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EUROPEAN SOCIAL CHARTER

12th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF CZECH REPUBLIC

(Article 7, 8, 16, 17, 19)
for the period
01/01/2010 – 31/12/2013)

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CYCLE 2015

EUROPEAN SOCIAL CHARTER

THE TWELFTH REPORT
ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER

SUBMITTED BY THE GOVERNMENT OF THE CZECH REPUBLIC
(for the period until 31 December 2013)

Articles 7, 8, 16, 17 and 19 of the European Social Charter

Article 7: The right of children and young persons to protection

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

2. to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;

3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

7. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;

8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

ARTICLE 7, PARAGRAPH 1

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

A prohibition of work by children under the age of 15 years or those older than 15 years of age until the completion of their compulsory education is an absolute ban covering any type of work.

Only the performance of artistic, cultural, sports or promotional activities by a child is allowed subject to the conditions provided for in Act No. 435/2004 Coll., the Employment Act. An authorization for such activities is issued by the regional branch of the Employment Office of the Czech Republic.

Inspections regarding the compliance with the prohibition of work by children under the age of 15 years or those older than 15 years of age until the completion of their compulsory education fall under the competence of the State Labour Inspection Office (hereinafter referred to as "SLIO").

The Committee wishes to know whether the Inspectorate carries out targeted inspections concerning the employment of children under the age of 15 years, what the results of these inspections are and what sanctions, if any, are imposed when a violation is identified.
No major violation was established in the reference period under the main tasks of SLIO in this area. In addition, no proposals for inspections suggesting an alleged violation of the law were received by the SLIO authorities.

The scope of the SLIO inspections covers also work safety inspections, including inspections targeting young workers. In the reference period of 2010-2013, SLIO discovered a total of 7 cases of work of children younger than 15 years of age or before completing of their compulsory education, and one case of performance of artistic activities by a child without the authorization of the regional branch of the Employment Office of the Czech Republic, which resulted in a fine of CZK 10,000. Measures to remedy the identified deficiencies were imposed on the inspected entities.

In the area of special working conditions of young workers, following cases were identified in the period 2010-2014:
7 violations of the ban on night work by youth;
1 violation of the ban on overtime work by youth;
5 violations of the obligation to keep a list of young workers;
8 violations of the obligation to ensure a medical examination for young workers.
In the context of all these violations, the employers were obliged to take measures to ensure remedy of the identified deficiencies, together with – in 7 cases – fines imposed in a total amount of CZK 235 thousand.

In 2010, there were 2,509 authorizations for artistic, sports or cultural activities issued and 3 authorizations were extended. In 2011, 2,235 new authorizations were issued and 10 authorizations were extended. Unfortunately, the data for 2012-2013 are not available due to the major organizational changes in the system of public employment services and the

simultaneous introduction of new software. In the first quarter of 2014, 97 activity authorizations were issued.

The identified violations are only of a marginal degree, in spite of the fact that the Labour Inspection Office carries out checks as part of its own inspections and responds to any proposal for inspection received.

A natural person or a legal entity, as the case may be, which allows a child to perform such activities without an authorization or violates the conditions set out in the authorization, commits an offence or an administrative tort, respectively, for which a fine of up to CZK 2,000,000 can be imposed.

A child's legal guardian, who allows the child to perform the activities without an authorization or violates the conditions set out in the authorization, commits an offence, for which a fine of up to CZK 100,000 can be imposed.

In connection with the legislative enshrinement of the absolute ban on work by children under the age of 15 years or those older than 15 years of age until completion of compulsory education, **the Czech Republic ratified the International Labour Organization Convention No. 138, Convention concerning Minimum Age for Admission to Employment**. The Convention was published in the Collection of International Treaties under No. 24/2008.

ARTICLE 7, PARAGRAPH 2

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

2. to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;

In accordance with the European Communities law, the work and workplaces that are prohibited for young workers and the conditions, under which young workers may, on an exceptional basis, perform this work as part of the preparation for their profession, are provided for in the Ministry of Health Decree No. 288/2003 Coll.

The Committee wishes to be informed about the activities of the Labour Inspection Office, results in the field and the sanctions, if any, imposed when a violation is identified.

Checks concerning the working conditions of young workers form a permanent part of the inspections carried out by the State Labour Inspection Office.

A fine of up to CZK 2,000,000 can be imposed on an employer for the administrative tort of employing young workers in work in which they are exposed to an increased risk of accident[1].

The inspections carried out by the State Labour Inspection Office in the reporting period did not establish any violation by employers in this regard.

[1] Section 30 subsection 1 (u) of Act No. 251/2005 Coll., on Labour Inspection, as amended.

ARTICLE 7, PARAGRAPH 3

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

Update

As from its effective date of 1 January 2007, the Labour Code in Section 2 (6) thereof provided for a prohibition of work for individuals under the age of 15 years or those older than 15 years of age until their completion of compulsory education. With the Labour Code amendment implemented through Act No. 365/2011 Coll. (with effect from 1 January 2012), the provisions of Section 2 (6) were moved to the new provision of Section 346a as part of the change in the Code's structure.

Persons referred to above may only perform artistic, cultural, promotional or sports activities subject to the conditions determined in a special legal regulation.

As a result of this absolute ban, no child who has not completed its compulsory education and has not reached 15 years of age may perform any work, except for the authorized performance of artistic, cultural, promotional or sports activities subject to the conditions determined by the Employment Act.

The Committee wishes to be informed as to whether the rest period for persons subject to compulsory education at work amounts to at least two consecutive weeks in the period of the summer holidays or other holidays during the school year.

The organization of a school year and its segmentation into the periods of school lessons and the periods of school holidays is provided for in Section 24 of Act No. 561/2004 Coll., on Pre-school, Primary, Secondary, Higher Vocational and Professional Education (the "Education Act"), as amended.

The types and lengths of school holidays at primary and secondary schools are provided for in Section 4 of Decree No. 16/2005 Coll., on the Organization of a School Year, as amended, as follows:

The periods of school holidays include autumn holidays, Christmas holidays, midyear holidays, spring holidays, Easter holidays and the main holidays.

Autumn holidays last 2 days and are attached to the national holiday of 28 October; the start of the autumn holidays is determined for each school year by the Ministry of Education, Youth and Sports.

The Christmas holidays cover the period from 23 December to 2 January (inclusive) of the next calendar year. When 23 December falls on a Tuesday, the holidays start on the preceding Monday already. When 3 January falls on a Friday, the holidays end on that Friday.

The midyear holidays last for one day, being a Friday in the period from 29 January and 4 February.

The Easter holidays fall on Thursday and Friday preceding the Easter Monday.

The aggregate length of school holidays at primary and secondary schools in the Czech Republic amounts to nearly three months. Two months – July and August – account for the main holidays. The autumn holidays cover two working days. The Christmas holidays account for five to seven working days. The midyear holidays take up one working day. The spring holidays cover five working days. The Easter holidays account for two working days. At primary and secondary schools, lessons are given from Monday to Friday. In addition to the school holidays, there are no lessons on the days of national holidays. The headmaster of every school may also grant up to 5 free days for serious operational reasons.

Where required by the nature of the topics taught in the practical lessons and determined in the school curriculum, such as in agricultural study programs, lessons can be given during school holidays to a limited extent. In such case, the period of "holiday lessons" are compensated by free time at a different point in time, typically during June.

ARTICLE 7, PARAGRAPH 4

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;

The Committee considers that the length of working time for young workers under 16 years of age is excessive and not in conformity with Article 7§4.

The European Social Charter does not explicitly stipulate nor daily neither weekly working hours limitation with respect to people under 16 years of age. ILO conventions also do not reduce working hours of juvenile except the ban of overtimes and night work.

The Labour Code amendment effective since January 1st, 2008 changed previous legal regulation in section 79 subsection 2 d) limiting working hours of juveniles (30 hours a week and 6 hours a day) upon prior agreement with social partners in 2007 who submitted to the MoLSA the proposal to amend the Labour Code with justification that legal regulation is to rigid and does not allow students to earn extra money. MoLSA accommodated the demands of social partners.

Czech legislation protects vulnerable categories of employees, especially juveniles, women and people with disabilities and they are provided special care (Labour Code, section 237 et seq.) in compliance with international treaties. With regard to employees who finished compulsory education and are older than 15, the Labour Code strictly stipulates that juveniles may be employed only on those works which are adequate to their physical and intellectual level of development and special care to their needs at work must be devoted (section 243 et seq. of the Labour Code).

It is prohibited to order juveniles work overtime or at night. Juvenile employees older than 16 may exceptionally carry out night work not exceeding one hour if it is necessary for their vocational training (section 245 of the Labour Code).

The length of a shift of juveniles may not exceed eight hours and where such an employee performs work in two or more labour-law relationships, the length of his/her weekly working hours may not exceed 40 hours a week in total.

In case of apprentices and high school students, the ratio of the theoretical and vocational part of study (if it is part of the study) is approximately the same. In the first school year is usually placed an emphasis more on theory, while in the last school year of study/apprenticeship vocational training slightly overweight it. However, the layout varies on the type of school.

Length of vocational training in the first school year (young people under 16) may not exceed 6 lessons (1 lesson = 45 minutes), the second year is usually in the range of 7 lessons and in the third school year may not be longer than 8 lesson (Resolution No. 13/2005 of 29 December 2004 governing Secondary Education and Education at the Conservatoire, Act No. 561/2004 Coll., Educational Act).

ARTICLE 7, PARAGRAPH 5

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;

The previous report did not provide information about the minimum net wage and average net wage of an adult employee. In order for the Committee to be able to assess the situation, the Committee requests this information be included in the next report. It notes that, in the event of a failure to include the information in the next report, it will not be possible to prove that young workers receive a fair wage.

Overview of the minimum and average wage in gross and net terms in 2010-2013

Period	Minimum wage (gross) *in CZK per month*	Minimum wage (net) *in CZK per month*	Average monthly wage in the national economy (gross) *in CZK per month*	Average monthly wage in the national economy (net) *in CZK per month*
1 January – 31 December 2010	*8,000*	*7,120*	*23,864*	*18,513*
1 January – 31 December 2011	*8,000*	*7,120*	*24,455*	*18,820*
1 January – 31 December 2012	*8,000*	*7,120*	*25,067*	*19,342*
1 January – 31 July 2013	*8,000*	*7,120*	*25,078*	*19,349*
1 August – 31 December 2013	*8,500*	*7,565*		

Source: Ministry of Labour and Social Affairs, Czech Statistical Office

Productive activities of a pupil or student and remuneration pursuant to Section 122 (1) of Act No. 561/2004 Coll.

Act No. 561/2004 Coll., on Pre-school, Primary, Secondary, Higher Vocational and Professional Education (the "Education Act"), as amended, specifies the rules for practical lessons and practical training in secondary and higher vocational education, taking into account the nature of the activities carried out by the pupils and students and the potential economic benefit of these activities for the entity in whose premises the practical lessons or practical training take place.

When participating in practical lessons or practical training, the pupil or the student is not an employee of the entity in whose premises their practical lessons or practical training takes place. Consequently, they cannot receive a wage. Although such activities are designed primarily for educational purposes, the pupil's right to remuneration for productive activities is covered in Section 122 (1) of the Education Act.

The remuneration should be paid out on a regular basis as a monthly remuneration provided that they were performed by the pupil in the relevant month. The level of remuneration amounts to at least 30% of the minimum wage for the prescribed weekly working hours. In case of different working hours or in the event that no productive activities were performed by the pupil, the amount of remuneration is to be adjusted proportionally.

Under the Education Act, productive activities are defined as activities bringing income to the entity in whose premises the practical lessons take place.

Young workers, who are in an employment relationship, are covered by the same legal regulations governing remuneration as the adult employees.

ARTICLE 7, PARAGRAPH 6

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;

As provided for in Section 229 of the Labour Code, employers are obliged to ensure adequate job training for graduates of secondary schools, conservatories, advanced vocational schools and universities in order to allow them to obtain the necessary practical experience and skills to perform the work; job training is deemed to constitute performance of work, for which the employee is entitled to receive a wage or a salary.

To this end, a graduate is deemed to be an employee entering a job to carry out work corresponding to their qualifications, provided that the total period of their job training has not reached 2 years after a successful graduation. Any period of maternity or parental leave should not be counted in that period.

The Committee wishes to be informed as to whether the counting of the job training applies also to young people, who are not covered by the Labour Code, as well as about the activities of the Labour Inspection Office in this respect and the results of the inspections and the sanctions imposed, if any.

It is impossible under the Labour Code to carry out a dependent activity, which is not covered by the Labour Code. These legal provisions regulate the labour-law relationships of all employees regardless of whether or not these are young workers.

ARTICLE 7, PARAGRAPH 7

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

7. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks' annual holiday with pay;

There were no changes in this area since the last report.

The Committee asks whether young workers have the opportunity to waive their annual holiday for a financial compensation, and whether they are allowed to take their holiday, which they were not able to take due to sickness of injury, at a substitute date. The Committee recalls that the situation in practice should be regularly monitored and requests that information about the activities of the Labour Inspection Office be included in the report.

The length of annual holiday per calendar month is at least 4 weeks, but the employers are allowed to grant even longer annual holiday. However, they must respect the provisions governing equal treatment. **The same provisions apply also to young workers.**

In accordance with Section 222 of the Labour Code, an employee is entitled to receive a **wage or salary compensation** for any annual holiday not taken **only in the event of the employment termination**. The same provisions apply also to young workers.

