

# **ECRI REPORT ON THE CZECH REPUBLIC**

**(fifth monitoring cycle)**

Adopted on 16 June 2015

Published on 13 October 2015

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## FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, anti-Semitism 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 takes 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 2007, and those of the fourth round will be completed at the beginning of 2014. Work on the fifth round reports started in November 2012.

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

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both 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 ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

**The following report was drawn up by ECRI under its own responsibility. It covers the situation up to 19 March 2015; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**





## SUMMARY

**Since the adoption of ECRI's fourth report on the Czech Republic on 2 April 2009, progress has been made in a number of fields.**

The Anti-Discrimination Act was enacted in 2009. The Public Defender of Rights was designated as the Czech Republic's equal treatment and anti-discrimination body.

A Strategy for Combating Extremism has been drawn up. Police officers in the criminal police specialised in extremism are now included in every regional police department and anti-conflict teams are deployed during public gatherings. Extremists are currently less radical and less visible. The extreme right Worker's Party was dissolved by the Supreme Administrative Court in 2010.

The authorities plan to make the last year of preschool compulsory for all children. Amendments to Article 16 of the Schools Act introducing measures to support children with special education needs in an individual manner in mainstream schools were adopted.

Regional Integration Support Centres for Foreigners have been set up in all regions of the country. A bill on social housing will be prepared in 2015 and is expected to enter into force in 2017.

In 2009, a Committee for Sexual Minorities was set up within the Government Council for Human Rights. A Campaign against Racism and Hate Violence targeting young people aged 15-25 is due to be conducted in 2016 with the focus on "vulnerable minority communities", including Roma and LGBT.

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

The Public Defender of Rights does not possess the necessary powers and responsibilities to combat racial discrimination effectively. The Anti-Discrimination Act sets out a complex regime concerning the sharing of the burden of proof which is limited by grounds to certain fields of discrimination only.

Roma and immigrants are the most common targets of hate speech and Muslims have recently become victims of increased Islamophobia. The leader of a right-wing populist party is responsible for most of the intolerant speech. Criminal action is ruled out too easily and the hate speech provisions are rarely applied.

Right-wing extremist groups organised a series of 26 anti-Roma demonstrations and protests throughout 2013. They all involved inflammatory speech, intimidating marches in Roma neighbourhoods, rioting and serious clashes with the police.

The Concept for Roma Integration and Strategy for Combating Social Exclusion have had little effect. Many "Roma-only" schools continue to exist providing a reduced curriculum and lower-quality education. Discrimination and prejudice are still the key factors hindering labour market integration of Roma. Discrimination in housing has led to Roma having to rent accommodation in private hostels or dormitories at extremely high prices.

No specific and measurable targets have been fixed for transfers of Roma children from practical to ordinary education and none appear to have taken place in practice.

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

The provisions of the Anti-Discrimination Act on the sharing of the burden of proof should apply in all cases and on all grounds. The authorities should carry out their plans to enlarge the competences of the Public Defender of Rights; the new legislation should also find a solution to prevent conflicts between the Public Defender and his/her deputy.

The Criminal Code provisions on violence against a group of persons or an individual, defamation and incitement to hatred should include specific references to the grounds of sexual orientation and gender identity.

The authorities should carry out their plans to introduce at least one year of compulsory and free of charge preschool for all children before entry to mainstream primary education.\* Ways should be identified to reduce the number of Roma pupils in practical schools following re-diagnosis using updated methods.

The authorities should go ahead with their plans to enact a law on social housing and undertake a wide consultation beforehand, including with the Roma community. The practice of subsidising exorbitant rent for sub-standard accommodation in hostels and dormitories for Roma should be stopped.

A solution should be found in order to relocate the pig farm away from the Roma Holocaust site in Lety.

The Campaign against Racism and Hate Violence should focus primarily on the Roma, and Roma people and Roma organisations should be fully involved in its conception, planning and implementation.

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\* This recommendation 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. Common topics

#### 1. Legislation against racism and racial discrimination<sup>1</sup>

##### - Protocol No. 12 to the European Convention on Human Rights

1. The Czech Republic signed Protocol No. 12 in 2000 but has still not ratified it, nor has it taken any steps towards ratification, according to the authorities. ECRI considers ratification of this instrument, which provides for a general prohibition of discrimination, to be vital in combating racism and racial discrimination.

2. ECRI reiterates its recommendation urging the Czech Republic to ratify Protocol No. 12 to the European Convention on Human Rights.

##### - Criminal law<sup>2</sup>

3. Section 356 of the Criminal Code (incitement to hatred) punishes with up to two years imprisonment anyone who publicly incites hatred against any “nation, race, ethnicity, religion, class or other group of persons”. As compared to ECRI’s General Policy Recommendation (GPR) No. 7 § 18 a, incitement to violence and to discrimination are missing. Furthermore, there is no reference to the grounds of colour and language; the authorities considered both of these covered by the concepts of race and ethnicity. As for citizenship, they stated that it is included under the term “nation”, although there is no case law to confirm this.

