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ECRI REPORT ON THE CZECH REPUBLIC

(fourth monitoring cycle)

Adopted on 2 April 2009

Published on 15 September 2009



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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. Except where expressly indicated, it covers the situation up to 2 April 2009 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

SUMMARY

Since the publication of ECRI's third report on the Czech Republic on 27 January 2004, progress has been made in a number of fields covered by that report.

According to official data, the number of hate crimes has declined in recent years. Measures are also in place to ensure the proper implementation of criminal law provisions against racism and to prevent the commission of related crimes. In the field of civil and administrative law provisions against racial discrimination, a draft law on legal aid is currently being drawn up, and is intended to ensure the provision to socially disadvantaged persons of free legal assistance in these fields. In recent years the Ombudsman has also carried out detailed investigations into issues of particular concern to the Roma community.

High ranking public officials have publicly condemned extremist manifestations, indicating that neo-Nazi bodies in particular were being closely monitored and that resolute action would be taken if needed. In addition, some local authorities have taken action to ban planned extreme right-wing rallies where illegal acts were expected.

The school system in the Czech Republic has been modified in recent years and so-called "special schools" replaced with specialised primary schools intended primarily for pupils with several or multiple disabilities. The formal validity of the diploma received from all primary schools is now the same, although it is clear that children having attended specialised primary schools will need considerable support in an ordinary secondary school to make up for differences in the curricula followed at primary level. Free kindergarten is also available, as are preparatory classes in primary schools for children from socially disadvantaged backgrounds who have not attended a kindergarten. The appointment of Roma assistants in schools remains welcome, although their number is low and funding for this system is still not stable.

The Czech authorities have also adopted measures regarding access to other social rights. In 2008, an Agency for Social Inclusion in Roma Localities was established, and research was carried out into the employment situation of Roma living in marginalised localities, and to propose policy directions to redress problems identified. In the field of health, new provisions on informed consent were enacted in 2007, and, pending legislation dealing specifically with sterilisation, a methodological order governing informed consent in this field has been issued.

Children who have applied for asylum or other forms of international protection are subject to compulsory full-time schooling under the same conditions as Czech children. Recognised refugees and persons otherwise entitled to international protection are offered 400 to 600 hours of free lessons in the Czech language in order to help them to integrate in Czech society.

Draft legislation has also been prepared on the establishment of a general inspectorate of security forces, which would be responsible for investigating allegations of misconduct of members of the Czech security forces and would report directly to the government. A National Strategy on Policing Minorities has been in place since January 2003. Training on the policing of minorities has been incorporated into all levels of police training. The establishment of regional Liaison Officers for minority issues, and Police Assistants in socially deprived areas, has been well received.

ECRI welcomes these positive developments in the Czech Republic. However, despite the progress achieved, some issues continue to give rise to concern.

Concerns have been expressed that the criminal justice system does not always provide sufficient protection against racially motivated offences, and that the approach taken by both the police and the judiciary to establishing whether an act was based on

racist motivations is frequently too narrow. Victims of the most violent racist crimes, including a murder in 2007, are reported to be predominantly Roma. Incidents of police ill-treatment of minorities, particularly the Roma, also continue to be reported; in early 2009, a Vietnamese man died after having been beaten while in police custody.

There is still no comprehensive anti-discrimination legislation in force in the Czech Republic. At the same time, the Czech Charter of Fundamental Rights and Freedoms does not appear to provide effective protection in practice against cases of racial discrimination. Legal aid is, in practice, only available in criminal cases.

In recent years, high-ranking politicians at national and local level have made widely publicised anti-Roma statements. Anti-Roma slogans have been used as part of local election campaigns, and inflammatory statements by politicians appear to have been rewarded. Alongside this, attitudes to Roma in the tabloid press, as well as in online discussions on newspaper and magazine websites, are overwhelmingly negative.

At the same time, there has been a disturbing intensification in the activities of the extreme right-wing milieu in the Czech Republic, including the setting up of a uniformed paramilitary group by one political party. Repeated demonstrations by extreme right-wing groups have led to escalating tensions and, at times, violent acts. ECRI is deeply concerned at the aggressive anti-Roma stance expressed by one political party in particular, which is reported to be supported by neo-Nazi groups, and the actions of which appear deliberately designed to intimidate the Roma community.

Despite a range of measures adopted by the authorities at national level, little progress has been made in concrete terms in recent years towards improving either the living conditions of Roma or their integration in Czech society, and the disadvantages experienced by Roma in the fields of education and employment are still very real. Overrepresentation in specialised schools and segregation in ordinary schools remain a fact of life, increasing the difficulties involved in breaking the cycle of lower education outcomes of Roma children. These factors are compounded by a difficult housing situation, in which segregation appears to be increasing, and, in some cases, local authorities are directly responsible for worsening the situation of Roma families in their area. In the field of health care, no high-level authority in the Czech Republic has publicly apologised to victims of forced sterilisations, and no woman has received compensation. There is also a disproportionately high number of Roma children in institutional care, and children continue to be removed from their families on economic and social grounds. Parents may also be rapidly deprived of their parental rights.

As regards asylum and migration, citizens of countries with which the Czech Republic has concluded a readmission agreement and who are detained for the purposes of their readmission are not entitled to apply for international protection. Children with families and unaccompanied minors aged 15 or over may also be detained in some cases. In new expedited airport asylum procedures, problems have been reported in accessing fully trained and competent interpreters, as well as with the quality of interviews. Access to timely legal assistance has also become more difficult. At the same time, some groups have expressed concern that a pilot project implemented in response to the economic crisis may serve to stigmatise migrants rather than as a solution to the genuine and complex issues raised by the crisis.

Although figures are collected with respect to hate crimes, there continues to be a general lack of data disaggregated by ethnicity that could help to build a broader picture of the overall situation of persons belonging to various national or ethnic groups in the Czech Republic. The absence of such data makes it difficult for the authorities not only to adopt targeted policies to reduce inequalities, but also to monitor the effectiveness of such measures, and to adapt them if and where needed.

In this report, ECRI requests that the Czech authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI encourages the Czech authorities to strengthen implementation of criminal law provisions against racism and prevent related crimes. It urges the authorities to adopt comprehensive anti-discrimination legislation and strongly recommends that a body be clearly entrusted at national level with key matters related to racial discrimination.

ECRI strongly encourages the Czech authorities to complete the work presently under way in drafting and enacting a law on legal aid as soon as possible, and no later than two years following the publication of this report, and emphasises the importance of making provision in such a law for legal aid to be granted in cases where racial discrimination is at stake. ECRI draws the authorities' attention to the recommendations made in this respect in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.*

ECRI makes a series of recommendations to combat the expression of racist and xenophobic attitudes. It recommends that a vigorous approach be taken to implementing the laws prohibiting the manifestation of racist views and incitement to hatred. At the same time, it recommends that the Czech authorities step up their efforts to raise awareness of human rights and of the need to combat racism and intolerance.

ECRI recommends a series of measures to combat discrimination and segregation in the fields of education and housing, and to tackle the disadvantage currently faced by Roma in the field of employment. ECRI also makes a number of recommendations to counter disproportionate institutionalisation of Roma children and forced sterilisations.

In order to give additional impetus to the process of including every Roma child in ordinary streams of education, with the sole exception of those in need of specialised education due to severe mental disability or multiple disabilities, ECRI urges the authorities at the relevant levels to transfer substantial numbers of children from specialised primary schools to ordinary education, based on clear and ambitious yearly targets. The implementation of these targets should be monitored and a national supervisory mechanism set up to ensure that the relevant authorities are held to account for the results achieved.*

ECRI strongly urges the Czech authorities to develop and put in place, as a matter of high priority, a coherent system of social housing in the Czech Republic, including a clear definition both of the concept of social housing itself and of the social criteria to be applied in allocating it to persons in need.*

ECRI makes a number of recommendations to ensure that the rights of asylum-seekers are fully respected and to ensure that recent measures in the field of migration do not have an unjustified negative impact on migrant workers.

ECRI strongly encourages the Czech authorities to establish as soon as possible an independent investigatory mechanism for the investigation of complaints against the police, recommends that allegations of police ill-treatment of members of minority groups be thoroughly and rapidly investigated and appropriately sanctioned.

ECRI reiterates its recommendation that the Czech authorities establish a monitoring system, with appropriate safeguards, to enable the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its third report, ECRI strongly urged the Czech authorities to ratify Protocol 12 to the ECHR as soon as possible.
2. The Czech Republic has not yet ratified Protocol No. 12 to the ECHR. It has argued that, in keeping with the stance adopted by 19 other states that have signed the Protocol but not yet ratified it, the Czech Republic will refrain from ratifying the Protocol until its ambit is formulated more precisely by the case-law of the European Court of Human Rights. ECRI recalls that Protocol No. 12 is one of the most important international instruments for combating racial discrimination, and that its ratification would make it possible to combat this phenomenon more effectively at national level.
3. ECRI again urges the Czech Republic to ratify Protocol No. 12 to the European Convention on Human Rights.
4. In its third report, ECRI recommended that the Czech authorities ratify the European Charter for Regional or Minority Languages, the Convention on the Participation of Foreigners in Public Life at Local Level, the revised European Social Charter and the European Convention on Nationality. It also recommended that they sign and ratify the Additional Protocol to the Convention on Cybercrime and the International Convention on the Protection of the Rights of All Migrant Workers.
5. ECRI welcomes the ratification by the Czech Republic of the European Convention on Nationality, which came into force for the Czech Republic on 1 July 2004. It also welcomes the ratification of the European Charter for Regional or Minority Languages on 15 November 2006. It notes that the Charter entered into force for the Czech Republic on 1 March 2007 and that the Czech Republic submitted its first periodical report on compliance with the commitments inherent in the Charter on 3 April 2008.
6. The Czech Republic is a signatory to, but has not yet ratified, the Revised European Social Charter and the Convention on the Participation of Foreigners in Public Life at Local Level. The Czech authorities have stated that some obstacles to ratification of the latter instrument, due to the domestic law governing the freedom of assembly, were removed through amendments to legislation in 2006. The Deputy Minister of the Interior has been charged with drawing up an analysis of options regarding the ratification of the Convention, including the scope of any reservations that may need to be made. At the time of writing, the Czech Republic had not signed or ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems. The Czech authorities have indicated that the non-recognition of corporate criminal liability in domestic law prevents ratification of the Convention, without which the Additional Protocol cannot be ratified. These problems were officially brought to the government's attention on 30 March 2009. Further analysis is expected by the end of 2009. Hence, the adoption of an instrument governing corporate criminal liability cannot be expected in the near future. The Czech Republic has also not signed or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. ECRI stresses that all of these instruments may make important contributions to the fight against racism and racial discrimination.

7. ECRI strongly encourages the Czech Republic to ratify as soon as possible both the Revised European Social Charter and the Convention on the Participation of Foreigners in Public Life at Local Level.
8. It reiterates its call for the signature and ratification by the Czech Republic of the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Charter of Fundamental Rights and Freedoms

9. In its third report on the Czech Republic, ECRI urged the Czech authorities, and in particular judicial authorities, to make use of the non-discrimination provision of the Czech Charter of Fundamental Rights and Freedoms in order to address instances of racial discrimination by public authorities at local or national level. It also encouraged the Czech authorities to ensure that authorities at all levels were made aware of Articles 1 (which provides that all people are “free and equal in their dignity and in their rights) and 3 (which prohibits discrimination, providing that “fundamental human rights and freedoms are guaranteed to everybody irrespective of sex, race, colour of skin, language, faith, religion, political or other conviction, ethnic or social origin, membership in a national or ethnic minority, property, birth or other status”) of the Charter.
10. ECRI notes that an individual or legal entity may lodge a constitutional complaint if one of their constitutionally guaranteed fundamental rights or freedoms (including those laid down by the Charter) is infringed by an enforceable decision in proceedings to which that person was a party, or by a measure taken by or any other form of involvement of a public authority. Preliminary questions of constitutionality may also be referred to the Constitutional Court in the course of other judicial proceedings. However, it still appears to be the case that the above-mentioned provisions of the Charter have not yet been applied in practice to cases of racial discrimination.
11. ECRI observes, moreover, that the above-mentioned provisions of the Charter do not have direct effect between citizens; nor do they provide a legal basis for awarding compensation to victims of racial discrimination. In this context, ECRI stresses the importance of enacting comprehensive anti-discrimination legislation, in order to ensure that practical remedies are available to all victims of racial discrimination, no matter who commits it.
12. ECRI again urges the Czech authorities, and in particular judicial authorities, to make use of the non-discrimination provisions of the Czech Charter of Fundamental Rights and Freedoms in order to address instances of racial discrimination by public authorities at local or national level. It also strongly encourages the Czech authorities to ensure that authorities at all levels are made fully aware of Articles 1 and 3 of the Charter, with a view to preventing such instances from occurring.

Citizenship law

13. In its third report on the Czech Republic, ECRI welcomed amendments made to the Acquisition and Loss of Citizenship Act (Act No. 40/1993) to simplify the acquisition of Czech citizenship by persons who were citizens of the former Czechoslovakia and had been long-term or life-long residents on Czech territory. Noting that continuing difficulties were encountered largely by Roma having problems proving their residency – including persons without a fixed job or place of residence – and Roma whose residency was considered to have been interrupted as they had left the country for a period of time in order to attempt to

seek asylum abroad, ECRI recommended that the Czech authorities take the necessary action to resolve the remaining difficulties in acquiring citizenship encountered by Roma in such cases, and encouraged the national authorities to adopt an approach that was as generous as possible.