According to the provisions of Section 218 of the Labour Code, (amended through Act No. 365/2011 Coll. with effect from 1 January 2012), an employer is obliged to determine the employee's annual holiday schedule in such a manner that the holiday is taken in the calendar year, in which the employee became entitled to the holiday, unless the employer is prevented from doing so by obstacles to work on the part of the employee (such as temporary incapacity to work) or by urgent operational grounds. If the annual holiday cannot be taken in such manner, the employer is obliged to schedule the employee's annual holiday so that it can be taken by the end of the following calendar year at the latest. If the annual holiday schedule is not determined by 30 June of the following calendar year, the employee becomes also entitled to determine the dates for taking the holiday. If the annual holiday cannot be taken even by the end of the following calendar year because the employee has been declared temporarily incapacitated for work or because the employee has taken maternity or parental leave, the employer is obliged to determine a schedule to take this annual holiday after the termination of these obstacles to work.

The subject-matter of activities performed by SLIO is to check the compliance of the employers with the obligations set by the Labour Code, which provides for the same obligations related to annual holiday in relation to all employees, i.e. including young workers. No violation in terms of unauthorized compensation of annual holiday, except for holiday not taken in the event of employment termination, has been reported through the inspection activities in the reporting period.

In the area of annual holiday, the most frequent deficiencies made by the employers concern the calculation of holiday, payment in lieu of holiday and ordered holiday. The most frequent finding involves a failure to make the payment in lieu of holiday on the next pay day upon the termination of a worker's employment, and an incorrect calculation of that payment. In all cases, the employer was ordered to remedy the deficiency within a given period of time.

Regarding annual holiday in general:
Every year, the inspection authorities carry out several tens of thousands of inspections at the employers' premises which are, as a rule, focused on labour-law relations, working conditions or employment (since 2012) or the occupational health and safety. The inspections are carried out based on the control tasks assigned (targeting certain areas or certain sectors); in addition, preventive checks are performed with the use of proposals for inspection received by the SLIO from the public. The annual holiday domain is mentioned in 2-3% of these proposals for inspection (see table below); the State Labour Inspection Office has not received any proposal for inspection suggesting directly a holiday payment by an employer to compensate an employee for not taking the holiday.

	Number of proposals for inspection	Number of proposals mentioning the annual holiday domain
2010	5,543	165 (2.9%)
2011	5,501	139 (2.5%)
2012	9,595	249 (2.5%)
2013	8,787	283 (3.2%)

	Number of inspections in labour-law relations (incl. annual holiday)	Number of inspections in the annual holiday domain (qualified estimate)	Number of deficiencies identified in the annual holiday domain	Imposed sanctions
2010	6,949	1,158	148	13 fines in the amount of CZK 251,150
2011	13,558	1,694	117	6 fines in the amount of CZK 55,000
2012	13,238	1,655	125	10 fines in the amount of CZK 142,000
2013	5,731	955	143	6 fines in the amount of CZK 50,000

Note: A measure to remedy the identified deficiencies is ordered by the inspectors usually upon every finding of deficiencies with an employer. Afterwards, the employer is granted a certain period of time, depending on the nature of the deficiency, to remedy the situation. A decision is subsequently taken to impose a sanction, carry out a follow-up inspection or not to impose any sanction.

ARTICLE 7, PARAGRAPH 8

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

The legal provisions have not changed since the last report.

The Committee recalls that the situation in practice should be regularly monitored and requests that information about the SLIO activities, its findings and the sanctions imposed be included in the report.

Violations of the labour legislation in connection with the employment of youth occur only exceptionally. In the reference period, a violation of the prohibition of the night work exceeding one hour was ascertained in 8 cases in total. Given that the time in excess was negligible (ca. 30 minutes), only a measure to remedy the deficiency was imposed.

ARTICLE 7, PARAGRAPH 9

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

The Committee demands the report should include information about the SLIO activities, its findings and the sanctions imposed.

8 cases where a young worker was not examined by a provider of occupational medical services were discovered by the State Labour Inspection Office. Fines in a total amount of CZK 235,000 were imposed on the entities concerned.

Occupational medical service (previously called occupational preventive health care) is currently regulated Act No. 373/2011 Coll., on Specific Health Services (hereinafter referred to as "Act No. 373/2011 Coll.").

Act No. 373/2011 Coll. provides for occupational medical services administered through a health care facility that ensures the so-called "occupational preventive care" under Act No. 20/1966 Coll., on Public Health Care, as amended. The implementing regulation governing the periods of the periodical medical examinations was the Ministry of Health Directive on the assessment of health fitness for work which, in its Section 16, provided for periodical examination of adolescents, students and military recruits. The periodical examinations of adolescents and recruits took place once a year for adolescents in employment or apprenticeship and at least once every two years for students, unless more frequent examinations were prescribed by a physician in view of the working conditions (job training) or in view of the health condition. Young workers may not perform selected work nor work at certain workplaces.

The list of prohibited work and workplaces is currently provided for in Decree No. 288/2003 Coll., which builds on the initial scope of prohibited work and workplaces defined in Decree No. 261/1997 Coll. This latter Decree had for the first time provided comprehensive rules governing the ban on work and workplaces for pregnant women, nursing women and women after giving birth, as well as for young people, thus making it possible to repeal a number of particular by-laws previously in force.

Prohibited work includes e.g. work related to exposure to chemical and physical agents, biological agents, total and local muscle strain, heat and cold load, mental and visual stress, as well as hazard-related work (such as operations in the manufacture and processing of explosives or explosive items and handling thereof, working at heights and above free depth, working at high electrical voltage installations, work carried out inside closed vessels or tanks and in installations for the manufacture, storage and use of compressed, liquid or dissolved gases, work entailing the risk of collapse of the structure, buildings or falling objects, work related to the treatment of animals requiring special care or to slaughter of animals in a slaughterhouse).

Prohibited workplaces are workplaces where the air pressure exceeds the ambient atmospheric pressure by more than 20kPa, workplaces where the oxygen concentration in the air is lower than 20 percent by volume or where sources of ionizing radiation are used.

The Labour Code prohibits the engagement of young workers in underground work in mineral extraction or tunnelling. The bans on work and workplaces under the above Decree are conceived as absolute bans, as is the case for defined chemical substances and compounds where the level of exposure is irrelevant and the relevant aspect is the presence itself of such chemical substance or compound, or for hazardous work. Hazardous work is defined as *work "posing the risk of occupational illness or other work-related illness, i.e. work classified under category three and four, as well as work classified under category two where so decided by the competent public health protection authority or so provided by a special legal regulation*".

Work classified under category two – hazardous is understood as work classified as such by the competent public health protection authority, usually based on the fact that the measured values are close to the admissible limit values. Other prohibited work and workplaces listed in the above Decree are derived from the type of risk for the health of the youth worker as regards its effects on health as well as the potential occurrence of accident.

Category-three hazardous work includes work where the health safety limits are exceeded, as well as work where occurrence of occupational illnesses has been repeatedly reported or where there is, in statistical terms, a significantly more frequent occurrence of illnesses which, with the current level of knowledge, can be deemed to be work-related illnesses.

Category-four work includes work associated with a high risk of health hazard, which cannot be fully excluded even with the use of the available and applicable protective equipment and measures.

In addition to this list of prohibited work or workplaces, the employer is always responsible for "*employing young workers only in work that is adequate to their physical and intellectual development and for providing increased care to these employees during work*". The latest provisions in the Labour Code directly forbid employers to employ young workers in work that is inadequate for them in view of the anatomical, physiological and mental specificities of that age, dangerous and harmful to their health as well as to work in which they are exposed to increased risk of accident or during the performance of which they could seriously jeopardize the safety and health of other employees or other individuals. Similarly, the current wording of the Labour Code requires employers to ensure, at their own expense, that young workers are examined by a provider of occupational medical services, on a regular basis as necessary and at least once a year, before the commencement of the employment relationship and before their transfer to a different work.

Where a young worker is not allowed to perform work for which he or she has completed vocational training because the performance of such work is forbidden for young workers or because it was found to jeopardize his or her health based on a medical opinion issued by the provider of occupational medical services, the employer is obliged to assign the young worker to a different work corresponding to his or her qualifications until the young worker is able to perform the work in question.

The above implies that the minimum frequency of the periodical examination is set to once a year but, in practice, it is typically applied for work with an acceptable minimum level of risk where such work does not pose a threat to the young worker's health, such as for administrative work. In other cases, the scope of the prohibited work is so broad-based that it eliminates, in principle, any potential possibility to cause harm to the health of young workers, since they have not been allowed to perform such work ever in the past and may not do so under the current legal regulations either.

In addition, the Labour Code sets out explicitly that the periodical examination of young workers can be carried out "on a regular basis as necessary", i.e. also more frequently according to the instructions of the provider of occupational medical services (examining physician).

Employment of young workers in an employment for a definite or indefinite period of time occurs rather on an exceptional basis in the Czech Republic. Young workers are more frequently used for short-term jobs, such as in the form of vacation jobs. In this case, Act No. 373/2011 Coll. provides that "*the employer shall always ensure an entry medical examination before the conclusion of an agreement to complete a job or agreement to perform work, where the candidate for employment is to be assigned to work that is considered hazardous under the Public Health Protection Act or where the work includes an activity for the performance of which health fitness requirements are prescribed by other legal regulations (such as driving motor vehicles); the employer may also require an entry medical exam in the event of doubts concerning the candidate's health fitness for work, which is not classified as hazardous and which is to be performed under an agreement to complete a job or an agreement to perform work*."

In addition to the periodical examinations, the Decree on occupational medical services and certain types of medical assessment allows for an extraordinary examination to be carried out in order to determine the health conditions of the employee under examination in case of a well-grounded assumption that the employee no longer shows the required health fitness for work or shows a change in the health fitness for work, or where the level of risk for the risk factor related to the working conditions previously accounted for has increased, in other words where

a) it was ordered by a public health protection authority pursuant to the Public Health Protection Act or it is so provided for in the Act governing the use of nuclear energy and ionizing radiation;
b) it is necessary in the relevant period due to the health intensity of the specific working conditions;
c) the working conditions have deteriorated in the sense of an increased level of risk related to the risk factor against which the employee's health fitness was assessed;
d) it has been repeatedly detected that the limit values of the biological exposure test indicators were exceeded or, where appropriate, on the basis of the findings of other examinations carried out to monitor the stress of the organism caused by the effect of risk factors related to the working conditions;
e) such a change in the employee's health condition has been detected during an occupational medical examination, allowing to assume that the employee's health fitness for work is going to change within a period of time, which is shorter than the periodicity of the periodical examinations; or
f) the performance of work was suspended
    1. due to an illness for a period exceeding 8 weeks, except for the performance of category-one work under the Public Health Protection Act and unless it concerns work or activity, which entails a risk of health hazard, or unless provided otherwise by a different legal regulation;
    2. as a result of an accident with serious consequences, an illness associated with a coma, or other gross bodily harm, or
    3. for other reasons for a period longer than 6 months.

In addition, an extraordinary examination is performed based on a request submitted by the employer or at the initiative of the employee, or based on the information notified by the

attending physician concerning a reasonable suspicion that a change in the employee's health condition resulted in a change in the health fitness.

Under the Decree on occupational medical services and certain types of medical assessment, every occupational medical check-up includes a basic examination consisting of:

a) an analysis of the past development of the employee' health condition and medical history (diseases suffered), focusing particularly on the occurrence of diseases that might restrict or exclude health fitness;
b) a work-related medical record monitoring, in particular, the response of the organism to the presence of risk factors;
c) a comprehensive physical examination, including an indicative examination of hearing, vision, skin and an indicative neurological examination, with emphasis of an assessment of the condition and functioning of the organs and systems that will be strained during the performance of the work or training for the future profession and its pursuit, and taking into account the potential disability of the person under examination, as well as a basic chemical analysis of urine to determine the presence of proteins, glucose, ketone, urobilinogene, blood in the urine and the pH value of the urine.

The basic examination is extended with additional expert examinations where such examinations

a) are provided for in a different legal regulation,
b) are performed on the basis of a decision taken by a public health protection authority under the Public Health Protection Act,
c) are listed in Annex No. 2 to the above-mentioned Decree for hazardous work in accordance with the Public Health Protection Act or for work associated with a risk of health hazard, or
d) are indicated by the examining physician;
    1. where it is necessary to exclude diseases that restrict or exclude health fitness for work or training or during training, or where so required by the working conditions;
    2. based on an assessment of the indicators of the biological exposure tests or other examinations and their dynamics, in order to monitor the stress of the organism caused by the effect of risk factors related to the working conditions.

Enhanced health protection of young employees at work is traditionally perceived as positive in the Czech Republic because it takes into account their physical and mental immaturity. The scope of preventive health care for young people as defined by the applicable legal regulations guarantees that young workers are protected against injury to health when performing their work.

ARTICLE 7, PARAGRAPH 10

With a view to ensuring the effective exercise of the right to fair working conditions, the Contracting Parties undertake:

10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

National report update

Criminalization of possession of child pornography

An amendment of the Penal Code was adopted in July 2014, **increasing the protection of citizens against human trafficking and the protection of children against sexual assaults** to a level required by the EU.

With the law referred to above, the Penal Code was amended by adding **two new constituent elements of a criminal offence** (*acti rei*). This concerns the criminal offence of *participating in pornographic performances* (new Section 193a) where participation in pornographic performance featuring a child will now be punishable. Furthermore, the criminal offence of *establishing illicit contacts with a child* (new Section 193b) is added, providing for the punitiveness of intentional conduct in which an adult person proposes to meet with a child who has not reached the age of sexual maturity, with the aim of committing the offence of sexual abuse or similar criminal offences against the child. Similarly, the **act extended the existing constituent elements of the criminal offence of production and handling of child pornography** (Section 192) by adding sanctions for intentionally seeking access to child pornography by means of information and communication technology.