4. Section 355 (defamation) punishes with up to two years imprisonment anyone who publicly defames: a) any nation, its language, any race or ethnic group or b) any group of persons on account inter alia of their actual or perceived race, ethnicity, nationality or religion. Public insults are not mentioned, nor is the ground of colour, as per GPR No. 7 § 18 b.

5. Section 352 (violence against a group of persons or an individual) punishes with six months to three years imprisonment anyone who uses violence against a group of persons or individuals, or threatens them, on account inter alia of their actual or perceived race, ethnicity, nationality or religion. Compared with ECRI’s GPR No. 7 § 18 c, the elements of colour and language are again missing.

6. ECRI notes that all three of the above-mentioned sections contain provisions punishing (with higher prison sentences) the commission of the relevant offences via press, film, radio, television, publicly accessible computer networks or other similar means,<sup>3</sup> in accordance with its GPR No. 7 § 18 f.

7. There are no provisions in the Criminal Code covering the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on grounds of their race, colour, language, religion, nationality, national or ethnic origin, as per ECRI’s GPR No. 7 § 18 d.

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<sup>1</sup> According to ECRI’s General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination, “racism” shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. “Racial discrimination” shall mean any differential treatment based on a ground such as race, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

<sup>2</sup> The following analysis compares the provisions of the Czech Criminal Code of 2009 with the standards set in ECRI’s GPR No. 7, focusing mainly on the lacunae.

<sup>3</sup> ECRI assumes that this includes written materials other than via the press.

Nor are there any punishing racial discrimination in the exercise of one's public office or occupation, contrary to what is recommended in GPR No. 7 § 18 h.

8. ECRI is pleased to note that, in line with paragraph 21 of its GPR, Section 42 (b) of the Criminal Code specifically refers to "racist, ethnic, religious, or other similar hatred" as aggravating circumstances that judges are required to take into account when sentencing offenders.
9. As for criminal liability of legal persons, according to GPR No. 7 § 22, ECRI notes that this is regulated under the 2011 Law on Criminal Liability of Legal Persons and on Criminal Proceedings Against Them: a legal person can be prosecuted for committing offences under the above-mentioned Sections 352, 355, 356, as well as Sections 404 (expression of sympathy with a movement aiming at restriction of personal rights and freedoms) and 405 (denial, discrediting, approval and apology of genocide).
10. ECRI recommends that the authorities revise the Criminal Code to include the following key elements in the fight against racism and racial discrimination: the offences of incitement to violence and to discrimination; public insults of a racist nature; the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons; and racial discrimination in the exercise of one's public office or occupation. They should also include the grounds of colour and language in Sections 352 and 356 and add colour to Section 355, and assess the need for further changes should an analysis of the case law show gaps in connection with citizenship.

- **Civil and administrative law**

11. In its fourth report, ECRI urged the Czech authorities to adopt a comprehensive act concerning the provision of equal treatment and protection against discrimination, in particular racial discrimination. ECRI is pleased to note that in April 2009, the Anti-Discrimination Act (hereafter the Act) was enacted. It contains provisions on equal treatment and prohibition of discrimination inter alia in the fields of employment, health care, education, welfare, and access to goods and services, including housing.
12. Direct and indirect discrimination are prohibited on a closed list of grounds: race, ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions. On comparison with ECRI's General Policy Recommendation (GPR) No. 7 on national legislation to combat racism and racial discrimination, the grounds of colour and language are missing. Although the authorities stated that these are covered under race and ethnic origin, ECRI recommends their explicit inclusion in the Act. It considers that the term "nationality" does not exclude the prohibited ground of citizenship, but there is no case law to confirm this.
13. The Act lists as forms of discrimination, harassment, victimisation, instruction to discriminate and inciting discrimination. Contrary to what is recommended in § 6 of GPR No. 7, segregation, discrimination by association, announced intention to discriminate and aiding another to discriminate<sup>4</sup> are missing.
14. There is also no mention in the Act of any duty for public authorities to promote equality and to prevent discrimination in carrying out their functions, in accordance with GPR No. 7 § 8. Furthermore, no provisions correspond to § 9 of

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<sup>4</sup> According to the European Court of Justice in the case of *Centrum voor gelijkheid van kansen en voor racismebestrijding v. Firma Feryn NV* (Case C-54/ 07), when the intention to discriminate is announced, it constitutes direct discrimination. The authorities assert that this interpretation is applied in the Czech Republic. Similarly, they consider that aiding another to discriminate is in fact discrimination in itself. ECRI nevertheless call for these elements to figure clearly in the Anti-Discrimination Act.

GPR No. 7 on the duty of public authorities to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination.