14. The Czech authorities have indicated that there is no specific provision relating directly to persons of Roma origin, as the law does not provide for distinctions to be made on the basis of 'race', religion, nationality or membership of a particular social group. The authorities have stressed that in the period since their enactment, the amended provisions of section 18a of the Acquisition and Loss of Citizenship Act (Act No. 40/1993) have nevertheless been used by numerous Slovak citizens, including of Roma origin, to obtain Czech citizenship.
15. Despite these developments, ECRI has received reports that there may still be some Roma who are former citizens of Czechoslovakia having real and effective ties to the Czech Republic but who have been unable to acquire Czech citizenship. This situation may apply in particular to women having left the Czech Republic to give birth in Slovakia, in order to gain access to necessary health care services. ECRI is concerned that due to difficulties experienced in acquiring Czech citizenship in cases such as these, some persons may not have access to adequate health care and may also experience greater difficulty in gaining access to other social rights such as housing.
16. ECRI strongly recommends that the Czech authorities take steps to verify the situation as regards acquisition of citizenship by former citizens of Czechoslovakia, and to remedy any remaining problems, in order to ensure that no person habitually resident in the Czech Republic and who would be entitled to acquire Czech citizenship but for a brief absence is unjustly deprived of access to health care or other social rights such as housing.

Criminal law provisions against racism

17. In its third report on the Czech Republic, ECRI welcomed a number of positive developments regarding the contents and implementation of criminal law provisions aimed at combating racially motivated offences. At the same time, it noted certain problems in the implementation of these provisions, and concluded that further steps were needed at all levels of the criminal justice system in order to improve their effectiveness. It recommended in particular that the recording, classification, investigation and prosecution of complaints of racially motivated crimes be improved, and that specially trained police officers and members of the prosecution services be involved in the investigation and prosecution of crimes with a possible racist motivation. It also recommended training measures for judges and judicial candidates on the implementation of legislation concerning racially motivated crimes and urged the Czech authorities to monitor more closely the implementation of the relevant criminal law provisions.
18. In 2008 the Czech Parliament enacted a new Criminal Code, which will come into force on 1 January 2010. Under section 42(b) of the new Criminal Code, racist motivations remain a specific aggravating circumstance that judges are required to take into account when sentencing offenders. The authorities have indicated that additional aggravating circumstances have been added for a number of offences, where the commission of an offence is motivated by the real or perceived race, ethnic affiliation, nationality, political persuasion, religion or real or perceived lack of religious belief. The offences for which these aggravating circumstances may be taken into account are: murder, grievous bodily harm, bodily harm, torture and other inhuman and cruel treatment, false imprisonment, unlawful restraint, kidnapping, blackmail, breach of secrecy of documents held in private, damage to private property, abuse of the authority of an official, violence

against a group of persons and against an individual, defamation of a nation, race, ethnic or other group of persons, and some military offences. Section 352 of the new Criminal Code prohibits violence against a group of inhabitants and individuals; section 355 prohibits the defamation of a “nation, race, ethnic or other group of persons”, including on grounds of an individual or group’s “real or perceived race, membership of an ethnic group, nationality or political or religious convictions or lack thereof”; in this case, racist motivations can only be considered as an aggravating circumstance where the offence was committed via the press, film, radio, television, a publicly accessible computer network or other similarly effective means. Section 356 prohibits incitement to racial, national, ethnic, class or religious hatred and the promotion of restrictions on human rights and freedoms. Under section 403, it is prohibited to establish, support, promote or publicise a movement aiming to suppress rights and freedoms of human beings; to bring this offence into line with other crimes, the commission of this offence via a publicly accessible computer network has been added as an aggravating circumstance. Section 404 prohibits manifestations of sympathy with such a movement. Under section 400, the acts that may constitute the crime of genocide have been extended to include the commission of this crime against “a class or other similar group of people”, and the maximum penalty has been increased to a sentence of imprisonment for twenty years. Section 401 sets out a new criminal offence of an attack on humanity, covering the crimes usually recognised as crimes against humanity, as well as enforced disappearance of persons, and uniform penalties have been defined for such offences. New definitions of the crimes of apartheid and discrimination against a group of people have also been introduced under section 402. Section 405 makes it a criminal offence to deny, cast doubt on, approve or justify genocide, and this offence has been extended to cover genocides other than those committed by the Nazi or Communist regimes.

19. According to official data on extremism and extremist crimes (defined essentially as crimes “reasonably judged to have been motivated or influenced by extremist attitudes”, or “crimes motivated by racial, national or other social hate”)¹, the number of such crimes has declined steadily in recent years. The number of extremist crimes recorded in 2007 was thus less than half that recorded in 2002.² The most commonly reported offences are offences related to the support for or propagation of movements suppressing human rights and freedoms, and insulting a nation, ethnic group, ‘race’ or religious conviction. Approximately 18% of racist crimes reported in 2007 involved violence.³
20. A number of measures are in place to ensure the proper implementation of criminal law provisions against racism and to prevent the commission of related crimes. These include the provision in initial professional preparation curricula for police officers of courses covering the rights of national and ethnic minorities, policing in a multicultural environment and issues related to racism, xenophobia and other forms of extremism; preventive programmes at local level, focussing on improving inter-ethnic relations, increasing tolerance in the majority society and alleviating the social exclusion of Roma; and general programmes designed to prevent convicted offenders from re-offending. In accordance with General Instruction No. 4/2006 on the punishment of criminal offences motivated by racial, national, political or religious hatred, which came into force on 1 October 2006,

¹ Report on the Issue of Extremism in the Czech Republic in 2002, Prague 2003, p 10.

² Ministry of the Interior of the Czech Republic, Security Policy Department, Information on the Issue of Extremism in the Czech Republic in 2007, Prague 2008, p. 55, Table 1.

³ Of a total of 196 offences reported, 22 concerned violence against a group of people or an individual under the former section 196 of the Criminal Code, 12 involved intentional grievous bodily harm and 1 was murder. Ministry of the Interior of the Czech Republic, Security Policy Department, Information on the Issue of Extremism in the Czech Republic in 2007, Prague 2008, section 2.2.1.2.

public prosecutors' offices were required to treat such offences as priorities.⁴ However, ECRI notes with concern that this instruction has since been replaced by General Instruction No. 1/2008, which no longer includes the principle of priority but merely requires supervision of such cases by prosecutors.

21. Despite the measures so far taken to combat racist crimes, NGOs remain concerned that the criminal justice system does not always provide sufficient protection against racially motivated offences, indicating that crimes committed against members of the Roma community in particular may remain unreported due to victims' fear of, or lack of trust in, the police. Concern has also been expressed that the approach taken by both the police and the judiciary to establishing whether an act was based on racist motivations is frequently too narrow, meaning that an excessively high standard of proof is required to establish the existence of a racist motivation.⁵
22. ECRI recommends that the Czech authorities monitor the implementation of the new Criminal Code, in order to ensure that the new provisions relevant to the fight against racism, xenophobia and related forms of intolerance are at least as protective of victims of crimes motivated by hate as those previously in force.
23. ECRI encourages the Czech authorities to pursue and strengthen the measures already in place to ensure the proper implementation of criminal law provisions against racism and prevent related crimes. It draws the authorities' attention in this respect to the importance of ensuring that the approach taken by both the police and the judiciary to the question of a suspect or an accused's racist motivations is not so narrow as to empty the relevant provisions of their substance.
24. ECRI recommends that the Czech authorities provide training to judges and prosecutors with respect to combating racist offences and monitoring racist incidents, and pursue and intensify their efforts to train the police in this field. In this respect it draws their attention to the recommendations contained in ECRI's General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, in particular in part III of the Recommendation.

Civil law provisions against racism and racial discrimination

25. In its second report on the Czech Republic, ECRI recommended the enactment of comprehensive anti-discrimination legislation covering all fields of life, including employment, education, housing and access to services and public places. In its third report, noting that the Cabinet had approved in 2003 a comprehensive Bill concerning the provision of equal treatment and protection against discrimination, ECRI encouraged the Czech authorities in their efforts to enact such legislation and urged them to take into account, in developing legislation in this area, the need to grant the highest level of protection to victims of racial discrimination.
26. In spring 2008, the Czech Parliament enacted the Equal Treatment and Legal Measures of Protection from Discrimination and Amendments to Some Laws Act ("the Anti-Discrimination Act"). However, the Act, intended to implement EU equal treatment directives Nos. 2000/43/EC and 2000/78/EC, was vetoed by the President of the Republic on 24 April 2008 and returned to the Chamber of Deputies. In accordance with Section 50 § 1 of the Constitution, the Act must now again be approved, by an absolute majority of deputies, in order for it to come into force. At the time of writing, the Assembly had not reaffirmed its approval of

⁴ This instruction replaced General Instruction No. 3/1995. See Ministry of the Interior of the Czech Republic, Security Policy Department, Information on the Issue of Extremism in the Czech Republic in 2006, Prague 2007, p. 28.

⁵ See also below, Racist violence.

the Act; indeed, on 4 February 2009, the Chamber voted for the fourth time to postpone its vote on the issue. As a result, there is still no comprehensive anti-discrimination legislation in force in the Czech Republic.

27. ECRI notes that some politicians who opposed the Anti-Discrimination Bill argued that the Charter⁶ provided sufficient legal protection against discrimination. However, experts in the field of anti-discrimination have pointed to a number of lacunae in the existing legal framework. These include a lack of definitions in Czech law of the various forms of discrimination (direct, indirect, harassment); a complete lack of anti-discrimination provisions in certain fields of law such as social security and access to health, and incomplete protection in other fields such as education or employment; the lack of a consistent system of sanctions; and the lack of an independent body to assist victims of discrimination, conduct research into the field and issue recommendations. ECRI emphasises in this context that it is vital that the right to be free of discrimination be a living right; it must not be merely declaratory but must be practical and effective.
28. ECRI urges the Czech authorities to adopt a comprehensive Act concerning the provision of equal treatment and protection against discrimination and to ensure in this respect that the need to grant the highest level of protection to victims of racial discrimination is taken into account. In this context, it again strongly recommends that the Czech authorities take into consideration ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Administrative law provisions linked to the fight against racism

29. In accordance with the Right of Assembly Act (No. 84/1990), the authorities may put a stop to a march or other such demonstration immediately if illegal activities occur. This rule has been successfully applied in the past to disperse a neo-Nazi parade at which racist slogans were chanted. However, the same Act requires officials who consider that a planned event should not take place at all to impose a ban on the event within three calendar days of receiving notification of the event. This rule has been strictly interpreted by the courts, which in early 2008 overturned a decision by the mayor of Plzen to ban a march that had been approved by a lower authority a month earlier. Some local authorities as well as many civil society actors consider that the three-day rule itself, or at least the manner in which it is presently applied, is too strict to allow effective action to be taken to prevent neo-Nazi or other public gatherings at which racist discourse or actions that are in breach of the law can be expected. ECRI understands that a request to strike down the rule is now pending before the Constitutional Court.
30. ECRI recommends that the Czech authorities keep under close review the effects in practice of the three-day limit laid down for banning public demonstrations under the Right of Assembly Act (No. 84/1990), and that they consider amending the Act if necessary in order to ensure that effective protection is provided against the commission of racist acts.

Administration of justice

31. In its third report on the Czech Republic, ECRI reiterated its recommendation that free legal aid be provided to victims of discrimination without means. It also drew attention to its General Policy Recommendation No. 7 in this respect.
32. The Czech authorities have indicated that the Ministry of Justice is currently preparing a draft law on legal aid, which should ensure the provision to socially disadvantaged persons of free legal assistance, especially in the civil and

⁶ See above, Constitutional provisions

administrative fields and in specified areas of commercial and criminal law. The authorities have indicated that they consider it unnecessary to provide expressly for victims of discrimination in this law because anyone who complies with the conditions laid down in this law will be granted legal aid on the same basis as others. The authorities have also pointed out that the involvement of NGOs that provide assistance to victims of discrimination in the preparatory work on the draft will ensure that it significantly facilitates access to legal assistance for victims of discrimination and others.

33. ECRI notes reports that at present, legal aid is provided in very limited circumstances, in criminal cases, through court advocates and the bar association; in so far as legal aid is available in civil cases, the relevant regulations are unclear. At the same time, however, legal fees in discrimination cases can amount to many months' salary. ECRI welcomes the Czech government's initiative to draw up a draft law on legal aid and stresses its importance to victims of discrimination, who may very often be without means.
34. ECRI strongly encourages the Czech authorities to complete the work presently under way in drafting and enacting a law on legal aid as soon as possible, and no later than two years following the publication of this report, and emphasises the importance of making provision in such a law for legal aid to be granted in cases where racial discrimination is at stake. ECRI draws the authorities' attention to the recommendations made in this respect in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Anti-discrimination bodies and other institutions

- *Ombudsman (Public Defender of Rights)*
35. In its third report on the Czech Republic, ECRI encouraged the Czech Republic in its efforts to create a Centre for Equal Treatment and recommended that the Ombudsman continue to accord special attention to the possible racist or discriminatory aspects of complaints and cases brought to his notice. ECRI also recommended that all the bodies engaged in combating racial discrimination be granted the necessary competences and financial and human resources to fulfil their terms of reference as effectively as possible.
 36. ECRI notes that since then, plans to create a Centre for Equal Treatment appear to have been abandoned. According to the Anti-Discrimination Act, which has not yet come into force,⁷ the Ombudsman was to be entrusted with acting as the Czech Republic's independent specialised body to enforce protection from discrimination, combat racism and xenophobia and promote equal treatment. ECRI observes that at present, the Ombudsman can receive individual complaints about acts or omissions of public authorities and conduct investigations into possible administrative malpractice. Where malpractice or an error is found, the Ombudsman may make his or her finding public, request the public body responsible to remedy the situation and make recommendations to eliminate the cause. The Ombudsman can also act as a mediator but has no direct means or mechanisms of enforcement at his/her disposal. The Ombudsman cannot, for example, order the payment of compensation to victims of racial discrimination; nor can he or she investigate complaints made against individuals or private companies.
 37. In recent years, the Ombudsman has carried out detailed investigations into certain issues of particular concern to the Roma community: most notably, investigations concerning sterilisations of Roma women carried out without their

⁷ See above, Civil law provisions against racism and racial discrimination.

free and informed consent, and forced evictions of Roma families in Vsetín.⁸ Given the potential broadening of the institution's terms of reference with respect to discrimination, certain cases dealt with within the existing mandate and in which questions of discrimination arose have also been specifically highlighted in the Ombudsman's annual report. Nonetheless, given the importance and complexity of the issues at stake, it seems clear that additional resources will need to be provided to this institution to allow it to carry out its tasks effectively, should these indeed be expanded as expected under the Anti-Discrimination Act. This is especially true as, in order for the Ombudsman to be able to work effectively against all forms of racial discrimination, no matter whether they are committed by an individual, a private company or a public body, the Ombudsman's competences will need to be significantly expanded. ECRI notes that the Ombudsman is one of the most trusted authorities in the Czech Republic and stresses that, should this institution be entrusted as expected with new responsibilities under anti-discrimination legislation without sufficient resources to carry out the relevant tasks, the institution will not only be unable to carry out its new tasks effectively, but may also lose the confidence of the public in the work it is presently carrying out well.