Under Article 5 (3) of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, knowingly obtaining access, by means of information and communication technology, to child pornography shall be punishable by a maximum term of imprisonment of at least 1 year. In order to comply with this requirement, it is proposed to add the offence of production and handling of child pornography in Section 192 of the Penal Code. In addition, legislative technical adaptations are carried out in connection with the renumbering of the paragraphs. For Section 192 (1), it is also proposed to reduce the maximum term of imprisonment from two years to one year. By reducing the term of imprisonment in Section 192 (1) and (2), the term of imprisonment was aligned with that provided for in the proposed Section 193b. This change was driven by the aim to capture as much as possible the social harmfulness of such conduct.

Under Article 4 (4) of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, knowingly attending pornographic performances involving the participation of a child shall be punishable, subject to a requirement to subdivide the sanctions. If the child has not reached the age of sexual consent, the offender shall be punishable by a maximum term of imprisonment of 2 years, while if the child is over that age, the offender shall be punishable by a maximum term of imprisonment of at least 1 year. Pursuant to Article 2 (e) of the aforesaid Directive, "pornographic performance" means a live exhibition aimed at an audience, including by means of information and communication technology.

Furthermore, the criminal offence of establishing illicit contacts with a child (Section 193b) is added to the Penal Code, providing for the obligation to ensure punitiveness of intentional conduct in which an adult person, by means of information and communication technology, proposes to meet with a child who has not reached the age of sexual consent, with the aim of committing the offence of sexual abuse or similar criminal offences. The required criminal sanction is at least one year of imprisonment.

Similarly, the Act on Criminal Liability of Legal Persons and Proceedings Against Them was amended by introducing additional criminal offences, for which legal entities are punishable (the criminal offences of *rape, participation in pornographic performance and establishing illicit contacts with a child*).

Section 192

Production and handling of child pornography

(1) A person who possesses a photograph, a video recording, a computer or electronic production or any other pornography featuring or otherwise abusing a child or a person who appears to be a child, shall be sentenced to maximum two years of imprisonment.

(2) A similar sentence shall apply to a person who gains access to child pornography by means of information and communication technology.

(3) A person who produces, imports, exports, transits, offers, makes publicly available, facilitates, circulates, sells or otherwise furnishes a photograph, a video recording, a computer or electronic production, or any other pornography featuring or otherwise abusing a child or a person who appears to be a child, or
who profits from such pornographic production,
shall be sentenced to six months to three years of imprisonment or a ban on activities, or forfeiture of property or other valuables.

(4) A sentence of two to six years of imprisonment or forfeiture of property shall apply to an offender who commits the crime referred to in paragraph 3
(a) as a member of an organized group;
(b) using the printed matter, film, radio, television, publicly accessible computer network or any other similarly efficient communication medium, or
(c) with the intention to generate substantial profit for himself or for another person.

(5) A sentence of three to eight years of imprisonment or forfeiture of property shall apply to an offender who commits the crime referred to in paragraph 3
(a) as a member of an organized group operating in several countries, or
(b) with the intention to generate large profit for himself or for another person.

Section 193

Abuse of a child to make pornography

(1) A person who forces, arranges for, hires, entices, seduces or abuses a child in order to make pornography or who has profit from the child's participation in such pornography shall be sentenced to one to five years of imprisonment.

(2) A sentence of two to six years of imprisonment shall apply to an offender who commits the crime referred to in paragraph 1
(a) as a member of an organized group; or
(b) with the intention to generate substantial profit for himself or for another person.

(3) A sentence of three to eight years of imprisonment shall apply to an offender who commits the crime referred to in paragraph 1
(a) as a member of an organized group operating in several countries, or
(b) with the intention to generate large profit for himself or for another person.

Section 193a

Participation in pornographic performance

A person who participates in pornographic performance or other similar performance featuring a child shall be sentenced to maximum two years of imprisonment.

Section 193b

Establishing illicit contacts with a child

A person who proposes to meet with a child below the age of fifteen years with the intention of committing a criminal offence referred to in Section 187 (1), Section 192, Section 193, and Section 202 (2) or other sexual offence shall be sentenced to maximum two years of imprisonment.

Human trafficking (Section 168 of the Penal Code)

With the same amendment to the penal code, as adopted in July 2014, the provisions of section 168 (1) and (2) were adapted in connection with directive 2011/36/EU of the European parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. In order to ensure consistent implementation of article 2 (1) of the directive, the word "receives" was added and the word "by another person" was deleted in the introductory sentence. This allows for the previously lacking punishability of offenders who receive a victim of human trafficking into their control.

In section 168 (1) and (2), the word "by another person" was added at the beginning of points (a) and (b) in order to avoid overlapping of offences in the Penal Code and, at the same time, to comply with the requirements of the directive (e.g. The possible overlapping of the offence of human trafficking with the offence of soliciting to prostitution pursuant to section 202 of the Penal code). These provisions will also ensure compliance with the requirements arising from the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime, of 15 November 2000, which was signed on behalf of the Czech Republic on 12 December 2002.

Section 168

Human trafficking

(1) A person who forces, arranges for, hires, entices, transports, harbours, detains, receives or hands over a child so that the child can be abused
(a) by another person for sexual intercourse or other forms of sexual exploitation or harassment or for production of pornography;
(b) by another person for removal of tissues, cells or organs from his body;
(c) for service in armed forces;
(d) for slavery or servitude; or
(e) for forced labour or other forms of exploitation; and/or
who profits from such conduct,
shall be sentenced to two to ten years of imprisonment.

(2) A similar sentence shall apply to a person who forces, arranges for, hires, entices, transports, harbours, detains, receives or hands over a person other than that referred to in paragraph 1, by means of use of force, threat of force or other gross harm or deception and/or making use of the other person's error, distress or dependence, so that the latter can be abused
(a) by another person for sexual intercourse or other forms of sexual exploitation or harassment or for production of pornography;
(b) by another person for removal of tissues, cells or organs from his body;
(c) for service in armed forces;
(d) for slavery or servitude; or
(e) for forced labour or other forms of exploitation; and/or
who profits from such conduct.

(3) A sentence of five to twelve years of imprisonment or forfeiture of property shall apply to an offender who
(a) commits the crime referred to in paragraph 1 or 2 as a member of an organized group;
(b) exposes, through such crime, another person to the risk of gross bodily harm or death;
(c) commits such crime with the intention to generate large profit for himself or for another person, or
(d) commits such crime with the intention to use another person for prostitution.

(4) A sentence of eight to fifteen years of imprisonment or forfeiture of property shall apply to an offender who
(a) causes gross bodily harm as a result of the crime referred to in paragraph 1 or 2,
(b) commits such crime with the intention to generate large profit for himself or for another person, or
(c) commits such crime in conjunction with an organized group operating in several countries.

(5) A sentence of ten to eighteen years of imprisonment or forfeiture of property shall apply to an offender who causes death as a result of the crime referred to in paragraph 1 or 2.

(6) Preparation shall be punishable.

Criminalization of possession of child pornography

Act No. 40/2009 Coll., the Penal Code, entered into effect on 1 January 2010, criminalizing, in Section 192 thereof, the possession of child pornography for own use.

Section 192

Production and handling of child pornography

(1) A person who possesses a photograph, a video recording, a computer or electronic production or any other pornography featuring or otherwise abusing a child shall be sentenced to maximum two years of imprisonment.

(2) A person who produces, imports, exports, transits, offers, makes publicly available, facilitates, circulates, sells or otherwise furnishes a photograph, a video recording, a computer or electronic production, or any other pornography featuring or otherwise abusing a child, or
who profits from such pornographic production,
shall be sentenced to six months to three years of imprisonment or a ban on activities, or forfeiture of property or other valuables.

(3) A sentence of two to six years of imprisonment or forfeiture of property shall apply to an offender who commits the crime referred to in paragraph 2

(a) as a member of an organized group;

(b) using the printed matter, film, radio, television, publicly accessible computer network or any other similarly efficient communication medium, or

(c) with the intention to generate substantial profit for himself or for another person.

(4) A sentence of three to eight years of imprisonment or forfeiture of property shall apply to an offender who commits the crime referred to in paragraph 2

(a) as a member of an organized group operating in several countries, or

(b) with the intention to generate large profit for himself or for another person.

Possession is understood to include any manner of holding child pornography. It is not necessary for the offender to have child pornography directly with him; it is sufficient that the child pornography is under his control (such as in his e-mail box, which is stored on a server of the internet service provider).

Furthermore, the "*National Strategy to Prevent Violence against Children in the Czech Republic for the period 2008-2018*", adopted by the resolution of the Cabinet No. 1139 of 3 September 2008 identifies the following priorities:

- a change in the attitudes of the society in order to achieve zero tolerance to violence against children, based on a broad-based, more or less permanent public campaign,
- promotion of primary prevention in a broad context,
- professional approach of experts and accessibility of services for vulnerable children,
- data collection, and

- participation of children in the decisions concerning the issues which affect them directly.

http://www.vlada.cz/assets/ppov/rlp/dokumenty/strategie-prevence-nasili-na-detech/Strategie-proti-nasili-na-detech.pdf

ARTICLE 8: THE RIGHT OF EMPLOYED WOMEN TO PROTECTION

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;

2. to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;

3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose.

ARTICLE 8, PARAGRAPH 1

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;

There were no changes during the reference period. The rights of employed women are guaranteed in accordance with the required scope.

ARTICLE 8, PARAGRAPH 2

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

2. to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;

With effect from 1 January 2012, the Labour Code has been amended to include, *inter alia*, a modifications in the provisions of Section 54, which now explicitly provide for a prohibition of dismissal on the grounds of organizational changes of pregnant female employees, female employees on maternity leave, or male employees on parental leave taken within the period during which the female is entitled to be on maternity leave In this manner, the legal provisions were aligned with the requirements of the European Social Charter.

The new version of Section 54 of the Labour Code, as amended with effect from 1 January 2012 read as follows:

Section 54
The prohibition of dismissal under Section 53 does not apply for notices of dismissal given to an employee

(a) on the grounds of organizational changes referred to in Section 52 (a) and (b); this does not apply to organizational changes referred to in Section 52 (b) provided that the transfer by the employer takes place within the place (places) of work performance where the work is to be carried out in accordance with the employment contract;

(b) on the grounds of organizational changes referred to in Section 52 (b); ***this does not apply to pregnant female employees, female employees on maternity leave, or male employees on parental leave taken within the period during which the female is entitled to be on maternity leave;***

(c) on the grounds giving the employer the right to terminate the employment relationship effective immediately, unless it concerns a female employee on maternity leave or a male employee on parental leave taken within the period during which the female is entitled to be on maternity leave; if a notice of dismissal on these grounds was given to a female employee or male employee before the commencement of the maternity leave or parental leave, respectively, so that the period of notice expires during such maternity leave or parental leave, as appropriate, the period of notice shall expire simultaneously with the maternity leave or parental leave, as appropriate,

(d) on the grounds of other violation of duties arising from the legal regulations applicable to the work performed [Section 52 (g)] or violation of other duties of the employee provided for in Section 301a in a particularly gross manner [Section 52 (h)]; this does not apply for pregnant female employees, female employees on maternity leave, or male or female employees on parental leave.

ARTICLE 8, PARAGRAPH 3

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose.

The Committee has become aware of the fact that female employees with a child of up to one year of age working part-time must work at least one half of the usual weekly working hours in order to be entitled to a 30-minute nursing break. The Committee wishes to be informed as to what protection is provided to women with a working arrangement of less than a half of the prescribed weekly working hours, such as two full days per week. It also wishes to ask whether the same scheme is applied in both public and private sectors.

In accordance with Section 242 of the Labour Code, the employer is obliged to provide a female employee, who nurses her child, with special nursing breaks in addition to work breaks.

A female employee working the prescribed weekly working hours (40 hours per week, 8 hours per day) is thus entitled to two 30-minute nursing breaks for each child up to 1 year of age and to one 30-minute break per shift in the following 3 months. If a woman works part-time, but at least one half of the weekly working hours (20 hours per week, 4 hours per day), she is entitled to one 30-minute break for each child up to 1 year of age.

In accordance with the requirements of the Charter, nursing breaks are counted towards the time worked and give the right to a wage or salary compensation amounting to the average earnings.

In response to the Committee' question as to what protection is provided to nursing women with a working arrangement of less than a half of the prescribed weekly working hours, we wish to state that the employees are protected by law through the definition of the minimum possible scope of the right to work breaks that the employer is obliged to grant to the employees. Given the individual needs of the female employees and the individual needs of children in terms of the nursing frequency, the law provides a larger room for manoeuvre to grant breaks on a case-by-case basis that can be scheduled by the female according to her needs and also subdivided into several shorter periods of time.

In addition to the nursing breaks, female employees are entitled to a 30-minute work break for food and rest, which must be granted by the employer to the employee no later than after 6 hours worked (defined as the minimum length of the work break and the maximum duration of time worked). A break can be subdivided into several parts, but at least one part thereof must be a minimum of 15 minutes.

The Labour Code does not allow any exclusion of the performance of dependent work from its scope, which implies that these legal provisions regulate all labour relations, i.e. in the private as well as the public sector.

ARTICLE 16: THE RIGHT OF THE FAMILY TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

Social protection – family housing

The previous reports provided the Committee with information about the promotion for the construction of subsidized apartments, social housing and assistance in the acquisition of the first housing provided to persons up to 36 years of age. The Committee is asking whether the aforesaid measures are favourable, proportionate and accessible also to low-income families, whether they cover the demand for housing adapted to family needs, and whether equal treatment of the nationals of other member countries of the European Social Charter is ensured in this respect; it also wishes to receive updated information (including statistics) and changes made in the reference period.

Pursuant to Article 16, the Contracting Parties must promote the provision of an appropriate offer of family housing, take into account the needs of families in their policies and ensure that the existing housing is at an adequate level and has an adequate size in view of the family composition, and that it includes the necessary utilities such as heating and electricity.