15. Part Three of the Act<sup>5</sup> defines a specific and complex regime concerning the sharing of the burden of proof. Contrary to § 11 of ECRI's GPR No. 7, this provision does not apply generally in all discrimination cases; it is limited by grounds to certain fields of discrimination only. For example, in the areas of health care, employment, education and access to housing, the burden of proof is only shared in cases where discrimination is alleged on grounds of racial or ethnic origin. ECRI regrets that a law intended to combat discrimination actually creates inequality in its application. The Czech Public Defender of Rights has recommended amending the law so that all victims of discrimination have the same procedural rights before the court.<sup>6</sup> Furthermore, ECRI takes note of a report of the European Commission stating that eight member states, including the Czech Republic, had problems in correctly transposing the concept of burden of proof.<sup>7</sup>
16. There are no provisions in the Act corresponding to § 13 of GPR No. 7 on the review, on an ongoing basis, of the conformity with the prohibition of discrimination of all laws, regulations and administrative provisions at the national and local levels and amendment or abrogation of these if found not to be in conformity. Similarly there are no provisions reflecting § 14 on the amendment or declaration as null and void of discriminatory provisions in individual or collective contracts or agreements.
17. ECRI notes that there are lacunae and difficulties in the Act which need to be remedied if it is to function as a comprehensive instrument providing effective protection against racial discrimination.
18. ECRI recommends amending the Anti-Discrimination Act to remedy the gaps identified in paragraphs 12 to 16 of this report. In particular, it strongly recommends that the sharing of the burden of proof should apply in all cases and on all grounds.
19. Lastly, ECRI notes that the new Civil Code, which entered into force on 1 January 2014, provides a civil law response to hate speech. Paragraph 81 contains provisions on protection of personality, in particular life and health as well as freedom, honour, dignity, privacy and expressions of a personal nature. Paragraph 82 provides for a remedy in case of breach of these rights: "A person whose personality has been violated has the right to seek the discontinuation of any unlawful interferences or the removal of the effects".

## **2. National specialised bodies<sup>8</sup>**

20. In its fourth report, ECRI strongly recommended 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

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<sup>5</sup> Amendment to the Code of Civil Procedure, Section 133a.

<sup>6</sup> Annual Report on the Activities of the Public Defender of Rights 2013, p. 18.

<sup>7</sup> European Commission 2014a.

<sup>8</sup> Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

authorities; awareness raising on issues of racism and racial discrimination among society and promotion of policies and practices to ensure equal treatment.

21. According to Part Two (Section 13) of the 2009 Anti-Discrimination Act,<sup>9</sup> the Public Defender of Rights has been designated as the Czech Republic's equal treatment and anti-discrimination body. The Public Defender's mandate is to contribute to the promotion of equal treatment of all persons irrespective of their race, ethnic origin, nationality, sex, age, disability, religion, belief or opinions. His/her tasks are to provide assistance to victims of discrimination in lodging discrimination claims, undertake research, publish reports and issue recommendations on discrimination-related issues.
22. Contrary to the above-mentioned recommendation as well as to ECRI's GPRs No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level and No. 7 on national legislation to combat racism and racial discrimination, the Public Defender of Rights has no investigation powers, no right to initiate and participate in court proceedings, and no right to monitor legislation and advise legislative and executive authorities. On the latter point, ECRI notes that in 2012, the Act on the Constitutional Court of the Czech Republic was amended to grant the Public Defender of Rights observer status in its hearings, including those dealing with the validity of legal acts.
23. Moreover the Public Defender has no specific mandate to raise awareness of issues of racism and racial discrimination and promote policies and practices to ensure equal treatment. His/her role vis-à-vis victims of discrimination is limited to evaluating a case as to whether or not discrimination has occurred and providing a recommendation on whether there is a chance of a successful case before the courts. Free legal aid has been available since 2012 through the NGO Pro Bono Alliance in cases where the Public Defender concludes that discrimination most likely occurred and the victim wishes to pursue the case in court.<sup>10</sup>
24. ECRI considers that the Public Defender does not currently possess the necessary powers and responsibilities to combat racial discrimination effectively. However, it notes with approval that a bill is under preparation, and expected to be enacted and enter into force in 2016, to increase substantially the Public Defender's powers, including by giving her/him the right to initiate and participate in court proceedings concerning discrimination and the right to ask the Constitutional Court to abolish discriminatory laws or parts thereof.
25. ECRI strongly recommends that the authorities carry out their plans to enlarge the powers of the Public Defender of Rights. They should take the opportunity when doing so to ensure that all the elements relating to specialised bodies set out in ECRI's General Policy Recommendations Nos. 2 and 7 are included.

## **II. Hate speech<sup>11</sup>**

26. As observed above, racist hate speech is punishable under the Criminal Code provisions on incitement to hatred and defamation. There is no specific reference to homophobic hate speech. However, Section 356 on incitement to hatred provides a possibility for punishment through open-ended wording ("or against another group of persons"), but Section 355 on defamation sets out a closed list of grounds not including sexual orientation or gender identity. ECRI refers to its recommendation in § 123 of this report.

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<sup>9</sup> Entitled: Amendment to the Act on the Public Defender of Rights.

<sup>10</sup> Pro Bono Alliance 2014.

<sup>11</sup> This section covers racist and homo/transphobic speech. For a definition of "hate speech" see Recommendation No. R (97) 20 of the Committee of Ministers to the member States on "hate speech", adopted on 30 October 1997.