38. ECRI strongly recommends that the Czech authorities take steps to establish a body at national level that is clearly entrusted with matters related to racial discrimination, including providing assistance to victims; investigation powers; the right to initiate, and participate in, court proceedings; monitoring legislation and providing advice to legislative and executive authorities; awareness-raising on issues of racism and racial discrimination among society and promotion of policies and practices to ensure equal treatment. It stresses that all the necessary financial and human resources must be granted to this body to enable it to carry out its tasks, whether this is in the form of additional resources provided to the Ombudsman's office or the creation of a new institution. ECRI draws the attention of the authorities to the more detailed recommendations made in this field in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

39. ECRI encourages the Czech authorities to ensure that all the necessary conditions exist to allow the Ombudsman to continue investigating complaints involving possible racial discrimination as a matter of priority.

- *Government Councils for Human Rights, for National Minorities and for Roma Community Affairs*

40. In its third report on the Czech Republic, ECRI recommended that the Czech authorities consider increasing the resources available to the Government Council for Human Rights, the Government Council for National Minorities and the Government Council for Roma Community Affairs to carry out activities aimed at fighting racism and intolerance, such as the 'Roma Integration Policy Concept'.

41. ECRI notes that these bodies continue to function as spaces for dialogue at national level on the issues within their terms of reference and that they can provide a useful forum in which the concerns of specific groups can be raised. However, in order for such bodies to serve their purpose fully, it is vital that their interlocutors, and in particular the government, take action in response to their proposals. ECRI is particularly concerned that no action appears to have been taken to follow up on the recommendations made by the Government Council for Roma Community Affairs and by the Government Council for Human Rights regarding the award of compensation to women who have been sterilised without

⁸ See below, Vulnerable/Target Groups – Roma: Allegations of sterilisations of Roma women without their consent and Discrimination in Various Fields – Housing.

their consent.⁹ ECRI also considers that these bodies could play a greater role at national level to counter manifestations of racism and racial discrimination, provided that they have sufficient resources to do so. It stresses that in the present climate in the Czech Republic,¹⁰ it is all the more important that clear messages be sent against racism and for openness and tolerance.

42. ECRI strongly encourages the authorities to pay due heed to the advice provided to it in matters of fighting racism and intolerance by the Government Council for Roma Community Affairs, the Government Council for National Minorities and the Government Council for Human Rights, and to provide all the resources necessary to allow to these bodies to carry out effective activities falling within their terms of reference and aimed at fighting racism and intolerance.

II. Racism in Public Discourse

Racism in political discourse

43. ECRI is concerned to note that since its third report, anti-Roma hate speech has become an increasingly regular feature of public discourse in the Czech Republic. In recent years, high-ranking politicians, including government ministers and elected local officials, as well as candidates for office, have made widely publicised anti-Roma statements. Anti-Roma slogans have been used as part of election campaigns, especially at local level, and inflammatory statements against the Roma appear at times to have been rewarded by appointments to higher office. At the same time, and in contrast with numerous reactions publicly condemning aggressive street demonstrations by some groups,¹¹ the propagation and reinforcement of negative stereotypes about the Roma by political leaders from mainstream parties has rarely attracted strong criticism. In some cases, mainstream party officials elected at local level have suggested – apparently without reprobation from their own parties – that it is the Roma themselves who are entirely responsible for the attitudes towards them of partisans of extreme right-wing groups. In April 2008, a Senate committee moreover refused to waive the parliamentary privilege of a Senator in order to allow her prosecution on charges of hate speech.

44. Extreme right-wing parties are also a cause for concern. ECRI finds particularly worrying the publication by the National Party in August 2008 of a study entitled “The Final Solution to the Gypsy Question in the Czech Lands”, which proposes relocating the Roma to India. While some observers have dismissed this proposal as a ploy to provoke the public and attract media attention, others have underlined its parallels with Nazi Germany. This same party published sweeping verbal attacks on all Muslims on its website following the death of the Czech ambassador to Pakistan in a terrorist bombing in late 2008; legal proceedings against the party were however dismissed by the relevant court, which found that the statements were not against the law. Overall, however, it is Roma who are the most frequent targets of racist discourse by politicians as well as the general public. Roma representatives have pointed to a growing climate of fear within their community; they stress that the absence of decisive action by the authorities against the National Party creates the feeling that racism directed against the Roma community does not matter.

45. ECRI is deeply concerned that racist discourse appears to be becoming an increasingly everyday fixture in the Czech political arena. It wishes to emphasise

⁹ See below, Vulnerable/Target Groups – Roma: Allegations of sterilisation without full and informed consent

¹⁰ See below, Racism in Public Discourse.

¹¹ See below, Neo-Nazi groups and other extreme right-wing movements.

in this context the essential role that can be played by political leaders in promoting a positive image of diversity and condemning racism and xenophobia, regardless of whether these phenomena are directly linked to violent acts or unrest.

46. ECRI stresses that political leaders on all sides should take a firm and public stance against the expression of racist and xenophobic attitudes, including when these expressions come from within their own ranks. It strongly recommends that the Czech authorities step up their efforts to combat racism and intolerance in political circles, not only in the capital, but also in smaller cities and local communities.

Neo-Nazi groups and other extreme right-wing movements

47. Neo-Nazi and other extreme right-wing groups continue to be active in the Czech Republic. As described in the annual reports of the Ministry of the Interior assessing extremism in the Czech Republic, such groups continue to organise typical events such as concerts; at the same time, they appear to be developing both increasingly sophisticated strategies to avoid prosecution and a growing interest in organising or participating in public events of a political nature.

48. In recent years, there has moreover been a disturbing intensification in the activities of the extreme right-wing milieu in the Czech Republic. In late 2007, the National Party set up a uniformed paramilitary organisation known as the National Guard. The group drew attention to itself by organising patrols outside a school in mid-2008, ostensibly to protect local schoolchildren from attacks by Roma children. It was reportedly also suspected of attacking the Gay Pride march in Brno in June 2008. ECRI notes with interest that the establishment of this group drew public criticism from high-ranking politicians in mainstream parties, and that the Ministry of the Interior refused the group's application for registration in July 2008. The authorities have also indicated that they are monitoring the group's activities closely, in particular as regards their compliance with the law. However, to date neither the creation of this paramilitary group nor the views expressed by the political party of which it is an off-shoot¹² have been seen as sufficient grounds for action by the authorities towards dissolving the party.

49. More generally, ECRI is concerned that extreme right-wing groups have become increasingly vocal and active in the Czech Republic over recent months. Marches have been organised by several such groups, including the Workers' Party and well known neo-Nazi groups such as the National Resistance and the Autonomous Nationalists (sometimes together), in different towns, with increasing frequency and publicity. ECRI is deeply concerned at the aggressive anti-Roma stance expressed by the Workers' Party, which is one of the largest marginal political parties (not represented in any elected bodies) in the Czech Republic and which is reported to be supported in its views and activities by neo-Nazi groups such as those mentioned above. This party has also organised patrol groups to "monitor" the situation between the majority and the so-called "unadaptable" minority (a derogatory term understood to designate the Roma). The views of the party have been expressed not only through declarations of leading members and pamphlets distributed by the party, but also through actions that appear deliberately designed to intimidate the Roma community. Such actions, which have led to violent clashes between extreme right-wing demonstrators and police, are dealt with in more detail below.¹³

¹² See above, Racism in political discourse.

¹³ See below, Racist violence.

50. ECRI notes that extreme right-wing and neo-Nazi groups active in the Czech Republic continue to use simplistic messages to gain support for their views, in particular stigmatising specific groups and asserting that these groups are largely or solely responsible for crime or for economic and social difficulties experienced in Czech society. ECRI stresses that such blatantly racist messages must always be countered, but that it is all the more urgent to do so in times of economic strife, when such messages may resonate more readily beyond the existing supporters of extreme right-wing groups. ECRI also underlines in this context the value of taking a broad approach to combating racist discourse, not focusing exclusively on criticising the views and activities of right-wing extremists themselves but also addressing other factors that create favourable conditions for such discourse to take root. These include the incidence of racial discrimination in everyday life; economic hardship, and perceptions of the causes of such hardship; as well as long-standing prejudices against the Roma and perceptions about their place within Czech society.
51. ECRI encourages the Czech authorities to continue monitoring closely the views expressed by extreme right-wing groups and to take a vigorous approach with respect to implementing the laws prohibiting the manifestation of racist views.
52. ECRI strongly recommends that at the same time, the Czech authorities step up their efforts to raise public awareness of human rights and of the need to combat racism and intolerance, not only in the capital and large cities, but also in smaller local communities. Relevant measures could include awareness-raising campaigns against racism, xenophobia and related forms of intolerance, and campaigns to promote awareness of success stories and positive role-models from within the Roma community; such efforts should target children and young people as well as adults. The authorities should ensure that Roma-led organisations are consistently involved in such initiatives from their inception to their implementation and evaluation.
53. ECRI urges the relevant authorities to take immediate steps towards rebuilding confidence in the communities worst hit by public manifestations of racism in recent months, and recommends that similar steps be taken in other communities where tensions may also be high.

Racism in the media and on the internet

54. In its third report on the Czech Republic, ECRI recommended that media professionals adopt codes of self-regulation concerning the manner of reporting about issues involving members of minority groups. ECRI also recommended that the Czech authorities remain vigilant in identifying cases where media professionals had transgressed the law through fostering racial hatred.
55. The Czech authorities have stated that, in accordance with the Broadcasting Act and the Czech Television Act, the broadcast media are subject to a duty to strike the right balance, and in particular not to provoke intolerance. Civil society actors report that, while some journalists are sympathetic to minority issues and willing to cover positive stories, feedback on such stories is generally negative. The tabloid press is moreover reported frequently to typecast members of the Roma minority as people who by definition steal, fail to pay rent, are violent or refuse to work. Online discussions on the websites of magazines or newspapers are also overwhelmingly negative. The ethnic origin of criminal suspects, in cases where the suspect belongs to a minority, is often mentioned in news reports, and little progress appears to have been made towards the adoption of a code of ethics that is adhered to by the media.
56. Racist and xenophobic discourse is also common on the Internet. This applies not only to the websites of extreme right-wing parties but also to other less well

known groups peddling negative messages about foreigners. In July 2008, the deputy chair of the Government Council for Roma Community Affairs brought proceedings against an extreme right-wing party for defamation of a nation, race and convictions, after it published texts threatening the fundamental rights and freedoms of Czech residents having another nationality. This followed two judicial decisions earlier in the year concerning other neo-Nazi websites, one upholding a three-year suspended sentence for a supporter of a skinhead convicted of launching and running neo-Nazi web pages, and another sentencing two men to prison for two and three years respectively, for running a neo-Nazi webzine. Both men in the latter case were found guilty of supporting and promoting movements aiming to suppress human rights and freedoms. ECRI is deeply concerned to learn that a discussion in the Czech language is currently running on neo-Nazi pages of Facebook, a site based in the United States, on the so-called “final solution to the Gypsy question”.¹⁴

57. ECRI welcomes the active steps taken by the authorities to put an end to the dissemination of racist and xenophobic ideas through the internet. It again draws the authorities’ attention to the concerns of the Roma community, which has expressed growing fear as to the safety of its members, and the need to know that their safety is protected by the state, in a climate where racism is becoming an increasingly common currency in public discourse. At the same time, ECRI stresses the role that can be played by the media in promoting a positive image of a multifaceted society, should the media choose to do so.
58. ECRI encourages the Czech authorities to impress on the media, without encroaching on their editorial independence, the need to ensure that the material they publish does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups vulnerable to racism, including the Roma. ECRI recommends that the Czech authorities engage in a debate with the media and members of other relevant civil society groups on how this could best be achieved.
59. ECRI again invites media professionals to adopt codes of self-regulation concerning the manner of reporting about issues involving members of minority groups, and recommends that the Czech authorities encourage and facilitate this process wherever possible. It also recommends that the Czech authorities remain vigilant in identifying cases where media professionals transgress the law through fostering racial hatred.
60. ECRI encourages the Czech authorities to continue vigorously prosecuting persons responsible for publishing and disseminating racist material via the internet.

