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Committee on the Elimination of Racial Discrimination**Seventy-ninth session**8 August–2 September 2011²**Consideration of reports submitted by States parties under article 9 of the convention****Concluding observations of the Committee on the Elimination of Racial Discrimination****Czech Republic**

1. The Committee considered the 8th and 9th periodic reports of the Czech Republic (CERD/C/CZE/8-9), submitted in one document, at its 2106th and 2107th meetings (CERD/C/SR.2106 and CERD/C/SR.2107), held on 18 and 19 August 2011. At its 2121st meeting (CERD/C/SR.2121), held on 30 August 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the combined eighth to ninth periodic report which was prepared in line with the reporting guidelines (CERD/C/2007/1). It expresses its appreciation for the dialogue held with the large delegation of the State party and for comprehensive responses to the questions of the Country Rapporteur and Committee members. The Committee also welcomes the updated Common Core Document transmitted by the State party.

B. Positive aspects

3. The Committee welcomes legislative and institutional steps taken by the State party during the period under review, including:

(a) The enactment in 2009 of Act No. 198/2009 on equal treatment and on legal means of protection against discrimination (the Anti-Discrimination Act);

(b) The amendment of paragraph 133 a in 2009 of the Rules of Civil Procedure (Act No. 99/1963) reversing the burden of proof in cases of racial discrimination;

(c) The amendment in 2008 of the Penal Code (Act No. 40/2009) establishing racial motive as an aggravating circumstance for a number of crimes;

(d) The amendment in 2006 of the Labour Code (Act No. 262/2006) prohibiting any discrimination against employees;

(e) The amendment of the Civic Associations Act (Act No. 83/1990) creating the same conditions of association for all, regardless of citizenship;

(f) The adoption of a National Action Plan in the context of the international initiative “Decade of Roma Inclusion for the period 2005-2015”;

(g) The adoption of the “2008-2012 Strategy for the Work of the Czech Police Force in Relation to Minorities”;

(h) The adoption of the “2008-2010 National Action Plan for Social Inclusion” and the establishment of the Agency for Social Inclusion in Roma localities in 2008;

(i) The Supreme Administrative Court decision of 2010 dissolving the Workers Party for its advocacy of neo-Nazi ideology and expressions of opposition to immigrants and minorities;

(j) The extension of the “Concept of Roma integration for the period 2010-2013”;

(k) Awareness-raising activities organized on Roma culture, history, and the Roma Holocaust.

4. The Committee also welcomes the ratification by the State party of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities of 2006 in 2009 and

(b) The Rome Statute of the International Criminal Court of 1998 in 2009.

5. Furthermore, the Committee acknowledges the contribution of the State party at the sub-regional and European levels to address the issue of discrimination against Roma in Europe. While progressing with these efforts, the State party is encouraged to keep in mind the importance of involving Roma in the design, implementation and monitoring of programmes concerning them.

C. Concerns and recommendations

6. The Committee welcomes the 2011 population census which gave respondents the opportunity to answer open-ended optional questions including on ethnic origin. However, it still regrets the lack of sufficient disaggregated data to date to efficiently support assessments of racial discrimination and measures to address it. The Committee also notes inconsistency in some data provided in the periodic report and the Common Core document.

In light of its general recommendation No. 4 (1973) on demographic composition of the population and paragraphs 10 and 12 of its revised reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party include disaggregated demographic data on the ethnic composition of the population in its next periodic report. The Committee reminds the State party that managing and monitoring racial discrimination require measurement and that the analysis of disaggregated data is important in order to assess and track targets and goals.

7. While welcoming the enactment of an Anti-Discrimination Act of 2009, the Committee is concerned that legal provisions against discrimination are scattered across the principal acts of public law (the Constitution), private law (the Civil Code, the Labour

Code) and administrative law (the Code of Administrative Offences, the Anti-Discrimination Act), and the procedural codes thereto (the Code of Civil Procedure, the Code of Administrative Procedure, etc.). The Committee is concerned that since the grounds for discrimination and the remedies differ depending on the area of discrimination, victims may find the access to justice cumbersome, slow and ineffective (art. 2, 4 and 6).

The Committee thus recommends that the State party consider the possibility of unifying and consolidating the prohibited grounds of discrimination and standardizing remedies for racial discrimination in order to facilitate access to justice for victims of racial discrimination.

8. While acknowledging the important progress that has been made through adoption of the Anti-Discrimination Act, the Committee is conscious that it defines permissible and impermissible grounds and forms of differential treatment, without providing sufficiently for new means of protection to the victims. The Committee also notes that establishing discrimination remains reportedly difficult and the only additional means of protection stipulated by the Anti-Discrimination Act is recourse to the Ombudsman who has however limited direct powers (art. 2, 4 and 6).

In line with its General Recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party take steps to unify its legislation and simplify judicial procedures in cases of racial discrimination as well as strengthen the mandate of the Ombudsman. The Committee also recommends that the State party provide the requisite legal information to persons belonging to the most vulnerable social groups and to promote institutions such as free legal aid and advice centres, legal information and centres for conciliation and mediation.

