EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

REPORT
SUBMITTED BY THE GOVERNMENT
ON FOLLOW-UP
TO COMPLAINT No. 190/2020

European Roma Rights Centre (ERRC) v. the Czech Republic

Registered by the Secretariat on 14 September 2026

Follow-up to the decision of the European Committee of Social Rights in case no. 190/2020

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Report submitted by the Czech Government on 14 September 2026

I. INTRODUCTION

In its decision of 18 October 2023, the European Committee of Social Rights ("the ECSR") found a violation of Articles 16 and 17 of the European Social Charter of 1961 ("the Charter"), both read in the light of the non-discrimination clause of the Preamble of the Charter, on account of the fact that the Czech Republic has failed to adopt sufficient measures aimed at mapping the extent of the discrimination risk in terms of over-representation of Roma children in the institutions of public care, which is a crucial instrument for implementing effective anti-discrimination policies in this area.

According to the ECSR, these measures can consist of collection and analysis of statistical data on the basis of ethnicity or other concrete steps to identify the extent of the discrimination risk with regard to institutionalised children belonging to vulnerable groups. The ECSR has concluded that the lack of data and statistic on ethnicity and the lack of alternative means to assess the extent of the problem of over-representation of Roma children under public care amounts to indirect discrimination.

On the other hand, the ECSR has not found sufficient evidence showing that there is direct discrimination against Roma children in the practice of institutional care.

On 5 June 2024, the Committee of Ministers of the Council of Europe adopted Recommendation CM/RecChS(2024)2. Having regard to the response submitted by the Government on 19 March 2024, the Committee of Ministers recommended that the Czech Republic:

- pursue without further delay its efforts to improve monitoring and data collection on Roma children in state care institutions;
- indicate the measures and actions taken in this respect, including the methodological, legal and organisational framework for ethnic data collection eventually adopted, in the report on the follow-up to this decision to be submitted in two years' time.

The present report is intended to inform the ECSR of the measures that have already been or are planned to be undertaken to implement the above-mentioned decision of the ECSR and the recommendation of the Committee of the Ministers.

II. MONITORING THE PROPORTION OF ROMA CHILDREN IN PUBLIC INSTITUTIONS AS A STRATEGIC GOAL OF THE CZECH REPUBLIC

The Government are aware of the importance of monitoring the proportion of children in the institutions of public care on the basis of their ethnicity in order to address a risk of discrimination. This problem has been already identified by the ECSR in the case of *ERRC and MDAC v. the Czech Republic* (no. 157/2017, decision of 17 June 2020). The ESCR has held that when it is generally acknowledged that a particular group of children is or could be faced with disproportionate care risks in comparison with the majority of the population, States have an obligation to collect data on the extent of the problem. The collection and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of an adequate policy and the adoption of appropriate measures to ensure the social and economic protection the children in question need (see the ECSR decision, § 172).

Indeed, the Government have already included this goal into their *Strategy for Roma Equality, Inclusion and Participation (Strategy for Roma Integration)*, adopted in 2021 and available here, which within the time frame 2021–2030 explicitly aims for:

- monitoring the number of Roma children in diagnostical institutions, correctional facilities and children's homes with a school (measure C.2.6 of the Strategy);
- collection and analysis of statistical data concerning institutional and educational care with respect to Roma children, including care in residential facilities where school education is not provided (measure C.3.1 of the Strategy); and
- carrying out surveys on the number and situation of Roma children and young people in institutional facilities and in alternative family care (measure G.3.2 of the Strategy).

III. RAISING AWARENESS AND NEGOTIATIONS ON THE STATE LEVEL CONCERNING THE IMPLEMENTATION OF THE ECSR DECISION

The Ministry of Justice published the Czech translation of the ECSR decision and its summary in its online database of the international human rights case law (mezisoudy.cz) and the summary also in the Government Agent's Newsletter No. 2/2024. In addition, both the translation of the decision and its summary have been sent to all the public authorities involved in these cases.

The execution of the ECSR decision was further discussed at the 10th meeting of the Committee of Experts for the Execution of Judgments of the Court and the Implementation of the Convention[1] held in May 2024 (the background materials for this meeting, as well as the summary of the debates, are available online). The case was covered by the background materials also at the 11th meeting of the Committee of Experts which took place in December 2024, the 12th meeting that took place in May 2025, and the 13th meeting which took place in April 2026.

Simultaneously, the Office of the Government Agent initiated a series of negotiations among the relevant state authorities to discuss the implementation of the ECSR decision. These authorities include the Government Commissioner for Roma Minority Affairs, the respective ministries, the Office of the Ombudsman, as well as the Office for Personal Data Protection. The negotiations have taken place partly within the exchange of written submissions, but also via several in-person meetings of all parties involved.

The following outline of measures adopted or in the process of adoption represents a summary of the results of these discussions.