Strategy on Combating Extremism

61. On 23 March 2009, the government adopted a Resolution on solving acute problems of social exclusion and took note of a document entitled “Identification of Social Exclusion Problems”. The authorities have indicated that this document is to form the basis of a Strategy for Combating Extremism, which is to be submitted to the government by the end of 2009 and of which the conceptual part was discussed by the government on 4 May 2009.
62. The Strategy consists of two parts. Part I contains a report on the issue of extremism in the Czech Republic in 2008, which provides information on developments within the extremist scene, activities of extremists, recorded criminal activities having an extremist subtext, and problems and security risks

¹⁴ See also above, § 44.

that must be tackled. Part II sets out a policy for combating extremism, which seeks to give priority to specific, simple and targeted solutions over declarations that cannot be put into practice. The policy is based on five pillars: 1) communication, openness and offering alternatives to extremist propaganda; 2) arming citizens with knowledge against dangerous ideas, in particular through schools; 3) involving both governmental and non-governmental actors in the fight against extremism; 4) guaranteeing the professionalism of experts engaged in the fight against extremism; 5) imposing sanctions on extremist offenders through effective use of existing means and mechanisms.

63. ECRI urges the authorities to take all necessary steps to implement the Strategy on Combating Extremism and to ensure it brings about positive change, and in so doing, to take full account of the recommendations made elsewhere in this report, in particular with respect to the fight against racist discourse and racist violence.

III. Racist Violence

64. In its third report on the Czech Republic, ECRI recommended that the Czech authorities develop a multi-agency approach to the problem of racially motivated violence on the part of extremist groups. It also recommended that the Czech authorities ensure a more vigilant application of legislation aimed at prohibiting the activities of skinhead and other racist organisations, and encouraged the Czech authorities to continue efforts to monitor the activities of skinhead and other racist organisations and develop methods to react quickly and effectively against planned or realised incidents and attacks. ECRI also encouraged the Czech authorities in their efforts to develop educational measures aimed at fighting racist tendencies in schools.

65. According to the Ministry of the Interior, victims of the most serious, violent racist crimes are reported to be predominantly Roma.¹⁵ One murder in 2007 was treated as having racist motivations; a total of 46 crimes of racist violence were reported, according to official figures, in 2006, and 22 in 2007. Anecdotal evidence from non-governmental organisations working with minority groups, especially the Roma, suggests, however, that the number of incidents of racist violence may be significantly higher than the number of such crimes recorded in official figures. Victims may refrain from reporting a crime because they lack confidence in the police; in other cases, they report that no action at all is taken by the police to follow up on complaints lodged about racist violence, or that action is taken but that the racist aspects of the case are ignored. Thus, when the Brno mosque was vandalised in October 2008, the words “Stop Islam” having been sprayed on its walls and “No” on its door, the police were reported to be investigating the incident, but to consider that an extremist motive had not been clearly proved.

66. In addition to violent attacks on individuals or property, repeated demonstrations by extreme right-wing groups have led to escalating tensions and, at times, violent acts. ECRI notes with concern that from October to December 2008, a series of rallies and marches directly targeting the predominantly Roma-inhabited Janov housing estate in Litvinov were organised by extreme right-wing organisations. The express aim of these demonstrations was to march on this estate, and they were attended by several hundred persons, including members of notorious neo-Nazi groups. One rally also aimed specifically to denounce “positive discrimination”. The marches led to violent clashes with police, whose physical intervention was required to prevent demonstrators from reaching the Janov neighbourhood. A further march through Janov by around thirty members

¹⁵ Ministry of the Interior of the Czech Republic, Security Policy Department, Information on the Issue of Extremism in the Czech Republic in 2007, Prague 2008.

of Workers' Party "patrols" was held in January 2009. ECRI observes that these activities have considerably increased tensions in the area. Some non-Roma residents have expressed open support for the extreme right-wing demonstrators, and the latter's activities have stirred up fear amongst members of the Roma community. Concerns have also been expressed that the charges laid against individuals arrested in connection with these rallies related only to breaches of the peace and rioting, and did not reflect the racist motivations behind the events.

67. The Prime Minister, the Minister of the Interior and the Minister for Human Rights and Ethnic Minorities have publicly condemned extremist manifestations, indicating that neo-Nazi bodies in particular were being closely monitored and that resolute action would be taken if needed. In addition, some local authorities have banned planned extreme right-wing rallies, and one, Ústí nad Labem, announced on 3 March 2009 its intention to support the activities of an anti-extremist group, and the same week banned two marches planned by a neo-Nazi group in different parts of the town in April. In November 2008, the government announced that it would bring proceedings before the Supreme Administrative Court to ban the Workers' Party. On 4 March 2009, however, the Court dismissed the case, on the grounds that the government had not provided sufficient evidence of the party's involvement in organising the events complained of.
68. ECRI encourages the Czech authorities in their efforts to combat illegal activities of extreme right-wing groups and recommends that the laws prohibiting all forms of racist violence or incitement to hatred be vigorously implemented.
69. At the same time, ECRI recalls its strong recommendations made above with respect to raising public awareness of human rights and of the need to combat racism and intolerance, and again urges the relevant authorities to take immediate steps towards rebuilding confidence in the most affected communities.¹⁶

IV. Antisemitism

70. In its third report on the Czech Republic, ECRI recommended that initiatives be taken to ensure that antisemitic views did not gain a foothold amongst the Czech public, and especially youth. It also recommended that the Czech authorities ensure the prosecution, under the relevant criminal law provisions, of the publication and distribution of works that promote racial hatred.
71. Occasional violent antisemitic crimes against the person or property are reported. Small pockets of enduring antisemitism exist within the Czech Republic: antisemitic discourse is present on the internet, and is often difficult to combat due to the use of foreign servers. Successful prosecutions concerning neo-Nazi sites have nonetheless occurred.¹⁷ Some neo-Nazi groups have organised demonstrations with an antisemitic message in recent years, usually timed to coincide with specific events in the Jewish calendar or commemorations of events of significance in World War II.
72. ECRI encourages the authorities to continue prosecuting individuals responsible for publishing or disseminating antisemitic materials, and to take preventive measures to ensure that antisemitic views do not gain a foothold in Czech society, especially youth. It draws the authorities' attention to ECRI's General Policy Recommendation No. 9 on the fight against antisemitism, which proposes a range of legislative and policy measures governments can take to this end.

¹⁶ See above, Racism in public discourse – Neo-Nazi groups and other extreme right-wing movements.

¹⁷ See above, Racism in public discourse – Racism in the media and on the internet.

V. Discrimination in Various Fields

Education

- *Disproportionate representation of Roma children in special schools for children with mental disabilities*
73. In its third report on the Czech Republic, ECRI recommended that the Czech authorities urgently step up their efforts to ensure that Roma students who are not mentally disabled are not placed in special schools for the mentally disabled. It recommended that the Czech authorities ensure that the new Schools Act would not create a new form of separated education for Roma children, and urged them to make special efforts to ensure that Roma parents receive accurate information concerning the long-term negative consequences of sending their children to special schools. ECRI further recommended that urgent measures be taken to address the educational needs of students currently in such special schools, in order to assist these children in achieving a level whereby they could be integrated into the mainstream educational system. It also urged the Czech authorities to monitor and evaluate the process of reintegration, and stressed the importance of awareness-raising measures on integration aimed at the general public, local school directors and teachers.
74. On 13 November 2007, the Grand Chamber of the European Court of Human Rights handed down its judgment in the case of *D.H. and others v. the Czech Republic*.¹⁸ The Roma applicants in the case, who had attended special schools for children with mental disabilities as described in ECRI's third report (under a system since superseded by new legislation, as described below), complained that they had been discriminated against in the enjoyment of their right to education on account of their race or ethnic origin. In finding a violation of Article 14 of the Convention, read in conjunction with Article 2 of Protocol No. 1, the Court highlighted the more basic curriculum followed in schools for children with mental disabilities than in ordinary schools, and the isolation of pupils in these schools from pupils from the wider population. It noted that the education the applicants had received had compounded their difficulties and compromised their subsequent personal development rather than tackling their real problems or helping them to integrate into the ordinary schools and develop the skills that would facilitate life among the majority population.¹⁹
75. As noted by the European Court of Human Rights in the above judgment, a new Schools Act 2004 (Law no. 561/2004) was enacted in 2004. This Act no longer provides for special schools in the form that had existed prior to its entry into force. Primary education is now provided by primary schools and specialised primary schools, the latter being intended primarily for pupils with severe mental disability or multiple disabilities and for autistic children. The Act also contains provisions governing the education of children and pupils with special educational needs. These include children suffering from a social disadvantage. The existence of special educational needs is assessed by an educational guidance centre. The Act also makes provision for educational assistants, individualised education projects, preparatory classes for socially disadvantaged children prior to the period of compulsory school education and additional lessons for pupils who have not received a basic education. A new decree, Decree no. 73/2005 on the education of children, pupils and students with special educational needs and gifted children, pupils and students, has also been issued. This decree provides that pupils and students with special educational needs are to be educated with the help of support measures that go beyond or are different from the

¹⁸ *D.H. and others v. the Czech Republic* [GC], no. 57325/00

¹⁹ See in particular §§ 207-210 of the judgment.

individualised educational and organisational measures available in ordinary schools. Children whose special educational needs have been established with the aid of an educational or psychological examination performed by an educational guidance centre will receive special schooling if they have clear and compelling needs that warrant their placement in a special education system.²⁰

76. The authorities have emphasised that socially disadvantaged children, pupils and students are entitled to education of which the content, form and method correspond to their educational needs and ability; they are entitled to the creation of conditions necessary to facilitate this education and to counselling from the school and an education counselling facility. In evaluations of pupils and students with special educational needs, the nature of the disability or disadvantage is taken into account. The authorities have also indicated that work is under way to draw up new definitions of children, pupils and students in need of countervailing measures. The aim is to promote inclusive approaches in all areas of preschool, primary and secondary education, and to achieve the highest possible level of education in the educational mainstream. The authorities have stressed that since the entry into force of the new provisions, there are no longer any obstacles that would prevent Roma children from participating in ordinary education. It is now up to families to respond to the new approach in place by sending their children to ordinary schools. In addition, it has been pointed out that the formal validity of the diploma received from all primary schools is now the same. Thus, a child having attended a specialised primary school is not formally prevented from moving on to an ordinary secondary or vocational school.
77. As regards the integration of children in mainstream schools, the authorities have referred to the implementation of a project creating five regional Minority Integration Centres, which are supported by European Structural Funds and entrusted with the development of guidance, education and support services for socially disadvantaged pupils, in particular the Roma. The project focuses on integrating Roma pupils into society, on their educational progress, and on the provision of social and educational-psychological advice and other support services. The centres co-operate with state child protection units, education departments at all levels of government, schools and other educational establishments, and non-governmental organisations.
78. The authorities have recognised that information on the situation of Roma children in the Czech education system is not available to the extent required, as data broken down by ethnic origin were not previously gathered. They have emphasised in this respect that the collection of data based on ethnic origin must be done on a voluntary basis, and that ethnic affiliation is also a question of personal conviction. A certain amount of statistical error must therefore be allowed for. According to the authorities, investigations in the area of statistical data collection were begun in 2008, and the results will be used on an ongoing basis to define and implement appropriate measures aimed at creating real opportunities to reintegrate into mainstream schooling socially disadvantaged Roma children who are presently excluded from it, and to prevent their departure from it. Specific measures will be developed depending on the number of Roma children found to be being educated according to the standards set for children with a low level of mental disability.
79. Despite these measures, civil society actors consistently point out that as yet, in day-to-day school life, little has changed. They emphasise that in practice, special schools have essentially been renamed and reorganised as basic (or “practical”) schools, with little change to the curriculum followed there – which still has a higher number of practical subjects and fewer academic subjects, and a

²⁰ See in particular §§ 31-33 and 37-38 of the judgment.

focus on developing manual rather than intellectual skills. There is still a disproportionate number of Roma pupils attending these schools. In some localities, the only school in fact available is a former special school, and the teachers are still the same. These factors increase the difficulties involved in breaking the cycle of lower education outcomes of Roma children, in part because the expectations placed on children in these schools may still be lower. While the Schools Act makes clear that it is the child's legal representative, and not the school, that decides on which school a child will attend, NGOs working with Roma point out that even parental consent may not be a sufficient guarantee, if the full, long-term implications of the decision to send a child into special education are not clear to a parent – as indeed the judgment in the case of *D.H. and others* showed. They also point out that many Roma parents perceive the ordinary school system as hostile and unsafe, with their children at risk of bullying by other children or teachers. These parents are highly unlikely to wish to expose their children to such an environment, which they distrust. Other parents who do choose to send their children to ordinary schools may still find their children placed in separate classes, with different curricula.²¹

80. Concerns also remain as to whether the tests used to assess children's levels of educational attainment are socially and culturally neutral. Roma representatives point out that language proficiency tests may for example fail to recognise that a child is proficient in a language other than Czech and capable of adapting rapidly to classes in Czech as a second language, and may instead simply identify the child as lacking linguistic skills appropriate to their age. The tests may also fail to distinguish between cases of social disadvantage (for example, a lack of access to books in the home, leading to reading skills that are below average for the child's age but may rapidly improve once the child is at school) and a genuine learning disability requiring more specific attention. Moreover, once a child is identified as having special educational needs, teaching staff are required to draw up an individual action plan for that child. In practice, this means that in a school where there are many socially disadvantaged children, these children (of whom the majority in the Czech Republic are Roma) may find themselves placed together in a separate class.²² The Czech authorities have indicated that an analysis of the diagnostic tools used by education advisory services is under way, and that the results of this analysis will be used to improve the methodology used. The aim is to improve the quality of diagnosis and advice so as to make it an instrument to aid the integration of Roma and other schoolchildren into the educational mainstream.
81. ECRI welcomes the measures taken by the Czech authorities with the aim of improving the education provided to, and education outcomes of, Roma children. It cautions, however, against an approach that assumes that legislative or formal measures will suffice on their own to turn the situation around. It draws the authorities' attention to the fact that removing formal barriers to progress is an important first step, but not a sufficient one. While it is welcome that children now receive a diploma of equal formal value upon completion of their primary education, no matter what school they attended, children having attended specialised primary schools will inevitably flounder in an ordinary secondary school unless considerable support is available to them to make up for differences in the curricula followed at primary level. The Czech authorities have indicated that, while children's interests and abilities necessarily affect their individual choice of specific subject areas within the context of the standard education curriculum, the Ministry of Education is preparing programmes aimed at improving the inclusivity of the education system, so that equal opportunities

²¹ See below – Situation of Roma children in ordinary schools.

