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**12 December 2006**

**WRITTEN COMMENTS  
OF THE EUROPEAN ROMA RIGHTS CENTRE  
AND VZÁJEMNÉ SOUŽITÍ  
CONCERNING THE CZECH REPUBLIC  
FOR CONSIDERATION BY THE  
UNITED NATIONS COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION  
AT ITS 70th SESSION**

### **Executive Summary**

The European Roma Rights Centre (ERRC) and the Ostrava-based civic organisation Vzájemné Soužití respectfully submit written comments concerning the Czech Republic for consideration by the Committee on the Elimination of Racial Discrimination (“the Committee”) at its 70<sup>th</sup> session.

The ERRC is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic

litigation, international advocacy, research and policy development, and training of Romani activists. Since its establishment in 1996, the ERRC has established a reputation as the leading international non-governmental organisation engaged in human rights defence of Roma in Europe. The ERRC has undertaken extensive research, policy, law and training work in the Czech Republic due to the very serious issues Roma face there. ERRC publications about the Czech Republic, as well as additional information about the organisation, are available on the Internet at <http://www.errc.org>.

The civic association *Vzájemné Soužití* (Life Together) is a registered Roma-Czech non-governmental, non-profit organisation unaffiliated with any political party which has been active in Ostrava since 1997. Through community work, Life Together aims to improve the social and living conditions of poor families in need. The association's activities are concentrated on the areas of humanitarian, educational, social and legal counselling, and the issues of housing, employment conflict resolution and human rights. Since its founding, *Vzájemné Soužití* has worked regularly with the ERRC on issues including pressing for school desegregation, securing justice for victims of coercive sterilisation, and ending housing rights abuses of Roma in the Czech Republic. For further information on *Vzájemné Soužití*, please see [www.vzajemnesouziti.cz](http://www.vzajemnesouziti.cz)

The submitting organisations are aware of the contents of the Czech government's sixth and seventh periodic reports to the CERD,<sup>1</sup> as well as other recent Czech government policy documents of relevance to Roma. We welcome the fact of increasing attention by the Czech government to policy matters as they relate to Roma. To date, however, measures adopted and undertaken by the Czech government have been insufficient to ensure the effective implementation of the Convention.

As to Article 2, the government has not complied with its obligations to “prohibit and bring to an end, by all appropriate means, including legislation [...] racial discrimination.” The Czech legislature has yet to adopt a comprehensive anti-discrimination law and most of the sectoral fields of the ICERD Convention remain to date unprotected by any form of actionable domestic law ban on racial discrimination. In practice, Roma in the Czech Republic are regularly subjected to discrimination in almost all aspects of their lives.

As to Article 3 of the Convention, the submitting organisations are concerned that the government of the Czech Republic has failed to prevent, prohibit, and eradicate the racial segregation of Roma. This is especially evident in the field of education, where officials consistently deny equal access to Romani children, placing them in alarming numbers in segregated, substandard schools and classes. In addition to the inherent harms flowing from this practice, the racial segregation of Romani children in the Czech school system virtually ensures that Roma will remain, for the foreseeable future, a systemically excluded underclass. Additionally, a growing number of Roma live in socially excluded locations characterised by substandard conditions on the edges of towns, segregated from the rest of the population. Recent acts by a number of local officials in the Czech Republic have worsened this situation in a number of municipalities, and no acts of the national government have been effective in countering racially segregating forces in the field of housing.

As to Article 4, anti-Romani hate speech is a regular part of public discourse in the Czech Republic. Anti-Romani statements are a standard and often unquestioned part of public life in the Czech Republic, and officials as high-ranking as the Prime Minister and President, and also including local officials, have made in anti-Romani statements or otherwise undertaken speech

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<sup>1</sup> CERD/C/CZE/7

acts denigrating the dignity of Roma. Individuals are rarely if ever held accountable in cases in which anti-Romani statements are at issue.

As to Article 5, key sectoral fields covered by the ICERD ban on discrimination are infused with systemic discrimination against Roma. This submission notes a number of concerns in social and economic sectoral fields including education, employment, housing, health care, social assistance and child protection. Furthermore, authorities continue to fail to provide Roma and human rights defenders with adequate protection against racially motivated violence perpetrated by members and sympathisers of nationalist-extremist movements and other vigilante groups. Finally, research by independent human rights groups including the ERRC and *Vzájemné Soužití* has revealed that Romani women have been subjected to coercive sterilisation in Czech hospitals for decades and as recently as 2004.

As the substance of this submission elaborates, the Convention's Article 6 guarantee that "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination" currently rings hollow for Roma in the Czech Republic. In the year 2006, there is near total impunity for racial discrimination against Roma, as well as for those who would frustrate Roma in their efforts to realise the Convention's substantive provisions.

The present document does not aim to address all issues Roma in the Czech Republic face of relevance to the Convention or its provisions. The sole ambition of this submission is to present the results of ERRC research in several areas of relevance to the Convention, with the aim of complementing the information provided in the Czech government's report to the Committee. Following a general introduction, the present submission presents ERRC and *Vzájemné Soužití* concerns in the following areas:

- A. General Introduction: Racism in the Czech Republic**
- B. Failure to Give Effect to the International Law Ban on Racial Discrimination**
- C. Coercive Sterilisation of Romani Women**
- D. Racial Segregation in the Field of Housing, Including Pattern and Practice of Forcible Eviction of Roma**
- E. Failure to Address Racial Segregation in Education**
- F. Exclusion from Employment**
- G. Other Concerns: (1) The Continuing Effects of the 1993 Act on Citizenship in Driving the Exclusion of Roma in the Czech Republic and (2) Systematically Discriminatory Practice of Removing Romani Children from the Care of their Biological Parents and Placing them in State Care**

The submission concludes with some rudimentary recommendations for the Czech government, intended to assist the Committee in bringing concluding observations with respect to the Czech Republic's compliance with the ICERD.

## A. General Introduction: Racism in the Czech Republic

Racism remains high in the Czech Republic, with Roma being a primary target of hostility by the wider society. In 2005 the World Bank and the Open Society Institute commissioned a comprehensive qualitative and quantitative opinion research study in the eight Decade of Roma Inclusion countries, of which the Czech Republic is one. The report for the Czech Republic found that: “Typically, the attitudes and predominant opinions of the representatives of the Non-Roma majority population toward Roma showed a negative emotional involvement full of rejection and criticism.... The dominant antipathy and aversion of Non-Roma residents largely stem from the fact that these people believe that the Roma minority is a major source of social, political and economic problems that negatively affect their everyday life (many admitted their fear of being mugged or robbed by Roma) as well as general quality of life in areas, cities, towns or regions with a strong presence of the Roma minority.”<sup>2</sup>

There continues to be a high level of promotion of racism in the public sphere. The year 2006 – an election year – saw a number of opportunities for the authorities to combat public expressions of racism, opportunities which authorities largely failed to exploit. Some examples of recent events of concern follow:

- The recently formed National Party runs an internet radio station that broadcasts music by neo-Nazi groups. Its website calls for the abolition of alleged “advantages for Roma”, rejects the concept of registered partnership, and speaks of homosexuality as a disease. Despite its activities this year, it retains its registration as a political party.
- In January 2006, the National Party held a demonstration at the site of the former World War II concentration camp for Roma at Lety by Písek. At the demonstration, speakers reportedly aired views that the “real victims” of WWII were ethnic Czechs; that Roma who died at Lety were responsible for their own deaths; and that plans to remove the pig farm located on the site in honour of the dead were not worth the expenditure. Speakers and participants also reportedly engaged in other acts of racist hate speech.<sup>3</sup> The town of Lety asked the police to remove the “monument”, and eventually removed the boulder on its own.<sup>4</sup> At the demonstration, private security guards working for the party physically attacked two counter-demonstrators who shouted “Down with Nazism”.<sup>5</sup> The counter-demonstrators were arrested and removed from the site for allegedly having committed

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<sup>2</sup> Final Report: Qualitative Survey (Focus Groups) Attitudes Toward the Roma in the Czech Republic, July 2005. Factum Invenio.  
<http://siteresources.worldbank.org/INTROMA/Resources/CzechQualitativeReport.doc>

<sup>3</sup> “Ultrapřavicová NS pořádá akci na místě bývalého romského koncentračního tábora v Letech u Písku”, Praha, 12. 1. 2006, 11:43 (ROMEIA/ČTK), [http://www.romeia.cz/index.php?id=servis/z2006\\_0009](http://www.romeia.cz/index.php?id=servis/z2006_0009); “Skandální výroky předsedkyně Národní strany přesahují všechny meze. Edelmannová: Romové si za svou smrt mohou sami”, Praha, 13. 1. 2006, 11:20 (ROMEIA) AKTUALIZOVANO [http://www.romeia.cz/index.php?id=servis/z2006\\_0012](http://www.romeia.cz/index.php?id=servis/z2006_0012).

<sup>4</sup> “Obec Lety žádá policii o odstranění kamene Národní strany”, Písek, 13. 1. 2006, 12:53 (ČTK) [http://www.romeia.cz/index.php?id=servis/z2006\\_0018](http://www.romeia.cz/index.php?id=servis/z2006_0018); “Obec Lety nechala odstranit kámen instalovaný NS Lety”, 19.1.2006, 19:20 (ČTK) [http://www.romeia.cz/index.php?id=servis/z2006\\_0045](http://www.romeia.cz/index.php?id=servis/z2006_0045).

