

Comments of the Czech Republic on the Third Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities on the implementation of the Framework Convention by the Czech Republic

The Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities was distributed to members of the Government Council for National Minorities (an advisory body composed of representatives of government authorities and representatives of national minorities). The Council discussed the Opinion and the draft Comments in October 2011. The views expressed in the discussion are reflected in the final version of the Comments.

The Comments respond to the main recommendations, in particular where it is necessary to provide additional explanations and information on topics already addressed in the Czech Republic's report on the implementation of the Framework Convention. The Comments are structured according to the articles of the Framework Convention. Each comment begins with a quotation from the appropriate part of the Advisory Committee's Opinion.

ARTICLE 3

Personal scope of application

The Advisory Committee calls on the authorities to maintain an inclusive and open approach towards the scope of application of the Framework Convention.

The Advisory Committee also urges them to review regularly the established criteria of eligibility for protection under the Framework Convention, in order to ensure that the criteria do not have the effect of excluding people from the scope of application of this convention in an unjustified and arbitrary, i.e. discriminatory manner.

The Framework Convention contains no definition of "national minorities". It leaves the parties a wide margin of appreciation, which means that each party can use its national laws to determine the personal scope of application to be given to the Framework Convention in the country concerned.

Act No. 273/2001 concerning the rights of persons belonging to national minorities defines "national minorities" as follows: "A national minority is a community of citizens of the Czech Republic living in the territory of the present-day Czech Republic, distinguished from other citizens, as a rule, by their common ethnic origin, language, culture and traditions, constituting a numerical minority of the population and demonstrating their will to be considered a national minority for the purpose of their joint efforts to preserve and develop their own identity, language and culture as well as for the purpose of expressing and protecting the interests of their historically constituted community".

As noted by the Advisory Committee, this definition does not bar non-citizens from taking part in some activities (especially cultural and social) of their kin minorities settled in the Czech Republic.

However, while it is a fact that the legal systems of the parties to the Framework Convention are flexible enough to make certain rights accessible to persons who do not meet the citizenship criterion, it is also a fact that this kind of flexibility is not an obligation arising from the Framework Convention. This is how the Czech Republic continues to understand the Advisory Committee's recommendations concerning an open and flexible approach to the personal scope of application of the Framework Convention.

ARTICLE 4

Legal and institutional protection against discrimination

The Advisory Committee urges the authorities to support appropriately the newly established Office of the Government Commissioner for Human Rights, in order to allow it to fulfil its duties effectively.

The Office of the Government Commissioner for Human Rights has been taking an active part in the development of government human rights policies and legislation ever since its establishment in 1998.

Application of the principles of equal treatment and non-discrimination with respect to the Roma

The authorities must make more comprehensive and active efforts to prevent, combat and sanction the inequality and discrimination suffered by the Roma, and to promote tolerance and anti-discriminatory attitudes throughout the majority population.

The authorities must step up their efforts, in particular at local level, to improve the employment opportunities and living conditions of Roma, to include Roma in all projects and activities concerning them and to promote their integration into society. Particular attention must be paid to improving housing conditions in Roma neighbourhoods.

Principal government policy documents

The *Roma Integration Policy Concept for 2010-2013* was adopted by the Government in 2009. Its aim is to improve the social situation of the Roma in key areas of their life such as education, job market, housing, social welfare and healthcare. It includes an *Implementation Plan* setting out tasks for government authorities and recommendations for other involved organizations. The Policy Concept reflects i.a. the *Principles of the Long-Term Roma Integration Policy Concept for the period ending in 2015* (adopted in 2006), in which the Government undertook to improve the employment and housing situation of the Roma by 2025.

Improving the employment and housing situation of the Roma is also the aim of the national *Plan of Action for the Decade of Roma Inclusion 2005-2015*, adopted by the Government in 2005. Gradual implementation of the tasks set out in the Plan of Action at the national level should lead to the elimination of social exclusion and to the improvement of the housing and employment situation of the Roma.

The *Strategy for Combating Social Exclusion for 2011-2015* was approved in 2011. The main aim of its measures is to encourage employment, integrate socially disadvantaged children in mainstream education, prevent family disintegration and the placement of children in institutional

care, improve the housing situation of people living in socially excluded neighbourhoods, and to ensure public safety and security in and around socially excluded neighbourhoods.

Positive changes for low-income Roma households should result from the new *Housing Policy Concept of the Czech Republic for the period ending in 2020*, approved by the Government in 2011. This policy concept includes several tasks directly related to the aim of facilitating access to housing for people at risk of social exclusion.

Prohibition of discrimination in the job market

Act No. 435/2004 concerning employment (“Employment Act”), as amended on 1 January 2012, sets out the duties of employment services, including some duties relevant to national minorities: The amended Section 4 on “equal treatment and prohibition of discrimination in exercising the right to employment” provides that (1) parties to legal relations must ensure equal treatment of all natural persons exercising their right to employment, and that (2) any discrimination in exercising the right to employment is prohibited. This means that the amended Employment Act no longer enumerates the grounds on which discrimination is prohibited, and no longer makes a distinction between direct and indirect discrimination. Instead, it refers in this regard to Act No. 198/2009 concerning equal treatment and legal means of protection against discrimination and amending certain acts (Antidiscrimination Act).