²² See below – Situation of Roma children in ordinary schools.

will be supported for all, including socially disadvantaged schoolchildren. They have referred in this context to equalising measures which should be broadly implemented in all mainstream schools, to help children overcome the consequences of any disadvantage and complete their ordinary education in full.

82. ECRI also emphasises that considerable efforts still appear to be needed to build trust in the field of education. This means building the confidence of Roma families in the ordinary school system. While measures to build and foster trust may best be implemented at local level, through local communities and networks, support at national level to ensure such programmes are in place and that their effectiveness is monitored will be key to their success. At the same time, ECRI emphasises that in order to overcome prejudice amongst the majority population (parents, teachers, other pupils) towards Roma pupils, it is important to send a strong message to this part of society regarding the value to Czech society as a whole of eliminating discrimination against Roma in the field of education. It needs to be clearly explained that it is not just the Roma but Czech society as a whole that stands to benefit from equipping more citizens to take on the more highly skilled jobs that are most common in the Czech Republic, and thus to better contribute to the economic health of the country.
83. ECRI strongly encourages the Czech authorities in their efforts to obtain more detailed information on the situation of Roma children in the education system. It strongly recommends that such research cover the impact of the new Schools Act in practice, as regards the composition of school populations as a whole, and in particular as regards the proportion of children of different national and ethnic origins enrolled in specialised primary schools. The results of this research should form the basis for remedial action to be taken wherever needed, in particular to ensure that the new School Act does not simply create a new form of separated education for Roma children.
84. ECRI again urges the Czech authorities to make special efforts, including strengthening the procedures in place where necessary, to ensure that Roma parents receive accurate information concerning the long-term negative consequences of sending their children to special schools. It emphasises that conquering mutual distrust between the education authorities, Roma and other parents is a vital part of achieving change in this field, and urges local authorities to devote resources toward fostering communication between Roma parents and mainstream schools.
85. ECRI again recommends that measures be taken to address the educational needs of students currently in specialised primary schools, including individual programmes and compensatory classes, in order to assist these children in achieving a level whereby they can be integrated into the mainstream educational system.
86. ECRI recommends that the tests used as a basis for recommending to parents which school would be most appropriate to their child's educational needs be regularly reviewed, and adjusted wherever necessary, in order to ensure that objective criteria are used at all times and that below average skills that are due to social disadvantage are not confused with a genuine disability.
87. In order to give additional impetus to the process of including every Roma child in ordinary streams of education, with the sole exception of those in need of specialised education due to severe mental disability or multiple disabilities, ECRI urges the authorities at the relevant levels to transfer substantial numbers of children from specialised primary schools to ordinary education, based on clear and ambitious yearly targets. The implementation of these targets should be

monitored and a national supervisory mechanism set up to ensure that the relevant authorities are held to account for the results achieved.

- *Situation of Roma children in mainstream schools*
88. In its third report on the Czech Republic, ECRI encouraged the Czech authorities to extend successful initiatives such as preparatory classes and Roma teaching assistants to all areas of the Czech Republic where the need exists. It also encouraged the Czech authorities to monitor the manner in which these and other initiatives are carried out on the local level. It recommended that teachers and school directors receive further anti-discrimination training and training in multicultural education.
89. Reports indicate that even in the ordinary schooling system, segregation continues to exist. This situation is linked at least in part to segregated housing – a phenomenon which presently appears to be increasing in the Czech Republic.²³ Parental choice also appears to be having a negative impact, however, as de facto segregation between ordinary schools appears to be rising – with previously mixed schools becoming increasingly separated into predominantly non-Roma and predominantly Roma schools – even in some areas where housing is not segregated. Some welcome initiatives have been taken by civil society actors to foster positive encounters between communities, such as inviting children from neighbouring schools to benefit from facilities funded through special projects, or the organisation of interschool football matches. However, while these initiatives may help to break down social barriers, and may gradually promote mutual acceptance, they clearly cannot compensate on their own for differences in the standards of education delivered in different schools.
90. In this respect, civil society actors also emphasise that even in schools attended by pupils from a variety of backgrounds, segregated classes continue to exist. As mentioned above, once a child is identified (by their school) as having special educational needs, teaching staff are required to draw up an individual action plan for that child. In practice, this means that in a school where there are many socially disadvantaged children, these children may find themselves placed together in a separate class, as part of the measures intended to cater for their needs. Such circumstances may reinforce a tendency to place lower academic expectations on the children concerned – the majority of whom, in the Czech Republic, are Roma.
91. The Czech authorities have taken a certain number of measures to improve both integration in Czech schools and educational outcomes for Roma children. These include multicultural training and the inclusion of chapters on Roma history and culture in school curricula. A programme designed to support disadvantaged students in primary and secondary schools and reduce drop-out rates, and which includes financial aid for students, has also been established. At the same time, measures to equip children to participate in education on an equal footing from the very earliest years are also in place. These include the provision, under the banner of the 2005 Concept of a Project for the Timely Care of Socio-Culturally Disadvantaged Children, of preparatory classes, set up in primary schools for children from socially disadvantaged backgrounds who, for various reasons, do not attend a kindergarten. The aim of these classes is to prepare children for a successful start to compulsory full-time schooling. The authorities have indicated that in the 2007/2008 school year, 1 926 children attended 164 preparatory classes. Roma representatives welcome this measure with some caution: some fear that in practice, preparatory classes may serve only to prepare children for special schools, whether because the educational level attained in the classes is

²³ See below, Discrimination in Various Fields – Housing.

not sufficient for ordinary schools or because the classes have the paradoxical effect of acting as a first step towards segregation, rather than integration. The authorities have indicated that the education programme in preparatory classes is conceived similarly to those in kindergarten and is based on the same curricular documents. Classes are however based more on the needs of children and families with social disadvantages. They are intended only for those children and families who for various reasons cannot use kindergarten. Free kindergarten is also available, although not all Roma children attend; to date, little research seems to have been carried out to identify the causes of non-attendance or possible additional measures that could be taken to increase access to kindergarten. The authorities have, however, indicated that an NGO study carried out in late 2008/early 2009 in schools near socially excluded localities and localities threatened with social exclusion found that 40% of Roma children attend a kindergarten, and 8% of them preparatory classes; measures subsequently prepared by the Ministry of Education are directed inter alia at developing the openness of kindergarten to working with children with social disadvantages, and to early care of these children from the age of 0 to 6 years.

92. ECRI notes that one of the most positive measures taken to date towards assisting Roma children to attend and remain in ordinary schools appears to be the appointment of Roma assistants in schools. As pointed out earlier, one of the key barriers to effective education for Roma children is a lack of confidence of Roma families in the school system; another is the attitudes of other parents and children, as well as teachers, towards Roma children in ordinary classes. The creation of good contacts and positive human relationships at grassroots level can be one of the most effective means of overcoming this mutual lack of trust. However, in October 2008, there were only around 300 Roma assistants in the whole of the Czech Republic, and, although, the system was created in 1998, it seems that funding for it is still not stable. Nor are the functions and competences of Roma assistants clearly defined in the relevant decree (Decree No. 73/2005). Moreover, the decision to request that such assistants be hired is entirely in the hands of school administrators, meaning that such assistants are only hired in schools that already have progressive attitudes, and the assistants themselves are dependent on the good will of the administrators for their jobs. The authorities have indicated that in 2009, the Ministry of Education received 430 requests for a teaching assistant, and all requests were accommodated.
93. ECRI is deeply concerned at the continuing de facto segregation of Roma children in ordinary schools, both through the segregation of schools themselves – a phenomenon linked, though not exclusively due, to segregation in housing – and through the creation of separate classes in integrated schools. It stresses the importance of continuing to act to counter these phenomena.
94. ECRI also stresses the need to conduct research into the impact of the various measures taken to date in this field in order to ensure that resources invested in this area and programmes implemented are well matched to achieving the aims sought. ECRI notes with interest in this respect that the authorities have referred to two studies conducted between September 2008 and March 2009 in primary schools close to areas of social exclusion in the Czech Republic, where approximately one-third of the total estimated Roma population of the Czech Republic live; one study examined the educational paths and opportunities of Roma pupils from schools in such localities, and the other analysed the approach of individual teachers to pupils with special educational needs. The term “Roma pupils” as used in the studies included pupils who identify themselves as Roma or who are perceived to be Roma by a considerable part of the social circle around them. In terms of educational trajectories, it was found that only 72% of Roma pupils were in mainstream primary schools, and 28% in specialised primary schools, compared with a 92%-8% split for other pupils. Roma pupils in

mainstream schools were absent almost three times more often than their peers, and Roma pupils in mainstream schools with a medium proportion (21-50%) of Roma pupils had a slightly lower chance than other children of completing their compulsory schooling in the grade in which they started. The presence of a teaching assistant had a clear positive impact on the educational achievement of children: 75% of Roma children in classes with an assistant completed their compulsory schooling in their original class group, compared with 65% of Roma children in classes without an assistant. Roma children who had attended kindergarten were also clearly more successful; on the other hand, the positive impact of preparatory classes was most marked at the beginning of schooling.

95. ECRI urges the Czech authorities to take measures to combat continuing instances of segregation between ordinary schools and segregated classes in mixed schools.
96. ECRI reiterates its strong recommendation that the Czech authorities monitor and evaluate the process of reintegration in order to ensure that those Roma children who went through the special school system are given adequate support, allowing them to keep up with the curriculum in ordinary schools and pursue their education to higher levels.
97. ECRI again stresses the importance of awareness-raising measures aimed at the general public, local school directors and teachers concerning the importance of integration.
98. ECRI strongly recommends that teachers and school directors receive further anti-discrimination training and training in multicultural education, in order to challenge and change their own attitudes where needed and to better equip them to deal with diverse classes in their schools.
99. ECRI also urges the Czech authorities to find ways to work together with Roma parents to increase their confidence in the ordinary school system. Such steps could include, for example, intensified efforts to build and maintain contacts between parents and ordinary schools in their area and to inform parents of measures already in place within the relevant schools to improve the classroom and playground experiences of Roma children. Such steps should be taken before parents have chosen their children's school.
100. ECRI strongly encourages the Czech authorities to extend successful initiatives such as kindergarten, preparatory classes and Roma teaching assistants to all areas of the Czech Republic where the need exists. ECRI again encourages the Czech authorities to monitor the manner in which these and other initiatives are carried out on the local level.

- *Access to higher education*

101. In its third report on the Czech Republic, ECRI urged the Czech authorities to take steps to ensure that Roma children would have equal opportunities to continue to higher levels of education.
102. ECRI notes that the measures described above to assist students in progressing to secondary education and prevent drop-outs once there may have positive flow-on effects in helping Roma children to reach university. At tertiary level, scholarships may also be awarded to disadvantaged students. No comprehensive data disaggregated by national or ethnic origin appear to be available from which overall trends in access to higher education of various groups could be determined; however, figures made available through specific programmes such as Romaveritas showed that around 1800 secondary school students and 62 university students had been able to receive supplementary

funding up to 2005-2006. It has also been reported that some high schools and training colleges offering social work degrees actively seek out and cater for Roma students, and some private universities offer their own scholarships for Roma students.

103. ECRI encourages the Czech authorities in their efforts to assist disadvantaged students, in particular Roma, in completing secondary education. It again recommends that the authorities take positive steps to ensure that Roma children have equal opportunities to continue to higher levels of education.

Employment

104. In its third report on the Czech Republic, ECRI recommended that further efforts be made to improve the employment situation of the Roma community, and considered that special measures (affirmative action) should be implemented aimed at overcoming the high levels of unemployment among Roma communities. ECRI encouraged the Czech authorities in efforts to adopt legislation in the field of employment and recommended that such legislation provide effective remedies for instances of discrimination at all stages of the employment process.

105. The Czech authorities, through the Ministry of Labour and Social Affairs, have taken a number of measures aimed at reducing unemployment in general. These include measures taken together with employers to provide 12- or 24-month contracts, usually for public works, aimed particularly at the long-term unemployed. The authorities have stated that they do not support affirmative action, preferring to focus on an approach based on equal opportunities for all and especially on increasing the capacity to enter the labour market. At the same time, they have indicated their readiness to promote the establishment of local partnerships between Labour Offices and co-operating organisations (NGOs, job agencies, educational organisations). Several such projects implemented in the past have had a particular focus on Roma who are disadvantaged on the labour market.