<sup>5</sup> “Chronologický vývoj skandálu kolem aktivity Národní strany v Letech u Písku”, Praha, 20.1.2006, 13:30 (ROMEIA), [http://www.romeia.cz/index.php?id=servis/z2006\\_0053](http://www.romeia.cz/index.php?id=servis/z2006_0053).

the misdemeanour of “verbally disrupting” the demonstration.<sup>6</sup> The counter-demonstrators and other observers filed criminal charges against the National Party, but the police investigation subsequently found that no crime had been committed by the National Party; they referred to an expert opinion of the Czech Academy of Sciences which claimed that the camp at Lety “could not be recognized as either a concentration or extermination camp” and that the police recordings of the speeches did not include “an open declaration of ideas which would support, question, or try to justify genocide.”<sup>7</sup> The pig farm remains on the concentration camp site to this day.

- On May 1, 2006, National Party members marched through the centre of Prague. A conflict ensued between National Party members and civil society observers who were videotaping the procession. A separate demonstration on the same day convened by the National Resistance (Národní odpor) organization at Palacky Square led human rights observers subsequently to call on the Interior Ministry to ban the organization due to the racist expressions aired there.<sup>8</sup> Ms. Katerina Jacques, at that time a Green Party candidate for Parliament and employee of the Czech Government’s Human Rights Commissioner, was physically assaulted and injured by a police officer at the National Resistance demonstration, after being accused of “disturbing” the gathering.<sup>9</sup> Police also detained a journalist who photographed the incident.<sup>10</sup> NGOs, the Green Party, Prime Minister Paroubek and former Czech President Vaclav Havel spoke out against the police attack.<sup>11</sup> The response of the Interior Ministry to the police brutality was markedly more rapid in Ms Jacques’s case than it has been in other cases, probably due to her being a prominent public figure.<sup>12</sup> The officer involved was immediately suspended from duty and the incident resulted in the removal from office of the director of the Prague 2 police and a deputy, as well as the disciplining of another officer involved at the scene.<sup>13</sup>

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<sup>6</sup> “Policie zadržela v Letech dva proromské aktivisty.” Lety u Písku, 21.1.2006, 13:41 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0056](http://www.romea.cz/index.php?id=servis/z2006_0056).

<sup>7</sup> “Policie: Členové Národní strany neporušili v Letech zákon”, Písek, 16.6.2006, 10:36 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0393](http://www.romea.cz/index.php?id=servis/z2006_0393).

<sup>8</sup> “Čakl: Ministerstvo vnitra by mělo Národní odpor zakázat”, Praha, 1.5.2006, 17:11 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0286](http://www.romea.cz/index.php?id=servis/z2006_0286).

<sup>9</sup> “Policie zbilá kandidátku zelených Kateřinu Jacques”, Praha, 1.5.2006, 16:15 - 2.5.2006, 10:30 AKTUALIZOVÁNO (ROME A), [http://www.romea.cz/index.php?id=servis/z2006\\_0280](http://www.romea.cz/index.php?id=servis/z2006_0280).

<sup>10</sup> “Police president says action against Jacques inappropriate”, Prague, 3.5.2006, 7:37 (CTK) [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0160](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0160).

<sup>11</sup> “Havel pokládá zákrok proti Jacques za nedobré znamení”, Praha, 6.5.2006, 12:33 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0304](http://www.romea.cz/index.php?id=servis/z2006_0304), “Paroubek calls police treatment of Jacques inexcusable Prague”, 2.5.2006, 16:14 (CTK), [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0158](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0158).

<sup>12</sup> “Policeman suspended for assaulting Green Party candidate” Prague, 2.5.2006, 12:10 (CTK) [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0159](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0159).

<sup>13</sup> “Za zákrok vůči Jacques padl první kázeňský trest”, Praha, 8.5.2006, 18:26 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0306](http://www.romea.cz/index.php?id=servis/z2006_0306).

- In July 2006, approximately 90 members of the vigilante racist “skinhead movement” and others participated in a protest march through the town of Svitavy. Their aim was to draw attention to their contention that Vlastimil Pechanec, sentenced to 17 years in prison three years ago for the racially motivated murder of a Romani man, Mr. Ota Absolon, is serving time for a murder he did not commit.<sup>14</sup> Pechanec’s mother was among the demonstrators. The marchers chanted “Retrial”, “Free Pechanec” and “The Murderer is Elsewhere”. Roma in Svitavy left the town on that day out of concern for their safety and took refuge with relatives in other towns.
- On 28 October 2006, the anniversary of the founding of independent Czechoslovakia, police arrested National Party leader Petra Edelmannova, four other National Party members and another participant as they began a demonstration under a banner reading “Let’s Incinerate Muslim Hatred”. The arrests were made on the grounds that the demonstrators intended to set something on fire.<sup>15</sup> Skinhead demonstrations convened by other organizers also took place in the town of Ostrava on that day.
- In November 2006, demonstrations ostensibly to mark the anniversary of the death of Franco were held by skinheads on the same day as the anniversary of Kristallnacht.

In some instances, racist action involved violent assault and resulted in very serious harm. In one case, in July 2006, an unidentified perpetrator shot and wounded four Roma, two of them children, at Ceske Budejovice's largest housing estate. The assaults with an air rifle lasted over the course of a month. Municipal authorities told the press they could “not afford” to increase police presence at the estate.<sup>16</sup> This constitutes failure to protect individuals from credible threats of extreme harm or death. As of November 2006 no arrests in the case have been reported.

In its report on “extremism” in the Czech Republic for the year 2005, the Czech Interior Ministry reports that: “No essential changes were noted during the year 2005 in the profile of those committing crimes with an extremist subtext. In most cases they continue to be members of the skinhead movement and members of the majority population unaffiliated with right-wing extremist groups. Roma predominate among the victims of verbal and physical attacks, followed by foreigners with darker skin or citizens of Vietnam. There are fewer cases of attacks on majority-ethnicity citizens by Roma.” The report noted a slight decline in “extremist” crime in 2005.<sup>17</sup>

A number of high-ranking public officials have contributed to the lack of significant progress in reducing high levels of racism in the Czech Republic. President Klaus has made comments seeming to downplay the Romani Holocaust in the Czech Republic,<sup>18</sup> has uttered disparaging

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<sup>14</sup> “Skinheadi pochodovali Svitavami”, Svitavy, 22.7.2006, 14:35 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0442](http://www.romea.cz/index.php?id=servis/z2006_0442).

<sup>15</sup> “Policie zadržela předsedkyni Národní strany”, Praha, 28.10.2006, 18:25, (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0689](http://www.romea.cz/index.php?id=servis/z2006_0689).

<sup>16</sup> “Unidentified perpetrator shoots at Romanies from airgun”, Ceske Budejovice, 28.7.2006, 9:22 (CTK) [http://www.romea.cz/english/index.php?id=servis/z\\_en\\_2006\\_0218](http://www.romea.cz/english/index.php?id=servis/z_en_2006_0218).

<sup>17</sup> “Informace o problematice extremismu na území České republiky v roce 2005”, adopted by the Czech Government through Decree No. 438, 19 April 2006, pg. 41. <http://www.mvcr.cz/dokument/2006/extrem05.pdf>

remarks about human rights and civil society,<sup>19</sup> and has been willing to engage in dialogue with extreme right-wing political parties such as Narodni sjednoceni (National Unity).<sup>20</sup> Then-Czech Prime Minister and chair of the Social Democratic Party Jiri Paroubek was also widely criticized for sharing the stage with a comedian who made racist jokes at the expense of the Roma during the Parliamentary election campaign in early 2006.

## **B. Failure to Give Effect to the International Law Ban on Racial Discrimination**

Legal protections against racial discrimination remain inadequate, and existing protections against discrimination rarely implemented. Czech lawmakers have tried but failed to adopt a comprehensive anti-discrimination law in recent years. Those efforts are currently stalled following the rejection by the Czech Senate of a bill previously approved by the Chamber of Deputies.

On 7 December 2005, Czech Parliament approved a new draft Anti-Discrimination Law and forwarded the approved bill for consideration by the Czech Senate. The bill as adopted forbade discrimination based on race, ethnicity, sex, sexual orientation, age, disability, faith, religion, or because of non-religion, and covered discrimination in the workplace, social security, health care, education, access to public services, and accommodation.

The Czech Senate rejected the bill in January 2006 and returned it to the lower house, where supporters of the bill were unable to muster the votes required to overturn the Senate's rejection. The bill has since remained a dead letter, at least in part because after parliamentary elections in June 2006, no government was formed for months. Opposition to the bill has been especially driven by a number of high-ranking officials, including the President.<sup>21</sup>

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<sup>18</sup> In an interview with the daily newspaper Lidové noviny published 14 May 2005 ("Paroubek je silný a zřetelný politik, pg. 11), Klaus stated of the former concentration camp for Roma at Lety by Písek, "[...] if I understand correctly, the victims of this camp were primarily connected to an epidemic of spotted typhus, not with what we traditionally conceive of as concentration camp victims." His remarks were protested by representatives of the survivors, the Romani community, and human rights advocates.

<sup>19</sup> In May 2005 Klaus told the Council of Europe that "various manifestations of NGO-ism, of artificial multiculturalism, of radical human rights-ism, of aggressive environmentalism" were ways of "endangering and undermining freedom" in the post-communist era. See <http://www.praguepost.com/P03/2005/Art/0602/news5.php>, "Speech against 'NGO-ism' haunts Klaus," by Dinah Spritzer, *The Prague Post*.