The amended Section 33 on “enhanced care in the employment search process” requires that enhanced care should be provided to jobseekers who need assistance e.g. because of their health condition, childcare responsibilities, or for other serious reasons. This means that the amended Employment Act no longer includes an indicative list of specific groups of jobseekers who should get special care. Instead, it provides room for case-by-case assessment based on the individual needs of each jobseeker.

Supporting social integration in Roma neighbourhoods

In the Human Resources and Employment operational programme (administered by the Ministry of Labour and Social Affairs), issues relevant to national minorities fall mostly under Priority Axis 3 “Social Integration and Equal Opportunities”. The axis has three main areas of support; the one designed to benefit the Roma is “Support of Social Integration in Roma Neighbourhoods”.

Socially excluded Roma communities are regarded as a group most vulnerable to the risks associated with social exclusion. Accordingly, the main aim in this area of support is to intensively promote and develop the existing as well as new social prevention programmes and social services in socially excluded Roma neighbourhoods and communities. This includes direct assistance to individuals in the process of social integration, training and education of professionals working with people in the neighbourhoods as well as education of the target group itself. It also includes action to counter the negative views and attitudes of the general public and to change the majority society’s unfavourable opinion about socially excluded Roma communities. The Operational Programme combines EU funding with significant volumes of funding from national resources.

The support is aimed specifically to:

- Directly benefit people living in socially excluded Roma communities who have limited access to services and to the job market.
- Help improve the availability and quality of services assisting the integration of people living in socially excluded Roma communities, including better access to investment support.
- Support the prevention of social exclusion and crime prevention.
- Support the activities of the social services system that benefit people living in socially excluded Roma communities, namely in the context of the Social Services Act and related legislation, as well as in the context of the transformation of social services, including support in evaluating the efficiency of the services.
- Improve the capacities and management of the bodies and organizations that provide or support services assisting the integration of people living in socially excluded Roma communities, including support of partnerships at the local and regional level.

Ongoing projects in this area include 43 grant-funded projects (of the 66 projects that have been approved) and four individual projects. The allocation to ongoing grant-funded projects totals more than CZK 330 million and the allocation to individual projects is almost CZK 71 million.

Examples of projects:

Integration of Roma families in the Ústí nad Labem Region

Project summary: To improve the integration of people living in socially excluded Roma communities in the region. To ensure the availability of social services helping remove the barriers to job market entry, with focus on areas of particular relevance to the job market, i.e. prevention of social instability in target groups, provision of social activation services for families with children.

Dialogue for Change

Project summary: The aim is to improve the life of people living in three socially excluded Roma neighbourhoods in Ostrava. The key activities include a participatory action survey as well as community work and field programmes. The project activates the people, helps them attain a higher level of self-dependence and motivation and gives them a greater sense of responsibility for the quality of their life. This is the essential precondition for the sustainability of any positive change in the life of people living in socially excluded Roma neighbourhoods. As an additional benefit, the project serves as an advanced training ground for the implementing team (members of the “Vzájemné soužití” civic association) in order to improve their qualifications and ensure the quality of the services provided by the association.

To date, there have been five calls for individual projects under the “Support of Social Integration in Roma Neighbourhoods” area. The allocations total almost EUR 18 million. By the end of 2010, applicants submitted 15 projects worth in total almost EUR 21 million, and five projects worth in total almost EUR 5 million were contracted.

One of the above calls is specifically targeted at municipalities. The grants go mainly to places where the Agency for Social Inclusion in Roma Neighbourhoods is already active on the ground. The first grant was awarded to the town of Ostrava in 2010. The aim of the project is to provide activation services for families with children in order to help people living in socially excluded neighbourhoods integrate in the majority society in all areas of life. Both services will be provided at community centres as well as on the ground.

The *Integrated Operational Programme* (administered by the Ministry for Regional Development) supports, among other goals, the improvement of the social services infrastructure. The area particularly important for the Roma is investment support intended to improve access to services that help people living in socially excluded neighbourhoods return to the job market and reintegrate in the society. In 2010, the allocation for this purpose was almost CZK 260 million. The call was specifically for projects involving the development of infrastructure, purchases or renovation of premises for providers of social services, and optional activities in selected locations where the Social Inclusion Agency was active on the ground.

In 2010 there were 11 projects submitted under the programme, 7 of them were approved. The funds went to social activation services for families with children, low-threshold centres for children and young people, specialized social consultancy services, emergency shelters, field programmes, emergency assistance, social rehabilitation, a community centre, as well as sports, educational and leisure time activities in six towns in different parts of the Czech Republic.

The funds went also to projects aimed to improve the overall living conditions in deprived urban areas, in particular through revitalization of public areas and regeneration of residential houses (Axis 5.2 – Improving the environment in problematic housing estates). The pilot projects coordinate these activities with ongoing activities in the area of social inclusion and non-investment support for Roma neighbourhoods and with education projects for children and adults. The investment in revitalizing public areas and regenerating residential houses under the Integrated Operational Programme amounts to EUR 14 million. By the end of 2011, there were 43 approved projects for the regeneration of problematic housing estates, worth in total CZK 148 million.