IV. THE TYPES OF PUBLIC CARE INSTITUTIONS COVERED BY THE ECSR DECISION

In its decision, the ECSR has stated that it does not deem it necessary to distinguish between different types of institutions providing public care: the State's positive obligation to take targeted and efficient measures to ensure that the rights that are open to all are genuinely accessible by and to all, arises whenever it is known or ought to have been known that a particular vulnerable group of children is being placed in care outside their home, is or could be discriminated against (see the ECSR decision, § 96).

The Government, after the negotiations described above, identified the following institutions of public care which should be covered by the implementation of the ECSR decision:

[1] Established in 2015, it is the Government Agent's advisory body which serves as a forum for analysing and formulating recommendations to the authorities in terms of suitable measures to be adopted for the purpose of implementing the decisions of the European Court of Human Rights, as well as of other international human rights bodies including the ECSR. It is composed of representatives of all ministries, both Chambers of Parliament, highest courts, Office of the Supreme Public Prosecutor, Office of the Public Defender of Rights, academic staff and members of various NGOs operating in the field of fundamental human rights.

- **children's homes** (*"dětské domovy"*) and **children's homes with a school** (*"dětské domovy se školou"*), as well as **diagnostical institutions** (*"diagnostické ústavy"*) and **correctional facilities** *("výchovné ústavy"*), which are all institutions belonging under the auspices of the Ministry of Education, Youth and Sports ("Ministry of Education");
- **homes for persons with disabilities** (*"domovy pro osoby se zdravotním postižením"*) – establishments belonging under the auspices of the Ministry of Labour and Social Affairs.

The Government note in this connection that children's homes for children under the age of three (so-called children's centres which were addressed by the above-mentioned ECSR decision in the case of *ERRC and MDAC v. the Czech Republic*) were entirely abolished in the Czech Republic by 31 December 2024.

V. ETHNIC DATA COLLECTION IN PUBLIC CARE INSTITUTIONS COVERED BY THE ECSR DECISION

In all of the above-mentioned types of public care institutions, which the Government identified as being covered by the ECSR decision, **ethnic data collection has already started**.

In the following part of their follow-up report, the Government will describe in detail the modalities and results of this data collection, as well as the ongoing effort of the State to create a unified methodological guidance with respect to all types of ethnic data collection by public authorities in the Czech Republic.

A. Ethnic data collection in children's homes, children's homes with a school, Diagnostical institutions and correctional facilities

In the institutions belonging under the gestion of the Ministry of Education, i.e. in children's homes, children's homes with a school, diagnostical institutions and correctional facilities, the first data collection had already been carried out in early 2023, and the second data collection followed after the delivery of the ECSR decision, in 2025.

The goal of the **first** data collection in **2023** was to achieve a qualified estimation of a number of children in the above-mentioned institutions who are of Roma origin. The data collection combined two methodological approaches: first, the self-identification method, and second, the third-party identification method. That meant, in practice, that the establishments in question were invited by the Ministry of Education to estimate, *first*, the number of children in their care who identify themselves as Romas, and *second*, the number of children in their care who are likely to be considered Romas by third parties based on their characteristics such as physical appearance, name or ethnicity of their parents. This data collection concerned also children of mixed origin (i.e. when only one of the parents belongs to Roma ethnicity).

As for the response rate of this survey, around 99 % of the above-mentioned establishments operating in the Czech Republic replied to the questionnaire sent by the Ministry of Education.

The survey was carried out anonymously, i.e. the Ministry received only aggregate estimates from each institution; no names or other direct identifiers of individual children were transmitted to the Ministry.

According to the results of this survey, out of all children placed in the public care institutions specified above, there were approximately 46–69 % of Roma children in 2023, depending on the type of institution concerned: 46 % in diagnostical institutions, 54 % in children's homes, 60 % in correctional facilities and 69 % in children's homes with a school.

Details of the 2023 survey can be found in a report published by the Ministry of Education in June 2024, which is available here.

In **2025**, the Ministry of Education carried out the **second** ethnic data collection in the above-mentioned institutions. In this survey, the same list of indicators of Roma origin was used by the Ministry which has also been used since 2024 for qualified estimations of the number of Roma children in pre-school facilities, as well as elementary and secondary schools. This list includes physical appearance, family origin, name, use of Roma language or dialect, involvement of the child or their family in activities connected with Roma minority, cultural habits and place of residence; the full list is available here.

The results of this survey are still being processed and have not yet been published. According to the preliminary information provided by the Ministry of Education, this second ethnic data collection covered 168 of 199 institutions specified above and 5,315 of a total of 6,366 children residing in these institutions, corresponding to 84.4 % of institutions and 83.5 % of children. Out of these children covered by the survey, approximately 46.4 % were identified as displaying indicators of Roma ethnicity or as self-identifying as Roma (2464 out of 5315 children). The largest age group among the children identified in this way was the 12–15 age group, and 92 % were reported to have at least one sibling.