<sup>20</sup> A letter from Klaus's secretary, Ladislav Jakl, dated 27 June 2005 thanked the National Unity Party for its declaration dated 6 June 2005 (NSJ declaration 10/2005) in which they protested against "verbal attacks and threats by some [Czech] government officials against the president." The alleged "attacks" concerned criticism by Czech Prime Minister Paroubek of Klaus's comments on EU integration. See <http://www.blisty.cz/art/24171.html>

<sup>21</sup> A major contributing factor to the political atmosphere and the ongoing resistance of legislators to passing anti-discrimination legislation is the position of Czech President Klaus on this issue. President Klaus has held various high offices of government since the transition to democracy in 1989, including several terms as Prime Minister, and is widely regarded as the face and voice of the right wing, specifically the ODS party (even though he officially left the party leadership in order to become President). Through the Centre for Economy and Policy (CEP), a think-tank on whose Board of Directors President Klaus sits, Mr. Klaus has been the Czech Republic's most vocal critic of a number of the provisions of the anti-discrimination bill, and indeed of anti-discrimination law in general. In August 2006, CEP published a 90-

As of the date of this submission no comprehensive anti-discrimination law has been adopted into law. The Czech Republic has therefore not yet incorporated the definition of discrimination as stipulated in ICERD Article 1(1) or transposed the Convention's substantive provisions. A number of areas of relevance to the ICERD Convention do not yet appear to be sheltered adequately, if at all, by a domestic law ban on racial discrimination. Areas apparently particularly exposed at present may include all or nearly all of the areas in ICERD Article 5(a), 5(b), 5(c), and 5(d), as well as potentially 5(e)(ii), 5(e)(iii), 5(e)(iv) and 5(e)(vi). There is also lack of clarity as to what procedural mechanisms are available to victims of racial discrimination in the field of education, since the new School Act does not detail these.

### **C. Coercive Sterilization of Romani Women**

The year 2006 was noteworthy for extensive discussions, both domestically and internationally, of the decades of allegations that Romani women have been coercively sterilized by medical professionals in the former Czechoslovakia and the Czech Republic, as well as allegations that the practice has continued to the present day. Czech officials opened investigations into the allegations. On December 29, 2005, the Czech Public Defender of Rights (the Ombudsman) issued his "Final Statement of the Czech Public Defender of Rights on the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures"<sup>22</sup> which concluded that "the problem of sexual sterilisation carried out in the Czech Republic either with improper motivation or illegally, exists, and Czech society has to come to terms with this." Despite this acknowledgement, however, the Czech government has not to date indicated that it is prepared to offer redress to victims of coercive sterilisations as the Ombudsman recommends.

Decades of efforts by a number of parties, including Czech and international civil society organizations and certain agencies of the Czech government, have yet to result in justice for victims of coercive sterilization or in amendments to law and policy to ensure the practice be rendered impossible once and for all.

Hundreds of Romani women have been coercively sterilised in the Czech Republic since the 1970s, when the practice became official policy in Czechoslovakia.<sup>23</sup> Cases documented to date include a) cases in which consent was not provided at all prior to the sterilization; b) cases in which "consent" was obtained during advanced stages of labour or shortly before delivery of a child, i.e., under circumstances in which the mother was under intense stress; c) cases in which consent was provided based on a mistaken understanding of the terminology used, or after the provision of manipulative information, or absent explanations of the consequences of

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page seminar proceedings entitled "The Anti-Discrimination Legislation – Aid to those Weaker, or a Reversal of the Law?", calling into question the need for such a law. In his comments on the CEP web page promoting this publication, Mr. Klaus makes statements such as, "The so-called anti-discrimination legislation is ... based on very disputable prohibitions and instructions. In many instances it goes against the principles of the free market, against the inviolability of private property, and against human freedom."  
<http://www.cepin.cz/cze/kniha.php?ID=69&PHPSESSID=45e9fe35bedb67df234eb8ef7714fe49>

<sup>22</sup> <http://www.ochrance.cz/en/dokumenty/dokument.php?doc=400>, hereafter "Final Statement", included here as Appendix to this submission.

<sup>23</sup> In addition, several individuals were sterilized in the Slovak part of Czechoslovakia but are now living in the Czech Republic after the two countries separated in 1993.

sterilization; d) cases in which state officials pressured Romani women to undergo sterilization either by offering financial incentives or threatening sanctions (withholding of social benefits, taking children into state care, etc.) if the woman refused consent. Thus, these sterilisations have been carried out either entirely without the consent of the person concerned, or by applying standards of consent very divergent from those required under international law as “fully informed”.<sup>24</sup> These practices potentially implicate the Genocide Convention and are to be regarded with the utmost gravity.<sup>25</sup>

In December 2005, after a year of concurrently reviewing the Czech Health Ministry’s ongoing investigation into these allegations, the Czech Public Defender of Rights (hereinafter, the “Ombudsman”) published his “Final Statement of the Czech Public Defender of Rights on the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures.” A copy of this Statement is appended hereto.<sup>26</sup> Investigation of the allegations was complicated due to the fact that in some cases medical records were completely missing, having been destroyed either as part of normal procedure or due to catastrophes such as flood.

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<sup>24</sup> The European Convention on Human Rights and Biomedicine (ECHR), Article 10 (2), states that “Everyone is entitled to know any information collected about his or her health”. This right is reinforced in the World Health Organization (WHO) Declaration on Patients’ Rights, Article 4 (4), which states that “Patients have the right of access to their medical records and technical records and to any other files and records pertaining to their diagnosis, treatment and care and to receive a copy of their own files and records or parts thereof”.

The ECHR also provides in Article 5 that “An intervention in the health field may only be carried out after the person has given free and informed consent to it. This person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks”. The Explanatory Report to the Convention states that “In order for their consent to be valid the persons in question must have been informed about the relevant facts regarding the intervention being contemplated. This information must include the purpose, nature and consequences of the intervention and the risks involved.” The Explanatory Report further states that “Moreover, this information must be sufficiently clear and suitably worded for the person who is to undergo the intervention. The person must be put in a position, through the use of terms he or she can understand, to weigh up the necessity or usefulness of the aim and methods of the intervention against its risks and the discomfort or pain it will cause.”

The Committee on the Elimination of Discrimination against Women in its General Recommendation 24 on Women and Health, has stated that “Women have the right to be fully informed, by properly trained personnel, of their options in agreeing to treatment or research, including likely benefits and potential adverse effects of proposed procedures and available information.” The Recommendation further states that “Acceptable [health care] services are those that are delivered in a way that ensures that a woman gives her fully informed consent, respects her dignity, guarantees her needs and perspectives. States parties should not permit forms of coercion, such as non-consensual sterilization ...”

The WHO Declaration on Patients’ Rights, Article 2 (2), underscores that “patients have the right to be fully informed about their health status, including the medical facts about their condition; about the proposed medical procedures, together with the potential risks and benefits of each procedure; about alternatives to the proposed procedures, including the effect of non-treatment, and about the diagnosis, prognosis and progress of treatment.”

<sup>25</sup> Article 2 of the Genocide Convention states: “In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: ... (d) Imposing measures intended to prevent births within the group.”

<sup>26</sup> See Appendix, “Final Statement”.

In the December 2005 report, the Ombudsman concluded that “the problem of sexual sterilisation carried out in the Czech Republic either with improper motivation or illegally, exists, and Czech society has to come to terms with this.” In discussions with the Ombudsman’s staff, it has been recognised that while under the Communist regime state policy and law were followed (i.e., Czech social workers and doctors implemented official policy encouraging the sterilization of Romani women absent adequate standards of informed consent, conforming to the domestic law standards of the time, divergent as these were from international law), following the termination of this policy in 1991, a number of doctors have apparently acted illegally to continue the practice. At a press conference launching the Final Statement, Deputy Ombudsman Anna Sabatova spoke of this as “fully deformed praxis in the Czech medical community.”

In a number of the cases documented in 2003 and 2004 and taking place in the period from the mid-1970s until 2004, explicit racial motive appears to have played a role during doctor-patient consultations. With only rare exceptions, all of the persons who have come forward to complain of this treatment have been Romani women. Pages 23-58 of the Ombudsman’s Final Statement concern “Sterilisation and the Romani community”; this section reaches the conclusion of racial targeting. In particular, the Statement notes that “a group of Charter 77 signatories had pointed out the use of sterilisation...as early as 1978, at the time of the most active implementation of the state assimilation policy towards the Romani minority, labelling it without hesitation as a technique on the verge of meeting the attributes of genocide.” The Statement also notes: “It would be wrong to believe that the relation of the pre-November [1989] Czechoslovakian state authority to Roma was random, uncontrolled and lacking co-ordination” and that “almost every situation report from district and regional National Committees deals with [the Roma birth rate]. This may suggest that the central bodies in fact welcomed such initiatives.” Further:

“What should be primarily condemned ... is that the state-controlled social services set itself controlled birth rate curbing in the Romani community as one of its socio-prophylactic and unconcealed eugenic measures (see the constant references to improving the quality of population) and that for this purpose it developed practical administrative procedures leading in individual cases as far as the legally and morally dubious persuading of women to undergo sterilisation, i.e. a virtually irreversible intervention. Such a model of social measures should be condemned as unacceptable primarily because it may result in the tragic consequences known in the European context from the Swiss and Swedish examples. The pre-1989 social services practice in Czechoslovakia, taking sterilisation as a social tool, shows significant correspondence with the tendencies of some European countries to employ the findings of eugenics in practical social measures.”

The Final Statement includes a separate section on the history of eugenics in Czechoslovakia, which the authors evidently regard as key for the various policies and practices reviewed.

In the period following 1991, after the policies described above, a number of factors gave rise to the fact that Czech doctors have continued to sterilise Romani women without their full and informed consent, and in many cases with no consent provided at all, until at least 2003. Factors giving rise to the continuing practice of coercively sterilising Romani in the Czech Republic include: (i) the fact that until December 2005, Czech authorities denied out-of-hand the existence of the practice; (ii) the total impunity of the perpetrators and the complete lack of justice for perpetrators; (iii) high levels of contempt for Roma in the Czech Republic, combined with particular doubts as to the full moral agency of Romani women; (iv) the fact that Czech officials have failed entirely to adopt necessary safeguards to patients rights and have not undertaken any

measures to promote a culture of patients rights among medical professionals, as well as (v) for other reasons.