Allegations concerning the sterilisation of Roma women without their prior free and informed consent

The Committee strongly urges the authorities to resolve without further delay all pending compensation cases brought by the victims of sterilisation without prior free and informed consent. In addition, the Advisory Committee urges the authorities to continue to ensure that all legal provisions on prior informed consent are adhered to at all times.

In 2004 - 2007, the Ombudsman has been contacted by 89 women complaining about a violation of the sterilization procedures set out in the applicable Health Ministry directive. The prevailing majority of them filed their complaints after an NGO campaign targeting Roma communities. The complaints concern surgeries performed in 1961 - 2004. In 13 cases, the medical records were no longer available (destroyed in floods or shredded), in another 12 cases it was found that the complainant had not in fact been sterilized. In only 16 cases the surgery postdated the entry into force of the Framework Convention in respect of the Czech Republic (1 April 1998). This shows that every year, out of the approximately 4,000 sterilizations annually carried out in the Czech Republic, there were only one or two cases of patients complaining about alleged non-compliance with the free and informed consent requirement.

Starting from 2005, a number of measures have been taken to prevent the recurrence of unlawful sterilizations: stronger legislative safeguards for free and informed consent (the comprehensive revised legislation in force since 1 April 2012 introduces i.a. a compulsory two-week interval

between giving information and obtaining consent), an educational and awareness-raising campaign, as well as checks conducted by the Health Ministry to verify compliance with the law.

As regards compensations for harm caused by failure to follow the prescribed procedure on the part of medical personnel, an adequate way to seek redress is through civil action. The recent clarification of the case-law concerning the statute of limitations has already been reflected in judicial decisions, e.g. in a case involving sterilization it led to an out-of-court settlement between the complainant and the hospital concerned.

Sterilization without prior free and fully informed consent affected both Roma and non-Roma women. An inquiry conducted by the Health Minister's advisory body found that there was no racial or ethnic motive behind the non-compliance with laws and regulations. For this reason, the statement of regret made by the Government in 2009 was addressed to all affected women, not only to Roma women (as suggested by the Advisory Committee in paragraph 55 of the Opinion). The Government treats the issue of individual shortcomings in the sterilization procedure strictly as a question of free and informed consent to a medical procedure, not as a question of discrimination based on belonging to a national minority in terms of Article 4 of the Framework Convention.

ARTICLE 5

Support for the cultural activities of persons belonging to national minorities

Various interlocutors have underlined that public financial support for national minorities' activities, in particular the numerically smaller ones, is insufficient to meet the needs of these groups in order to protect, preserve and develop their cultural identities. Representatives of the Croat minority have indicated their wish to create a museum in Jevišovka to document 300 years of presence of Croats in the southern Moravia.

The authorities should continue and step up their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of all national minorities, including numerically smaller groups.

The Ministry of Culture supports the activities of persons belonging to national minorities by allocating subsidies on a competitive basis to projects under the following programmes: (1) a programme supporting for the cultural activities of persons belonging to national minorities in the Czech Republic, (2) a programme supporting the integration of persons belonging to the Roma minority, and (3) a programme supporting the receiving and imparting of information in minority languages.

Since the subsidies are allocated strictly for non-investment purposes, they cannot be used to pay all operational costs not directly related to the implementation of projects.

The demand for subsidies under all Culture Ministry programmes (not only those designed for national minorities) far exceeds the amounts earmarked for these purposes in the Culture Ministry budget. This means that it is not possible to fully meet the requirements of all applicants. The available amount depends on the current state of the national budget.

The decisive criterion in assessing a project is not the number of people who identify themselves with the national minority, but the quality of the project itself. Numerically smaller national minorities submit fewer projects than e.g. the large Slovak, Polish and German minorities. As a result, they receive less money.

In 2009 the Culture Ministry organized a seminar on the formal aspects and content of subsidy applications, intended for applicants submitting projects under the Support of Cultural Activities programme. In 2010 it held consultations on the same topic for interested Slovak organizations. The Culture Ministry also offers individual consultations on specific projects.

As regards the Croat minority's wish to establish a museum in Jevišovka, the Culture Ministry expects that representatives of the Croat association will submit their project.

ARTICLE 6

Tolerance and intercultural dialogue

The Advisory Committee welcomes the establishment of a memorial site in Lety to commemorate victims of the Roma holocaust at the Nazi concentration camp and of the Education and Documentary Centre of the Romany Holocaust in Hodonín u Kunštátu. It however deplores that the site of the concentration camp at Lety remains for its most part occupied by a pig farm established there by the communist regime in 1970s. The Advisory Committee particularly regrets that the authorities have not implemented their own decision of 1998 to remove the pig farm, despite the continuing calls from the Roma representatives and international bodies. Given in particular the symbolism of what the site is still used for, the Advisory Committee considers its continuing use as a pig farm to be a grave violation of Article 6 of the Framework Convention. The Advisory Committee strongly urges the authorities to remove as a matter of priority the pig farm from the site of the concentration camp at Lety.

