, Part I, footnote 8; Commissioner Report 2000, p. 2; K. Kalibova, “*Romove z pohledu statistiky a demografie*” (“Roma from the perspective of statistic and demography”) in *Romove v Ceske republice* (“Roma in the Czech Republic”), Socioklub, 1999, p. 107.

³⁰⁸ “The reason for the low number of persons who declared “Romipen” (Roma, Romany national identity) is fear of possible consequences: Information collected in a 1930 public census, when all citizens were required to state national identity in a non-anonymous manner, was used in 1939 and thereafter to send Romanies into concentration camps and later to death transports. Due to the aversion of the majority towards Romanies, declaration of the Romany national identity, albeit anonymous, demands a certain amount of bravery.” *FCNM State Report*, Part I.

³⁰⁹ Information obtained from official documents of the Czech Statistical Office: *Scitaci list osob* (“Counting sheet of persons”) and *Podrobne vysvetlivky k nekerym otazkam ve scitacim listu osob a v bytovem listu* (“Detailed explanatory notes to some questions on the census of persons and housing sheet”), 2000.

Roma have been settled in the Czech Republic for centuries, although the great majority of today's Roma population arrived in the wake of the Second World War. Apart from the Vlaxiko Roma, who form approximately ten percent of the Czech Roma, the majority are descendants of Slovak Roma, who migrated since 1950. This migration halted in 1993 with the break-up of Czechoslovakia, after which a number of Czech Roma moved to Slovakia following obstacles to gaining citizenship in the new Czech Republic. Apart from these two groups there are also a number of Hungarian Roma, whose first language is Hungarian. Out of the original Czech and Moravian Roma and Sinti (German – Roma) there remains today, as a result of the Nazi genocide, only a nominal number.³¹⁰

³¹⁰ Commissioner Report 2000, para. 5.2.