A number of civil claims for damages have been lodged by Romani victims of coercive sterilisation. To date, one coercive sterilization victim has been awarded compensation by the courts in a civil complaint and one other civil complaint is pending on appeal. In most of the cases documented to date, it is very unlikely that claims can succeed unless an administrative mechanism to provide compensation to victims is established as per the Ombudsman's recommendation. Most victims will have no access to compensation for the following reasons: a) expiration of statutory limitations; b) no money to risk a civil claim; c) records having been destroyed; d) rigidity of the courts in applying standards of proof in civil claims and/or e) lack of access to quality legal services to pursue claims. In this regard the State party has failed to respond adequately to Point 15 of the CERD's previous recommendations to the Czech Republic, concerning in particular the matter of legal aid.<sup>27</sup>

The Ombudsman reportedly filed requests to open criminal investigation in 54 of the complaints submitted to him. After more than one year of investigation, the approach of the criminal investigative bodies to complaints filed by the Ombudsman gives rise to serious concerns that these procedures will not ultimately prove effective as a remedy for these extreme abuses, despite clear indications of breaches of criminal law in the cases concerned. Most of the charges filed have been dismissed, on apparently arbitrary grounds. In one exemplary case, the views of the expert institution relied upon by the police during the criminal investigations were that a correctly indicated and technically correctly performed medical procedure could not constitute a crime. This is disputable; if the procedure is performed with patient consent, then it would breach law, and evaluation of the act as to its criminal character would then depend on further investigation. In sterilizations performed without consent, the patient's health is seriously and irrevocably damaged, yet the public prosecutor charged with enforcing the legality of some of these preliminary criminal proceedings did not concern himself with the victims' claims that they had signed the sterilization requests under circumstances that did not satisfy the requirement of informed consent and were therefore illegal.

The manner in which the evidence has been evaluated during preliminary proceedings also gives rise to fundamental concerns. In one case, the expert bizarrely characterized the victims as "irresponsible" for not voluntarily agreeing to the sterilization, indicating possible bias on the part of the expert, who characterized the conduct of the doctors as correct. Czech criminal law has thus not yet proven a viable mode for providing redress to Romani victims of coercive sterilization.

In his Final Statement, The Ombudsman offers recommendations in three areas:

- a) legislative changes to better anchor and elaborate the principle of informed consent in Czech domestic law;
- b) supplementary measures to ensure a change of culture with regard to informed consent in the medical community and among patients;
- c) a simplified procedure for compensation to victims.

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<sup>27</sup> CERD/C/63/CO/4, 10 December 2003, Point 15: 'The Committee encourages the State party to establish promptly a legal aid system for alleged victims of racism. It requests the State party to include in its next periodic report information on the number of persons who have benefited from legal aid and information on cases of victims who have obtained adequate reparation.'

In August 2006 the Committee for the Elimination of Discrimination against Women issued the following recommendations as part of its regular periodic review of the Czech Republic's compliance with the CEDAW Convention:

Recommendation 23: The Committee is particularly concerned about the report, of December 2005, by the Ombudsman (Public Defender) regarding uninformed and involuntary sterilization of Roma women and the lack of urgent Government action to implement the recommendations contained in the Ombudsman's report and to adopt legislative changes on informed consent to sterilization as well as to provide justice for victims of such acts undertaken without consent.

Recommendation 24: The Committee urges the State party to take urgent action to implement the recommendations of the Ombudsman/Public Defender with regard to involuntary or coercive sterilization, and adopt without delay legislative changes with regard to sterilization, including a clear definition of informed, free and qualified consent in cases of sterilization in line with the Committee's general recommendation 24 and article 5 of the European Convention on Human Rights and Biomedicine; provide ongoing and mandatory training of medical professionals and social workers on patients' rights; and elaborate measures of compensation to victims of involuntary or coercive sterilization. It also calls on the State party to provide redress to Roma women victims of involuntary or coercive sterilization and prevent further involuntary or coercive sterilizations. The Committee requests the State party to report on the situation of Roma women pertaining to issue of coercive or involuntary sterilization, in its next periodic report, including a detailed assessment of the impact of measures taken and results achieved.

It is therefore of very serious concern that in the year that has elapsed since the publication of the Ombudsman's Final Statement, and the half-year that has elapsed since the CEDAW Recommendations, no high-level authority in the Czech Republic has made any public pronouncement on the matter, despite efforts by the Ombudsman's office, international and domestic NGOs, and sterilization survivors themselves to seek statements on the Final Statement from Parliament, the Prime Minister's office, and other agencies of government. There is no indication that any governmental authority intends to act with the urgency required – if at all -- on these or any other recommendations existing on this issue.<sup>28</sup>

#### **D. Racial Segregation in the Field of Housing, Including Pattern and Practice of Forcible Eviction of Roma**

Many Roma live in substandard, racially segregated ghettos, recently documented by the Czech Labour and Social Affairs Ministry. In addition, in 2006, the Czech government amended legislation thereby weakening the rights of tenants. In the wake of the amendments, Roma in the Czech Republic have been forcibly evicted from housing in significant numbers, and many others currently live under threat of forced eviction, in many cases allegedly because of rent arrears. However, even Roma tenants who meet their obligations have been subjected to arbitrary forced

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<sup>28</sup> A draft recommendation prepared on the matter by the Czech Government's Advisory Subcommittee on Biomedical Ethics and Human Rights was reviewed by the Human Rights Council on 19 May 2006 and sent back to the former body for revision after strenuous opposition by representatives of several ministries, including the Health Ministry.

eviction. Additional issues prevalent among Roma in the Czech Republic with respect to housing include homelessness, overcrowding, discrimination in the allocation of state-provided housing, and the concomitant effects of family break-up and the taking of Romani children into state care.

Anti-Romani sentiment at the local level in the Czech Republic is common in many municipalities. 2005 and 2006 were marked by a number of efforts by local authorities to remove Roma *en masse* from their towns. These efforts were frequently successful. The cases of Bohumin and Vsetin are detailed in this report. Development projects for Roma are often implemented only if they are in isolated or excluded areas.

With respect to the Committee's Point 13 in its most recent recommendations to the State party that it "devise measures to prevent evictions or mitigate their negative effects, in particular on the most vulnerable groups",<sup>29</sup> the Czech government has not only not taken any effective measures in this area, it has in fact become involved in acts which have heightened and intensified pattern forced evictions against Roma.

On 31 March 2006 an amendment to the Civil Code took effect that radically changed the regime for renting accommodation. The change was made through Law No. 107/2006 Coll., "on the unilateral increase of rent on flats" and an amendment to Law No. 40/1964 Civil Code. Law 107 authorises landlords to evict tenants without court approval under certain circumstances, opening the way for racial prejudice and/or other arbitrary considerations to play a heightened role in such decisions. As has been amply documented in the Czech Republic,<sup>30</sup> the relationship between Czech landlords and Romani tenants has been fraught with discriminatory and illegal behaviour on the part of landlords for years, and has been a major factor in the creation and expansion of an estimated 300 Roma ghettos<sup>31</sup> throughout the country.

The passage of Law 107/2006 was not accompanied by any substantial public discussion. Persons at risk of being easily evicted have had little or no opportunity to prepare for this radical change, and there is now room for socially disadvantaged families with minor children to face even more serious problems than they have heretofore.

Tenants are now required to inform landlords in writing of any changes in the number of persons residing in a rented flat and to provide information on the name, surname, birth date, and citizenship of those persons, a measure arguably infringing the privacy of the persons concerned beyond a limit allowed under international law<sup>32</sup>, as well as raising questions concerning discrimination against non-citizens, an issue of recent CERD attention.<sup>33</sup> Failure to provide this

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<sup>29</sup> CERD/C/63/CO/4, point 13.

<sup>30</sup> See inter alia archived material at: [http://romea.cz/index.php?id=aktuality\\_arch](http://romea.cz/index.php?id=aktuality_arch)

<sup>31</sup> The existence of such ghettos has been documented by sociologists contracted by the Czech Labour and Social Affairs Ministry and is available in an interactive map at [http://www.esfcr.cz/mapa/int\\_CR.html](http://www.esfcr.cz/mapa/int_CR.html).

<sup>32</sup> European Convention on Human Rights Article 8: "Everyone has the right to respect for his private and family life, his home and his correspondence"; International Covenant on Civil, Cultural, and Political Rights, esp. Article 17 (1) "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation."

<sup>33</sup> See CERD General Recommendation No. 30, Discrimination Against Non Citizens, 01/10/2004: "I.4. Under the Convention, differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of

information within one month of the change occurring can be considered a gross violation of rental agreements sufficient for the landlord to evict the tenant without court approval.

The landlord can also evict a tenant without court approval should the tenant or his or her flatmates grossly violate “good comportment” in the building despite a written warning. This concept is not adequately specified in the law, and there is currently extensive room for arbitrary treatment, including racially discriminatory considerations. As noted above, the Czech Republic has not yet provided sufficiently actionable provisions of domestic law to shelter individuals from racial discrimination in the field of housing.

Previously, courts could decide in cases of families with minor children that a landlord was obliged to provide the evicted tenant with alternate accommodation or even an alternate flat (not just temporary shelter). Under the new Law 107/2006, a court can reach such a verdict only if the tenant actively files a motion within 60 days of the eviction notice to have the eviction reversed. Any written eviction notice must contain instructions to the tenant of the option to file such a motion, but socially disadvantaged tenants may not be able to act on this option without legal aid. Defendants in criminal cases in the Czech Republic are provided with counsel, but persons wishing to initiate legal action who cannot afford counsel must apply to the Czech Bar Association or to an NGO for pro bono assistance. There is no state-supported system for remunerating attorneys who provide such legal assistance to the indigent, there are not enough NGOs in the country to meet the demand for legal aid, and a culture of pro bono assistance has not yet developed to any great extent in the Czech legal profession. In this respect, Point 15 of the Committee’s previous recommendations to the Czech government has yet to be adequately addressed by the State party.