- **Extent of the phenomenon**

27. The Czech Republic collects data on hate crime, including hate speech, but these are not disaggregated by bias motivation.<sup>12</sup> The national bodies responsible for collecting such data are the Police, the Prosecutor's Office and the Ministry of Justice. The data are published annually in the Report on Extremism, prepared by the Security Police Department of the Ministry of the Interior. ECRI notes that the three systems of collecting data differ significantly from each other and are not interconnected in any way. The authorities acknowledge that this incoherence is a handicap, but state that they are currently not able to solve the issue.<sup>13</sup>
28. ECRI recommends that the authorities ensure that a single mechanism for collecting disaggregated data on hate crime, including hate speech, is put in place, recording the specific bias motivation, as well as the follow-up given by the justice system, and that this data is made available to the public.

- **Political and other forms of public discourse**

29. ECRI has been informed from numerous sources that intolerant political discourse is not infrequent, especially around election times. Roma and immigrants are the most common targets, but recently also Muslims have become victims of increased Islamophobia.
30. Much of the intolerant speech comes from the leader of a right-wing populist party, Dawn of Direct Democracy<sup>14</sup> (hereafter Dawn), who is an independent senator. In the 2013 parliamentary electoral campaign, Dawn was noted for its appeal to anti-Roma sentiments, with its leader calling for the Roma to leave the Czech Republic and found their own state or, ideally, return to India.<sup>15</sup> The party obtained 6.88% of the votes and won 14 of the 200 seats in Parliament. Before the European Parliament elections in May 2014, Dawn put up billboard posters of a cartoon herd of white sheep kicking a black sheep off the Czech flag. The slogans read: "Support families not inadaptables"<sup>16</sup> and "Jobs for us not immigrants". The party failed to obtain any seats in the European Parliament.
31. ECRI notes that Dawn's leader, on the eve of Roma Genocide Remembrance Day in 2014, made controversial public remarks about a former concentration camp for Roma. He spoke of it as a lie and a myth, claiming that prisoners only died there as a result of old age or of diseases contracted during their previously itinerant lifestyle.<sup>17</sup> Roma activists and NGOs filed complaints to the police on grounds of Holocaust denial (see § 50).
32. Furthermore, in January 2015, Dawn published on Facebook its "Instruction for protection against Islam", in which the party encouraged people to keep dogs and pigs and to walk them in the vicinity of mosques, as well as advised against eating kebab sold by Muslim vendors.<sup>18</sup>
33. However, ECRI notes that intolerant and racist expression features also in the speech of mainstream parties. The Czech President caused a stir at an official meeting in Liberec in June 2014, when he made controversial comments about

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<sup>12</sup> OSCE-ODIHR 2013: 23.

<sup>13</sup> Ministry of the Interior, Security Police Department 2013.

<sup>14</sup> Dawn of Direct Democracy was founded in May 2013.

<sup>15</sup> Romea.cz 2013.

<sup>16</sup> The term "inadaptable" is a commonly-used euphemism for vulnerable groups, especially the Roma, referring to their criminal or welfare-dependent lifestyle. See also § 35.

<sup>17</sup> Romea.cz 2014a.

<sup>18</sup> Prague Post 2015.

decent housing for the Roma and reinforced deeply rooted stereotypes about their lifestyle.<sup>19</sup> Another senator<sup>20</sup> is also notorious for his offensive statements against the Roma.

34. ECRI notes with concern that the use of the term “inadaptable” to refer to vulnerable groups, in particular Roma, has become a normal expression in public discourse. It is even employed officially; in September 2014, a public meeting on “Safety in the town, coexistence with inadaptables and welfare for housing”, at which a senator was one of the speakers, was held in Jablonec.<sup>21</sup> ECRI considers this form of expression extremely dangerous; by attempting to justify prejudice and intolerance against Roma, it perpetuates and increases them.
35. ECRI strongly recommends that the authorities take steps to ensure that the term “inadaptable” to refer to vulnerable groups, especially Roma, is not used in any official capacity.
36. Although there are a small number of Muslims in the Czech Republic,<sup>22</sup> there has been an increase in Islamophobia recently. Even the President is considered to hold openly anti-Islamic views; he is reported to have said in a 2011 magazine interview that “a moderate Muslim is contradictio in adjecto, or a contradiction, just like a moderate Nazi is contradictio in adjecto”. He also stated that “Islam is not a religion of love, and by no means of tolerance, but a religion of hatred”.<sup>23</sup> Furthermore, a heated political debate was sparked in 2014 after the Public Defender of Rights declared as discriminatory a nursing school’s decision to ban two Muslim students from wearing the hijab headscarf in the classroom.<sup>24</sup> Politicians across the political spectrum, including the President, criticised her statement, arguing that foreigners should respect Czech cultural traditions.
37. Finally, ECRI notes that at the time of the first Prague Pride in 2011, an advisor to the then President labelled homosexuals as “deviant fellow-citizens”. The then President defended him, saying that the term deviant was “value-neutral” and strongly voiced his condemnation of what he called “homosexuality”.<sup>25</sup>