Investment support of individually owned housing for young people:

In the period of 2010-2013, it was possible to provide investment support for individually owned housing to persons up to 36 years of age through the following instruments:

- Government Regulation No. 249/2002 Sb., on the Terms and Conditions of Granting Allowances for Mortgages to Individuals under 36 Years of Age. The support is provided from the funds of the Ministry of Regional Development (MRD), in the form of an interest subsidy for the acquisition of an older real estate.
- Government Regulation No. 616/2004 Sb., on the Use of Financial Means of the State Housing Development Fund to Reimburse a Portion of Costs Related to the Construction or Acquisition of a Flat by Certain Persons under 36 Years of Age.
- Government Regulation No. 28/2006 Coll., on the Terms and Conditions of the Use of Financial Means of the State Housing Development Fund in the Form of a Loan to Cover a Portion of Costs Related to the Modernization of a Flat by Certain Persons under 36 Years of Age, as amended.

An overview of the support granted in the period 2010-2013 is provided in "2013 Selected Housing Data" (p. 19), which is published at the MRD website under: http://www.mmr.cz/cs/Stavebni-rad-a-bytova-politika/Bytova-politika/Statistiky-Analyzy/Statistiky-z-oblasti-bytove-politiky/Vybrane-udaje-o-bydlen/Vybrane-udaje-o-bydleni-2013.

The information is available in the Czech language only, but an English version is currently being prepared and will also be posted at the MRD website.

In response to the question of whether the support is favourable, proportionate and accessible also to low-income families, we wish to note that:

- The support of young families through mortgage lending increases the accessibility of mortgage loans; it is not possible to benefit from the support without a commercial mortgage loan; the level of the support is derived from and directly proportional to the market interest rates; given the currently low interest rates, the contribution level is zero;
- Social housing support is focused on developing rental apartments for social housing. The target group includes elderly people, disabled persons, low-income households or households with other social handicaps causing their disadvantage on the housing market; the target group is not defined on the basis of ethnicity, but based on the social situation of the persons and their households.

None of the above instruments includes any discrimination on the grounds of race or national origin or, more specifically, any restrictions based on nationality. However, the support is disbursed for real estate located anywhere in the territory of the Czech Republic.

Pursuant to Article 16, the Contracting Parties must promote the provision of an appropriate offer of family housing, take into account the needs of families in their policies and ensure that the existing housing is at an adequate level and has an adequate size in view of the family composition, and that it includes the necessary utilities such as heating and electricity. Furthermore, the commitment to promote and support housing applies also to securing a safe enjoyment of property, which is an essential precondition to ensure a meaningful family life in a stable environment. The Committee recalls that this obligation covers also protection against illegal eviction.

In order to protect the tenants, the new Civil Code provides for a new aspect in concluding a lease contract for an apartment. Where a tenant has used an apartment for a period of three years in good faith that he holds a lawful lease, a lease contract is considered to be properly concluded (Section 2238). It constitutes the so-called factual lease. It is designed to prevent such behaviour of the lessors who do not conclude a lease contract with the tenant in writing, leaving the tenant without any protection when the lessor decides to terminate the lease. Even if it is required by law for a lease contract to be in writing, the lessor does not have the right to invoke the lack of form against the tenant (Section 2237). It is not only an element of respect in relation to the free will of the parties, but also an element of protection for a fair tenant. Under the new Civil Code, the lessor has the responsibility for ensuring compliance with the written form requirement.

The constitutional law basis of (free) legal aid is found on Article 37 of the Charter of Fundamental Rights and Freedoms (hereinafter referred to as the "Charter of Fundamental Rights"). The above-mentioned Article provides that every person has the right to legal aid in proceedings before courts, other state bodies or public authorities since the start of the proceedings. In conjunction with Article 42 (2) of the Charter of Fundamental Rights, every person has the right to legal aid. Article 37 of the Charter of Fundamental Rights makes it possible to conclude that legal aid is linked to proceedings and, subject to the conditions prescribed by law, it constitutes a legal claim.

The right to legal aid is enshrined in Act No. 99/1963 Sb., the Code of Civil Procedure, as amended. This Act gives every party to legal proceedings the right to be represented before court by a legal representative (lawyer, attorney). At the same time, this Act stipulates that if a party to legal proceedings files a request to the court, the right to (free) legal aid can be granted and an attorney can be assigned *pro bono* to the party.

In its Section 30 (1), the Code of Civil Procedure provides for the right of a party to legal proceedings to have a legal representative appointed to them if requested at the court, provided

that the party has been exempted from legal costs by the court. It is not specified which legal representative is to be appointed by the court, whether it should be an attorney, public notary, patent consultant or a trade union or association representative. The second paragraph provides that, where so required in order to protect the interest of the party, or where proceedings with a mandatory representation by an attorney are concerned, the attorney shall be appointed by court.

Legal aid in criminal proceedings is covered in Section 33 (2) of the Code of Criminal Procedure, providing that an accused party who does not have sufficient means for own defence shall have to right to have a defence lawyer appointed to them. The decision shall be taken by a judge at the pre-trial stage or by the chief judge in the proceedings before court. At the initiative of the public prosecutor at the pre-trial stage, a defence attorney can be appointed to the accused party with or without request.

Access to legal aid is also covered by the Act on Legal Profession. In Sections 18, 19 and 20 thereof, the Act provides for the conditions under which legal aid shall be provided by attorneys. It is the only regulation giving the applicant the opportunity to request legal aid before the commencement of the legal proceedings.

In addition to the cases described above where legal aid is provided pursuant to one of the relevant legal regulations, there are also other possibilities. Free legal counselling or legal aid is provided by a number of various entities. These include different non-profit organizations, civic associations and other entities which, in addition to other public benefit activities, offer also free legal counselling.

The government authorities must also see to it that the supplies of important utilities such as water, electricity and phone service are not disrupted. In order to be able to assess compliance with Article 16, the Committee wishes to be informed about the aforesaid issues.
Housing support for low-income families in general, including family housing support, is arranged for through social transfers – housing allowance and housing supplement. These transfers make it possible for households to cover the reasonable housing costs taking into account the local conditions (the so-called normative housing costs), which include also housing-related utilities (electricity, water, heating).

The issues of apartment lease protection are governed by the Civil Code, which specifies the protection of tenants as well as the duties of lessors. The Civil Code provides for, inter alia, the lessor's obligation to remove any defects preventing the use of the apartment, and lays down the minimum standards for apartments, the conditions for their heating, etc.

The current ongoing legislative changes (an amendment to the Act on Assistance in Material Need and the Public Health Protection Act) are aimed at specifying and defining more strictly the standards for housing facilities (other than apartments), which are designed for temporary accommodation.

The Committee wishes to receive detailed information about the steps taken to secure the right to housing for Roma families and about the progress achieved.
In order to deal with the unfavourable housing situation of disadvantaged Roma, the starting point is to improve their spatial mobility so as to give them the opportunity to live also outside of socially excluded localities, increase the accessibility of housing for low-income Roma households, consistently promote equal access to housing and ensure early prevention of the risk of losing the housing. In order to improve the housing situation of the vulnerable groups of population, the 2020 Housing Policy Concept of the Czech Republic (hereinafter referred to as

the "Concept") was adopted by the Cabinet of the Czech Republic with its resolution No. 524 of 13 July 2011. The Concept stipulates several tasks, which are directly linked to increasing housing accessibility for persons at risk of social exclusion and provide basis for a comprehensive solution to the social housing situation in the Czech Republic.

The basic objectives of the Concept are focused, in particular, on increasing the accessibility of adequate housing in all housing forms, on creating a stable legal environment for the housing domain and on continuously improving the housing quality.

The Concept proposes the following new orientations in the housing domain:

- a more balanced level of support for individually owned and rental housing;
- increased accessibility of housing for socially defined groups of population (elderly people, households at risk of social exclusion, low-income persons, disabled persons, etc.);
- improving the energy performance of housing – the energy-intensive operation of the housing stock translates into the high burden of households caused by the energy costs;
- state aid to deal with the housing situation of victims of natural disasters;
- improved absorption of EU funds in the period 2014-2020;
- a stable legislative environment as regards apartment lease and apartment ownership;
- improving the housing quality.

The support implemented through the budget funds of the Ministry of Regional Development and the State Housing Development Fund is used to improve the accessibility of housing, increase the offer of housing for social purposes, as well as to improve the housing quality.

Investment support for social housing

- Every year, the Ministry of Regional Development provides subsidies for the construction of social housing rental apartments under the Support for Construction of Subsidized Apartments program. The support is aimed at developing rental apartments designed to secure social housing for persons who have a difficult access to housing because of their special needs arising from their adverse social situation (such as age, health condition or social background of their lives). Subsidies are granted for new constructions, reconstruction of the existing buildings and for acquisitions leading to the development of social housing rental apartments.

The disposal terms and conditions for the apartments stipulate an income cap, which may not be exceeded by the future tenant, unless the tenant is a person older than 70 years or a disabled person. The future tenants are defined by their social situation rather than by their national or ethnic origin. Consequently, equal treatment in this field is ensured for the nationals of other member countries of the European Social Charter as well as for Roma families.
In the period of 2010-2013, subsidies were granted for the construction of 1,317 subsidized apartments.

- A new Government Regulation No. 284/2011 Coll., on the Conditions for Providing and Using Financial Resources from the State Housing Development Fund in the Form of a Loan to Support the Construction of Rental Apartments in the Czech Republic, entered into force in 2011. A loan is provided to legal entities and natural persons (including towns and municipalities) for new constructions of rental apartment buildings or for reconstructions of the existing buildings which will be turned into rental apartment buildings.

- For construction of rental apartments for social housing (with the target group consisting of elderly people above 65 years of age, disabled persons, low-income persons and persons who lost their home as a result of a natural disaster), it is possible to grant a loan with a favourable interest rate.

The Committee takes note of the participation by the Czech Republic in the Decade of Roma Inclusion 2005-2015, as well as of the essential representations made in the report and the reference to the Roma situation survey. In addition, it notes the establishment, in January 2008, of the Agency for Social Inclusion in Roma Communities, which aims at providing assistance to local authorities, particularly by issuing guidance. The Committee welcomes these positive steps, but notes that the report includes no information on how these principles are applied in practice and on their effect on the Roma families. The Committee thus requests to include in the next report a statement as to whether the Roma families are guaranteed the same social, legal and economic protection, as well as a description of the measures taken in this field.

Since 2008, the Agency for Social Inclusion focuses on the social inclusion of Roma living in socially excluded localities. The key strategic document providing the basis for the Agency's work is the 2011-2015 Strategy to Combat Social Exclusion, which stipulates specific goals in the area of combating multiple social exclusion, including sub-objectives for housing. It is feasible to achieve most of these goals by the end of 2015. These goals include, for instance, pilot testing of a permeable housing system for Roma households with guarantee at the top level (in Brno, Cheb, Litoměřice), which is designed to verify the possibilities for its broader introduction in the Czech Republic.

The Agency operates in socially excluded localities in the municipalities, which expressed interest in cooperation in dealing with the issue of social exclusion of Roma and were selected for cooperation following an assessment of their situation by the Agency's Monitoring Committee composed of representatives of the ministries, non-profit organizations, the Union of Towns and Municipalities of the Czech Republic and the Government Council for Roma Minority Affairs. Every year, cooperation is established with eight to ten municipalities. The activities of the Agency focus on developing a local partnership among the stakeholder institutions so that the various aspects of social exclusion, such as in education, crime prevention, debts, social work, employment or housing, are dealt with in a coordinated manner in the localities concerned. The cooperation typically lasts for three years, which is a sufficient period to initiate positive changes, and is followed by remote support provided to the municipality. At the end of the three-year period, the activities of the Agency in the localities concerned are evaluated and compared to the initial situation at the start of the cooperation.

One of the localities where the Agency operated is the municipality of Obrnice whose mayor received the Council of Europe Award for her efforts in Roma integration. The town of Kadaň won the Gypsy Spirit award in the period of its cooperation with the Agency. The Agency's activities brought about many positive changes in the localities. In the housing domain, one can mention the reconstruction of residential buildings in the Roma district Chánov in the town of Most (with the parallel employment of long-term unemployed Roma); the introduction, under various names, of permeable housing systems (based on the "housing-ready" approach) providing Roma households the opportunity to find housing outside of the socially excluded location (e.g. the towns of Hodonín, Kadaň, Kolín, Mělník).

In the context of the entry into effect of the Anti-discrimination Act, the issue of discrimination in access to housing is also addressed by the Ombudsman, who examines cases of alleged discrimination in access to housing based on ethnicity (see http://www.ochrance.cz/diskriminace/pripady-ochrance/diskriminace-dle-oblasti/bydleni/).

The activities of the Agency and of the Ombudsman have an impact mainly in the individual localities or the cases under examination; a comprehensive solution to the problem is under preparation (see the response below).

The Committee wishes to receive detailed information about the steps taken to secure the right to housing for Roma families and about the progress achieved.
The housing question is included in the adopted strategic documents, in particular the Strategy to Combat Social Exclusion and the Roma Inclusion Strategy, which define sub-objectives in this field. At the same time, discussions on a comprehensive solution to social housing have been going on since 2011. According to the current plan of legislative activities of the Czech government, a social housing concept should be presented by the end of 2014 and will form a basis for adopting a social housing act, which is expected to enter into effect on 1 July 2017. The concept and the act will deal, in a comprehensive manner, with the question of securing decent housing for all households, which are unable to do so on their own, including Roma households. In addition, preparations are underway for the Integrated Regional Operational Program to absorb funds from the European Regional Development Fund in the period 2014-2020, specifying as one of its priorities the construction of social housing in regions with socially excluded Roma localities. The forthcoming legislation and investment funds from IROP are a promise for an improved housing situation of families in the coming years.