As the 2023 and 2025 surveys differed in both methodology and coverage, the figures should not be interpreted as demonstrating a decrease in the proportion of Roma children between the two years.

The Ministry of Education plans to publish the results of the second survey in November 2026.

The Ministry intends to **continue** this ethnic data collection periodically – **every two years.**

The data collected by the Ministry of Education are **used for analytical and policy-making purposes** at the system level.

The 2023 survey provided an evidence base for the preparation of the Ministry's policy framework for children at risk, consideration of amendments to Act No. 109/2002 Coll. (Act regulating Institutional Education or Protective Care in Educational Facilities), and planning of the network and specialisation of residential educational institutions.

The results of the 2025 survey will be used to provide a more detailed understanding of the situation and needs of children across different types of institutions, to monitor the extent and structure of the over-representation of Roma children, and to identify areas in which preventive, family, educational or specialist support should be strengthened. The results will also inform the establishment of regular monitoring and the subsequent evaluation of systemic measures over time. Only aggregated results will be published. The data will not be used to make decisions concerning individual children, to profile them on the basis of ethnicity, or to rank individual institutions.

B. Ethnic data collection in homes for persons with disabilities

In **2024**, the Ministry of Labour and Social Affairs carried out the **first** ethnic data collection concerning children in homes for persons with disabilities.

This survey was based on a similar methodology and indicators of ethnicity as the survey of the Ministry of Education (see previous chapter). It also concerned both children of Roma origin and of mixed origin, and data were collected anonymously.

The response rate of this survey was 100%: the Ministry of Labour and Social Affairs obtained feedback from all homes for persons with disabilities existing in the Czech Republic which have in their care at least one person under 18 years of age.

According to the results of this survey, out of all children placed in homes for persons with disabilities, there were approximately 21 % of Roma children and 2 % of children of mixed origin in 2024. The survey also breaks down the relevant data according to 14 regions of the Czech Republic.

Details of the 2024 survey can be found in a report available here.

The Ministry of Labour and Social Affairs, too, plans to carry out this ethnic data collection **periodically**, with the **considered interval of two years**.

The **data collected** by the Ministry are **used** in particular in raising awareness regarding alternative family care and in the campaigns focused on finding new substitute carers. Furthermore, the data are also employed with respect to fulfilment of the goals of the action plans listed in the *National Strategy for the Protection of Children Rights 2021–2029*, available here.

As for the first action plan, relating to years 2021–2024, the data are relevant especially for goal A2 (creation of a new approach to a modern alternative care), B1 (creation of a guaranteed network of support and services for families and children), B3 (transformation of residential facilities for children, with the emphasis on outreach and outpatient services), C1 (development and sharing of good practices in work with families and children) and C2 (creation of a complex system of education and professional support for persons working with children in danger).

With regard to the second action plan for years 2026–2029, the data will be used mainly for goal B4 (development of specialized and professional alternative care), C1 (finalisation and introduction of methodical materials for preparation and accompaniment of substitute carers) and C2 (methodical and expert support of the social workers and regional offices).

In addition, the Ministry uses the data to assess the fulfilment of the goals listed in the *Strategy for Roma Integration*, referred to above (Section II of this report).

VI. CREATION OF A UNIFIED METHODOLOGICAL GUIDANCE ON ALL FORMS OF ETHNIC DATA COLLECTION BY PUBLIC AUTHORITIES

Furthermore, the Government note that in its decision, the ECSR has emphasized that the choice of methodology and of concrete measures in this area falls within the State's margin of appreciation (see the ECSR decision, § 104).

It transpired from the series of negotiations with all relevant state authorities, referred to above, that since the ethnic data collection is or could be carried out not only in the public care institutions covered by the ECSR decision, but also in various other facilities (such as schools and pre-school facilities) or contexts (e.g. access to substitute family care, employment or housing), the most comprehensive solution would be to create a single unified methodological guidance for all forms of ethnic data collection by public bodies in the Czech Republic.

This proposal was also welcomed by the Czech Government Council for Roma Minority Affairs in December 2024; for details, see here.

The draft of this unified methodological guidance has been elaborated since 2024 under the auspices of the Office of the Government Agent and with the participation of the following bodies: Government Commissioner for Roma Minority Affairs, Ministry of Education, Ministry of Labour and Social Affairs, Ministry of Regional Development, Office of the Ombudsman, Office for Personal Data Protection, representatives of the Roma minority in the Czech Republic, as well as the FRA Agency.

Two in-person meetings of the representatives of all these bodies were already organised by the Office of the Government Agent in November 2024 and November 2025; the third meeting is planned for October 2026.