#### - **Extremist groups**

38. In its fourth report, ECRI encouraged the Czech authorities to continue monitoring closely the views expressed by extreme right-wing groups. ECRI notes that the extreme right Worker’s Party, described in its fourth report, was dissolved by the Supreme Administrative Court in 2010.<sup>26</sup> The court stated that this was necessary as the party was ideologically connected with National Socialism and neo-Nazism and supported violence, thus posing an imminent danger to democracy. Moreover, the public speeches of its leaders were

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<sup>19</sup> He stated: “It has to be clarified what the term decent housing means. It means that if I pay rent for the flat I inhabit, I will not ruin it. I will not use the wooden parquet for making a fire on the floor, I will not break the windows and I will not turn the corridors into a garbage can. The right to decent housing also means an obligation to reside in a respectable manner. I don’t care if someone is or isn’t Roma. Everyone should be treated equally. Either one knows how to live decently and to keep up a good relationship with one’s neighbours, or one does not. And if that’s the case, then such a person should lose the right to decent housing.”

<sup>20</sup> Former mayor of Vsetin and responsible for the forced resettlement of Roma families outside the town in 2006, mentioned in ECRI’s fourth report.

<sup>21</sup> Romea.cz 2014b.

<sup>22</sup> 3 358, according to the 2011 census.

<sup>23</sup> The Economist 2013.

<sup>24</sup> Radio.cz 2014.

<sup>25</sup> The New York Times 2011.

<sup>26</sup> The party and its leader lodged an application to the European Court of Human Rights; they did not pursue it and it was struck off the list (Dělnická Strana and Tomáš Vandas, Application no. 70254/10).



systematically aimed at inciting racial hatred and animosity towards Roma, Vietnamese, homosexuals, Jews and other minority groups.

39. The Worker's Party for Social Justice was then set up under the same leadership and with an identical agenda. However, the new party has a much lower profile and failed to gain representation in Parliament (it obtained only 0.86% of votes in the 2013 legislative elections). It is still considered by the authorities as the most significant entity of the Czech right-wing extremist scene, along with its youth organisation, Workers' Youth. Yet, due to its weak position at the edge of the political spectrum, the authorities do not consider it a threat and no action has been taken against it. Several other right-wing extremist groups exist<sup>27</sup> but their significance is considered marginal.
40. Nevertheless, ECRI is very concerned that right-wing extremist groups organised a series of anti-Roma demonstrations and protests throughout 2013. These usually began with racist and inflammatory speeches against "inadaptables" and mostly ended in extreme violence. As ECRI observes in the section below on Racist and homo/transphobic violence, these extremist groups showed their capacity on numerous occasions to incite ordinary local people to acts of violence. ECRI considers that they must be regarded as a threat to society.

- **Traditional media and Internet**

41. The Roma remain the main target of racism in the media. In 2013, a study was conducted on stereotypes in the media image of Roma<sup>28</sup> in which 4 094 news reports from the main daily and weekly newspapers, online news servers and public broadcasting media were analysed during the first eight months of the year. The findings showed that a large part of reporting about Roma is comprised of news of anti-Roma marches, increasing Roma criminality and the growing anti-Roma sentiment of the majority population. Most news items reviewed used the term "Roma", although the labels "Gypsy" and "inadaptable" also cropped up, usually as quotations from people interviewed.
42. ECRI is aware of a reality TV series called Class 8A featuring a class of 14 year olds in a school in Brno. Apart from two or three children, it is an all-Roma class. According to NGOs, the series portrays an extremely negative image of Roma pupils as uneducable and having no ambition or prospects. Moreover, the show has generated heated debate on the programme's website as well as on social media; this revolves almost exclusively around whether the teachers should be stricter with the Roma "slobs", whether the pupils belong in a "practical" school, whether they deserve any education at all, and whether they should just be sent straight to manual labour. ECRI is appalled that this type of show serves no purpose other than to confirm and perpetuate widely held prejudice.
43. Furthermore, a television channel called Prima TV broadcasted a series of news items and reports that aimed to inform viewers about the issue of socially excluded localities. The programme concluded that the presence of socially excluded persons was undesirable and expressed understanding for the activism of members of the ultra-right on this issue.<sup>29</sup> ECRI is very concerned that such programmes could incite hatred, discrimination and even violence against Roma.
44. ECRI notes that in June 2013, a wave of racist hate was expressed on line against the Roma parents of newborn quintuplets (the first ever in the country)

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<sup>27</sup> Such as Free Resistance, Autonomous Nationalists, and Czech Lions.

<sup>28</sup> Newton Media 2013.

<sup>29</sup> Romea.cz 2014c.

and those assisting them, such as a company that donated prams.<sup>30</sup> The babies were referred to as a litter, parasites, black freeloaders, and future clients of the labour office, the prison services and the welfare department. There were calls for the family to be deported “back” to India. On the other hand, ECRI notes that many people supported the couple, who received boxes of clothes and other items donated from the public.