There are more than 2,000 sites associated with Nazi persecution in the Czech Republic (prisons, assembly points for people awaiting transfer to concentration camps, etc.). Like in other countries, some of them have been turned into memorial sites, and the rest have either disappeared or serve everyday practical purposes (e.g. schools). Among the many assembly points for Romas awaiting transfer to the Auschwitz concentration camp, the most important are the “Gypsy camps” at Hodonín u Kunštátu and Lety u Písku.

The two camps were established in 1939 as part of a network comprising several dozen labour camps (*Arbeitslager*) in the Protectorate of Bohemia and Moravia. Only in 1942 they were transformed into assembly camps (*Sammellager*) and even later into Gypsy camps (*Zigeunerlager*) where Romas were assembled. Of the 1,309 people who passed through the Lety camp, 326 died there, mostly as a result of typhoid epidemics aggravated by overcrowding and poor sanitation. A quarter of the Lety prisoners were released or escaped, the rest were transferred to Auschwitz. Of the 1,396 people who passed through the Hodonín camp, 194 died there of the same causes as those at Lety. A small number were released, the rest were transferred. Both camps were closed down after the departure of the last transport – Lety in 1943, Hodonín in 1944.

A provisional forced labour camp for opponents of Communism was set up at the site of the Hodonín camp in 1948. Later it was closed down and a holiday resort was built at the site. In 1946, a cross was erected on the former burial ground to commemorate Nazi victims; a monument was built in 1997 and is now the centre of commemorative events. In 2009 the Government purchased land at the site of the camp and decided to build an educational centre for Roma Holocaust remembrance.

The camp at Lety u Písku was demolished in 1943. Today there is no trace of the camp itself; a commemorative cross was erected on the former burial ground nearby. As many as 30 years later, a pig farm was built approximately at the site of the camp. In 1995, a monument was erected on the former burial ground and is now the centre of commemorative events.

In 2009 the Government decided to rehabilitate the memorial sites at Lety u Písku and Hodonín u Kunštátu. The original plan to relocate the pig farm at Lety had to be abandoned because of the exceptionally high costs that far exceed the available budget.

CZK 22 million were allocated to rehabilitate the Lety site. The memorial site was renovated, land purchased from neighbouring municipalities, access roads repaired, a parking area, an amphitheatre for visitors and a nature trail from Lety to the memorial site were built and information boards installed. Three replicas of camp barracks were built at the memorial site to house a permanent exhibition and a reconstruction of the prisoners' sleeping quarters. An information centre staging short-term, regularly changed exhibitions was set up at the Municipal Office. Plaques at the Mirovice cemetery commemorating Roma victims of the camp were renovated as well.

The Lety Cultural Monument is featured in the promotional materials of the Lidice Memorial and Ležáky National Cultural Monument. Together they form a group of three memorial sites officially known as "Nazi Victim Memorials". Publicity for the Lety site includes several promotional materials, a brochure entitled "*Lety- život za plotem*" ("*Lety – living behind a fence*") and a travelling exhibition of the same name. The exhibition has been shown i.a. at the Roma Culture Museum in Brno and at many schools. The promotional materials are distributed to information centres, to many hotels and heritage sites. Additional promotional materials have been created for schools and travel agencies. An audio guide to the town of Písek invites tourists to visit the Lety Memorial. The memorial is also promoted through its website www.lety-memorial.cz.

Key activities are taking place in the area of education. They include an instructional DVD for primary and secondary schools entitled "*Lety u Písku – místo, o kterém se nesmí mlčet*" ("*Lety u Písku – a place that must be talked about*"). The DVD features short texts and pictures documenting the history of the former Gypsy camp. It is available in three languages (Czech, Roma and English). The memorial offers an accredited seminar for teachers on "Camps – tools of persecution". The aim is to improve the teachers' knowledge of the concentration camp system and to show them how the camps – including the Gypsy camp at Lety as well as the Communist-era correctional and forced labour camps – actually functioned.

In 2010 the Lety memorial site received over 10,000 visitors. This is a positive signal showing that the Czech and Roma society is interested in this chapter of its history.

It is obvious that the Roma Holocaust has now become part of the collective historical awareness in the Czech Republic, thanks to a whole range of educational and remembrance activities. The victims are being properly commemorated at both main Roma Holocaust sites, either at the site of the former camp or on the burial ground. Accordingly, it is not possible to accept the Advisory Committee's opinion as regards the violation of the Framework Convention.

The Advisory Committee strongly urges the authorities to increase their efforts to combat all manifestations of intolerance, racism and xenophobia. In particular, the Advisory Committee urges the authorities to take further legislative measures and policies to combat racist manifestations in the media, including in the political arena, in the spirit of the Committee of Ministers' Recommendation No. R (97)20 on "Hate Speech" in particular against Roma.