9. While welcoming the information provided by the State party that the Ombudsman began functioning as the Equality body according to the Anti-Discrimination Act, the Committee is concerned by the absence of an independent national human rights institution set up in compliance with the Paris Principles (art. 2).

The Committee recommends that the State party establish an independent national human rights institution in line with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) and provide it with adequate human and financial resources in order to carry out its mandate including promoting the Convention on the Elimination of All Forms of Racial Discrimination and monitoring legislative compliance with the provisions of the Convention.

10. The Committee notes the State party's approach in its Criminal Code (Section 405) addressing class hatred under the same section as genocide, racial, ethnic, national and religious hatred as outlined during the dialogue with the State party. It further notes the lack of response to its previous recommendation (CERD/C/CZE/CO/7, para. 9) regarding this issue (art. 2 and 4).

The Committee requests as offered by the State party further information in writing regarding these procedures and how in the light of its previous concluding observations (CERD/C/CZE/CO/7, para. 9) it ensures that there is no confusion between questions of racial discrimination, genocide and other matters in the application of the State party Criminal Code and in combatting racial discrimination.

11. The Committee remains concerned at the possibly limited effectiveness of the Government's response to some of the decisions and acts of local and regional authorities while exercising devolved powers especially where such acts had involved evictions or other limitations of the rights of vulnerable groups, the organization of local minority committees or the allocation of resources and housing including to the Roma community (art. 2 and 5).

The Committee recommends that the State party take effective measures to ensure that the principle of self-governance and devolution of powers does not impede implementation of its international human rights obligations of promoting rights of groups vulnerable to racial discrimination, particularly their economic, social and cultural rights.

12. The Committee expresses its concern regarding the persistent segregation of Romani children in education as confirmed by the decision of the European Court of Human Rights of 2007 and the 2010 report of the Czech School Inspection Authority. The Committee is concerned with reports that the practice of linking social disadvantage and ethnicity with disability for the purposes of school class allocation has continued rather than been removed by recent regulations. Furthermore, some amendments to regulatory decrees which take effect in September 2011 may reinforce discrimination against Romani children in education and that practical changes which will benefit Romani children under the Government National Action Plan for Inclusive Education are only envisaged from 2014 onwards (art. 3 and 5).

In line with its previous Concluding Observations and General Recommendation No. 27 (2000) on discrimination against Roma, the Committee urges the State party to eliminate any discrimination or racial harassment of Romani students, prevent and avoid the segregation of Romani students, while keeping open the possibility for bilingual or mother-tongue tuition.

The Committee recommends that the State party take concrete steps to ensure effective de-segregation of Romani children and students and to ensure that they are not deprived of their rights to education of any type or at any level. The Committee finally recommends that the State party undertake full consultation with Roma stakeholders with regard to education, and to promote awareness of Roma rights and enhance their capacities to address the discrimination they experience including in education and by school authorities.

13. The Committee is concerned by the results of a study conducted by the European Roma Rights Centre and a group of non-governmental organizations that within 22 child care institutions in the five regions of the Czech Republic included in the study, 40.6% of children were Roma. While acknowledging the overarching need for adequate protection of children, the Committee is conscious that the over representation of Romani children in State care institutions may reveal a disregard of Roma rights (art. 2 and 5).

The Committee recommends that the State party include in its overall strategy the issue of overrepresentation of Romani children in State care institutions by addressing the root causes of this phenomenon including poverty of Roma parents and limited resources of child protection authorities. The Committee also recommends that the State party organize further training and education for associated professionals and personnel on Roma rights.

14. Despite the State party's efforts, the Committee is concerned by the existence of socially excluded localities populated by Roma and by persistent discrimination against Roma regarding access to adequate housing and employment (art. 3 and 5).

The Committee recommends that the State party develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing and take special measures to promote the employment of Roma in the public administration and institutions, as well as in private companies. The Committee thus recommends that the State party strengthen its strategy and plans in these areas and allocate sufficient resources to the Agency for Social Inclusion of Roma Communities.

15. While welcoming the decision of the Supreme Court to dissolve the Workers Party for its advocacy of neo-Nazi ideology and expressions of opposition to immigrants and minorities, the Committee regrets that article 4 (b) of the Convention is not adequately covered by the State party's legislation as it refers to persons only but does not prohibit organizations and other propaganda activities inciting racial discrimination (art. 4).

The Committee recommends that the State party include prohibition of racist propaganda, organizations and activities in its legislation and recognize participation in such organizations or activities as an offence punishable by law. In view of its General Recommendation No. 7 (1985) on the implementation of article 4 and No. 15 (1993) on article 4 of the Convention, the Committee is of the view that article 4 (b) places a burden upon States parties to be vigilant in proceeding against organizations promoting racial discrimination which have to be declared illegal and prohibited.