The Czech Republic does not collect statistical data about the different ethnic groups.

The Committee requests that the next report should include detailed information about the measures taken to improve the situation of Roma families, and particularly about the extent to which the goals of the Decade of Roma Inclusion were achieved.

The Committee for the European Platform and the Decade of Roma Inclusion is a permanent body of the Council and deals, in the long-term, with the participation by the Czech Republic in the international initiative on Decade of Roma Inclusion 2005-2015, which the Government joined in 2005. The members of the Committee seek ways for and monitor the implementation and efficiency of measures to be taken under the Action Plan for the Decade of Roma Inclusion 2005-2015. The Committee is also engaged in the European dimension of Roma inclusion in connection with the prioritization of the topic of Roma integration and its mainstreaming in the high-level agenda of the European Union.

Decade Progress Reports for 2013 of the Decade of Roma inclusion 2005–2015 is available at www.romadecade.org.

The Committee also takes note of the fact that the Ministry of Labour and Social Affairs receives support from the European Social Fund; however, there is no information about how these funds are used. The Committee welcomes these positive steps, but notes that the report includes no information on how these principles are applied in practice and on their effect on the Roma families. The Committee thus requests to include in the next report a statement as to whether the Roma families are guaranteed the same social, legal and economic protection, as well as a description of the measures taken in this field.
The Ministry of Labour and Social Affairs makes use of the European Social Fund through the Human Resources and Employment Operational Programme and provides the funds to the eligible entities as part of support area 3. 2 – Support for social integration of members of Roma localities. The support provided in this field is designed to facilitate the social inclusion of socially excluded Roma community populations, ensure accessibility, quality and

supervision of services, including elimination of barriers in their access to education and to employment and in access to investment support.

The calls announced in this domain focus, in particular, on promoting education of contracting authorities, providers and users of services, supporting social services (such as low-threshold daily children and youth centres, social activation services for families with children, field programmes, social rehabilitation, asylum centres, half-way houses, expert social counselling) and other instruments (such as prevention programmes for socially pathological phenomena and crime prevention, programmes to acquire basic professional and society skills in the social area, programmes for motivation, work and social rehabilitation, programmes for drug addicts, programmes to prevent economic instability of families and individuals, programmes for persons released from imprisonment facilities, programmes for persons released from school facilities for institutional or protective education, etc.) implemented in favour of social inclusion of socially excluded Roma community/locality populations, as well as on promoting the underlying processes for providing social services and developing partnerships.

The eligible applicants for financial grants include social service providers, non-governmental non-profit organizations, regions, municipalities and organizations established by municipalities and regions that engage in social area, and educational institutions.

The Ministry of Labour and Social Affairs makes also use of the European Regional Development Fund through the Integrated Operational Programme and provides financial grants to eligible entities within the support area 3. 1 – Social integration services focused on socially excluded Roma localities/communities, in particular as regards prevention 3.1 b) – Investment support in ensuring accessibility of such services to allow the members of the most vulnerable, socially excluded Roma localities to return to the labour market.

The call is aimed at municipalities, unions of municipalities and non-governmental non-profit organizations outside of the region of the capital city of Prague, which will focus on investing in the selected types and forms of social services and other activities in socially excluded localities. The subsidized social services include, for instance, expert social counselling, low-threshold children and youth facilities, field programmes, crisis assistance, contact centres or the so-called half-way houses. Funding is also provided for activities such as investments in community centres and dedicated activities in socially excluded Roma localities. These include professional counselling, educational and sport activities. The investment funds granted under the Integrated Operational Programme are intended for renovation and acquisition of movable and immovable assets.

The impact of projects financed in the support area 3.2 – Promotion of social integration of Roma localities populations on the situation of the target groups are continuously evaluated in a comprehensive manner. As part of the evaluation studies carried out by the managing authority of the Human Resources and Employment Operational Programme (HRE OP), attention is paid to these issues particularly in the following evaluations:

- Continuous long-term (longitudinal) impact study of HRE OP support for the target groups of the programme;
- Annual operational evaluation of HRE OP;
- Evaluation of HRE OP projects focused on the provision of social services.

More evaluation studies (ongoing or completed) are available at the website: https://forum.esfcr.cz/node/24/pracovni-skupina-pro-evaluace-esf/library/).

The OP managing authority is also implementing a public contract for "Analysis of socially excluded localities in the Czech Republic" building on the 2006 "Analysis of socially excluded Roma localities and absorption capacity of entities operating in this area".

One of the basic objectives and tasks of the Analysis is to describe the general situation in using/not using the HRE OP funds intended for social inclusion in 20 selected municipalities and to formulate recommendations to target the calls announced under the new programming period 2014–2020.

The support area 3.2 is the only support area focused explicitly on promoting social integration of the Roma minority members. It aims, in particular, at providing intensive support for and developing the existing and new socially preventive programmes and social services implemented in the socially excluded "Roma" localities.

The following calls have been announced in the support area 3.2 in the current programming period: B4, A8, 15, 18, 19, 47, 55 and 90. Individual projects within the regions, except for the capital city of Prague, can be submitted under calls B4 and 15, whereas call 18 focuses on the submission of individual projects of the MoLSA – Department of social services and social inclusion. The main recipients of calls A8 and 19 are non-governmental non-profit organizations that are engaged in the social area and implement grant projects. Calls 47 and 90 are focused on individual projects submitted by the Office of the Government of the Czech Republic – Department for social inclusion (i.e. the Agency for Social Inclusion), and call 55 is intended for individual projects submitted by municipalities.

The total allocation for support area 3.2 amounts to CZK 1,236,565,169. The total amount of projects with a published legal act (116 projects) is CZK 1,171,546,721.75 (see Annex to the report).

18 projects in total were supported and are currently being implemented under HRE OP call No. 55 (focused on municipalities):
– The total amount of allocations is CZK 234,979,578.97;
– Support will be granted to 7,488 beneficiaries in total;
– 6,264 beneficiaries have been supported by 31 July 2014;
– The disbursements as at 31 July 2014 amounted to CZK 121,484,302.89.

The following were supported and are currently being implemented under calls 15 and B4 (focused on regions):
– 17 projects;
– 9 regions;
– The total amount of allocations is CZK 368,981,856;
– Support will be granted to 17,093 beneficiaries in total;
– 13,979 beneficiaries have been supported by 31 July 2014;
– The disbursements as at 31 July 2014 amounted to CZK 267,576,554.

In terms of their contents, nearly all projects are focused on improving the adverse situation of persons living in socially excluded localities through social services. These include primarily preventive services, such as field work, social activation services for families with children, expert social counselling, low-threshold children and youth facilities, as well as optional and complementary activities related, for instance, to debt and financial counselling, permeable housing, motivation workshops (debt issues related to family budget management, training in crafts and skills, education in the field of alcohol and other types of addition, etc.).

Call 19 includes 76 projects in total, with the total allocations amounting to CZK 416,677,231.44, of which CZK 379,538,900.57 were disbursed by 31 December 2014.

An overview of the implemented projects is provided in the Annex.

Childcare facilities
In its previous conclusions, the Committee noted that the Czech Republic faces a lack of day care centres for children between 0 and 3 years of age, and that 1,912 children were admitted to these facilities although their capacity was only 1,678 children. The report did not include any updated data and recognizes that the number of facilities for this age group remains limited. Preference is given to parental care, and mothers in maternity or parental leave establish maternal centres. The Committee requests that the next report should include a detailed description of the child care facilities for children up to three years of age, together with information about their price for the parents, any financial support that can be granted to them, and data concerning the number of enrolment applications filed and the number of spaces available for these children.
The Committee took note of the fact that, between 2006/2007 and 2008/2009, the number of children subscribed for kindergartens increased from 285,419 children to 301,620 children and, at the same time, the average number of children in a class increased from 22.7 to 23.1 children per class. Also, the number of rejected enrolment applications increased from 9,570 applications in the school year 2006/2007 to 19,996 applications in the school year 2008/2009. In addition, the Committee wishes to ask what measures are being taken in order to ensure that children between 3 and 6 years of age can be enrolled to kindergartens under adequate conditions. It also repeats its request for information concerning the qualifications of the staff, the financial contributions paid by the parents for the kindergartens, and the inspections performed.

As regards the above finding of the Committee, we would like to specify that the number of 1,912 children was related to the number of children in nursery homes, rather than in day care centres.

In accordance with the Education Act, child care facilities are to be established by municipalities, regions, the state and unions of municipalities. In addition, they are also established by private entities and church societies or by the church, providing pre-school education usually to children starting from three years of age. In the period 2010-2013, the numbers of children in the kindergartens was gradually increasing to 328,612 children enrolled in 2010/2011; 342,521 children enrolled in 2011/2012; 354,340 children enrolled in 2012/2013 and 363,568 children enrolled in 2013/2014. At the same time, the total of kindergartens, i.e. including private and church kindergartens, rose from 4,880 in 2010 to 4,931 in 2011, to 5,011 in 2012 and to 5,085 kindergartens in 2013.

The number of kindergartens thus increased by 605 during the reference period. Because of the insufficient number of child care facilities for children up to three years of age, kindergartens have been increasingly enrolling also two-year old children; specifically, there are 33,141 such children in total in the school year 2013/2014, which represents 30.4% of children from the age group of 2-3 years. In spite of that, the number of rejected enrolment applications for pre-school education rises every year. However, it is essential to emphasize that the high number of applications is also partially caused by their duplicity, because parents file parallel applications at several kindergartens for their children.

The situation concerning the kindergarten capacities should now be resolved thanks to the possibility to receive a state subsidy to extend their capacities as well as with the new

operational programme of the Ministry of Regional Development. At the same time, the number of children in the different age groups by year is gradually decreasing.

The qualifications for a pre-school teacher are defined by Act No. 563/2004 Coll., on Pedagogical Staff, as amended, and determined as ranging from secondary to higher education for a kindergarten teacher. All teachers must meet the qualification requirements by the end of 2014 or at least start, before the end of 2014, their studies to enhance their qualifications and successfully complete the studies.

The financial burden on families with children attending kindergartens, which are established by municipalities, regions, the state and unions of municipalities, ranges from CZK 0 to ca. CZK 1,000 to be paid in the form of a pre-school education fee. In addition, the families have to pay the school catering costs which are based on the financial cap provided for in Decree No. 107/2005 Coll., on School Catering, as amended. Only the costs for the raw products are covered from this financial cap. Other costs are borne by the establishing entities and the state.

Financial control in the kindergartens is carried out by the establishing entities as well as by the Czech School Inspection. Schools can also be audited by the Supreme Audit Office.

In the field of child care services, the Ministry of Labour and Social Affairs prepared a Bill on the provision of child care services in a children's group and on the amendment of related acts. The bill provides for a new type of child care service to be provided on a non-profit basis, in order to increase the accessibility and capacities of child care facilities, extend the range of child care services for pre-school-aged children, improve both the local accessibility and the affordability of child care, and make it possible for the parents to reconcile their professional and family life and return to the labour market, while keeping the parent in touch with his or her job during the period of taking care of the child. Within a children's group, it is possible to take care of children from one year of age until the start of the compulsory education.

In addition, the Bill includes also related tax measures to promote the development of child care services in the form of tax deductibility for the employers of the costs to provide these services and a tax credit for the income earned by self-employed parents when securing the child care services for their children. The parental allowance, if scheduled to be drawn over 2 years, can be used in full to cover the care. It is likely that ESF funds can be used in the future to finance the service. The proposed legal provisions were approved by the Parliament of the Czech Republic in September 2014.

Providing consultations to families; family counselling; mediation
Families must have the opportunity to consult the relevant social services, in particular in difficult situations. The states are particularly obliged to establish family counselling services and services providing psychological support for the upbringing and education of children. The Committee requests that the report should include information about family counselling services.

Family counselling for the parents of children, pupils and students is provided by the schools themselves as well as by educational counselling facilities, which include educational and psychological counselling and special educational centres. The services provided in the school counselling facilities are fully free of charge.

In the field of family support, a grant programme for "Family and Protection of the Rights of Children" is announced every year since 2005 by the Ministry of Labour and Social Affairs and is intended for non-governmental non-profit organizations. The total amount of funds

earmarked for the support of non-governmental non-profit organizations engaged in family support is CZK 96.5 million per year.

The grant program is aimed at promoting family services of preventive and support nature. The services are designed to enhance parental competences, improve the quality of family relationships, support families in taking care of and upbringing the children and in reconciliation of work and family life. Another objective is to provide comprehensive assistance to families with children, who find themselves or are likely to find themselves at risk, and to prevent such risk from deepening, where appropriate.

Three grant areas are implemented under this grant programme:

1. Preventive activities to promote family;
2. Promoting families in the agenda of social and legal protection of children;
3. Introducing new and innovative procedures and methods into direct work with families, their pilot verification.

Activities designed to prevent negative phenomena within a family are supported under the first grant area. These include educational and training activities and counselling in the field of family and parenthood, focused specifically on the topic of relations between parents and their children, among the children, between spouses or partners, relations with grandparents, as well as on the topic of family finance and prevention of excessive debts.

The activities supported under the second grant area focus on the protection of the rights of children – promotion of professional assistance and counselling. These activities are of preventive and supporting nature and are oriented on assisting and supporting the individual members of a family or the family as a whole, which finds itself in an adverse social situation. They include, for instance, intensive counselling and therapies for the parents or children, which are assessed as being at risk by the authority for social and legal protection of children.

The last report included no information on the access to mediation services for families, whether these services are free of charge, if they are widely used in the country and to what extent they are efficient. Consequently, the Committee reiterates its request.