In 2009, all members of the Government, chairpersons of both chambers of the Parliament and chairpersons of parliamentary political parties signed an Agreement concerning joint action against the rise of extremism and racism. The signatories unequivocally condemn the spreading of extremist views and of an atmosphere of confrontation and violence in the society; they reject any manifestations of racial discrimination as well as any attempts to assert racial superiority or to enforce ethnic or social segregation; they undertake not to let such views and ideas be heard in the public discourse and election campaigns; they call upon the public administration authorities to make efficient use of all available legal tools in order to counter such views and atmosphere; they undertake to use their public offices to support all activities that help curb the growth of right-wing as well as left-wing extremism, and to speak out against all manifestations of racial discrimination in the society.

In 2009 the Government approved a *Strategy for Combating Extremism*. The implementation of this strategy is reviewed on an annual basis – the results of the review are presented in the annual *Reports on the Issue of Extremism in the Czech Republic*, in which the tasks set out in the Strategy are revised in response to the development of the extremist scene and racially motivated crime. The tasks for the competent government authorities concentrate on the prevention of extremism, racism and xenophobia. The key role in this respect is played by the Ministry of Education, Youth and Sports, whose responsibility is to provide guidance to schools and to create framework educational programmes and teaching materials in order to support education for tolerance and multicultural education. Projects addressing these issues are allocated subsidies under a subsidy programme supporting education in minority languages and multicultural education.

The Workers' Party, a party with a long record of strong anti-Roma views, was dissolved by the Supreme Court in 2010 at the Government's request.

The strict punishment of the perpetrators of the 2009 arson attack on a Roma home at Vítkov has sent a clear signal to the society that racially motivated violence and ethnic intolerance will not be tolerated in the Czech Republic. The offenders received exceptionally severe sentences ranging from 20 to 22 years in prison. The court classified their actions as attempted multiple murder. The judgment sets a crucial precedent for the decisions of other courts in similar cases.

Czech media legislation prohibits any form of discrimination and incitement of intolerance. Radio and television broadcasters must ensure that their programmes do not incite hostility for

reasons such as sex, race, colour, language, faith and religion, political or other opinion, national or social origin, association with a national or ethnic group, property, birth or other status. They must not broadcast programmes perpetuating stereotyped prejudices about ethnic, religious or racial minorities. Similar rules apply to on-demand audiovisual media services (i.e. programmes available on the Internet). Compliance is supervised by the Radio and Television Broadcasting Council. This regulatory body is separate from and independent of the public administration system, in order to safeguard media independence.

Fight against discrimination, hostility or violence on ethnic or racial grounds

The Advisory Committee invites the authorities to ensure that more vigorous, speedy and effective action be taken to prevent, investigate and prosecute perpetrators of offences committed with racial or xenophobic motives, and to provide for constant monitoring of this phenomenon within the society.

The Advisory Committee expects that competent authorities when deciding whether there was a racial motivation behind offences, attacks and other unfavourable treatment against the Roma, take into account that discrimination based on race or ethnic origin affects the core of personal dignity and, consequently, investigate and pass rulings with more scrutiny as to whether such cases are racially motivated.

See comments on Art. 6.

ARTICLE 9

Access of persons belonging to national minorities to the media

The Advisory Committee calls upon the authorities to continue supporting radio and television broadcasting programmes for or about national minorities, and in languages of national minorities.

The authorities should ensure that national minorities are consulted by the editorial boards and encourage the direct involvement of minorities in producing programmes by recruitment of journalists belonging to national minorities into staff of radio and TV stations, especially in those regions where persons belonging to national minorities live in substantial numbers.

The Czech Republic will continue to support radio and television programmes for minorities. As regards the recruitment of journalists belonging to national minorities by radio and television stations, it should be kept in mind that decisions in these matters are solely at the discretion of the public service or private media. The Government has no power to interfere.

ARTICLE 11

Surnames and first names in minority languages

The Advisory Committee encourages the authorities to interpret the registries Act in a way which as far as possible accommodates the needs expressed by persons belonging to national minorities, in accordance with the principles set out in Article 11 of the Framework Convention. In particular, the Advisory Committee expects that the authorities take necessary and appropriate

measures to raise the awareness on the part of civil registry personnel as regards the rights of the persons belonging to national minorities under the recent revision of the Registries Act.

The Ministry of the Interior is not aware of any complaints from persons belonging to national minorities concerning mistakes or lack of awareness among civil registry personnel as regards the application of the amended Registries Act. However, the matter will be once again included in the programme of the briefings that are organized for registry personnel twice a year.

Bilingual signs and place names

The Advisory Committee urges the authorities to take more proactive measures in order to ensure that the provisions of Article 11, paragraph 3 of the Framework Convention are effectively implemented, including at regional and local level.

At the request of the Government Council for National Minorities, the Ministry of the Interior is working on an amendment to the Municipalities Act that will change the rules concerning bilingual names and the establishment of national minority committees. In both cases, the amendment will allow associations representing the interests of national minorities to present such requests. At their request, the municipality will be obliged to install the signs and set up the committee.

ARTICLE 12

Equal access to education; the situation of the Roma

The Advisory Committee urges the authorities to eliminate, without further delay, practices that lead to the continued segregation of Roma children at schools and to redouble their efforts to remedy other shortcomings faced by Roma children in the field of education, and to ensure to Roma children equal opportunities for access to all levels of quality education. In particular, steps should be taken to prevent children from being inappropriately placed in “practical schools”, and to ensure that fully informed consent is given as a condition for placement into special education.