16. The Committee is concerned by manifestations of hatred, hate crime, racist and xenophobic discourse in politics and the media including reports of statements by senior political figures. The Committee has received reports of a growing number of incidents of incitement to hatred and acts of violence such as setting Roma dwellings alight with Molotov cocktails, some of which incidents allegedly have involved sympathisers of the former Workers Party. The Committee is also very concerned by information alleging that previous members of extremist political parties serve as governmental advisors including in the Ministry of Education, Youth and Sports (art. 2, 4 and 6).

The Committee urges the State party to ensure that hate crime and violence, racist and xenophobic discourse wherever they take place are thoroughly investigated and that perpetrators, whoever they are, are effectively prosecuted. The Committee further urges the State party to ensure that previous members of extremist political parties are not hired as governmental advisors or officials. The Committee encourages the State party to include in the next periodic report disaggregated statistical data on these incidents and complaints about racial discrimination acts as well as any judicial decision. It finally recommends that the State party carry-out awareness-raising campaigns on respect for diversity and elimination of racial discrimination.

17. The Committee notes with regrets the lack of information on the efficiency and independence of the Czech Police Force Inspectorate with regard to allegations of ill-treatment by police officers against minority groups (art. 2, 4 and 6).

The Committee reiterates its previous recommendations (CERD/C/CZE/CO/7, para. 12) that the State party should ensure that racial motivated acts of violence against Roma are investigated, and that perpetrators, be they public officials, do not remain unpunished. It once more encourages recruitment of members of Roma communities into the police and urges the State party to allocate adequate resources for the implementation of the 2008-2012 Strategy for the Work of the Czech Police Force in Relation to Minorities.

18. The Committee expresses its concern about the discrimination experienced by minority and non-citizen women on the basis of both their ethnicity and gender (art. 5).

The Committee recommends that the State party ensure that this double-discrimination is adequately addressed and specifically named both in measures to

fight discrimination and in national action plans to promote the equality of women and girls.

Also, in line with its General Recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party include in its next periodic report disaggregated data by gender within racial or ethnic groups to allow both the State party and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed.

19. The Committee remains concerned about the issue of sterilization of Romani women without their free and informed consent. While welcoming the regret expressed by the authorities in Resolution 1424 of November 2009 and the decision of the Supreme Court of June 2011 that would waive the statute of limitations, the three year statute of limitation still remains for these cases and obstructs full reparation and compensation of victims (art. 2, 5 and 6).

The Committee recommends that the State party use the recent decision of the Supreme Court to facilitate full reparation and compensation for victims of unlawful sterilization of Romani women, give consideration to ex gratia compensation procedures, generate awareness among patients, doctors and the public on the guidelines of the International Federation of Gynaecology and Obstetrics, and put in place safeguards to avoid similar incident in the future. The Committee recommends that the State party consider legislating for a permanent waiver to limitation on all cases relating to compensation due to illegal sterilization.

20. The Committee is concerned by reports of exploitation of migrant workers and reports of ill-treatment of foreigners mainly asylum seekers in detention centres. The Committee also notes the absence of information on their access to citizenship (art. 5).

The Committee calls on the State party to include in the next periodic report information on the situation of non-citizens particularly their work conditions as well as on the situation of foreigners in detention centres. The Committee welcomes the legislation under preparation regarding access to citizenship in line with the Convention and requests the State party to provide it with updated information on its adoption and implementation.

21. The Committee takes note of the information regarding cases of trafficking of human beings mainly affecting Roma and foreign women (art. 5 and 6).

The Committee recommends that the State party adopt a strategy to combat trafficking for both labour market and sexual exploitation, particularly those targeting Romani and foreign women and to include measures taken in this regard as well as results achieved in the next periodic report.

22. The Committee notes that education of the population is important to accompany the success of plans, structures and legislation towards integration for full and effective equality with rights to culture and identity recognized (art. 7).

The Committee recommends that the State party take further measures to develop awareness-raising activities promoting tolerance and diversity and pay particular attention to the role of the media in this regard.

23. The Committee notes with regret the State party's decision not to develop a National Action Plan against Racism in line with the Durban Declaration and Programme of Action. Also, having appreciated the State party engagement with the Durban processes, the Committee regrets its disengagement from the Commemoration of the tenth anniversary of the adoption of the Durban Declaration and Programme of Action (art. 2).

The Committee is of the view that a National Action Plan against Racism in line with the Durban Declaration and Programme of Action remains a useful instrument for combating racial discrimination. It encourages the State party to develop such a tool. The Committee further encourages the State party to reconsider participation in and re-engagement with the Durban tenth anniversary commemoration. The Committee once again requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level, and to include also specific information on progress made as a result of these and other measures, to combat racial discrimination.

24. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

25. The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (A/Res/64/169 of 18 December 2009).

26. The Committee recommends that the State party continue consulting and expanding its dialogue with the Ombudsman, civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

27. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages.

28. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 12 and 19 above. The Committee also reminds the State party the importance of maintaining dialogue on the implementation of the Convention through the follow-up procedure and urges its ongoing engagement.

29. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 6, 16, 17, 21, 23 and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

30. The Committee recommends that the State party submit its 10th and 11th periodic reports in a single document, due on 1 January 2014, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).