106. In 2008, an Agency for Social Inclusion in Roma Localities was established in 12 pilot localities. The Czech authorities have indicated that the aim of the Agency is to create and pilot an effective strategy for eliminating social exclusion, which could then be extended throughout the country. Its chief task is to encourage NGOs, schools, employers, municipalities and Labour Offices to work together to implement projects oriented towards socially excluded Roma. ECRI notes that the Agency experienced some teething problems in 2008 but hopes that these will be rapidly resolved and that it will be able to pursue its work effectively in future. A joint research project of the Czech government and the World Bank was also carried out in 2008, to review the results of a special labour force survey conducted in marginalised localities where many Roma reside. This study aimed to provide new insights into the employment situation of Roma living in such localities, and to propose policy directions to redress problems identified.²⁴

107. While these steps are positive, the level of unemployment of Roma remains very high. Reports indicate that in many Roma localities, 90% or more of the potentially active members of the population are unemployed. As the World Bank report found, the average level of education of Roma, which is well below that of the rest of the population, has a devastating impact on literacy and numeracy, with 14% of Roma in such localities having completed only special schooling for children with disabilities, and 40% suffering from functional illiteracy. Roma

²⁴ World Bank Human Development Sector Unit Europe and Central Asia, Czech Republic: Improving Employment Chances of the Roma, Washington DC, 21 October 2008

candidates are thus at a significant disadvantage on the labour market and often unable to compete on an equal footing with other job-seekers. Moreover, in the most marginalised localities, demand for low or unskilled labour is generally low, meaning Roma with low levels of education and who are unable to travel to larger cities face particular difficulties finding work. In marginalised communities in particular, those Roma who are able to find work often have only short-term, precarious jobs and low wages. Many Roma in situations of high indebtedness²⁵ also find themselves turning to the informal market as a means of coping with their situation; for individuals in this position, it is difficult to contemplate a return to the labour market unless they also receive support to overcome the spiral of debt. A further barrier to employment may arise in regions of the Czech Republic where wages are relatively low and there is little demand for low or unskilled workers: here, discouragement from seeking work may be high and reliance on welfare benefits may appear to be the only realistic option in practice.

108. Representatives of the Roma community also report persisting prejudice on the part of employers towards Roma candidates; cases continue to be reported where Roma job applicants are rejected for a job on the grounds that it has already been filled, only to find that a later, non-Roma applicant for the job is invited to an interview. Only a minority of employers presently see themselves as having a responsibility for change in this situation; and the authorities have indicated that small and medium-sized businesses, which offer a significant proportion of jobs in the Czech Republic, are especially likely to manifest prejudice towards Roma applicants. As regards overcoming long-term unemployment, the value of providing individual counselling and a tailored approach based on the specific problems faced by each person (for example acquiring new skills, overcoming debt) appears to be generally recognised. However, doubts have been expressed as to whether Labour Offices responsible for implementing such programmes currently have the resources necessary to provide such an approach, especially in a context where the number of civil servants is being cut.
109. ECRI welcomes the steps recently taken by the Czech authorities to analyse the employment challenges faced by Roma in marginalised localities. It emphasises that given the still widespread and endemic nature of disadvantage and discrimination faced by Roma on the labour market, long-term efforts will be required to produce lasting change in this field. In this context it underlines the value of building on past successful projects. ECRI stresses that improving education outcomes for younger Roma, and assisting adults in acquiring new skills to increase their employability, could be a key to ending the disadvantage faced by Roma on the Czech labour market. ECRI also emphasises, given the particular challenges faced by long-term unemployed persons, the importance of ensuring that sufficient resources are available to allow all long-term unemployed, including the Roma, to benefit from individual counselling and support to aid in their return to the labour market. Finally, ECRI emphasises that it is especially important in times of economic crisis to avoid situations where certain groups are designated as responsible for others' problems; in this respect, it draws the attention of the authorities to its recommendations made earlier in this report regarding racism in public discourse.
110. ECRI urges the Czech authorities to pursue vigorously their efforts to tackle the disadvantage currently faced by the Roma in the field of employment, and recommends that the Czech authorities implement as a matter of priority the recommendations made as part of the study on the employment situation of Roma in marginalised localities carried out in co-operation with the World Bank. ECRI draws the authorities' attention to the need to ensure that sufficient

²⁵ See below, Discrimination in Various Fields – Housing.

resources are available to provide the individualised attention necessary to assist the long-term unemployed in returning to the labour market.

111. ECRI strongly recommends that awareness-raising measures be carried out, aimed at employers, and particularly those running small and medium-sized businesses, in order to overcome long-standing prejudices against the Roma.

Housing

112. In its third report on the Czech Republic, ECRI stressed that the principal objective of housing and social policies should be to maintain and foster Roma communities living as part of majority communities. It indicated that resources needed to be devoted to re-integrating Roma communities who were already segregated into majority society, as well as to ensuring that Roma families living in substandard conditions were provided with a decent standard of housing and infrastructure. At the same time, ECRI highlighted the need for urgent measures to prevent further evictions, and considered that measures in the field of housing should aim to assist families to break existing cycles of poverty and dependence.
113. The authorities have indicated that the legal provisions governing housing in the Czech Republic do not contain any anti-discrimination provisions; nor is there a legal definition or detailed regulation of social housing. They have emphasised that, given that housing falls within the competence of local authorities, political will and specific decisions by local authorities play a key role in this field. The overall aim in the field of housing, which is a priority area for the government, is to prevent the emergence of new segregated localities, improve the situation in existing segregated Roma localities and improve access to housing for Roma in need. In 2005, the government entrusted the Minister for Regional Development, in accordance with the Plan for the Implementation of the Concept of Roma Integration and in co-operation with other relevant ministers, with the task of drawing up a concept and system of social housing by 31 December 2008. A draft plan for addressing problems faced by the Roma community, presented by the then Minister for Regional Development in October 2008, has not been discussed by the government since then. The plan included proposals to spend more than 10 billion CZK on upgrading housing, but attracted criticism from a number of Roma representatives, in particular for its proposal to classify Roma into three categories, the most “problematic” of whom would be accommodated in hostels and subject to strict supervision.
114. Other institutional actors involved in housing matters include the Agency for Social Inclusion, the Office of the Government Council for Roma Community Affairs and the Ministry of Labour and Social Affairs. In recent months several municipalities, such as Brno, Most and Ostrava, have announced plans drawn up in conjunction with the Agency for Social Inclusion for improving living conditions in excluded localities within their jurisdiction. On a more general level, the authorities have indicated that they are also supporting social work programs in the field, with the aim of ensuring an individually tailored approach to meet the needs of each family, and of providing assistance to deprived persons to break the vicious cycle of poverty.
115. Despite the measures taken or planned, many Roma continue to experience segregation in the field of housing, living in marginalised areas in towns or in isolated locations. The vast majority of communities also have no long-standing strategy or plan for solving housing problems experienced by the Roma population. The Ministry of Labour and Social Affairs reported in 2006 that more than 330 localities in the Czech Republic were almost exclusively inhabited by Roma; more than a third of the country's Roma population lived in such areas, and their number was reportedly growing. Recent reports confirm that new

segregated areas continue to emerge. In some cases, local authorities have themselves contributed to or even aggravated problems, evicting Roma families who had defaulted on their rent and forcing them into insalubrious living conditions. In a particularly notorious case in Vsetín, the Ombudsman concluded that the municipality's eviction of certain families in 2006 and their relocation through "informal coercion" to Jeseník, Prostějov and Uherské Hradiště had caused a "substantial violation of the right of the inhabitants to human dignity and protection of private and family life". He stressed the need in such cases to adopt measures appropriate to the actual situation of the individual persons concerned and emphasised that a summary solution, although it may be received positively by the majority population, will not resolve the problems of the Roma community nor, from a broader perspective, those of families at risk of social exclusion; nor could it represent a positive or effective concept for society as a whole. Nonetheless, two years later, the municipality threatened to evict the same families from their new housing, on which the Roma inhabitants had ceased to make payments to the municipality due to the dilapidated state of the buildings to which they had been moved. The Ministry of Regional Development has observed that the town of Vsetín was dealing with the socially excluded Roma locality within the scope of very limited resources, because so far the state does not offer municipalities any effective instruments. It has further stressed its view that media criticism of this case has been neither confirmed nor denied by any independent specialist study, and that the current unrest in Czech towns, fomented by the extreme right, has bypassed Vsetín entirely.

116. NGOs emphasise that evicted families with no prospects of finding new rental accommodation because they are long-term unemployed, or because of landlords' prejudices against Roma, often end up forced into spending exorbitant sums – far higher than would be required to rent an apartment – on accommodation in a hostel or dormitory. Moreover, if the family does not have a roof over its head, this material consideration may, in the Czech Republic, constitute grounds for the state to remove the children from their parents and place them in institutional care.²⁶ Families that do manage to find rented accommodation are especially vulnerable to loan sharks and easily caught up in a spiral of debt. The absence of a clear and comprehensive system of social housing in the Czech Republic is a significant additional difficulty.
117. ECRI is deeply concerned at the continued marginalisation of Roma in the Czech Republic, which is expressed, in the field of housing, through a variety of mechanisms: perpetuation of existing segregated localities, and creation of new ones; substandard living conditions; or the imposition of excessively high rents that lead quickly into a downward spiral of debt. It also observes that although the precise causes underlying these phenomena may vary from place to place, both private landlords and municipalities may contribute to creating or reinforcing situations of disadvantage. It also considers that, while strategies to achieve long-term change must be coherent, taking a blanket approach to resolving these issues may be too simplistic; whatever overall solutions are proposed, they must also leave room for the individual circumstances of families to be taken into account.
118. ECRI strongly urges the Czech authorities to develop and put in place, as a matter of high priority, a coherent system of social housing in the Czech Republic, including a clear definition both of the concept of social housing itself and of the social criteria to be applied in allocating it to persons in need.

²⁶ See also below, Vulnerable Groups – Roma – Removal of children from the families, including on the question of the compatibility of such removals with the European Convention on Human Rights.

119. ECRI urges the Czech authorities to take immediate steps to prevent the creation of new areas of segregated housing and to reduce the number of existing segregated areas. ECRI stresses in this context that the autonomy of local authorities in the field of housing can never excuse discriminatory measures, and emphasises once again the need to combat prejudices and discriminatory attitudes amongst local politicians and within local communities.
120. ECRI strongly recommends that in designing strategies to achieve long-term improvement as regards both segregation and standards of housing, the authorities take into account the need to assist indebted families to break out of the cycle of debt. It underlines that indebtedness plays a role not only leading families towards eviction from their homes, but also in keeping Roma workers out of the formal labour market; breaking this cycle can thus have positive ramifications that extend well beyond the immediate and urgent question of a family's housing.

Health

121. ECRI notes with concern issues raised elsewhere in this report and that may have a direct or indirect impact on the health status or access to healthcare of members of certain groups, in particular the Roma.²⁷ It stresses that health is an important social right and that discrimination in this field must be avoided, or eliminated where it has occurred. It refers in this respect to its recommendations made in other relevant sections of the present report and which may help to avoid future racial discrimination or eliminate past such discrimination in the field of health.

VI. Vulnerable/Target Groups

Roma

- *Separation of Roma communities from mainstream society*

122. In its third report on the Czech Republic, ECRI recommended that the Czech authorities urgently put in place additional means of supervising municipal actions, to ensure that local authorities act in accord with constitutional guarantees of equality and non-discrimination, and that they implement national strategies and policies aimed at improving the integration of Roma into Czech society. It encouraged the Czech authorities to establish local agencies of the Ombudsman or similar institutions competent to monitor discrimination by local authorities. ECRI also recommended that training be delivered to public officials in different sectors of life working at the local level, covering equality and non-discrimination issues.
123. As the above information with respect to the discrimination against Roma in the fields of education, employment and housing shows, little progress has been made in concrete terms in recent years towards improving either the living conditions of Roma or their integration in Czech society. While some welcome steps have been taken to remove previous formal barriers existing in the field of education, and thorough research has recently been carried out into the situation of marginalised Roma with respect to the labour market, the disadvantages experienced by Roma in these fields are still very real. Segregation in schools remains a fact of life and access to employment is much more difficult for Roma. These factors are compounded by a difficult housing situation, in which, in some

²⁷ See above, Constitutional and other basic provisions – Citizenship; Discrimination in Various Fields – Housing; see also below, Vulnerable/Target Groups – Roma: Allegations of sterilisation of Roma women without their full and informed consent.

cases, local authorities are directly responsible for worsening the situation of Roma families within their jurisdiction.

124. ECRI is deeply concerned at the fact that many highly publicised statements and actions by local authorities in recent years have had a strongly anti-Roma character.²⁸ It stresses that while national strategies to improve the situation of the Roma are a necessary and important tool, steps taken by local authorities to implement such strategies are also vital and must be closely monitored. Failures by local authorities to implement parts of national strategies that fall within their competence, as well as actions that run counter to national and international human rights standards, must be identified, scrutinised, and subject to sanctions where needed. In no case should discriminatory measures by local authorities be countenanced.

125. ECRI urges the Czech authorities to put in place additional means of supervising the actions of local authorities to ensure that they act in accordance with constitutional guarantees of equality and non-discrimination, and recalls its recommendations made earlier in this report regarding the enactment of a comprehensive Act concerning the provision of equal treatment and protection against discrimination. ECRI also encourages the Czech authorities to establish local agencies of the Ombudsman or similar institutions that are competent to monitor discrimination by local authorities.

126. ECRI also urges the Czech authorities to develop appropriate mechanisms to ensure that local authorities implement national strategies and policies aimed at improving the integration of Roma into Czech society and improving their situation in key fields of life.

127. ECRI recommends that training be developed and delivered as widely and as soon as possible to local officials, in order to raise their awareness both of legal obligations in the field of equality and non-discrimination and of relevant national priorities in this field.

- *Actions at local level to combat discrimination and exclusion*

128. In its third report on the Czech Republic, ECRI encouraged Czech local authorities to take a number of steps to combat discrimination and exclusion, including various steps to facilitate the involvement of Roma communities in finding solutions to problems that concerned them. ECRI also recommended that local authorities act as leaders in the fight against racism and discrimination, and encouraged political parties to act swiftly to address any acts of racism or discrimination at local level by members of their political parties.