Every person has access to mediation. The basic mediation rules are provided for in Act No. 202/2012 Coll., on Mediation (hereinafter referred to as the "Mediation Act"), which entered into effect on 1 September 2012. While at the end of 2013, there were 93 persons registered in the list of mediators, by half 2014 this number increased to 127 persons operating across the Czech Republic.

The main goal of the Mediation Act is to provide the parties to a dispute the possibility for an alternative resolution by means of a fast and cultivated out-of-court settlement. At the same time, Act No. 99/1963 Coll., the Code of Civil Procedure, as amended (hereinafter referred to as the "Code of Civil Procedure"), provides for the following in Section 100 (2) thereof: "*Where effective and appropriate, the chief judge may order the parties to the proceedings to meet with a registered mediator for the first time in the scope of 3 hours, and suspend the proceedings for no longer than 3 months...*". This implies that the court should always evaluate whether the ordered meeting with the mediator is appropriate and meets its objectives. If the court finds that a meeting with the mediator could have a positive impact on the legal proceedings, it shall order the parties to the legal proceedings accordingly. The objective of the first meeting with a mediator is to explain the principles of mediation to the parties so that they are able to make an informed decision on whether or not they wish to settle their dispute out of court.

With effect from 1 January 2013, the competent authority for social and legal protection of children (the municipal authority of a municipality with extended competence) may also decide to oblige the parents or other persons responsible for the upbringing of the child to participate at the first meeting with a registered mediator in the scope of 3 hours or therapy. The authorities for social and legal protection of children decide on this obligation in administrative proceedings concerning the imposition of an educational measure pursuant to Section 13 (1) (d) of Act No. 359/1999 Coll., on Social and Legal Protection of Children, as amended by Act No. 401/2012 Coll.

Pursuant to Section 15 of Decree No. 277/2012 Coll., on attestations and remuneration of mediators, the remuneration for the first meeting with a mediator ordered by the court amounts to CZK 400 for each commenced hour. In the event that a party to the proceedings was exempted from the legal costs, the mediator's remuneration for the first meeting ordered by court shall be paid by the court on behalf of the party (Section 140 (3) of the Code of Civil Procedure). The mediator's remuneration for the mediation itself depends on the agreement to be concluded between the parties to the dispute and the mediator.

The number of cases in which mediation was ordered by the court is not registered, as the persons can make recourse to mediation also from their own will without the need to have the court order it. For this reason, it is impossible to determine their efficiency.

Mediation services can also be provided to the parents by the municipal offices; as of 1 June 2006, it is possible to request counselling with an appointed expert provided that it concerns an issue that goes above and beyond the scope of counselling provided by the social workers.

Economic protection of families – family benefits
Given that the term "family" is variable based on the various definitions of family in the national law, the Committee holds that it is essential to know how the term is defined in order to be able to verify whether it is not too restrictive. Consequently, the Committee requests that the next report should include information on how "family" is defined in the national law.

Family in national legislation
1. For the purposes of satisfying family needs, Act No. 89/2012 Coll., the Civil Code, provides for the following in Section 690 ("Satisfying family needs"):

> *"Each spouse shall contribute to the needs of family life and the needs of the family household according to his personal and property situation, abilities and potential so that in principle the standard of living of all family members is comparable. Contributing property has the same relevance as personal care of the family and its members."*

Nevertheless, it is beyond any doubt that a family in a more general sense of the word, i.e. also a family established not only by matrimony under the legal system, fulfils social functions such as the biological and reproductive, economic and education functions. Consequently, whether a family is established by matrimony or by factual cohabitation, it must be the responsibility of both spouses (partners by analogy) to care for a sound family environment and the upbringing of children. Both spouses (partners) are obliged to satisfy the needs of the family they established through their matrimonial (partnership) life, according to their abilities, potential and property situation.

2. For the purposes of providing reimbursement of travel expenses, the definition under Act No. 262/2006 Coll., is as follows:

> *"For the purposes of providing reimbursement of travel expenses, except for Section 177 (2), members of the employee's family shall include the employee's spouse, partner,*

own child, adopted child, child placed into foster care or education with the employee, own parents, adoptive parents, guardians and foster parents. Other natural person shall be placed on equal footing with a family member only provided that the person lives in a household with the employee."

3. For the purposes of providing a nursing allowance, Act No. 187/2006 Coll., on Sickness Insurance, provides for the following in Section 39 (2) thereof:

"A precondition for the eligibility for the nursing allowance is that the person referred to in paragraph 1 lives in a household with the employee; this shall not apply when a child younger than 10 years of age is being nursed or cared for by his or her parent. If – in the event of a divorce – the child is placed to joint custody or to shared custody of both parents, the household of each of the parents shall be deemed to be a household for the purposes of this Act.

4. For the purpose of granting benefits under the Act on State Social Support, the range of jointly assessed persons is defined as follows in Section 7 thereof:

(a) dependent children;

(b) dependent children and the parents of such children; parents shall also include persons, to whom the dependent children were placed in custody substituting parental care, based on a decision of the competent body, as well as the spouse, partner of the parent or of the aforesaid person, widower or widow from the parent or the aforesaid person and the common-law husband–wife of the parent or of the aforesaid person,

(c) spouses, partners or common-law husband–wife, unless they are the parents assessed under point (a),

(d) dependent children, their parents, if they are dependent children and living alone, and the parents [point (b)] of such parents if they live with the beneficiary on a permanent basis and jointly cover the costs of their needs.

5. For the purposes of material need assistance, the jointly assessed persons pursuant to Section 4 of Act No. 110/2006 Coll., on the Living and Subsistence Minimum Levels, include:

(a) parents and their minor dependent children;

(b) spouses or partners;

(c) parents and their

1. minor children who are not dependent;

2. adult children where these children use an apartment together with the parents and are not assessed together with other persons under point (b) or (d);

(d) other persons who jointly use an apartment, except for persons who declare in writing that they do not live together on a permanent basis and do not jointly cover the costs of their needs.

The above shows that there is no consistent and universal definition of a family or its members in the Czech legal system. The group of jointly assessed persons is defined for own needs by some laws only, and the group differs in accordance with the purpose of the law in question.

Taking into account the level of the parental allowance and other types of contributions, the Committee considers that the child benefits are not an adequate income supplement. Consequently, the Committee notes that the situation is not in compliance with Article 16 and wishes to receive update information and a proof that the insufficient level of the child benefit is compensated by other forms of existing benefits, in particular in case of low-income families or families in a difficult social situation.

As part of the benefit-based support, families with dependent children can primarily benefit from the system of state social support benefits, which include a child benefit, parental

allowance, housing allowance, birth grant, funeral grant and, until the end of 2011, also foster care benefits[2]. These benefits represent a contribution of the state to cover the costs related to the upbringing of and caring for a child. They are designed to increase the income of families with dependent children in the defined situations which they are not able to solve on their own with their own means. Where the income and social and property relations make it impossible for families to secure its basic living needs, the state provides support also through the assistance in material need, which includes the living allowance, housing supplement and extraordinary immediate assistance. The purpose of the assistance in material need is to prevent social exclusion of certain groups of people, who find themselves in a difficult social situation because of the lack of financial income which they are unable to increase by their own effort (such as by making use of the property of a wider family, own work by family members, claiming their entitlements and receivables).

The benefits granted under the two systems are non-insurance social benefits disbursed on the basis of the residence principle. A person becomes eligible regardless of the economic activity and insurance status of the beneficiary or his/her family member, without the need to pay contributions. The costs related to the benefits and their administrative agenda are covered from the national budget.

In relation to the sufficiency of family benefits, the Czech Republic wishes to state the following:
Regularly paid family benefits granted in the Czech Republic until 31 December 2011 included the child benefit, social allowance and parental allowance. As of 1 January 2012, the regularly paid family benefits include the child benefit and the parental allowance.

Overview of family benefits received in 2010

Benefit	Average number of dependent children in thousands	% of all families with dependent children
Child benefit	522.5	23%
Social supplement	147.9	10%
Parental allowance	337.0	24%

Overview of family benefits received in 2011

Benefit	Average number of dependent children in thousands	% of all families with dependent children
Child benefit	481.9	20.6%
Social supplement	14.4	1.0%
Parental allowance	323.3	22.2%

Overview of family benefits received in 2012

Benefit	Average number of dependent children in thousands	% of all families with dependent children
Child benefit	465.6	19.7%
Parental allowance	306.7	20.0%

[2] As from 1 January 2012, foster care benefits fall under the system of social and legal protection of children.

Overview of family benefits received in 2013

Benefit	Average number of dependent children in thousands	% of all families with dependent children
Child benefit	456.8	19.6%
Parental allowance	292.9	20.3%

The conditions of eligibility for and the level of the child benefit have not changed in the period 2010-2013. A dependent child qualifies for the child benefit if he or she lives in a family, the relevant income of which is lower than 2.4 times the family's living minimum. The amount of the child benefit is set as a fixed monthly sum:

Age of the dependent child	Amount of benefit
under 6 years	CZK 500
between 6 and 15 years	CZK 610
between 15 and 26 years	CZK 700

In 2010, the social allowance was aimed at helping to cover costs related to children's needs in low-income families and in adverse health or social situations. A family qualified for the allowance if its relevant income was lower than 2.0 times the family's living minimum. The amount of the allowance reflected not only the family income (the allowance decreased with higher income), but also the situations in which the allowance was increased, such as for disabled children, taking into account additional factors, e.g. being a single parent. A higher social allowance was also granted to families where multiple children were born (up to 3 years of age of the children), and to families with children studying at secondary schools or universities. In 2011, only families with children and families with a disabled child or parent qualified for the social allowance provided that their relevant income was lower than 2.0 times the family's living minimum. The amount of the social allowance in 2011 was dependent on the income of the family with children and the degree of disability of the child or parent. As of 1 January 2012, the social allowance was abolished. The reason behinds its abolition was the duplicity of beneficiaries. The allowance is compensated to the families in other benefit systems, in particular through increased care allowance and material need assistance benefits.

We wish to note that a parent qualifies for the parental allowance if he/she, in person and on a full-day basis, properly takes care of a child, who is the youngest in the family. In 2010 a 2011, the parental allowance was granted in three options (faster, standard and slower drawing thereof) up to the age of two, three or four years of the child, respectively. By choosing one of the durations, the parent also chose the amount of the allowance which was fixed as a monthly sum at three levels: CZK 11,400 at the increased level; CZK 7,600 at the standard level; and CZK 3,800 at the reduced level. Since 1 January 2012, the parental allowance is determined as a total amount of CZK 220,000 which can be drawn by the parent in monthly benefits up to four years of age of the child. A parent participating in the sickness insurance scheme can receive up to CZK 11,500 per month. A parent who does not participate in the sickness insurance scheme is entitled to a parental allowance paid in fixed monthly amounts of CZK 7,600 until the end of the ninth month of age of the child, followed by CZK 3,800 up to four years of age of the child. Self-employment or income of the parent were not and are not monitored; there is a restriction concerning the placement of the child in a pre-school facility: in 2010 and 2011, a child younger than 3 years could attend such a facility for no more than 5 calendar days in a calendar month; and a child older than 3 years no more than 4 hours per day or 5 calendar days in a calendar month; since 2012, the restriction is set to 46 hours in a calendar month and only for children younger than 2 years.

In addition to the aforesaid family benefits, other social benefits can also be provided to families with children in the Czech Republic: birth grant and funeral grant (one-off amounts), housing allowance, foster care benefits and material need assistance benefits.

- Birth grant is a lump-sum benefit designed to contribute to the costs related to the birth of a child. In 2010, the eligibility for the grant was not subject to a family income test; the birth grant was determined as a fixed flat-rate amount of CZK 13,000 for each child born. Since 1 January 2011, the birth grant is paid for the first live-born child only and the eligibility is linked to a specified limit of family income which must be less than 2.4 times the family's living minimum. If the first live-born child is born together with another live-born child or other live-born children, the birth grant is CZK 19,500.
- A person qualifies for funeral grant if he or she arranges for the funeral of a dependent child, or of a person who was the parent of a dependent child. The amount of the death grant is determined as a fixed amount of CZK 5,000. The conditions for eligibility and the level of the grant have not changed in the period 2010-2013.
- The housing allowance represents the State's contribution to the cost of housing for low-income families and individuals. An owner of an apartment or a tenant with permanent residence in an apartment may qualify for housing allowance if 30 % (35 % in Prague) of family income is insufficient to cover the cost of housing, while at the same time the 30 % (35 % in Prague) of the family income is lower than relevant statutory normative costs. The conditions for eligibility and the calculation method of the allowance have not changed in the reference period.
- Living allowance is a basic benefit under assistance in material need, which helps persons or families with insufficient income to secure the basic essentials of life. A person or family becomes entitled to the living allowance if, after deducting the reasonable housing costs, their income is below the subsistence amount. The subsistence amount is derived from the amounts of living and subsistence minimum and is determined for each person on a case-by-case basis, based on the evaluation of the person's efforts and capacities.
- Housing supplement is a benefit under assistance in material need addressing lack of income to cover housing costs where a person's or family's own income, including housing allowance under the state social support, is insufficient.
- Extraordinary immediate assistance is granted to persons who find themselves in situations requiring an immediate solution, e.g. if there is a risk of serious bodily harm, they were hit by a natural disaster, they lack means to cover a one-time expenditure or to purchase/repair durable goods or to cover justified costs incurred in relation to education or the interests of dependent children, and to provide for the necessary activities related to the social and legal protection of children; and if they are at risk of social exclusion.