Even prior to the adoption of Law 107/2006, Romani families have been regularly and systematically targeted for eviction throughout the Czech Republic, frequently by municipal authorities. Two representative cases of evictions of Romani tenants by municipal authorities from the years 2005 and 2006 are described below in detail. These examples are not anomalies; similar processes were at play behind the creation of the more than 300 ghettos documented by the Labour and Social Affairs Ministry.<sup>34</sup> These two examples are particularly egregious as they concern a) active, public expressions of racism and intention to discriminate by public officials in connection with the wholesale “resettlement” of Romani residents of city-owned property; and, b) took place as part of election campaigns, which observers believe greatly influenced the authorities’ timing, decisions, and public remarks. Both mayors were re-elected with overwhelming majorities. These examples show that discrimination in housing, particularly against the Roma, is now apparently a bankable election tactic.

In one case, in the northern Moravian town of Bohumin, Mayor Petr Vicha announced in February 2005 that the city would purchase a hostel occupied primarily by Romani tenants with the intention of moving them elsewhere and renovating the property. When the tenants protested,

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the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim. Differentiation within the scope of article 1, paragraph 4, of the Convention relating to special measures is not considered discriminatory.”; “VII. Economic, social and cultural rights 29. Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health....32. Guarantee the equal enjoyment of the right to adequate housing for citizens and non-citizens, especially by avoiding segregation in housing and ensuring that housing agencies refrain from engaging in discriminatory practices.”

<sup>34</sup> The existence of such ghettos has been documented by sociologists contracted by the Czech Labour and Social Affairs Ministry and is available in an interactive map at [http://www.esfer.cz/mapa/int\\_CR.html](http://www.esfer.cz/mapa/int_CR.html).

Mayor Vicha collectively maligned them in the city's newsletter and in other press,<sup>35</sup> calling them all non-rent-payers, even though this was not true. There was also a skinhead march targeting the housing<sup>36</sup> in Spring 2005. In June 2005, the occupants received a letter from the city ordering them to leave, which most of them did. Four families who had fastidiously paid their rent and utilities filed lawsuits against the eviction, obtained a preliminary injunction against it, and refused to leave. The injunction specified that the city was obligated to maintain certain utilities in operation for the duration of the injunction. In July 2005 the city counter-sued for the eviction of these remaining tenants. The eviction was granted and the tenants then appealed. The preliminary injunction remained in effect pending the outcome of the appeals.

The city then took punitive steps against these tenants. Mail was not properly delivered to them.<sup>37</sup> On 27 July 2005, the city discontinued the provision of water to the building. It recommended the tenants alternate accommodation which would have required the parents to separate, thereby advocating infringements of guaranteed rights to private and family life, as well as placing the children at risk of being taken into state custody. Authorities alternately recommended accommodation which was prohibitively expensive. The city also hired a private security company to block visits to the hostel, including visits by immediate family members. The residents were then billed for the security company's services. The monthly rent previously charged per flat was now charged per resident, i.e., if a six-member family lived in one flat, their rent increased six-fold. The families were thus forced into debt and rendered ineligible for receiving social housing per the terms of the city's housing lottery. The debt per tenant is in the Czech Crown equivalent of thousands of Euro, and the court issued payment orders for the amounts within four days of the city filing suit; Objections were filed against the orders to pay but almost a year later, hearings on these petitions have yet to be scheduled. Despite a visit by then-Czech Human Rights Commissioner Svatopluk Karasek, and international and local human rights observers to the hostel in October 2005, the city continued to harass inhabitants of the hostel by disconnecting heat to the units. The families concerned filed two motions to have the original preliminary injunction enforced while waiting for their appeal of the eviction to be heard.<sup>38</sup> Despite the fact that during the winter months of 2005-2006 exterior temperatures reached as low as 26 degrees below zero Celsius, the heat was never reconnected.<sup>39</sup>

Gradually the families left the property and turned in their keys. The Ščukas left as of 27 January 2006, the Mayers as of 8 February 2006, and the Michls and Ticháneks as of 24 February 2006. They were assisted by financial aid from the non-profit sector. Some of the families moved into another residential hotel in Bohumin where, as of late 2006, they remain. One six-member family is currently living in a 20 square-metre room, sharing a bathroom and kitchen with other families.

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<sup>35</sup> "...inadaptable people who do not obey the law turn good locations into ghettos." Quoted in "Moravskoslezský kraj je v počtu romských ghatt na špici", Ostrava, 17.9.2006, 10:14 (ČTK), [http://www.romea.cz/index.php?id=servis/z2006\\_0557](http://www.romea.cz/index.php?id=servis/z2006_0557)

<sup>36</sup> Communication from a City of Bohumin social worker.

<sup>37</sup> E-mail communication from the families' attorney, 7 November 2006.

<sup>38</sup> In response to one of the motions to uphold the preliminary injunction, the city was fined. The fine was modified on appeal to apply only to the city having turned off the water in July, as the provision of heating was not mentioned in the original injunction; the eventual fine amounted to CZK 5,000 [approximately EUR 175]. The second motion was not granted.

<sup>39</sup> Retail spaces rented to firms on the lower floors were provided with heating.

The city's social housing policy and child welfare sections have thus failed to meet their obligations with respect to these families.<sup>40</sup>

Of all the tenants who originally left the building in June, only five families were ever provided with council flats. The rest moved in with relatives in neighbouring towns, causing overcrowding in neighbourhoods already considered Romani "ghettos". In December 2005, in the nearby town of Orlova, robberies were reported over the course of several weeks following the influx of the former Bohumin residents. Citing the robberies, members of the neo-Nazi "National Resistance of Silesia" (whose representative was under criminal investigation at the time) organized armed "militias" to "patrol" the Romani quarter, even though police had already made arrests in the robbery cases. The "militias" were active for about three weeks and then "disbanded".<sup>41</sup> Meanwhile, in Bohumin, Petr Vicha won re-election as Mayor and also election to the Czech Senate with an overwhelming majority of votes.<sup>42</sup>

In another case, in the Moravian town of Vsetin, near the city of Zlin, local authorities planned and subsequently implemented in 2006 the expulsion of a group of Roma living in city-owned property in the town centre. Some were expelled to housing in the Poschla quarter on the edge of Vsetin, thereby creating a de facto racially segregated housing estate, and some to extremely substandard housing in an entirely other region. A summary of proceedings follows below.

In August 2004, Vsetin Mayor Jiri Cunek's plan to move the residents wholesale was criticized by then-Human Rights Commissioner Jan Jarab, who told media: "We have to prevent the creation of a real socioethnic ghetto with all the concomitant phenomena (unemployment, etc.)." Mayor Cunek's reasoning for the plan was as follows: "In places where we will build flats for the majority [ethnicity], we would only be able to place some of the most adaptable Roma. We have to separate those who are inadaptable, so they do not bother decent citizens."<sup>43</sup>

In October 2006, the city completed the installation of two buildings comprised of metal "containers" in the Poschla quarter on the outskirts of the town, into which officials intended to

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<sup>40</sup> Communication from the families' attorney, 7 November 2006, who notes that this family now pays more rent to live in one room than if they were renting a "Category 1" flat from the city with four rooms. The family is not eligible for the municipal flat lottery due to the debt caused by the city's punitive measures.

<sup>41</sup> Non-Romani residents of Maticni street in Usti nad Labem, the notorious neighborhood which erected a wall to block out its view of its Roma neighbors in 1999, announced in January 2006 that they would form their own "militias" next. "Lidé z Maticni chtějí zřídit domobranu, pokud jim město nepomůže." Ústí nad Labem, 16.1.2006, 14:16 (ČTK) [http://www.romea.cz/index.php?id=servis/z2006\\_0028](http://www.romea.cz/index.php?id=servis/z2006_0028).

<sup>42</sup> The city withdrew its eviction motions against these three families after they left the building and the Regional Court then halted the appeal proceedings. It also found one family in contempt of court, even though it had been demonstrated that documents from the court had never been delivered to them. In one family's case the Regional Court upheld the District Court's verdict to evict. In three cases, an extraordinary appeal was then filed, since the courts had not concerned themselves with the objections of the accused. In 2006, the city expanded its suit to include charges for the months of November and December 2005 and enjoined all the household members, including minor children, in its pursuit of payment. Appeals in the court cases have been filed with the Supreme Court.

<sup>43</sup> "Mf Dnes: Starosta Vsetina kritizuje vládu za špatnou politiku vůči Romům", Vsetin/Praha, 31.8.2004, 11:00 (ROMEAMf Dnes), [http://www.romea.cz/index.php?id=servis/z2004\\_0328](http://www.romea.cz/index.php?id=servis/z2004_0328).

move the Romani residents of the building slated for demolition in the centre, which housed 42 families. The new buildings provided 36 flats in total. The town had designed the buildings, according to the media, “especially for inadaptable citizens.” On 5 October 2006, the municipality of Vsetín then held a “grand opening” for the “new Roma ghetto,” as it was frankly referred to in the media, which was attended by 40 municipal representatives from towns all over the Czech Republic, who praised the project to the press as a model one. Funding for the container housing had been provided in part by the State Fund for Construction.<sup>44</sup> Mayor Cunek told the media that these flats, would be assigned to tenants who “meet their civic obligations...by not supporting criminal behaviour by their children, and by paying their rent regularly. We will do our best to get the rest out of the city.”<sup>45</sup> The container tenants received month-to-month contracts and the mayor reportedly stated that anyone with whom the contract had to be terminated would be immediately “put out on the street.” Tenants of the new units quickly learned that all heating in the buildings ran on electricity and that they were being charged the highest possible rate.<sup>46</sup>