45. According to the 2012 annual report on antisemitism published by the Jewish Community of Prague,<sup>31</sup> there was an alarming increase in manifestations of antisemitism on the Internet during the year (82 recorded incidents as compared with 26 in 2011). Moreover, in 2013 the number of antisemitic posts on the Internet almost doubled.<sup>32</sup> These appeared mostly on anonymous servers, extremist websites or social networks and mainly involved displays of a classic racial, antisemitic nature or that of conspiracy theories. However, according to the report, antisemitism is not present in most of society or the political sphere; extremist or other organised groups do not represent a real safety problem for the Jewish community at present.
46. ECRI notes that a flurry of anti-Muslim hate speech also appeared on social media following the widely publicised case of a medical school’s ban on Muslim girls wearing the hijab in class (see § 36).
47. Finally, ECRI’s attention has been drawn to an Internet platform called White Media, which profiles itself as an information site and an initiative to gather information on and monitor ideological opponents (members of various national, racial, religious, or political groups). NGOs have informed ECRI that it has been running an aggressive campaign against anti-racist activists and its website provides extensive lists of individuals considered to be “enemies” who are then targeted with hate speech, cyber bullying and intimidation. According to the authorities, the activities of this group intensified in 2013.<sup>33</sup>

- **The authorities’ response**

48. ECRI considers hate speech particularly worrying because it is often a first step in the process towards actual violence. Appropriate responses to hate speech include law enforcement channels (criminal, civil and administrative law sanctions) but also other mechanisms to counter its harmful effects, such as self-regulation, prevention and counter speech.
49. As regards criminal law enforcement, according to information provided by the authorities, in the year 2013, 48 persons were prosecuted under Section 355 of the Criminal Code (defamation of a nation, language, race or ethnic group) and 45 were convicted and sentenced. As for Section 356 (incitement to racial, national, ethnic, class or religious hatred), seven persons were prosecuted and one convicted and sentenced. The figures for the year 2012 are similar: 54 persons were prosecuted for defamation and 37 convicted and sentenced, while five persons were prosecuted for incitement and two were convicted and sentenced.
50. ECRI considers these figures to be very low and indicative of the hate speech provisions being rarely applied. It is concerned that criminal action is ruled out too easily. For example, no illegal content was found following the authorities’

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<sup>30</sup> Romea.cz 2014d.

<sup>31</sup> Security Department of the Jewish Community of Prague 2012.

<sup>32</sup> Security Department of the Jewish Community of Prague 2013.

<sup>33</sup> Report on Extremism in the Territory of the Czech Republic in 2013, Ministry of the Interior Security Policy Department, Prague 2013.

analysis of the speeches given during the anti-Roma demonstrations in 2013 (see § 40), yet people were incited to extreme violence. Dawn's leader has been the subject of several investigations for hate speech but no charges have ever been brought. His remarks about the former Roma concentration camp in Lety (see § 31) led to the filing of complaints by NGOs and Roma activists on grounds of Holocaust denial; the police issued a brief response stating that no offence had been committed. Roma and NGOs were outraged and consider that there is an increasing tolerance for hatred on the part of the authorities.

51. In its fourth report, ECRI encouraged the authorities to continue vigorously prosecuting persons responsible for disseminating racist material via the Internet. In this connection, ECRI welcomes the Czech Republic's ratification of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems in August 2014 (entry into force on 1 December 2014). It also notes that there is a cybercrime department in the Czech police which deals with on-line hate crime. However, according to a recent report,<sup>34</sup> although the authorities were increasingly willing to prosecute hate speech on the Internet, extremists often undermined their efforts by placing their pages out of reach on foreign servers, primarily in the United States. For example, the police have not found a way to stop the activities of the web portal White Media (see § 47) because the site is based in the U.S.<sup>35</sup>
52. As for civil law, ECRI notes that in 2013 there were 421 court decisions under paragraph 82 of the Civil Code (protection of personality), although there is no data available on the outcome of these cases. It appears, therefore, that civil law remedies are far more frequently pursued for protection against hate speech.
53. As regards administrative law, the Radio and Television Broadcasting Act of 2001 contains provisions on hate speech. Section 32 (1)(c) states that broadcasters must ensure that their programmes do not incite hatred for reasons relating inter alia to race, skin colour, language, religion, membership of a national or ethnic minority, or other status. Section 32 (1)(i) prohibits the promotion of prejudicial stereotypes of ethnic, religious or racial minorities. The 13-member Council for Radio and Television Broadcasting, an administrative body whose decisions are subject to review by the courts, has the task among others of monitoring the content of television and radio programmes to ensure compliance with the above-mentioned Act. In case of any breach, the Council should first issue a warning and grant a grace period for the broadcaster to take corrective action. If the latter does not comply, administrative proceedings may be initiated which can result in the imposition of financial sanctions. In the case of breach of Section 32 (1)(c), both a warning and a fine may be imposed to the amount of 20 000 to 10 million CZK (around 720 to 360 000 EUR). At present, a breach of Section 32 (1)(i) can only give rise to a warning and a request to the provider to correct the situation, but ECRI is pleased to learn that an amendment is being prepared to permit also the imposition of administrative sanctions. Broadcasting licences may also be withdrawn.
54. The authorities informed ECRI that six warnings have been issued by the Council since 2006 for incitement to hatred under Section 32 (1)(c) and seven warnings for prejudicial stereotyping under Section 32 (1)(i), but that no fine or other penalty has ever been imposed. ECRI regrets the lenient approach of the Council; this impunity allows certain media to continue to use intolerant speech or incite hatred. Prima TV (see § 43), for example, has been issued with warnings