Information on the expenditure for state social support benefits and the number of beneficiaries
Expenditures (in CZK million)

	2010	2011	2012	2013
Child benefit	3,862	3,498	3,337	3,329
Social supplement	3,100	786	53	-2
Birth grant	1,565	292	144	148
Parental allowance	27,722	25,709	24,950	24,336
Foster care benefits covering:	1,005	1,073	1,236	2,052
- Allowance to cover the child's needs	516	550	634	799
- foster parent's	471	504	583	1,191

remuneration				
- allowance on taking in the child	14	14	15	20
- contribution for the purchase of a motor vehicle	4	4	4	29
- allowance on termination of foster care	-	-	-	13
Funeral grant	16	15	15	14
Housing allowance	3,521	4,641	5,732	7,403
Total	**40,791**	**36,014**	**35,456**	**35,279**

Source: Ministry of Labour and Social Affairs

Average number of beneficiaries

	2010	2011	2012	2013
Child benefit (average/month)	522,503	481,854	465,590	456,753
Social supplement (average/month)	147,926	14,403	x	x
Birth grant (annually)	114,841	9,268	11,423	11,478
Parental allowance (average/month)	336,960	323,273	306,730	292,930
Foster care benefits covering:				
- Allowance to cover the child's needs (average/month)	10,033	10,522	11,141	12,546
- Foster parent's remuneration (average/month)	8,153	8,606	8,999	9,588
- Allowance on taking in the child (annually)	1,567	1,530	1,698	2,338
- Contribution for the purchase of a motor vehicle (annually)	59	66	58	351
- Allowance on termination of foster care (annually)	-	-	-	581
Funeral grant (annually)	3,123	2,772	2,882	2,710
Housing allowance (average/month)	122,726	142,626	164,505	195,370

Source: Ministry of Labour and Social Affairs
x: the benefit was abolished

Information on the expenditure for material need assistance benefits and the number of beneficiaries

Expenditures in CZK million

	2010	2011	2012	2013
Living allowance	2,863	3,820	5,910	7,464
Housing supplement	686	850	1,673	2,814
Extraordinary immediate assistance	334	312	168	232
Total	3,883	4,982	7,751	10,510

Average number of beneficiaries

	2010	2011	2012	2013
Living allowance	79,423	91,206	116,507	150,187
Housing supplement	23,396	26,527	41,509	65,015
Extraordinary immediate assistance (number of benefits per year)	110,533	119,897	70,347	79,048

Source: Ministry of Labour and Social Affairs

The data provided above imply that, in addition to the child benefit, there is a range of other state benefits in the Czech Republic, designed to contribute to families with dependent children that find themselves in any of the social situations stipulated by law.

Both the expenditure for child benefits and the number of dependent children eligible for this benefit show a persistently declining trend. However, this trend which is, among other, the result of steadily growing income is compensated by other social benefits. The financially most relevant family benefit in the Czech Republic is the parental allowance, which is provided to all families with dependent children.

When evaluating the adequacy of the supplement to the income of the families arising from the child benefit and other family and poverty benefits, it is essential to bear in mind that the financial assistance provided to families in the Czech Republic takes place at two main strands: in the social security system and in the field of tax measures. The rights referred to in Article 16 are therefore realised through tax measures as well. Families may claim the so-called tax advantage for dependent child living in a common household. The conditions for becoming eligible for the tax advantage are defined in the provisions of Section 35c of Act No. 586/1992 Coll., on the Income Tax, as amended for the relevant tax periods. The tax advantage for dependent children can be claimed in the form of a tax credit, or a tax bonus, or a combination of both (see below). In the tax period 2010-2011 and in the period 2012-2013, a taxpayer was eligible for the tax advantage for each and every dependent child living together with the taxpayer in a household, amounting to CZK 11,604 and CZK 13,404, respectively. The maximum level of tax bonus for all dependent children in the household was set to CZK 60,300 per year in the reference period. The tax advantage for dependent children is higher, in nominal terms, than child benefits, which are restricted by the family income. On the contrary, the tax allowance applies to all families with dependent children that have taxable income. The tax advantage for dependent children can be claimed through the natural person income tax return or through the employer who is an employment income tax payer.

Information about the total tax advantage amount claimed are collected from two sources, namely from the tax return of the taxpayers and from the settlement statements of the income tax payers. More detailed data on the tax advantage (divided into a tax credit and a tax bonus) can be collected from the natural person income tax return. The settlement statements provide only information about the tax advantage in the form of the bonus.

Persons filing the income tax return (primarily the self-employed) can claim the tax advantage as a one-off operation after the end of the tax period, which corresponds to the calendar year. This means that, in 2014 for instance, they claim the tax advantage as reported in the natural person income tax return for the 2013 tax period.

Overview of the total tax advantage amount claimed by persons filing a tax return for the calendar years 2010-2013

in CZK million

Calendar year	2010	2011	2012	2013
Tax period	2009	2010	2011	2012
Tax advantages for persons filing a return	8,816	9,902	11,016	13,708
Of which:				
- Tax credit	4,962	5,515	5,913	7,127
- Tax bonus	3,854	4,387	5,103	6,571

Employees, who prove their eligibility for the tax advantage to their employer, are able to claim the tax advantage on a monthly basis, in the relevant calendar year already. When employees, while being in employment, also carry out a business activity or lease real properties, they can claim only the unpaid difference in the tax advantage through the income tax return.

If the tax bonus cannot be deducted from the withheld tax on the employment income due to the employee's low income or a higher number of his or her dependent children, the employers are obliged to pay the tax bonus to the employee from their funds. Subsequently, they can ask the tax administration for a reimbursement of such tax bonuses paid to their employees.

Overview of the total tax bonus amount paid through employers in the calendar years 2010-2013

in CZK million

Year	2010	2011	2012	2013
Tax bonuses paid through employers	3,471	3,643	3,551	N/A

According to the report, the nationals of other member states of the European Social Charter legally residing/working in the Czech Republic are eligible for material need assistance benefits and the housing supplement from the starting date of their residence in the Czech Republic. Extraordinary immediate assistance can be granted even if the residence or employment requirement is not met and, if there is a risk of serious bodily harm, it is also accessible to persons who are residing in the country illegally. The Committee wishes to ask whether this equal treatment applies also to other family benefits, or whether this list is exhaustive.

A foreigner without a permanent residence in the Czech Republic, enjoying protection under an international treaty, is eligible for periodical material need allowances, i.e. the living allowance and the housing supplement. The European Social Charter, which is directly referred to in the Czech legislation, is such an international treaty. A person legally residing/working in the territory of the Czech Republic, who is a citizen of a Member State of the European Social Charter, is eligible for social assistance from the beginning of his or her residence in the Czech Republic; this means that there is no waiting period before becoming eligible.

The one-off benefit under assistance in material need – the extraordinary immediate assistance – is provided also to persons who are staying illegally in the territory of the Czech Republic provided that they are at risk of serious bodily harm.
In addition to persons with permanent residence and place of living in the territory of the Czech Republic, the following are also eligible for the state social support benefits:

a) Foreigners registered in the territory of the Czech Republic, after 365 days since the registration date;
b) Foreigners born in the territory of the Czech Republic and registered in the territory of the Czech Republic, up to 1 year of their age;
c) Minor foreigners who are placed in custody substituting parental care or in institutional care in the territory of the Czech Republic;
d) Foreigners holding a permanent residence permit with the legal status of a long-stay resident in the European Community awarded for the territory of another member state of the European Union, who were issued a long-term residence permit for the territory of the Czech Republic;
e) Family members of the foreigners referred to under point (d), who were issued a long-term residence permit for the territory of the Czech Republic;
f) Foreigners who were issued a long-term residence permit for the territory of the Czech Republic for the purpose of scientific research;
g) Foreigners who were granted supplementary protection;
h) Foreigners who were issued a long-term residence permit for the territory of the Czech Republic for the purpose of scientific research;
i) Foreigners who were issued an employee card;
j) Foreigners employed in the territory of the Czech Republic or foreigners, who were employed in the territory of the Czech Republic for at least 6 months and are now registered in the register of job seekers, provided that they were issued a long-term residence permit for the territory of the Czech Republic;
k) Family members of the foreigners referred to under points (f), (h), (i) and (j), provided that they were issued a long-term residence permit for the territory of the Czech Republic; having a place of living at the territory of the Czech Republic is a pre-condition;

The categories of foreigners listed above fall under the group of persons eligible for the state social support benefits. Foreigners, who have received a stay permit of a specific nature (usually linked to the performance of a gainful activity), have equal access to family benefits and can join the system immediately provided they meet the eligibility requirements for the specific benefit. For the remaining persons, who are subject to a one-year waiting period, the legal regulations include provisions allowing the Ministry of Labour and Social Affairs, in duly justified cases and upon request, to waive the requirement for permanent residence.

Domestic violence

Effective as of 1 January 2014, the provisions governing interim measures were modified. Preliminary proceedings in cases of protection against domestic violence are newly provided for in Sections 400 et seq. of Act No. 292/2013 Coll., on Special Judicial Proceedings (previously in Section 76b of Act No. 99/1963 Coll., the Code of Civil Procedure, as amended).

In the context of the adoption of Act No. 45/2013 Coll., on Victims of Crime, which entered into effect on 1 August 2013, new provisions were also added in Act No. 140/1961 Coll., on the Penal Code, to regulate interim measures, which are aimed at protecting the aggrieved party, persons closely related to them, preventing the accused party from committing crime, and ensuring effective implementation of the criminal proceedings.

In connection with substitute custody by means of a written promise or supervision of a probation officer, the existing legal regulations provided only the possibility to impose restrictions stipulated in the award of the decision on the substitute custody; now it is also possible to issue a ban on travelling abroad (Act No. 197/2010 Coll.). Act No. 218/2003 Coll., on Juvenile Justice, allows for a broad spectrum of educational measures to be imposed on a juvenile, but only with his or her consent (cf. Section 10 (2) and Sections 15 et seq. of the Act on Juvenile Justice). For certain crimes (typically for domestic violence or stalking), however, these forms proved to be insufficiently effective, which resulted in the need to adapt also interim measures that have a similar purpose as the interim measures in civil proceedings where the circumstances or relations between the accused party and the victim or another aggrieved party have to be regulated on an interim basis in order to prevent the accused party from continuing the criminal activities or in order to eliminate their root cause or precondition.

Based on foreign experience, the new provisions cover interim measures taken already during the criminal proceedings in the event that it is urgently required to protect particularly the aggrieved party (victim of the crime) and persons closely related to them, or the society as a whole. This need becomes apparent, in particular, in connection with domestic violence or stalking. A specific form of crime associated with sports events or entertainment centres has also been growing recently in the Czech Republic; it consists in visiting sport stadiums or restaurants and other facilities where repeated or serious crimes take place. Early and effective response to the clearly defined potential and actual criminogenic factors, including the interruption of the relevant relations between the accused party and the victim or certain environment, is undoubtedly needed and desired in such case in order to ensure individual and general prevention.

The preconditions for imposing interim measures are a sufficiently justified suspicion of a wilfully committed crime and the need to protect the aggrieved party or the society in terms of the risk of continued or repeated crime. It will also be essential to take into account the nature and gravity of the specific act committed and the accused person.

The following can be imposed as interim measures (a demonstrative list), taking into account the nature and gravity of the crime, the accused person and the interests of the aggrieved party: prohibition of any contact with the aggrieved party, persons closely related to them or with other persons, in particular witnesses; prohibition to enter the common home cohabited together with the aggrieved party and their immediate neighbourhood, and to stay in such home; prohibition of visits to inappropriate settings, sports, cultural and other social events and prohibition of contact with certain persons; prohibition to stay at a specifically defined location; ban to travel abroad; prohibition to hold and possess items that could be used to commit crime; prohibition to use, hold or possess alcoholic beverages or other addictive substances; prohibition of gambling, gaming machines and betting; prohibition to carry out specifically defined activities the nature of which facilitates repeated or continued crime.

Interim measures can only be ordered by a court and, at the pre-trial stage, by the chief judge at the initiative of the public prosecutor or by the public prosecutor. The eventual possibility that interim measures would be imposed, at the pre-trial stage and with the consent of the public prosecutor, by the policy authority is fully out of question at any time.

Taking into account the nature and gravity of the crime, the accused person and the interests of the aggrieved party, the court or the public prosecutor has the possibility to decide to impose several types of interim measures and to modify an interim measure, including imposing another interim measure not yet imposed. A complaint can be filed against the decision of the court (public prosecutor), without suspensory effect. A court must decide about the complaint

challenging a decision of the public prosecutor (Section 146a of the Code of Criminal Procedure).

These restrictions are aimed primarily at protecting the aggrieved party, but, on the other hand, their appropriate enforcement is in the interest of the prosecuted accused party who could, through their undesirable activities, inflict the imposition of significantly more invasive measures against themselves, such as being put to custody on the grounds provided for in Section 67 (c) of the Code of Criminal Procedure, as amended. The use of interim measures abroad has proven its worth and, particularly in relation to domestic violence or stalking, efficiently prevents continued or repeated crime.

The provisions of Section 88b stipulate that an interim measured can be imposed only against a person, who is being prosecuted in criminal proceedings. When imposing interim measures, it is essential to respect the principle of subsidiarity (the same objective cannot be achieved with a milder measure), as well as the principle of proportionality (nature and gravity of the crime); at the same time, the fear that the accused person will repeat the crime for which he or she is being prosecuted, accomplish the attempted crime or commit the crime he or she was preparing or threatened to commit, must be based on specific circumstances, which must also be duly justified in the decision to impose an interim measure. The prohibition to carry out specifically defined activities is restricted in the maximum duration – 6 months.

Section 88c includes a demonstrative list of interim measures, which cannot be extended by analogy. Decision to impose interim measures is to be taken by the public prosecutor (in the pre-trial stage) or by court (in other cases).