129. Elsewhere in this report ECRI has already had occasion to stress the importance of building or re-building trust between Roma communities and local authorities, as well as between Roma communities and the majority population. This is especially vital at a time when public discourse concerning the Roma community is becoming increasingly and disturbingly hostile. ECRI emphasises that dialogue is essential to building trust, and draws attention to the key role that can be played both by Roma Advisors at local level and by the direct involvement of Roma representatives in identifying solutions to problems that concerning them. ECRI stresses that anti-Roma discourse by local politicians is not only racist by nature; it also in no way serves to help either the majority population or Roma communities to solve concrete problems that they face.

²⁸ See above, for example, Racism in Public Discourse, – Racism in political discourse; Discrimination in Various Fields – Housing.

130. ECRI encourages Czech local authorities to engage Roma Advisors to help build dialogue with Roma communities in a climate of mutual trust, and draws attention to the possibility of concluding agreements to share the work of Roma Advisors where resources are scarce.
131. ECRI reiterates its recommendation that concerned Roma communities be involved as full participants in the development, implementation and assessment of measures aimed at addressing their situation and at finding solutions that have the support of all parties concerned. It again suggests establishing local mechanisms which can provide a common space for consultation with members of Roma communities
132. ECRI strongly urges local authorities to act as leaders in the fight against racism and discrimination and encourages political parties to act swiftly to address any acts of racism or discrimination at local level by members of their political parties. ECRI also urges Czech law enforcement officials to be vigilant in applying relevant criminal code provisions to racist actions by local authorities.

- *Allegations of sterilisations of Roma women without their full and informed consent*

133. In September 2004, the Ombudsman opened an investigation on the basis of complaints received from ten women regarding forced sterilisations. In the course of the next year, the total number of complaints received rose to almost 80. The complainants, most of whom were Roma, alleged that they had been sterilised without their informed consent, either because the sterilisation was done without their knowledge or because consent had been requested and obtained in a situation where they could not properly evaluate the long-term consequences of the sterilisation (for example, immediately before an emergency caesarean section, when the women were in great pain).
134. The Ministry of Health set up a consultative body to investigate such complaints, which found that in the majority of cases, the key problem in the conduct of sterilisations was the method used to gain informed consent from the patient before the procedure was performed. Following his own extensive investigation, conducted with the participation of the Ministry of Health, the Ombudsman concluded²⁹ that in the vast majority of cases reviewed, legal and procedural safeguards had not been followed, and that the sterilised women's consent lacked legal validity. He drew attention to the fact that under the Communist regime, policy and law had encouraged the sterilisation of Roma women, as part of an overall policy of assimilation of the Roma community. However, even following the official termination of those policies in 1991, a number of doctors appeared to have acted outside the law, continuing the practice. The Ombudsman referred five cases to the prosecution authorities for further criminal investigation and possible prosecution in 2005.
135. In his conclusions, the Ombudsman recommended changes to Czech domestic law to strengthen the legal safeguards surrounding the principle of informed consent; additional measures to educate patients about the long-term implications of sterilisation, and to ensure that medical professionals would correctly understand and apply the principle of informed consent; and procedures for awarding compensation to victims, in cases where the state's responsibility had been engaged through the role of social workers involved in implementing a coercive sterilisation policy. In cases where medical professionals alone were responsible for having incorrectly applied the principle of informed consent, the

²⁹ Ombudsman (Public Defender of Rights), Final Statement of the Public Defender of Rights in the Matter of Sterilisations Performed in Contravention of the Law and Proposed Remedial Measures, Brno, 23 December 2005

Ombudsman considered that the correct avenue of redress would be individual suits based on a breach of the right to privacy.

136. The Ministry of Health has indicated that new provisions on informed consent were included in the Healthcare of People Act (No. 111/2007 Coll.), enacted in 2007, and that a model for informed consent to sterilisation was published in the Gazette of the Ministry of Health in 2007, and the professional public was advised of this. A further two Bills related to health care were introduced in Parliament in 2008, one of which, the Specialised Health Services Act, deals explicitly with sterilisation. As an interim step pending the enactment of these Bills, a methodological order governing informed consent was issued. With respect to the question of compensation, the Ministry of Health identified errors committed in individual cases during the Ombudsman's investigation, but considered that these errors were attributable to individual doctors, not the state. Moreover, in the authorities' view, no acts of violence were involved in these cases. Compensation could not therefore in their view be awarded on a general scale.
137. NGOs have expressed concern that despite the far-reaching conclusions of the Ombudsman, and despite his accompanying exhortation to Czech society to come to terms with the fact that something intolerable was happening in these cases – a realisation that he deemed essential to achieving deep-rooted change –, no high-level authority in the Czech Republic has made any public statement or apology on the matter. ECRI notes that despite repeated efforts by various advisory councils, the government has also not changed its stance that it is not responsible for granting compensation to victims of forced sterilisations.
138. Few women appear to have pursued claims through the courts, in part due to the heavy costs involved. In one case in November 2005, the district court in Ostrava ordered the Ostrava hospital to apologise to a Roma woman who had been sterilised in 2001; both the hospital (which considered it should not have to apologise) and the woman concerned appealed the verdict. At the time of writing, the outcome of the woman's claim for compensation in this case was not known. In a 2007 judgment in a different case, the Ostrava court ordered a local hospital to pay compensation to a Roma woman sterilised without her consent when her second child was delivered by caesarean section. However, this decision was overruled by the High Court in Olomouc, on the basis that the claim was time-barred. The High Court's judgment was subsequently upheld by the Supreme Court. In parallel criminal proceedings against the doctors concerned, the Constitutional Court dismissed on 2 March 2009 the complaint lodged by the same woman against the decision of the police to shelve the criminal investigation. In practice, no woman has to date received compensation in the Czech Republic for a sterilisation performed without her consent.
139. While welcoming the new legislative developments in the field of informed consent, ECRI regrets the attitude according to which the state has disowned responsibility for past acts carried out even in public hospitals. It underlines that because of this, and because of the strict implementation by the courts of the statute of limitations, no redress has been possible for any of the (mostly Roma) women involved. ECRI is especially alarmed at reports that isolated cases continue to arise in which Roma women are subjected to pressure (for example, threats that their children will be removed) by social workers to accept sterilisations against their will.
140. ECRI recommends that the Czech authorities follow the proposals of the Ombudsman and that they take a strong public stance condemning unlawful sterilisations. ECRI further recommends that the government pay compensation to women who were unlawfully sterilised.

141. ECRI recommends that the Czech authorities monitor all facilities which perform sterilisations to ensure that the new safeguards concerning informed consent are respected. It also recommends that the authorities take steps to ensure that new complaints filed by Roma women alleging that they have been sterilised without their consent are duly investigated, and that all victims receive proper redress.

142. ECRI further recommends that the Czech authorities issue clear instructions to all social workers to the effect that interference in the physical integrity of others is in breach of their fundamental rights and will not be tolerated.

- *Removal of Roma children from their families*

143. In its third report on the Czech Republic, ECRI recommended that the Czech authorities conduct research in order to assess the reasons for the disproportionately high number of Roma children removed from their families and adopt measures to address the factors leading to any discriminatory decisions. ECRI recommended that specific training be directed at social workers to make them aware of possible racist prejudices and assumptions that might influence the manner in which they dealt with Roma families.

144. Studies have shown that the overall number of children in institutional care in the Czech Republic is very high, and that there is a disproportionately high number of Roma children in this situation. Official data disaggregated by ethnic origin do not exist; estimates of the proportion of Roma amongst children in institutional care range from around 20 to up to 80%. Despite two judgments of the European Court of Human Rights condemning such practices,³⁰ and despite the provisions of section 76a of the Code of Civil Procedure, which lays down substantial conditions that must be met before a child can be removed from his or her family, namely that he or she is without any care or that his or her life or positive development is seriously threatened or disturbed, research carried out by NGOs shows that in practice, children continue to be removed from their families on the sole ground that families do not have a suitable and stable home, or that their economic and social conditions are not satisfactory. The system in place is reported to prefer placing children in institutional care rather than helping families to improve their social situation and stay together.

145. NGOs point out that in practice, children may be removed from their families very rapidly (within 24 hours in some cases), and that it is extremely difficult for parents to regain custody of their child later, as the families concerned are often poor, unfamiliar with the legal system, and at the same time unable to benefit from legal aid³¹. Parents may also quickly lose contact with their child, placed in an institution that is too far away to allow the parent to travel for regular visits – and if they do not visit their child for a certain period of time, parents may be deprived of their parental rights altogether. Poverty is thus a key factor that contributes both to the initial removal of the child and the loss of parental rights that often ensues. While poverty exists among all groups in the Czech Republic, Roma are particularly affected, and therefore disproportionately likely to suffer from the removal of their children. Moreover, owing to the high level of prejudice among the general population against the Roma, Roma children placed in institutional care frequently remain there for long periods, due to difficulties in finding foster families or adoptive parents.

146. Against this background, ECRI welcomes the news that in January 2009, the Czech government approved a policy paper including proposals to unify the

³⁰ Havelka and Others v. the Czech Republic, no. 23499/06; Wallová and Walla v. the Czech Republic, no. 23848/04.

³¹ See above, Existence and Implementation of Legal Provisions – Administration of Justice.

system of care for endangered children and to shift the focus of work in this field to a preference for keeping children in their family environment where possible, rather than placing them in institutions. It notes with interest that a detailed action plan is to be submitted to the government by the end of June.

147. ECRI strongly encourages the Czech authorities in their present efforts to change the approach taken towards the removal of children from their parents, and welcomes the intended new focus on supporting and fostering development within the family rather than placing the accent on institutionalisation. It stresses in this context that the provision of intensive and through training to social workers will need to form an integral part of any final plans, in order to overcome practices and attitudes that have been firmly entrenched for many decades.

Jewish Communities

148. See above, Antisemitism.

Refugees and asylum seekers

149. In its third report on the Czech Republic, ECRI recommended that a range of measures be taken in order to ensure full respect for the rights of asylum-seekers. It also recommended that the Czech authorities review legislation and policies with respect to asylum-seekers and migrants, bearing in mind their potential repercussions on the general climate of opinion towards these groups, and recommended that the Czech authorities take a range of measures to help increase contacts between these groups and Czech society.

150. The main piece of Czech legislation governing asylum-seekers and refugees is the Asylum Act (No. 325/1999), which came into force on 1 January 2000. The law has been amended a number of times since its enactment, mainly for the purposes of harmonisation with EU acquis. The most recent amendments to the Asylum Act, which came into force on 21 December 2007, transposed the EC Procedural Directive into Czech law (section 3a of the Asylum Act). ECRI is deeply concerned that under Czech law, citizens of countries with which the Czech Republic has concluded a readmission agreement and who are detained for the purposes of their readmission are not entitled to apply for international protection, an arrangement that would appear to be in conflict with the Refugee Convention and other international human rights standards.

151. ECRI also notes that as part of the amendments mentioned above, a new expedited airport procedure has been introduced, in which both entitlement to international protection and the question whether an individual will be granted permission to enter the Czech Republic are determined. The procedure can be completed within a few days, and if leave to enter the Czech Republic is not granted, the individual will be held at the airport reception centre pending the final decision in their case. Civil society actors working with asylum-seekers have indicated that this procedure presents significant flaws in practice. Serious difficulties have been reported with respect to access to fully trained and competent interpreters, as well as problems with the quality of interviews carried out in these cases. Indeed, following an investigation of some cases, the Ombudsman recommended that further training be given to officials carrying out these procedures. The Ministry of the Interior has, however, rejected criticisms of its staff and stated that situations where asylum-seekers object to the interpreter provided do not occur at all, and that, were they to occur, the interpreter would be replaced. ECRI is also concerned that asylum-seekers may experience difficulties in gaining access to timely legal assistance in such cases: although legal advice and representation are usually able to be provided in time to assist with appeals, they are not always available before an initial decision is taken, in particular due to the short turnaround time applied in expedited procedures. The Ministry of the

Interior has, however, expressed the view that the fact that international protection seekers cannot discuss each issue with a legal advisor whenever they want and are obliged to respect determined rules does not prevent them in any way from lodging remedies or gathering evidence. Similar concerns about interpreters and legal advice have also been raised by NGOs working with asylum-seekers in other reception and detention centres: new practical arrangements in these centres, restricting the access of lawyers to a single room, reportedly make it more difficult for asylum-seekers to consult a lawyer also at later stages of the processing of their claim.

152. Asylum-seekers who present their claim for protection without having previously been intercepted by the police or border police are required to remain in reception centres while certain medical and identification procedures are carried out. Section 46(1) of the Asylum Act provides that asylum-seekers may not leave a reception centre until the specified medical screening and identity checks have been completed. On average, this period lasts 20 to 30 days. Under section 46a(1) of the Act, asylum-seekers may be required to stay in a reception centre for up to 120 days if their identity has not been reasonably established, they have used forged or falsified documents to establish their identity or there is a reasonable suspicion that they could endanger national security. NGOs have reported isolated cases where families have been held in this centre for 45 days, along with a small number of past cases in which detention lasted for eight months or more. Section 46(3) of the Asylum Act further provides for “Dublin II” detention of an asylum-seeker pending their transfer to the EU member state responsible for examining their claim for international protection. Section 73(3) of the Act provides that foreigners applying for international protection on arrival at the international airport are to be held at the reception centre in the transit zone of the airport. A decision on whether the applicant is allowed to enter the territory of the Czech Republic while their claim is processed must be taken within five days.
153. Persons who claim international protection only after they have been intercepted by the police or border police without the necessary documents to demonstrate that they are lawfully present within the Czech Republic are subject to administrative detention under section 125 of the Residence of Foreigners Act. Under this section, administrative detention may be applied to all foreigners over 15 years of age, including unaccompanied minors, if removal procedures have commenced and if there is a risk to national security or public order or of the person hindering the execution of the removal order. Administrative detention must not exceed 180 days, or 90 for persons under 18, including families with children.
154. Asylum-seekers are not free to leave either detention centres or reception centre until the necessary procedures have been completed or the maximum period of detention has been reached. The Czech authorities have emphasised that only foreigners who have breached Czech law are held in detention centres; thus, persons claiming international protection will ordinarily be held or housed in reception centres, which only receive asylum-seekers. Persons claiming international protection will only be held in detention centres – which may also include other foreign nationals who are not asylum-seekers – if they claimed asylum after having been intercepted by the police.
155. As regards the conditions in reception and detention centres, the Czech authorities have indicated that children who have applied for international protection are subject to compulsory full-time schooling under the same conditions as Czech children. In practice, children attend local schools with Czech children, with specific funds (7.1M CZK in 2008) allocated by the Ministry of Education, Youth and Sports to take into account the specific issues involved

in educating asylum-seekers, including the provision of language classes. Adults, however, are not entitled to seek work until their claim has been determined or they have been present for one year; the authorities have observed in this respect that all international protection seekers have the right to free accommodation and meals in asylum facilities and therefore do not need to work to earn money for living. Access to health care is reportedly hampered in many cases by a lack of qualified interpreters, meaning that some doctors, fearing communication problems, simply refuse to treat asylum-seekers.