The process of the creation of the unified methodological guidance is a very complex one precisely because this guidance aims to cover all forms of ethnic data collection by public authorities in the Czech Republic, which can have, and often do have, a very diversified nature, purpose and context. Currently, the biggest challenges with regard to the content of the methodological guidance concern the following five issues:

- First, **the self-identification method versus the third-party identification method**; which one should be given a priority, if any? The self-identification method is more aligned with a human rights approach based on self-determination, but in practice, it can be complicated by the fact that many persons belonging to Roma ethnicity do not wish for various reasons to declare their origin (in the last population census in 2021, only 21.691 persons

declared Roma origin, whereas according to qualified estimates, there are about 250.000 Romas living in the Czech Republic; see *Strategy for Roma Integration*, referred to above in Section II of this report). In addition, from the perspective of a potential discrimination, it is usually decisive how a particular person is perceived by the others, rather than how they identify themselves.

- Second, **verification of data collection**: in case of the third-party identification method, should it be necessary that a third party verify the qualified estimations of data collection (e.g. estimations made by personnel of the public care institutions), and if so, which public body or bodies should be in charge of this verification? Furthermore, shall a mandatory verification by representatives of Roma minority be introduced, or merely an optional one? Again, the mandatory verification by Roma community fits better with the human rights approach, but in practice, its realization can encounter many practical difficulties.
- Third, **anonymity of the data collection**. While the surveys carried out by the Ministry of Education and by the Ministry of Labour and Social Affairs in public care institutions, as described above, are always strictly anonymous, there are other forms of ethnic data collection currently underway in the Czech Republic which are based on the self-identification method and where, in the first stage of the data collection, personal data (such as name or date of birth of the person in question) are listed on the same document as the (optional) entry on the ethnicity of the person concerned. An example of such an approach can be found in the questionnaire of the Ministry of Labour and Social Affairs, aiming to map the success rate of the programs for employment support, financed from the EU funds; for details see here. In the light of the existence of this second scenario, the methodological guidance cannot claim in absolute terms that all forms of ethnic data collection by public bodies in the Czech Republic are always – and in all stages – anonymous. And that leads to the next question: what does it mean for the applicability of the requirements and limitations imposed by the EU General Data Protection Regulation ("GDPR"), and what are the consequences in the area of ethnic data collection?
- Fourth, **transparency of data collection and informing the persons concerned.** Given the historical experiences of the Roma minority and the continuing distrust towards the collection of data on ethnic origin, it is necessary to clarify to what extent and in what form persons whose ethnicity is being recorded or estimated should be informed about this practice. In particular, it remains an open question whether such information should be mandatory even in cases of third-party identification, how the legal representatives of minors should be informed, and whether a central register of all ongoing ethnic data collection exercises should be established. The aim of these measures is to strengthen trust in the data collection process and to prevent concerns that certain population groups are being recorded without their knowledge.
- And fifth, **the definition of indicators used for external identification and their practical application.** The draft of the methodological guidance envisages that qualified estimates of ethnic affiliation will be based on a range of indicators, such as an individual's self-identification, the way they are perceived by others, family background, language, or participation in community life. However, discussions are still ongoing regarding the weight that should be assigned to individual indicators, whether some indicators are, in themselves, sufficient to conclude that a person belongs to the Roma ethnic group, and how different indicators should be combined in practice. At the same time, it is necessary to take into account the changes in the linguistic and cultural reality of the Roma population and to ensure that the external identification process is as uniform, predictable, and methodologically consistent as possible across different areas of public administration.

In addition, parallel to the work on the creation of this unified methodological guidance, and for the purposes of its subsequent implementation in practice, the Office of the Government Agent

commissioned an **anthropological study** at the University in Pilsen. The aim of the study is to identify, based on in-depth interviews with adult people of Roma origin living in the Czech Republic, whether, in which contexts and for what reasons the respondents are unwilling to identify themselves as belonging to this ethnicity. On the basis of the results of this study, the state bodies will be better equipped to propose measures which might eliminate the issues leading some Roma people to refuse self-identification. The study should be completed by the end of September 2026.

As noted above, the third and hopefully final meeting of public authorities working together on the unified methodological guidance for ethnic data collection is scheduled for November 2026. Thus, the finalisation and publication of this guidance is expected in a near future.

VII. CONCLUSION

In the light of the above information, and especially taking into consideration that

- after the delivery of the ECSR decision, ethnic data collection has been launched by state bodies in all types of public care institutions which the Government identified as being covered by the decision, the results of the first round of the relevant surveys have already been published, and the data collection is planned by the respective authorities to become a periodic one; and
- a comprehensive methodological guidance aiming to cover all forms of ethnic data collection by public bodies in the Czech Republic is about to be completed;

the **Government of the Czech Republic conclude that the measures undertaken and in the process of being adopted are sufficient to remedy the violation found by the ECSR.**