On Friday 13 October 2006, Mayor Cunek then had those Roma families who were, in his words, the most “problematic” transported into the region of Olomouc in the middle of the night. Some of the families were expelled to places as far as 230 kilometres from Vsetín. Mayor Cunek claimed the families had “reached an agreement with the town” of Vsetín to leave the Zlín region altogether. The town of Vsetín had purchased properties in isolated areas throughout the Olomouc region, and was reselling them – sight unseen -- to the “problematic” families, who were also to be loaned the money for purchasing these properties by the town of Vsetín. One Romani NGO sent an open letter to the Government Council for Roma Community Affairs criticizing social workers (employed by the city of Vsetín with Council funding) for their role in telling the families that should the parents refuse to sign the purchase agreements, the outcome would be that the children would be remanded into state care. The families were dropped off in front of various dilapidated buildings in isolated areas, some of which were actually barns or stables. Olomouc regional officials were not notified that these families would be placed in these out-of-the-way locales; the region already suffers from 32% unemployment. Some of the original owners of the properties told the media that the buildings were not fit for human habitation and that they would never have agreed to the sale had they known the purchaser’s intentions. A total of approximately 100 people were forcibly expelled from the Zlín region in this way.<sup>47</sup> The speaker of the lower house of the Czech Parliament, Miloš Věček, initiated an investigation into the legality of the purchase agreements.<sup>48</sup>

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<sup>44</sup> “Vsetínská radnice ‘slavnostně’ otevřela další romské ghetto”, Vsetín, 6.10.2006, 10:12, (ROMEIA), [http://www.romeia.cz/index.php?id=servis/z2006\\_0613](http://www.romeia.cz/index.php?id=servis/z2006_0613)

<sup>45</sup> “Vsetínská radnice začala stěhovat Romy do ghetta na periferii města”, Vsetín, 11.10.2006, 12:21, (ČTK/ROMEIA), [http://www.romeia.cz/index.php?id=servis/z2006\\_0624](http://www.romeia.cz/index.php?id=servis/z2006_0624)

<sup>46</sup> “Romy vystěhované do Poschly trápí vysoké náklady na bydlení”, Vsetín, 2.11.2006, 17:11, (ČTK), [http://romeia.cz/index.php?id=servis/z2006\\_0706](http://romeia.cz/index.php?id=servis/z2006_0706).

<sup>47</sup> “Roma Vidnava: Terénní sociální pracovníci ve Vsetíně selhali” Vidnava, 3. 11. 2006, 12:08, (ROMEIA), [http://romeia.cz/index.php?id=servis/z2006\\_0712](http://romeia.cz/index.php?id=servis/z2006_0712). For photographs of the condition of the buildings which the deported families are expected to buy, see [http://romeia.cz/index.php?id=servis/z2006\\_0694](http://romeia.cz/index.php?id=servis/z2006_0694).

<sup>48</sup> “Šéf sněmovny zjišťoval situaci Romů vystěhovaných ze Vsetína”, Olomouc, 6. 11. 2006, 14:15, (ČTK), [http://romeia.cz/index.php?id=servis/z2006\\_0730](http://romeia.cz/index.php?id=servis/z2006_0730).

The creation of the new ghetto, the deportations out of the region, and Mayor Cunek's accompanying remarks in the media<sup>49</sup> were protested by Roma across the country, by human rights observers, and by Government Council for Roma Community Affairs Secretary Czeslaw Walek, who observed that the timing of the "grand opening" of the new housing coincided with the run-up to municipal and Senate elections on 20 October. Criminal charges were filed against Mayor Cunek by several individuals and organizations and he was repeatedly called upon to resign from his position as Senator due to his unethical behaviour. While the leadership of the Christian Democrats, to which Mr. Cunek belongs, refused to criticize him, a minority of Christian Democratic politicians said he should withdraw from public life altogether (Senator Petr Pithart, MEP Jan Březina, and the Christian Democratic Commissioner of the Olomouc region into which Cunek deported the Roma families). It was not the first time a politician had provoked controversy by making racist remarks during an election year.<sup>50</sup>

Municipal and Senate elections were held on 20 October 2006. Cunek's party, the Christian Democrats, won the Vsetin municipal elections with 26.01% and he himself won the most preferential votes on the ticket. He also won the first round of the Senate elections, with 44% of the votes and on 9 December 2006 secured the national leadership of the party. Most of the persons expelled from Vsetin were in extremely substandard or otherwise tenuous housing arrangements in remote parts of the Jeseniky area of northern Czech Republic as of December 8.

Other localities where there have been concerns about racial segregation in housing are the approximately 300 socially excluded locations inhabited by Roma referred to in research commissioned by the Labour and Social Affairs Ministry.<sup>51</sup>

#### **E. Failure to Address Racial Segregation in Education**

ERRC documentation of the schooling of Romani children in the Czech Republic has revealed that despite legislation introduced in 2005 which claimed as one of its aims the abolition of "remedial special schools" for the mentally disabled, to which an estimated more than half of all Romani pupils were sent, meaningful desegregation of the Czech school system has yet to occur. With respect to the Committee's previous Recommendation that the State Party "intensify the efforts to improve the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitization of teachers and other education professionals to the social fabric

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<sup>49</sup> "I feel like a doctor ridding someone of boils," Cunek told the press ("Já si připadám jako lékař, který tyto vředy čistí,"). Responding later to criticism of this statement, he claimed to have meant by "boils" the building slated for demolition from which he had evicted the Roma. "Čunek: Za čištěním vředu si stojím, Kasal a další jen blábolí", Praha, 3.11.2006, 01:15, (ROMEIA/ČTK)" [http://romeia.cz/index.php?id=servis/z2006\\_0710](http://romeia.cz/index.php?id=servis/z2006_0710)

<sup>50</sup> Christian Democratic candidate for the lower house František Straka dropped out of the race in March 2006 after making racist comments about people of Vietnamese origin ("It is immeasurably important for us to keep our [Czech] entrepreneurs in the region. The abuse that goes on here, including the person who was appointed by the Vietnamese, etc – this shouldn't be here, we should get rid of it.") "Čunek rozdělil lidovce", 4.11.2006, *Právo*, pg. 4. See also the comments by Czech President Vaclav Klaus and Czech PM Jiri Paroubek in Section A above.

<sup>51</sup> Please see footnote 33 above.

and world views of Roma children”,<sup>52</sup> despite changes to Czech law and policies on education, no significant progress has been made in practice.

Practices of racial segregation in education have been of significant concern in recent years in the Czech Republic. A complaint by a number of children contesting the practice of placing Romani children in so-called “remedial special schools” for the mentally disabled is currently under review by the European Court of Human Rights. The extreme overrepresentation of Romani children in separate, substandard educational arrangements has been the subject of extensive concern on the part of regional and international human rights monitoring bodies.<sup>53</sup> The Council of Europe’s European Commission against Racism and Intolerance (ECRI) has noted that “Roma children continue to be sent to special schools which, besides perpetuating their segregation from mainstream society, severely disadvantage them for the rest of their lives.”<sup>54</sup> Romani children are also racially segregated in substandard schools and classes within the mainstream school system.

On January 1, 2005, new legislation on education took effect in the Czech Republic which among other things has been represented by Czech public officials as remedying problems related to the education of Roma. The school reform comprises new and/or amended laws.<sup>55</sup> The new School Act includes declaratory provisions against discrimination.<sup>56</sup> The school reform is too extensive

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<sup>52</sup> Point 14, Concluding Observations, CERD/C/63/CO/4, 10 December 2003.

<sup>53</sup> See for example Council of Europe, Office of the Commissioner for Human Rights, *Follow-up Report to the Czech Republic (2003-2005): Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights* (29 March 2006), § 20: “In his 2003 report, the Commissioner drew attention to the large presence of young members of the Roma/Gypsy community in ‘special’ schools and classes for children suffering from slight mental disability.” See also the UN Committee on the Elimination of Racial Discrimination, *Concluding observations of the Committee on the Elimination of Racial Discrimination: Czech Republic.10/12/2003* (UN Doc. CERD/C/63/CO/4), § 14: “While appreciating the complexity of the problem of special schooling and noting the accompanying measures taken by the Government with a view to promoting adequate support to Roma children, the Committee remains concerned, as does the Committee on the Rights of the Child (see CRC/C/15/Add.201, para. 54), at the continued placement of a disproportionately high number of Roma children in “special schools”. Recalling its general recommendation XXVII, the Committee urges the Government to continue and intensify the efforts to improve the educational situation of the Roma through, inter alia, enrolment in mainstream schools, recruitment of school personnel from among members of Roma communities, and sensitization of teachers and other education professionals to the social fabric and world views of Roma children and those with apparent learning difficulties.”

<sup>54</sup> European Commission against Racism and Intolerance (ECRI), *Third Report on the Czech Republic* (Adopted on 5 December 2003 and made public on 8 June 2004), § 107

<sup>55</sup> Law No. 561/2004 Coll., on pre-school, primary, middle, higher technical and other education (the 2005 “School Act”); Law No. 562/2004 Coll., which changes some laws in connection with the adoption of the School Act; and Law No. 563/2004 Coll., on pedagogical workers and changes in legislation. The school reform is further developed by implementing regulations (government decrees and public notices by the Czech Ministry of Education, Youth, and Sports, hereinafter ‘MŠMT’) and curricular documents.