156. The authorities provide 400 to 600 hours of free lessons in the Czech language in order to help persons to integrate in Czech society, once they have been recognised as refugees or as otherwise entitled to international protection. Recognised refugees and beneficiaries of international protection may be accommodated for up to 18 months in “integration” centres set up in towns or larger villages, and the freedom of movement of their residents is not limited. However, consistent reports received by ECRI indicate that contacts with the wider community remain difficult to establish, with a high level of suspicion prevalent amongst the general public towards asylum-seekers and beneficiaries of international protection. Pointing in the same direction is one local referendum in which inhabitants were asked whether they would prefer a centre accommodating refugees or a prison to be established in their town, the majority voted in favour of a prison. ECRI notes that, although it appears that this is not the intended consequence of the provision of accommodation in integration centres, the long periods for which asylum-seekers and persons granted international protection may live apart from the rest of Czech society may act as an additional impediment to integration.

157. ECRI stresses the need to ensure that the rights of asylum-seekers are fully respected and urges the Czech authorities to remove any automatic barriers to claims for international protection by nationals of states with which a readmission agreement has been concluded. It also strongly recommends that the authorities make every effort to ensure that child asylum-seekers, including between the ages of 15 and 17, are never detained unless this is strictly necessary, and that the access of asylum-seekers to legal advice and representation is not impeded.

158. ECRI urges the Czech authorities to ensure that the introduction and operation of expedited airport procedures does not weaken asylum-seekers’ rights, in particular to a fair hearing of their claim. To this end, ECRI strongly recommends that training be provided to officials working in the field of asylum, in order to ensure that they are fully equipped to deal with asylum-seekers in a manner that will allow those individuals to express their claim clearly and in full. ECRI further recommends that not only the number but also the quality of interpreters working with asylum-seekers be kept under review and adjusted as necessary.

159. ECRI again highlights the importance of providing asylum seekers with opportunities to participate in local society as early as possible, including before their application has been determined, and notes that such measures may also help to overcome suspicion towards asylum-seekers on the part of the majority population. It reiterates its recommendation that to this end, the Czech authorities integrate accommodation centres into the local community, encourage private accommodation, permit employment as rapidly as possible, and consider other measures that would increase asylum-seekers’ contacts with Czech society.

Migrant workers

160. Around two hundred and eighty thousand migrant workers³² are employed in the Czech Republic, most being unskilled or semi-skilled workers from Ukraine,

³² Figure as of end December 2008.

Vietnam and Mongolia, and many recruited through job agencies that act as subcontractors for other companies. The right of such migrant workers to remain in the Czech Republic is strictly tied to the continuity of their contract; they are not entitled to unemployment benefits when their contract is terminated, and lose their right to remain in the country if they lose their job, although foreign nationals in possession of a valid long-term residence permit for the purpose of employment benefit from a grace period of 60 days to find another job. With the onset of the economic crisis in late 2008, migrant workers were widely reported to be the first and worst hit by job cuts. In the period from 15 January to 31 March 2009, the employment of 31 487 migrants was terminated due to the expiration of their labour contracts. According to the authorities, the main problem for migrant workers is a lack of information about the real situation on the labour market in the Czech Republic or about their rights. The Ministry of the Interior had estimated that 12 000 foreign employees would have been made redundant by the end of March 2009.

161. In response to this situation, the Czech government introduced a package of measures in February 2009, including restrictions on the issue of long-term visas, measures to increase the liability of employers illegally employing foreign workers, and increased checks on job agencies and on foreigners themselves. At the same time, a pilot project was implemented to encourage foreigners having lost their jobs to return to their home countries. Under this project, aimed to achieve the return over a period of eight months of 2000 workers having lost their jobs due to the economic crisis, the government covers the cost of the flight home of jobless foreigners volunteering to leave the country, and pays them a sum of 500 EUR. In explaining the background to the pilot measure, the government pointed both to the far greater expense that would be involved in identifying and deporting migrants in an illegal situation and to the government's concern that migrants in an illegal situation may turn to crime to support themselves, as well as to the difficulties faced by migrant workers who may wish to leave but in many cases have taken out substantial loans in their home countries in order to fund their move to the Czech Republic; for these workers it may be very difficult to return to their country of origin unless their debt is able to be repaid. The authorities have emphasised that a key aim of these measures is to maintain the dignity of migrant workers (who could choose to return voluntarily or, as a result of the limited issuance of new visas, would have more chances of finding adequate work), and that alternative proposals put forward by the private sector or NGOs would not have provided adequate or dignified solutions. The project has, however, been criticised both by political leaders and organisations working with migrants, who have expressed concern not only that, given its small scope, it will in fact do little to solve problems on the labour market, but also that it may serve above all to stigmatise migrants. Representatives of the Vietnamese community have also asked the Ministry of the Interior to consider other possible options.
162. ECRI recognises that the problems posed by the economic crisis are complex and far-reaching, and affect the majority population as well as minority groups. It stresses nonetheless the importance of finding solutions that do not have an unjustified negative impact on certain specific groups, such as migrant workers, compared with others.
163. ECRI recommends that the Czech authorities keep under review the impact of measures put in place with respect to migrant workers in response to the economic crisis, in order to ensure that they do not have an unjustified negative impact on migrant workers.

VII. Conduct of law enforcement officials

Handling of complaints of ill-treatment of minorities by the police

164. In its third report on the Czech Republic, ECRI urged the Czech authorities to ensure that allegations of police ill-treatment of members of minority groups were thoroughly investigated and perpetrators of criminal acts brought to justice as rapidly as possible and appropriately sanctioned. It recommended that the procedure related to the investigation of complaints be conducted by an independent investigatory mechanism, and that mechanisms be put in place to encourage victims of police mistreatment to lodge complaints.
165. Incidents of police ill-treatment of minorities, particularly the Roma, continue to be reported. However, NGOs report that the possibility that there may be a racist motive behind such ill-treatment is not always examined in such cases, and that when prosecution occurs, sentences handed down appear light. In late 2008, there were complaints that the police had used disproportionate methods in carrying out a raid on the Sapa Vietnamese market in Prague; and a police officer was reported in January 2009 to be awaiting trial on a charge of causing grievous bodily harm following the death of a Vietnamese man who was beaten, suffering a ruptured spleen, while in police custody. ECRI notes with interest that the Minister of the Interior publicly condemned this act.
166. The authorities have referred to the Police of the Czech Republic Act (No. 273/2008 Coll.), which has now come into effect, indicating that its provisions should contribute to solving the issue of police violence against minorities. Section 9 of the Act requires police officers and civil police employees to observe rules of politeness and respect the honour, esteem and dignity of others as well as their own; this obligation is further elaborated on in the Police Code of Conduct. Section 11 places police officers and civil police employees under an obligation to ensure that no person suffers unreasonable harm due to their intervention. Section 97 of the Act governs public control of the police, both on and off duty. The authorities have indicated that individuals who consider they have been wrongly treated by a police officer can complain to the Cabinet of the Ministry of the Interior, the Police Presidium or the Police Administration in their district. In addition, the authorities co-operate with two NGOs and with the office of the Ombudsman, who may receive such complaints. Draft legislation has also been prepared on the establishment of a general inspectorate of security forces, which would be responsible for investigating allegations of misconduct of members of the Czech security forces. This body would replace the current mechanism within the Ministry of the Interior and would report directly to the government.
167. ECRI reiterates its recommendation that the Czech authorities ensure that allegations of police ill-treatment of members of minority groups are thoroughly investigated and that perpetrators of criminal acts brought to justice as rapidly as possible and appropriately sanctioned, in order to send the message to society that such behaviour on the part of the police is not tolerated and will be punished.
168. ECRI strongly encourages the Czech authorities to establish as soon as possible an independent investigatory mechanism for the investigation of complaints against the police, in which all phases of the investigation are conducted and overseen by a body independent of the Police and Ministry of the Interior.
169. ECRI recommends that the authorities keep under review the adequacy of mechanisms currently in place to enable victims of police mistreatment to lodge complaints. It notes that third-party reporting through contact points that are independent from the police force, with responsibility for receiving and following up such complaints, can be effective in this respect. It stresses the importance of ensuring that free legal aid is available for victims where necessary.

National Strategy on Policing Minorities

170. In its third report on the Czech Republic, ECRI urged the Czech authorities to implement fully the National Strategy on Policing Minorities, including at the local level, and to provide the resources necessary for its success.
171. A National Strategy on Policing Minorities has been in place since January 2003. It focuses on educating police officers about policing minorities; developing mechanisms to employ persons belonging to national minorities in the Czech Police; reducing the risk that persons with xenophobic attitudes will be employed by the Czech Police; incorporating principles for the conduct of police officers in relation to minorities into the Code of Conduct of the Czech Police; carrying out surveys to gain a picture of the relationship between the police and minorities; and establishing a framework for preventive police activities in relation to minorities. The Strategy was updated for 2006-2007, and again for 2008-2011.
172. ECRI notes that efforts have been made in all of the above fields and that the authorities have been able to report progress. Training on the policing of minorities has for example been incorporated into the further education of secondary police school students, basic professional training and the continuing education of serving police officers. The establishment of Liaison Officers for minority issues in regional police administrations, complemented by Police Assistants in socially deprived areas, has been well evaluated. Another successful initiative has been the organisation of summer camps for socially deprived Roma children by police in northern Moravia. Nonetheless, the authorities' analysis of the strategy's impact to date shows that there remains considerable room for progress, for example with respect to the recruitment of qualified police officers belonging to national or ethnic minorities. NGOs also report that police officers tend to associate Roma or foreigners with criminality, but that where crimes are perpetrated against the Roma by non-Roma, these tend to be downplayed by both the authorities and the general public.
173. ECRI urges the Czech authorities to implement in full the measures set out under the National Strategy on Policing Minorities, to ensure that this is also done at the local level throughout the country, and to provide all the resources necessary to ensure that the implementation of the strategy is successful in improving relations between minorities and the police.

VIII. Monitoring racism and racial discrimination

174. In its third report on the Czech Republic, ECRI recommended that the Czech authorities establish a monitoring system that would enable the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. It indicated that such a system should pay due respect to the principles of confidentiality and the voluntary self-identification of persons belonging to a particular group, and should also take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

175. ECRI notes that, although figures are collected with respect to hate crimes, there continues to be a general lack of data disaggregated by ethnicity that could help to build a broader picture of the overall situation of persons belonging to various national or ethnic groups in the Czech Republic – for example in the fields of education, employment or the institutionalisation of children. It regrets that the absence of such data makes it difficult for the authorities not only to adopt targeted policies to reduce inequalities, but also to monitor the effectiveness of such measures, and to adapt the measures if and where results show that changes are needed.
176. ECRI recognises that the collection of ethnic data is a sensitive issue, but emphasises that it can also play an important role in measuring whether some groups are disproportionately adversely affected by given phenomena, whether programmes designed to assist certain groups are effectively achieving their goals, and whether new or different measures need to be taken to redress such situations. Provided that certain key requirements are met – that is, that any data collected is anonymous, confidential, used only for the purposes for which it is collected, and is collected on a voluntary basis – the collection and publication of data broken down according to ethnicity can act as a key element in effectively fighting discrimination.
177. ECRI reiterates its recommendation that the Czech authorities establish a monitoring system to enable the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. Such monitoring should also take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination. It should be carried out with due respect to the principles of data protection and privacy and should be based on a system of voluntary self-identification, with a clear explanation of the reasons for which information is collected.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of the Czech Republic are the following:

- ECRI strongly encourages the Czech authorities to complete the work presently under way in drafting and enacting a law on legal aid as soon as possible, and no later than two years following the publication of this report, and emphasises the importance of making provision in such a law for legal aid to be granted in cases where racial discrimination is at stake. ECRI draws the authorities' attention to the recommendations made in this respect in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
- In order to give additional impetus to the process of including every Roma child in ordinary streams of education, with the sole exception of those in need of specialised education due to severe mental disability or multiple disabilities, ECRI urges the authorities at the relevant levels to transfer substantial numbers of children from specialised primary schools to ordinary education, based on clear and ambitious yearly targets. The implementation of these targets should be monitored and a national supervisory mechanism set up to ensure that the relevant authorities are held to account for the results achieved.
- ECRI strongly urges the Czech authorities to develop and put in place, as a matter of high priority, a coherent system of social housing in the Czech Republic, including a clear definition both of the concept of social housing itself and of the social criteria to be applied in allocating it to persons in need.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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