Since the passing of the ECHR judgment in the case of D. H. and Others v. the Czech Republic, government authorities, experts, local governments and civic initiatives have been discussing ways to ensure equal opportunities for disadvantaged groups of children with special educational needs and to increase their participation in mainstream education.

One result of the discussion is the National Plan of Action for Inclusive Education, adopted by the Government in March 2010. The National Plan is currently in its preparatory phase, during which the measures necessary to support inclusive education are to be developed. Though its implementation proper is to start in 2013, some of the changes are taking place already now.

The most important of the changes that have already taken place is the amendment of regulations concerning the education of pupils and students with special education needs. Regulation No. 147/2011, effective since 1 September 2011, prohibits the enrolment of socially disadvantaged pupils (including Roma pupils) in educational programmes or schools designed for mentally handicapped pupils. An ancillary regulation is Regulation No. 116/2011 concerning the provision of educational guidance services. This regulation sets out the principles of the educational

guidance process, including in particular the informed consent requirement as well as the purpose, procedures and intended effects of the guidance process. Diagnostic testing must be repeated every year in order to reassess the placement decision or the adequacy of the educational support measures.

Practical effects of the above changes will be evaluated by means of surveys conducted by the Czech School Inspectorate and the Ombudsman. The results should be available in spring 2012 and will be taken into account when preparing and implementing future measures.

The execution of the judgment in D.H. and Others remains the Government's priority. The process is followed by the Government Council for Roma Affairs and, in particular, by a working group set up at the Government Office, comprising representatives of the Government, Parliament and other experts. For detailed information provided by the Czech Republic concerning the execution of the judgment, see Committee of Ministers documents DH-DD(2010)583E, DH-DD(2010)584E and DH-DD(2011)1064E.

The Advisory Committee urges the authorities, as a matter of priority, to make more sustained efforts to ensure access to pre-school facilities for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multi-lingual composition of the group concerned.

Placing a child in a kindergarten is currently a serious problem for all groups of population because of the overall lack of kindergarten capacities in the Czech Republic. An additional difficulty for socially excluded Roma families is that access to kindergartens in their neighbourhoods is even worse than in other areas.

Another disadvantaging factor is the bad financial situation of excluded Roma families that makes them unable or unwilling to pay the costs associated with pre-school education. The attitudes of Roma parents and their failure to fully appreciate the importance of pre-school education for the child's future success at primary school also play a role as regards the participation of Roma children in pre-school education. The kindergarten is considered an "extra indulgence" because many Roma mothers are full-time housewives and can take care of their children at no cost.

Another service that can help reduce or eliminate the social handicap of Roma children is early intervention, starting with a timely diagnosis of special educational needs followed by timely educational intervention (targeted awareness raising and social work with Roma parents). The aim of early intervention should be to stabilize the overall family environment so that the parents can create a stimulating atmosphere for the child's proper development. Projects supporting pre-school education of Roma children receive subsidies from the Education Ministry under the Support of Roma Integration programme.

In order to increase the degree of inclusion at Czech schools, the Education Ministry has developed two strategic documents – the *Plan of Action for the Policy Concept for Early Intervention for Children with Socioculturally Disadvantaged Backgrounds* and the *National Plan of Action for Inclusive Education*.

The 2009 *Plan of Action for the Early Intervention Policy Concept* is based on the assumption that adequate pre-school education and work with the whole families of pre-school children (namely with mothers) plays a decisive and irreplaceable role in preventing school failure among children with socioculturally disadvantaged backgrounds, particularly among children entering the first grade. The Plan of Action establishes a framework for activities addressing the social handicaps that affect the children's socialization and, consequently, diminish their chances to achieve their full learning potential, to complete their formal education and to get out of the socially disadvantaged community. The aim of the document is to create conditions that will benefit disadvantaged children from an early and pre-school age in order to improve their school performance, prolong their school career and ensure that they leave school with skills and qualifications. The Plan of Action includes measures designed to support:

- The training of teachers and educators working with children with socioculturally disadvantaged backgrounds (including children with different linguistic backgrounds);
- The standardization of and methodological support for early intervention programmes and measures by establishing standards of early intervention for children with socioculturally disadvantaged backgrounds;
- The implementation of programmes and measures designed to increase the number of children with socioculturally disadvantaged backgrounds in mainstream schools;
- The introduction of a system for reviewing the assessments made by educational guidance and preventive education experts;
- Research projects concerning the education of socially disadvantaged pre-school children. Pre-school education is also one of the areas addressed by the *National Plan of Action for Inclusive Education*, approved by the Government in 2010. The Plan of Action sets out measures aimed to abolish the continuing practice of segregation at Czech schools and to prevent any discriminatory practices, including those encountered by Roma children. The measures concerning pre-school education include:
 - Creating conditions (in terms of organization, funding and equipment as well as personnel) for the development of inclusive approaches in institutionalized pre-school education (kindergartens);
 - Proposing measures that will help develop inclusive pre-school education as a direct continuation of early care and early intervention mechanisms;
 - Proposing alternative pro-inclusive models of pre-school education; testing the models on a pilot basis,
 - Studying the feasibility of compulsory pre-school education in the year before school entry;
 - Studying the feasibility of an automatic entitlement to the full range of pre-school education services.