<sup>56</sup> Regulation Section 2 of Law No. 561/2004 Coll. (the “School Act”), includes a proclamation of the guarantee of equal access to education without regard to race, skin colour, sex, language, creed or religion, nationality, ethnic or social origin, property, ancestry, state of health, or any other status. This is a general declaration only, not an elaboration of the specific obligations of specific subjects. Regulation Section 44 of the School Act sets forth as an educational aim that pupils should learn to effectively communicate and work with one another and be considerate and tolerant towards other people, other cultures, and spiritual values.

to analyse in detail here. The following problems are, however, immediately evident from the legal and policy texts guiding the reform:

1. There are no implementing regulations in the new legislation or auxiliary regulations<sup>57</sup> to specifically require school officials to desegregate school facilities and/or arrangements and/or to aid them in so doing.
2. There are no effective control mechanisms in either the School Act or any other domestic law provisions to ensure protection against racial segregation or discrimination in education. The declaratory prohibition against discrimination in Article 2 of the new School Act is unaccompanied by any procedures by which an individual victim of discrimination could seek enforcement of this ban. There is no specific requirement on the Czech Education Inspection Authority to monitor discrimination or segregation in its periodic evaluations. Nowhere in the School Act is an authority described which might check or reverse the power of school authorities to discriminate.
3. Article 30 specifies as a responsibility of the school director the publication of the “school order” (*školní řád*), which among other things is to include “conditions for securing the safety and protection of the health of children, pupils or students and their protection against socially pathological expressions and against expressions of discrimination, hostility or violence”.<sup>58</sup> The wording of this provision gives rise to the concern that confusion may prevail at the level of the Czech lawmaker as to the nature of the discrimination as set out in law, and those features which distinguish “discrimination” as understood in Convention and related international law terms, from (i) acts of physical violence on the one hand and (ii) verbal or other tangible expressions of hatred on the other. The provision included at School Act Article 30 fails adequately to set out a ban on arbitrary different treatment based on race or ethnicity including in particular such treatment which would result in placement in separate educational and inferior arrangements of an inherently degrading nature. Indeed, by empowering the school director as the instance charged with adopting these regulations, the lawmaker has enshrined as the sole controlling agent one of the powers most likely to be involved in decisions to create separate and inferior educational arrangements for Romani children and to enforce racially discriminatory decisions to place Romani children in such forcibly separated arrangements, namely the person of the school director.
4. School directors are explicitly empowered under the amended School Act to create separate schooling arrangements for particular categories of children defined as needing special education, with no checks included to ensure that racial discrimination does not influence such decisions.<sup>59</sup> Special educational is defined under the Act as a right flowing

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<sup>57</sup> Silence on this issue extends at minimum to the Framework Education Programme for primary education (a policy document issued by the Ministry of Education, Youth, and Sport No. 27002/2005-22, 29 August 2005, amending the Framework Education Programme for primary education, effective as of 1 September 2005); Concept (Project) on Timely Care for Children from Socio-Culturally Disadvantaged Backgrounds in the Area of Education (Czech Cabinet Decision No. 564/05 from 11 May 2005); Long-Term Objective of Education and the Development of the Education System in the Czech Republic (Ministry of Education, 2005).

<sup>58</sup> Article 30(1)(c).

<sup>59</sup> Article 16(8) of the amended Schools Law states, “If the level of health disability so commends, schools

to children with special educational needs. By failing adequately to secure protections against racial segregation in the school system, the amended Schools Law enshrines administrative arrangements conducive to the maintenance of racially segregated arrangements as they currently exist, as well as provides sufficient administrative arrangements for creating new and similarly segregating educational settings, provided these are concealed under the cover of seeming to implement a “right to special education”. School directors are empowered to create separate schooling arrangements for children requiring “special education” with no checks included to ensure that racial discrimination does not influence such decisions.

Most troubling, however, are the indications that the school reforms entering into effect in January 2005 have to date had no discernable impact in practice in reducing racial segregation in the field of education. Romani children are still systematically turned away from regular schools and sent to schools where the curriculum is not as challenging as in regular schools, and does not meet minimum requirements for dignity. When Romani children do manage to enrol in a regular school, they continue to be disproportionately placed in segregated special education or separate classes with less rigorous curricula. Despite declaratory documents and optimistic predictions, no actions by the Czech Government to date have altered the fundamental state of the Czech school system as racially segregated with respect to the Roma, and there exist no data to the contrary.

The following examples from research conducted at the end of the 2005-2006 school year indicate that a) the new legislation has yet to positively promote integration in practice; and b) damaging assumptions about the relationship between Romani culture and Romani children’s intelligence still give rise to racial discrimination on the part of Czech educators.

Elementary School in Ivanovice na Hané, Southern Moravia: Two “remedial” classes have been established at this school for pupils for whom the tempo of instruction in the mainstream classes is said to be “too fast”. The first of these classes was established as of 1 January 2001. These remedial classes are attended only by Romani children. Only three Romani children are enrolled in mainstream classes. In an interview with ERRC researchers, the school principal reported that 8% of the children in the school as a whole are Romani, of whom 1% were enrolled in mainstream classes. The principal stated that no changes related to integrating the Romani minority had occurred at the school after 1 January 2005. Most of the Romani children are therefore largely educated separately from the other children. The exception is for subjects termed “cultural” -- art classes, work-skills classes, and physical education classes are attended by the children from the “remedial” classes together with children from the mainstream classes. The principal told ERRC researchers that education is “not a priority for Romani citizens”. He also stated that “insufficient hygienic habits” of Romani families, by which he apparently meant that the Romani children attend school in an unkempt or unwashed state, resulted in other children isolating themselves from the Romani children.

Elementary School Halkova, Frýdek Místek, Moravian-Silesian Region: This former remedial special school was renamed an “Elementary School” in accordance with the new School Act. It is relatively small, with approximately 70 pupils, approximately 20 of

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may be created for children, pupils and students with health disabilities, on a case-by-case basis with the consent of the regional authority in the framework of the individual classes of schools, departments or study groups with adjusted educational programmes. ...”

whom were Romani at the time of the ERRC visit. The school includes a number of Romani children transferred to the school when another special school in the area was closed. Since remedial special schools were abolished as of 1 January 2005, this school was now an Elementary School with a “remedial education” programme including curricula for both “practical” and “auxiliary” schools in conformity with a Czech Education Ministry directive from 1993. The “practical” curriculum involves instruction primarily in various forms of manual labour. There are also pupils at the school with mental disabilities, ranging from light to more severe, who are instructed according to the “auxiliary school” curriculum, as well as pupils with behaviour problems determined by an examination performed by the pedagogical-psychological counselling centre. It is unclear what if anything besides its name has changed at this school as a result of the January 2005 school reform.

Elementary School 28. října, Brno, is the result of a consolidation of multiple Roma-majority schools. It has a large Romani majority as parents of non-Romani students have transferred their children to other schools after concluding that their children’s safety is at risk and their education will be infringed upon by the presence of Roma. The combination of the low overall level of educational achievement and the high dropout rates creates a very weak educational environment. This is exacerbated by the very poor social environments of the students and their families. The families appeared unaware of their rights as to the education their children have a right to receive. At the time of an ERRC visit, the school planned on creating special education classes (furthering segregation) to address the needs of the “socially disadvantaged”. Desegregation or mainstreaming does not look likely according to current school plans, as incentives to enroll in this school for non-Romani students are weak.

Elementary School, Havlíčkovo náměstí, Prague 3: The main focus at this school seemed to be on keeping the respective enrolled Romani students motivated, engaged and involved in their education. There was a definite separation of students. The entity has a “special system” geared towards children with special education needs. School officials stated that they were working to attract non-Romani students through additional educational programs, as the school has seen many transfers of non-Romani children away from the school. No real progress on integration is seen as the opinion that different approaches and different conditions are needed for the Romani students to achieve in school prevails among school officials.

Grafická School, Prague 5: There were no specialized classes and all the students (those with special needs and those without) attended class together. The vast majority of the students were Romani. School officials told the ERRC that the curriculum had been “adapted to the Romani culture and value system”. This means a more “user-friendly” and less demanding curriculum for all of the students. School officials believed this lowering of standards was beneficial to children. Teachers interviewed were of the opinion that integration into the mainstream might make the Romani students feel “insecure”, so they were not endeavoring to mainstream Romani children. The new School Act has led to the segregation, or re-segregation of the Romani children attending the school.

In practice, to date, the most frequent documented changes to educational arrangements arising as a result of the 2005 school reform have been cosmetic adjustments to the superficial trappings of schools. Research by the European Roma Rights Centre in 2005 and 2006 documents that special schools have simply been renamed “remedial schools” or “practical schools” or even standard

“elementary schools”, but neither the ethnic composition of the student bodies nor the content of their curriculum has changed to any significant extent.<sup>60</sup> No significant desegregation action appears to be going on anywhere in the Czech Republic, and indeed, in certain areas, “white flight”, as well as ongoing deepening of exclusion as a result of intensifying segregation in the field of housing appears to be giving rise to heightened segregation in the field of education.

## **F. Exclusion from Employment**

ERRC research carried out with European Union support in the Czech Republic in 2005 and 2006 revealed dramatic levels of Roma excluded from work. Roma were systematically discharged from gainful employment in the context of the changes of 1989 and vast numbers of these persons have not held a job since, as a result of very high levels of discrimination on the labour market. Those Roma who are employed are frequently employed in (i) dangerous, short-term, or other forms of substandard employment, or (ii) “glass-box Roma-jobs” as advisors on Roma issues, subsidised Roma journalists, etc. Rates of exclusion from mainstream employment are near total.

Summaries of ERRC field research in four localities, undertaken in May-June 2005, follow here:

Hodonin is a provincial town in southern Moravia. During field research in May 2005, only four Romani persons had a job: two were community social workers who had also been forced to stop their work temporarily because of insufficient funds; one young man was employed as a grinder in a factory which produces fixtures and fittings; and the director of the local Romani centre was himself Romani. All other Roma in Hodonin were apparently unemployed. In many cases, being Romani and having been made redundant soon after the Velvet Revolution in 1989 resulted in long-term unemployment. Many young Roma have never worked and grew up in an atmosphere plagued by unemployment have been subjected to the same fate. Middle-aged Roma women appeared particularly vulnerable to unemployment. The municipality had no policy of increasing Romani employment.