Interim measures last as long as necessary to achieve their objective. This applies with the exception of the prohibition to carry out specifically defined activities, which may not exceed 6 months. The accused party has the right to request, at any time, the interim measure be lifted; however, the same request may only be filed against after 3 months since the date when the decision became final (Section 88n).

If the accused party does not comply with the conditions of the imposed interim measure, it may be decided to impose another interim measure that would be found more effective with respect to the nature and gravity of the case, or to put the accused party in custody, or to order the accused party be detained or arrested, or to impose a disciplinary penalty. If the accused party engages in serious conduct to obstruct the execution of the interim measures, such conduct may be qualified as the crime of obstructing the course of justice and expulsion.

<u>Domestic violence against women</u>

On 13 April 2011, the Cabinet of the Czech Republic, by its resolution No. 262, approved the National Action Plan for Prevention of Domestic Violence for years 2011-2014 (hereinafter referred to as the "NAP DV"). NAP DV aims at dealing with this issue in a systemic and comprehensive manner. The activities target the following areas:

- Support for persons at risk of domestic violence;
- Protection of children at risk of domestic violence;
- Working with violent persons;
- Education and interdisciplinary cooperation;
- Society and domestic violence;
- Analyses and studies;
- Legislation.

NAP DV includes **32 tasks** assigned to the different ministries and other entities. Their consistent implementation should contribute to preventing domestic violence within the Czech society and to providing efficient help to the persons at risk of domestic violence. The Ministry of the Interior prepares, on an annual basis, a summary report on the implementation of the tasks by the different ministries and other organizations.

Numbers of persons expelled

Act No. 135/2006 Coll., amending certain acts in the field of protection against domestic violence, entered into effect on 1 January 2007. Among other things, this Act enshrined a new competence for the Police of the Czech Republic in the form of expulsion, which represents a preventive measure aimed at protecting the persons at risk of domestic violence, which is imposed regardless of the potential subsequent criminal-law qualification of the violent person.

Number of persons expelled	2010	2011	2012	2013
Year	1,058	1,430	1,407	1,361

Expulsion statistics are monitored on a continuous basis since 2007. There seems to be a clear growing trend in the number of persons expelled over the period since the introduction of the institute until 2011 (except for 2008). The highest ever number of the **persons expelled (1,430)** was reported in 2011, **being approximately 66% higher than in 2007 (862). In 2012, the number of expulsions declined to 1,407 persons and the moderate decrease continued also in 2013 when a total of 1,361 expulsions took place.** The number of repeated expulsions was 188 in 2013, which accounts for 14% of all expulsion cases.

Crime of torture of a person living in common home – number of crimes detected

Crime of torture of a person living in common home	2010	2011	2012	2013
Crimes detected	568	661	603	572
Crimes solved	477	534	494	445
Persons prosecuted	436	485	463	392
- Of which women	18	11	13	14

Number of persons convicted with a final judgement for the crime of torture of a person living in common home in 2010–2013

Number of persons convicted with a final judgement for the crime of torture of a person living in common home	2010	2011	2012	2013
Number of persons convicted	271	283	321	293
- Of which women	9	9	11	10
Sentenced to imprisonment without suspension	68	75	96	90
Sentenced to imprisonment with suspension	201	205	219	197

Promotion of specialized counselling centres for people at risk of domestic violence

As at 31 December 2013, a total of **407** social services indicating "domestic violence victims" as their target group were registered in the social service provider register.

As part of the grant programme for "Prevention of Socially Pathological Phenomena", the Ministry of the Interior focused on preventing domestic violence and commitment of crimes. In 2010 a 2011, children as victims and witnesses of domestic violence were the target group of the projects; in 2012 the project topic focused on follow-up work with violent persons, and in 2013-2014 the projects targeted elderly people, who are often without any social contact, isolated, with health ailments, care dependent and, thus, vulnerable to various forms of violence.

Education in domestic violence issues

Domestic violence is an integral part of the basic training for new police recruits under the new school educational programme. The issues of domestic violence are covered by a separate module in the new educational programme – Domestic violence and expulsion of the violent person. A general goal of the education is to prepare the students for independent and efficient conduct and decision-making in the situation of recognized domestic violence, efficient communication with the violent person and the victim, as well as competent and professional steps that need to be taken in a specific situation. In addition, the issues concerned are implemented in specialized courses and life-long learning.

Changes in the legislation

A new Act No. 45/2013 Coll., on Victims of Crime, entered into force in 2013. The Act specifies the forms of support and the rights of particularly vulnerable victims of crime (e.g. the right to legal aid, right to information, right to protection of privacy, right to be represented by an attorney, legal representative or guardian/custodian). The Act includes also to right to protection against secondary victimization and the right to financial assistance.

Additional provisions that have entered into force are in Section 51 of Act No. 45/2013, concerning the interim measure in relation to the aggrieved party – victim of the crime. Interim measures are designed to protect against deeper primary victimization and to prevent secondary or repeated victimization. This protection is implemented, in particular, by reducing the contacts between the offender and his or her victim.

Special interrogation rooms

43 standardized interrogation rooms were built in the territory of the Czech Republic in the period 2008-2013, with the financial support from the Ministry of the Interior. These rooms are located in the premises of the Police of the Czech Republic, on one hand, and in medical establishments and premises of municipal authorities, on the other hand (Authority for social and legal protection of children). Thanks to the special technical equipment, it is possible to record the interrogation of the victim, which can be used for further criminal proceedings with the victim's direct participation, thus reducing the impact of secondary victimization. The rooms are used primarily for child victims, but serve also for the questioning of particularly vulnerable persons, such as victims of domestic violence and rape, as well as for the questioning of elderly people. Police specialists, who conduct these interrogations in cooperation with psychologists, are trained on a regular basis by experts from among child psychologists and criminologists to keep up-to-date with the issues related to the specific crime.

ARTICLE 17: THE RIGHT OF MOTHERS AND CHILDREN TO SOCIAL AND ECONOMIC PROTECTION

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

The Ministry of Health Decree No. 70/2012 Coll., on Preventive Examinations, stipulates the contents and periodicity of general preventive examinations of children, in accordance with Section 120 of Act No. 372/2011 Coll., on Health Care Services and Conditions for Their Provision, in order to implement Section 5 (3) (a) of the Act on Health Care Services. A general medical examination of children up to 18 years of age includes also a targeted examination specific to the age, focusing on the recognition of the risk of negligence, maltreatment and abuse of the child, dangerous behaviour of the child and the commencement of various addictions.

The Committee reiterates its previous finding of non-conformity on the ground that corporal punishment is not explicitly prohibited. The Committee wishes to be informed about the institutional care.

The Czech Republic is not a contracting party to the Revised Charter which, in its Article 17 (1) (b), provides for the obligation to protect children and young persons against negligence, violence or exploitation. For this reason, the Czech Republic does not consider itself bound by that Article.

Nevertheless, protection of children and young people relies on a broad-based legislative enshrinement in the Czech Republic. The legal provisions in force thoroughly regulate relationships within a family, outside of a family and in institutions. The statutory protection covers not only physical, but also mental health of children and their favourable mental and emotional development,

Combating violence against children is one of the main priorities of the Government and is intensely addressed by the different ministries as well as non-governmental organizations.
The Government adopted important programming documents focused on protecting the children' rights, including the **2008-2018 National Strategy to Prevent Violence against Children in the Czech Republic**, which was approved by the Cabinet resolution No. 1139 of 3 September 2008. This national strategy builds on and focuses on the results of studies carried out between 1994 and 2004, on the 2007 Median survey as well as on the recommendations in the World Report on Violence against Children, which was prepared by the UN in cooperation with the World Health Organization and discussed by the UN General Assembly in October 2006.

The National Strategy to Prevent Violence against Children includes also a definition of "corporal punishment", which is based on the definition adopted by the UN Committee on the Rights of the Child in 2001. **Corporal punishment of a child is any punishment using physical force that causes pain or even slight discomfort for the child.** Corporal punishment with an item, applied to a sensitive part of the body, or where the knocks leave traces on the body, is already deemed to be **child abuse**.

Corporal punishment of a child may result in a limitation or deprivation of parental rights (parental responsibility) to such punished child[3], a sanction in accordance with the Act on Offences or, where appropriate, a sanction pursuant to the Penal Code where the physical punishment of the child showed such an intensity that it met some of the constituent elements of the criminal offences against life and health or, where appropriate, criminal offences against family and children as defined in the Penal Code.

The Czech Republic is of the view that, if the protection of children is to be comprehensive, efficient and effective, it is not sufficient to prohibit only corporal punishment; it is essential to protect children against all forms of punishment, i.e. both physical and mental. This protection is fully ensured by means of a generally formulated prohibition of undignified treatment, which is followed up by legal regulations stipulating sanctions for such conduct. Bearing in mind that an explicit list of what does and what does not constitute a form of physical or mental punishment could result in an unwanted perception by the public of such legal regulations as factually restricting child protection, the Czech Republic believes that the existing Czech legislation providing only for such educational methods, which do not allow even a threat to the child's dignity or his or her health (physical), mental or emotional development are which are adequate to the situation, provides a sufficient scope to ensure effective protection of children and young people. In an effort to make all inadequate educational means punishable under the legal regulations, the Czech Republic opted for such a broader-based definition for the wording of the provision in question.

With the supplementation of Act No 359/1999 Coll., on Social and Legal Protection of Children, implemented through Act No. 303/2013 Coll., amending certain acts in connection with the adoption of private-law recodification (effective from 1 January 2014), the criminal offence was amended pursuant to Section 59 (1) (h). Now it provides that any person who uses inadequate educational means or restrictions against a child commits an offence (a proof of the intention is not required). The offence is punishable in the form of a fine of up to CZK 50,000.

An actual definition of the ban on corporal punishment would narrow down the protection of children, which would be in a direct conflict with the preventive programmes, the Government's policy as well as with the strategy pursued by international organizations.

The Czech Republic defends the rights of individuals efficiently at the level of the Constitution of the Czech Republic, the Charter of Fundamental Rights and Freedoms and many laws. As part of the national legal regulations, the Czech Republic explicitly and beyond any doubt defines the means which can be used for the upbringing in institutions. The conditions for the upbringing of children in families and in substitute care are defined much more strictly than required under international instruments, and violence against children is efficiently punishable in several fields of the law, such as in criminal and civil law.

The Committee asks the next report to provide comments concerning the issue that children continue to be removed from their families on the sole ground that the latter do not have a suitable and stable home, or that their economic and social conditions are not satisfactory, all circumstances which are the present more common among Roma families.
In accordance with the practice of the European Court of Human Rights, the Act No 359/1999 Coll., the Social and Legal Protection of Children Act, explicitly states that insufficient housing

[3] Cf. decision of the Czech Supreme Court Prz 32/65, stating explicitly that a court is obliged to proceed to the deprivation of parental rights if it finds that the parents abuse their right and/or neglect, in a gross manner, their responsibilities arising particularly from Section 32 (2) of the Family Act and other legal acts.

conditions or means of a child's parents of other persons responsible for a child's upbringing may not be a reason for compulsory placement of a child in an institutional care facility if the parents are otherwise capable to ensure proper upbringing of the child and meet their obligations arising from parental responsibility.
The law also aims at creating legal conditions for systematic work with families in order to prevent risks and to adopt timely solutions.

The Committee asks what is the maximum length of a prison sentence for a young offender as well as the maximum period of the pre-trial detention.
Act No 218/2003 Coll., regulating Liability for Unlawful Act of Youth and Court for Juveniles (Juvenile Justice Act), as amended, stipulates in section 47 that pre-trial detention in juvenile cases must not take longer than two months; only in cases of a particularly serious violation it must not last longer than six months
Section 31(1) of the Act further provides that the maximum length of a prison sentence of juvenile cannot exceed 5 years.

The Committee wishes to be informed if children are always held separately from adults and under acceptable conditions and are not detained in poor conditions, when staying in police stations and whether young offenders have a statutory right to education.
Juveniles are placed to special prisons for juveniles and their rights are fully respected.
A child that has not reached 15 years of age at the time of an offence is not criminally liable, cannot be convicted for crime and subsequently cannot be placed at prison and held there separately from adults.

Basic education is compulsory in the Czech Republic[4]. The conditions for making it possible for young people serving a sentence to complete their compulsory education are stipulated in Act No. 169/1999 Coll., on Imprisonment and on the amendment to some related acts, in the provisions of Sections 60 et seq. thereof[5].

[4] Article 33 of the Constitutional Act No. 23/1991 Coll., introducing the Charter of Fundamental Rights and Freedoms, provides in paragraph 1: "Every person has the right to education. Education shall be compulsory for the period of time stipulated by law."
Act No. 561/2004 Coll., the Education Act, as amended, provides the following in Section 36 (1) thereof: Education is compulsory for a period of nine school years, but no longer than until the end of the school year in which the pupil reaches 17 years of age (hereinafter referred to as "compulsory education").

[5] Section 61 (1) – When a sentence is served by a convict who has not reached 18 years of age, the prison shall focus particularly on his or her education and training to prepare him or her for future profession.
Section 61 (2) – Instead of performance of work, lessons shall be provided by the prison to a young person subject to the compulsory education in order for him or her to be able to complete it.

ARTICLE 19: THE RIGHT OF MIGRANT WORKERS AND THEIR FAMILIES TO PROTECTION AND ASSISTANCE

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

Transfer of parts of the earnings and savings of migrant workers – the Committee requests that a full and up-to-date description of the situation as a whole is provided in the next report.

Act No. 219/1995 Coll., the Foreign Exchange Act, as amended, does not provide for any limits governing or restricting the amount of funds to be imported or exported. Consequently, the migrant workers can transfer any desired parts of earnings and savings, provided they comply with the requirements prescribed by the above act.