Support of early intervention for children with socioculturally disadvantaged backgrounds is also part of the *Roma Integration Policy Concept for 2010-2013*. In particular, the policy concept seeks to improve the accessibility and coherence of early intervention services in socially excluded Roma neighbourhoods. In this regard, it foresees:

- Better access to *social activation services for families with children below six years of age*; these services should be organized in close cooperation with educational guidance experts at

schools (and should include efforts to raise the parent's awareness and improve their parenting skills, so that the parents can develop the potential of their children to make their school entry easier);

- The development of a pre-school education network for families with children aged three to six years, including kindergartens and head-start classes, combined with the services of assistant teachers for socially disadvantaged children;
- Close cooperation between social services for people living in socially excluded Roma neighbourhoods and awareness raising activities designed to change the attitudes of parents of disadvantaged Roma children and to make them more aware of the importance of pre-school education as a basis for successful school entry.

An important role in working with pre-school disadvantaged Roma children and improving their chances of success at school is played by non-governmental non-profit organizations that offer a broad range of early intervention programmes. The programmes are funded from the national budget as well as from the Education Ministry subsidy programmes (in particular the Roma Integration Support Programme), and the budget of the Office of the Government of the Czech Republic (in particular the programme for preventing social exclusion and eliminating its impacts).

ARTICLE 14

Teaching of minority languages and instruction in these languages

The Advisory Committee calls on the authorities to continue monitoring the situation, in consultation with the representatives of national minorities, to assess whether the framework for teaching of and in minority languages corresponds to actual needs and, where appropriate, take the necessary steps to address any shortcomings.

The Advisory Committee considers that the authorities should resolutely continue to train teaching staff in the Romani language and to develop the necessary teaching materials, taking into consideration the Curriculum Framework for Romani, with a view to creating opportunities for the teaching of or in the Romani language, where there is a sufficient demand.

The authorities should consider encouraging bilingual or dual medium education models, which can attract children from majority and minority backgrounds.

The teaching of the Romani language is, by itself, a complicated task because the language has many spoken dialects but no codified standard form. The Council of Europe's Curriculum Framework for Romani offers a useful way to overcome this problem and the Education Ministry will use it as a basis for its own policies. In the initial stage, schools in areas with significant concentrations of Roma pupils will be offered Romani language and methodology seminars for teachers. The aims and structure of the seminars will be developed in cooperation with Roma studies experts. In the next stage, the Education Ministry will support the teaching of the Romani language at the schools and educational centres that have qualified Romani language teachers. The Romani language course for teachers offered by the Faculty of Arts of Charles University should help address the lack of qualified Roman language experts.

Another useful tool developed by the Council of Europe is the European Language Portfolio - Learning the Romani Language for the first and second level of primary school (including a

handbook for teachers). The Education Ministry had these materials translated into the Czech language and into Lovara and North-Central Romani.

ARTICLE 15

Participation of persons belonging to national minorities in the decision-making process

The Advisory Committee urges the authorities to review, in consultation with representatives of national minorities, legal provisions and administrative policies and practice regulating the establishment, appointment and functioning of the committees for national minorities with a view to eliminating the identified shortcomings.

It also calls on the authorities to ensure that local committees be effectively established to relay national minorities' concerns and to guarantee their rights in the municipalities where the conditions are met for setting them up. Further measures should be taken in order to ensure that these bodies carry out their tasks efficiently and effectively and that they have adequate co-operation with local authorities including joint consultations and, where appropriate, access to training and legal aid.

See comments on Art. 11.

Participation of Roma

Far more determined efforts should be made to find ways and means to improve substantially the participation of the persons belonging to the Roma – including Roma women – in decision-making processes. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation. In so doing, they should endeavour to associate them in the design, implementation, monitoring and evaluation of the various measures taken by the different ministries to implement the Roma Integration Policy Concept.

The authorities should continue and increase efforts to develop and efficiently implement policies addressing the problems confronting the Roma in a number of fields, particularly in the areas of security, education, housing, social protection and healthcare services, employment, and allocation of adequate resources as a condition sine qua non to remedy this situation.

The authorities are encouraged to take steps to ensure the effective participation of Roma in the decision-making process.

The basic precondition for the effectiveness of inclusion policies is active participation of the Roma in their design, implementation and evaluation. Roma participation ensures that the policies reflect the current needs of the target group and respect the different norms and cultural patterns that exist inside Roma communities. Another positive aspect of active participation is that it encourages the Roma to take on an increasing share of responsibility for the administration and management of their minority's affairs.

The highest body through which Roma minority representatives can participate in creating and implementing nationwide inclusion policies is the *Czech Government Council for Roma Community Affairs*. Its membership includes fifteen Roma representatives who come from different regions of the Czech Republic and have long-standing personal and professional experience with a broad range of problems concerning Roma integration. Seven of the Roma

members have for a long time served as regional Roma affairs coordinators or as Roma advisors in municipalities with delegated powers.