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<sup>34</sup> United States Department of State 2014.

<sup>35</sup> The U.S. authorities are unable to provide legal assistance due to the provisions of the First Amendment to the U.S. Constitution on free speech.

but has never been fined. In ECRI's view this sends the wrong signal to media services and ultimately to the public.

55. ECRI recommends that the Council for Radio and Television Broadcasting is encouraged to take firm action in all cases of incitement to hatred and impose appropriate fines to punish, as well as act as a deterrent against, dissemination of racist and intolerant expression.
56. There is no mechanism for monitoring or controlling print media, other than self-regulation. ECRI is therefore pleased to note that various codes of conduct exist: the Press Code of Practice of the Union of Publishers (adopted in 2000)<sup>36</sup> and the Code of Conduct of Journalists (adopted in 1999).<sup>37</sup> Furthermore, the Czech Television Code (Article 13) prohibits discrimination on grounds of sex, age, race, sexual orientation, nationality, ethnicity, religion or membership in any social group. The latter code also sets up an Ethical Panel to consider questions that arise in its observance and enhance public trust.
57. As concerns self-regulation in politics, ECRI notes that in 2014 a senator was found guilty of a racist verbal attack against a doctor of Yemeni origin by the Mandate and Immunity Committee of the Czech Senate, following an incident in a hospital in Vrchlabí in June 2013. He was punished with a fine of 20 000 CZK (740 EUR). ECRI commends this good example set by the highest political body.
58. As for prevention, ECRI welcomes the steps taken by the authorities to counter the wave of extremism in the country which was observed in ECRI's fourth report. A Strategy for Combating Extremism, including a Concept for Fighting Extremism with concrete tasks for ministries, municipalities and police, was drawn up and is revised each year; annual reports are presented to Parliament. The Strategy is preventive rather than repressive in nature. According to the authorities, the campaign against extremism has been successful, with the neo-Nazi scene of the years 2008-2009 now in disarray. Extremists are currently less radical and less visible (see also the next section on Racist and homo/transphobic violence).
59. Regarding counter speech, ECRI notes a few examples of good practice. In 2011 almost the entire political scene reacted in opposition to the homophobic opinions of the then President and his advisor on the Gay Pride festival (see § 37). One senior politician even stated that the advisor was "inciting hatred against a minority population in our country".<sup>38</sup> Furthermore, 13 Prague-based embassies issued a joint statement in support of the event. In 2012, a former Constitutional Court judge and current senator renounced her membership of the senators' club in protest against the racist attitudes of two other senators, including the leader of Dawn of Direct Democracy.<sup>39</sup> On the other hand, as far as ECRI is aware, no other political or public figure has condemned Dawn's leader for his anti-immigrant, anti-Muslim and anti-Roma comments. ECRI considers that where intolerant statements do not reach the level required for criminal sanctions,<sup>40</sup> political and public figures should take a strong stand against them by means of counter speech.

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<sup>36</sup> Article 3 states: "Any kind of discrimination or offence based on sex, race, colour of skin, language, faith or religion, political or other views, national or social origin, belonging to a national or ethnic minority, property, or other position is not in accordance with ethics."

<sup>37</sup> Article 3 i) states: "Journalists must not create or shape any subject in such a manner as to incite discrimination on the basis of race, skin colour, religion, gender, or sexual orientation."

<sup>38</sup> The Prague Post 2011.

<sup>39</sup> See press release on the official website [www.eliskawagnerova.cz](http://www.eliskawagnerova.cz), at [eliskawagnerova.cz/aktuality/tiskova-zprava-senatorka-wagnerova-vystoupila-ze-senatorskeho-klubu-kod-kdu-csl-a/](http://eliskawagnerova.cz/aktuality/tiskova-zprava-senatorka-wagnerova-vystoupila-ze-senatorskeho-klubu-kod-kdu-csl-a/) (Czech only).

<sup>40</sup> Before publishing its instructions for protection against Islam (see § 33), Dawn's leader discussed the text with lawyers to avoid "stepping on thin ice".