Most is an industrial city in northern Bohemia with a substantial Romani population. Brown coal industry used to be predominant under the communist regime; since 1989, many of its branches have been closed. The unemployment rate in Most is one of the highest in the Czech Republic. Roma are particularly vulnerable to unemployment there. The only employed Romani people the ERRC encountered in Most were those who work for the Community centre Chanov. All other Roma the ERRC interviewed were unemployed.

Ostrava is a former industrial city in north Moravia with a large Romani population. There are isolated, almost 100 percent Roma districts plagued by poverty in Ostrava. Regardless of their previous education, qualifications, work experience, or young age, the vast majority of local Roma are unemployed. The only employed people documented in the ERRC survey were employees of the NGO *Vzájemné Soužití*, one of the organisations submitting this document, and a self-employed owner of a shop selling groceries. Persons among Roma who find it particularly difficult to get a job include

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<sup>60</sup> Schools previously termed “*zvlastni*” are now termed “*specialni*”. Research performed under the European Commission’s Community Action Program to Combat Discrimination, publication forthcoming 2007.

young mothers, mothers in general, and middle-aged women. Racial discrimination appeared to be the primary factor excluding Roma from gainful employment. In one case, the ERRC documented matters concerning a middle-aged woman who had seen an advertisement for a cleaning lady on the door of a hairdresser. When she came to inquire about the vacancy, upon seeing a Romani person, the hairdressers looked at her with shock and said that they did not want to have anything to do with Roma.

Prague: Given that the capital city purportedly has the lowest unemployment rate in the country, Roma should in principle be doing better in Prague than in the three other cities/towns mentioned. However, this appears not to be the case. We interviewed many more unemployed Roma in Prague. Also, the conditions in which these people were living were much worse in comparison with the conditions we saw in Hodonin, Most or Ostrava. Local governments and labour offices appeared to have no systematic active employment policies that would target the victims of long-term unemployment in order to re-integrate them by means of various employment programmes. Among Roma, particularly impacted groups in Prague included:

- young mothers
- middle-aged women and men
- young people with no work experience
- people with a criminal record

There is no indication that other areas of the Czech Republic differ significantly from the four localities noted above. Czech policies in the area of securing dignified and gainful employment for pariah minorities, where they exist at all, are currently not succeeding to any noteworthy extent.

### **G. Other Concerns: (1) The Continuing Effects of the 1993 Act on Citizenship in Driving the Exclusion of Roma in the Czech Republic and (2) Systematically Discriminatory Practice of Removing Romani Children from the Care of their Biological Parents and Placing them in State Care**

(1) The Continuing Effects of the 1993 Act on Citizenship in Driving the Exclusion of Roma in the Czech Republic: Three large federations dissolved following the end of Communism in 1989: Czechoslovakia, Yugoslavia and the Soviet Union. These events generated many stateless persons, among them many Roma, as successor states refused to recognise as citizens of the new states certain categories of persons, often on an ethnic basis.<sup>61</sup> The Czech Republic designed its citizenship law – the 1993 Act on Citizenship – to include a number of provisions aimed at forcing Roma in the Czech Republic to go to Slovakia. Sufficient international and domestic civil society pressure was brought upon the Czech government to amend its exclusionary citizenship law in 1999. Nevertheless, certain categories of persons – most notably anyone who left the country for any period of time between 1993 and 1999 – are still excluded from access to

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<sup>61</sup> The Council of Europe approach to the foregoing issue has been to require that, in the context of state succession, statelessness shall be avoided and those persons with “genuine and effective links” to the new state shall be recognised as citizens. The 1995 European Convention on Nationality provides a 4-point test of assessing these links under a chapter explicitly devoted to “state succession and nationality”. In 2006, the Council of Europe adopted a new Convention devoted explicitly and solely to the avoidance of statelessness in the context of state succession.

citizenship other than via naturalization procedures. This group includes persons who went to Slovakia for medical treatment or to give birth among relatives because at that time they had no access to any citizenship, or only to Slovak citizenship. In addition, those Roma who were forced to become “Slovaks” as a result of the Czech citizenship law may today face systematic discrimination as a result, for example, of local rules denying families social housing where one member of the family is a “foreigner” or similar. The Czech government has never undertaken any serious study of the situation of persons forced to be “Slovaks” as a result of the 1993 citizenship law and the current situations of exclusion they may be facing now, and so no policy measures exist to address these problems.

(2) Systematically Discriminatory Practice of Removing Romani Children from the Care of their Biological Parents and Placing them in State Care: A recent study has shown that at a rate of 60 per 10,000, the Czech Republic takes more children into state care than any other country in Europe.<sup>62</sup> No accurate data exists on the ethnic profile of children taken into state care in the Czech Republic, but there are indications that there is or may be systemic discrimination in these processes. There have been a number of very dramatic cases in this area. For example, the first person born in the Northern Moravian region of the Czech Republic, Ms Eva Sivaková, was taken immediately into state care on 4 January 2005. A court in Karvina finally ordered her return to the custody of her mother on 2 May 2005. She spent her first four and a half months of life in a state institution. The decision was not actually confirmed by Czech judicial authorities until January 2006. A number of Czech media, most notably the weekly journal *Respekt*, have been campaigning consistently on these issues, as yet without succeeding in bringing about noticeable change in this area, or even rudimentary recognition of the problem.

### **Recommendations**

In light of the above, the submitting organisations recommend that the Government of the Czech Republic undertake the following measures:

#### Anti-Discrimination Law/Convention Law *Acquis*

- Without any further delay, adopt a comprehensive anti-discrimination law covering all areas of law secured by the ICERD Convention and setting out accessible procedures to ensure the availability of adequate remedy in cases of racial discrimination.

#### Coercive Sterilisation of Romani Women

- Issue, as a “Decision of Government” a public apology to the victims of the practices described in the Ombudsman’s Final Statement.
- Without further delay, adopt the legislative changes necessary to establish the criteria for informed consent in the context of sterilization set forth in the Ombudsman’s recommendations (Recommendations Section A – “Legislative measures”).
- Without further delay, implement in full the recommendations on “Methodological measures” set out in Section B of the Final Statement.

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<sup>62</sup> See Birmingham University, “Mapping the Number and Characteristics of Children under Three in Institutions across Europe at Risk of Harm”, a 15-month project, sponsored by the European Union Daphne Programme 2002/03 and the World Health Organisation Regional Office for Europe.

- Without further delay, establish by law the compensation mechanism proposed in the Final Statement (Recommendations Section C – “Reparation measures”).
- Establish a fund to assist victims of coercive sterilization in bringing claims under the compensation mechanism or before courts of law such that all victims have access to justice. Such a fund should: (i) provide compensatory damages to victims in cases where the mechanism established pursuant to the Final Statement may not be able to; (ii) support the work of advocates in bringing claims to court; (iii) ensure payment of court fees and other costs arising in the course establishing claims before courts of law and/or other instances.
- Seek, in cooperation with the Council of Europe and/or other relevant expert international bodies, legal opinion as to the best method for providing compensation to persons coercively sterilised during the period post-1991 (i.e., those not necessarily covered by the measures included in the Final Statement), but possibly beyond existing statutes of limitations, such that the Government is in full compliance with its obligations under the European Convention on Human Rights and other relevant international law.
- For those cases in which hospital records have been destroyed, make public the criteria by which individuals shall establish the veracity of compensation claims for coercive sterilization.
- Monitor the criminal investigations into the complaints filed by the Ombudsman with regard to coercive sterilization and report findings regularly to the public.
- Make financial assistance available to women who have been coercively sterilized such that they might undertake artificial insemination measures should they desire.
- Raise with the Slovak Government the issue of how to compensate victims who are currently Czech citizens but were coercively sterilized in the Slovak Republic.

#### Housing

- Amend law to improve protections available to individuals against forced eviction.
- Adopt legal and policy measures without delay to protect Roma from forced and arbitrary evictions, as well as segregationist local practises.
- Undertake urgent action to check and reverse racial segregation of Roma in the field of housing.
- Adopt and implement vigorous policy measures to improve systemic substandard housing prevailing among Roma.

#### Education

- Abolish the practise of race-based segregation of Romani children in special schools and classes, including special remedial classes for mentally disabled and other forms of racial segregation in the school system;
- Implement a comprehensive school desegregation plan, such that all Romani children may fully realise their right to education;

- Integrate all Romani students into mainstream classes, and, when necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling;
- Design pre-school programmes for Romani children to learn the primary language of schooling and attain a level of preparation ensuring an equal start in the first class of primary school;
- Implement process-based child-centred curriculum, including by:
  - Developing clear indicators of an inclusive, child-centred curriculum,
  - Monitoring and auditing compliance with the indicators. The audit should be available for public scrutiny.
  - Disseminating the reformed curriculum to local bodies and for encouraging the local bodies to adopt it.
  - Linking state financial support to local bodies, under whose competence the schools fall, to both adoption of the reformed curriculum, as well to implementing targets for mainstreaming/desegregation.
- Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma.

#### Employment

- Without delay, design and implement policies aimed at ensuring that Roma in the Czech Republic have access to gainful employment on an equal footing with other Czechs.

#### Continuing Effects of the 1993 Act on Citizenship

- Undertake comprehensive study of the lingering effects of the 1993 Act on Citizenship and its anti-Romani impacts, and adopt relevant policy measures to correct continuing socially exclusionary impacts.

#### Child Protection

- Collect and make public in forms readily available to the public, statistical data on rates and levels of Romani children taken into state care in the Czech Republic.

#### Ethnic Data

- Remedy the current dearth of statistical data on the situation of Roma in sectoral fields key for social inclusion, including statistical data comparing the situations of Roma with non-Roma in areas such as education, employment, housing, health care, access to social services and access to justice.

#### Legal Aid for Excluded Groups

- Ensure that free legal aid to members of weak groups, including Roma and the indigent is provided in practice, where the interests of justice so require.

#### Condemn Racism

- Speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.