Another opportunity for Roma representatives to promote the needs and justified interests of the Roma minority is through participation in *national minority committees*, regional and municipal, set up on the basis of census results as foreseen in Section 117 of Act No. 128/2000 concerning municipalities and Section 78 of Act No. 129/2000 concerning regions. Participation in national minority committees enables the Roma to exercise, in practical situations, their right to participation in the public affairs affecting them (pursuant to the provisions of Section 6 of Act No. 273/2001). The committees serve as a platform to address current issues and problems related to national minorities, to share views and clear up misunderstandings. Their agenda typically includes issues such as the integration of children belonging to national minorities in Czech schools, housing problems encountered by minorities and migrants as a result of their status in the society, job market situation, specific cultural and religious needs of minorities, and the exercise of the rights of persons belonging to national minorities.

Municipal committees have been set up in Ústí nad Labem, Karlovy Vary, Hradec Králové, South Moravia, Olomouc and Moravia-Silesia regions. For example, the Moravia-Silesia Region has a regional national minority committee (including a Roma representative) and 31 municipal committees. The other regions have not set up regional committees because of the insufficient number of inhabitants who described themselves as belonging to a national minority in the census, or because the local minorities show no interest in running their own affairs through a committee. The national minority committee in Ústí nad Labem region includes a Roma Ethnic Minority Working Group, independently addressing the problem of social exclusion of the Roma and the ways to secure ESF funding for projects that deal with the issue. Some other regions and towns where the committees do not exist have set up expert commissions on Roma minority issues as part of regional or municipal councils. The commissions include Roma representatives.

The situation may change on the basis of the results of the 2011 census – new committees may be set up and the composition of existing committees changed to reflect the new census data. Reminding the Roma that they can participate in the committees was one of the aims of the awareness raising campaign conducted by the Government Council for Roma Minority Affairs. The campaign explained to the Roma that census results may influence the exercise of the rights accorded to minorities under the legislation concerning the rights of persons belonging to national minorities. The main aim of the campaign was to reverse the trend of a declining number of people who classify themselves as belonging to the Roma minority for census purposes.

Yet another opportunity for the Roma to participate in the design and implementation of inclusion measures is through Roma civic initiatives. The network of civic associations established and run by the Roma has been developing in the Czech Republic since 1989. The most common activities include the provision of social services, as well as organization of educational and leisure time activities for different age groups, and cultural events and festivals promoting Roma culture. Only a small number of them are involved in media work (e.g. the Romea civic association) or active politically. This trend can be described as encouraging, since it shows that representatives of the Roma minority are increasingly interested to take an active part in managing Roma affairs, and especially in addressing the situation of fellow Romas who experience hardship as a consequence of social exclusion. Roma organizations are very strongly

represented in the Olomouc Region (12 organizations, but some of them are not active), Hradec Králové Region (10), Moravia-Silesia Region (9), as well as in Prague (8) and the Zlín Region (7). They play a major role in increasing Roma employment, since their projects offer the target group not only job opportunities, but also professional training and a chance to gain new qualifications. A number of these organizations are active advocating the needs of the Roma in the process of development of Roma inclusion strategies at the local as well as regional and national level.

In the public administration system, Romas typically hold positions as field workers, Roma advisors and coordinators of Roma affairs. Only in isolated cases they hold senior positions or serve on municipal or regional councils.

The “Crime and Extremism Prevention Programme – Dawn” (implemented by the Ministry of the Interior since 2009) is intended to improve public safety and security in socially excluded neighbourhoods, to eliminate social risk phenomena and to prevent extremist attacks, as well as to involve people living in the neighbourhoods, including the Roma, in the broadest possible range of activities, with the aim to:

- Set in motion efficient cooperation, with good prospects of success, between the public administration, local governments and people living in socially excluded neighbourhoods in order to improve public safety and security in the neighbourhoods,
- Involve local people in efforts to improve the quality of life as well as public safety and security in their neighbourhood and to give them a greater sense of responsibility for their lives and for the conditions in which they live,
- Improve public safety and security in the neighbourhood.

In 2009 – 2011, the Dawn Programme provided funds totalling about CZK 13 million in support of 58 distinct activities, mainly in the two regions that have the highest number of socially excluded neighbourhoods with predominantly Roma residents – the Ústí nad Labem and Moravia-Silesia Regions. Over the 2009-2011 period, one of the projects funded under the Dawn Programme (the Crime Prevention Assistant project) provided jobs for more than 100 Czech citizens, including Romas. About 40 of them still have jobs under the project. A project funded from the ESF has been prepared and approved for the 2012-2013 period. The project provides long-term employment for 50 assistants, mostly Romas. The positions of crime prevention assistants are staffed with people with a record of long-term unemployment and job placement problems. After taking a training course and gaining work experience as assistants, they will have more chance to get proper employment.

The Ministry of the Interior has offered the Dawn Programme to local governments in towns in the Šluknov area (Rumburk, Varnsdorf, Šluknov) and to the town of Nový Bor. At least one preventive project will be implemented in each of the towns.