### III. Racist and homo/transphobic violence

60. Section 352 of the Criminal Code provides for the racism-specific offence of violence against a group of persons or an individual. The list of grounds is exhaustive and does not include sexual orientation or gender identity (see ECRI's recommendation in § 123 of this report). According to information provided by the authorities, a total of 61 persons were prosecuted in 2013 under Section 352 and 50 were convicted and sentenced. As already observed, the data is not broken down according to the hate motive (see ECRI's recommendation in § 28).
61. The main target of racist violence continues to be the Roma (see below). ECRI notes that there is little antisemitic violence. In 2012, there were six attacks against property but none against persons.<sup>41</sup> The data have remained roughly the same over the last few years. The situation is similar as concerns the LGBT community. According to a survey conducted by the European Union Agency for Fundamental Rights in 2012, only 2% of LGBT respondents in the Czech Republic stated that assaults and harassment against them were widespread.<sup>42</sup>
62. As concerns Roma, in 2013 World Without Nazism reported one murder, by stabbing, of a Roma man carried out by a group and one incident of damage to property by a group of about 600 people against a building inhabited by Roma.<sup>43</sup> In July 2014, the results of a study on Hate Violence and the Roma were published.<sup>44</sup> According to this, 32% of Roma have been subjected to hate speech and violence; two thirds of victims never reported these crimes. The report states that the real number of victims of hate crime could be up to ten times higher than estimated. Victims often do not report offences to police because they fear retaliation and due to the discriminatory attitude of law enforcement authorities.
63. The main issue of concern regarding racist violence is the series of anti-Roma demonstrations that took place in 2013. Altogether there were 26 such protests, all of which were characterised by inflammatory speeches, intimidating marches in Roma neighbourhoods, rioting and serious clashes with the police. The same pattern of events was observed in each case, starting with some local tension involving Roma and non-Roma. The first rally in Duchcov was sparked after a young couple were assaulted by a group of Roma; in České Budějovice it was a playground confrontation between Roma and non-Roma parents. Far-right groups with official permission to hold lawful protests (such as, Meeting of Dissatisfied Citizens or Protest Action against Inadaptables) then broke away from the approved route and marched towards Roma districts where they went on the rampage shouting "Heil Hitler" and giving the Nazi salute. Riot police responded using dogs, water cannons, tear gas, smoke grenades, stun guns and rubber bullets. Weapons such as baseball bats, knives, rods and other tools, as well as Molotov cocktails, were seized from those arrested.
64. The most serious public disorder took place on 24 August when protests "against Roma criminality and police brutality" were coordinated by far-right groups in eight towns simultaneously. Around 2 000 individuals took part in total. The worst clashes between police and demonstrators occurred in Ostrava; this has been described as the most violent riot ever in the Czech Republic.<sup>45</sup> ECRI deplores the level of hate and violence which has been equated with "a race war".<sup>46</sup>

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<sup>41</sup> Prague Jewish Community 2013.

<sup>42</sup> European Union Agency for Fundamental Rights 2012.

<sup>43</sup> OSCE-ODIHR Hate Crime Reporting 2013.

<sup>44</sup> Romea.cz 2014e.

<sup>45</sup> ERGO Network 2013.

<sup>46</sup> Liz Fekete 2013.

65. As for 2014, anti-Roma demonstrations were announced for 1 March in Ostrava, 16 April in Prague and 1 May in Ústí nad Labem. The Council of Europe's Commissioner for Human Rights wrote to the Czech Prime Minister<sup>47</sup> to express his concern, stating that the increased frequency of these events and the consistent targeting of Roma called for a more comprehensive response, including banning demonstrations in the vicinity of Roma neighbourhoods. Despite this, the above-mentioned demonstrations, as well as several others, went ahead. This time, however, there was a very low turnout (15 to 30 extremists on each occasion) and no violence. ECRI notes that the situation appears to have calmed down, but it is widely acknowledged that tensions could easily be reignited at any time.
66. ECRI also wishes to point out that a coalition of civil society organisations began actions called Let's Block the Marches!, aiming to prevent the aggressive anti-Roma mobs from reaching Roma homes by means of peaceful counter-demonstrations and the "human shield" tactic. In addition, these organisations provided support for the traumatised victims of the anti-Roma demonstrations through multi-disciplinary emergency volunteer teams of psychologists, medics, social workers and priests. ECRI commends these initiatives demonstrating solidarity with the Roma population.

- **The authorities' response**

67. ECRI notes that the authorities appear to have a sound understanding of right-wing extremism and the groups and numbers involved. Their Report on Extremism in the Territory of the Czech Republic, which is published annually, provides detailed background information and analysis of the situation. According to the 2013 report, the police estimate that the extreme right-wing scene is made up of around 5 000 individuals with about 15 militant activists and 50 lead figures. The report highlights the large number of anti-Roma gatherings, the participation of the local population in addition to the right-wing extremists and the transformation of protests against "inadaptables" into protests against the system.
68. In relation to the above-mentioned events, 86 persons were convicted of public order offences or attacks against a public official. A further 127 individuals were found to have committed minor offences, including disobeying an official notice. ECRI notes that not a single person was prosecuted under the racism-specific offence of violence or threats of violence under Section 352 of the Criminal Code. The authorities explained that the demonstrations started out as racist protests; when it came to actual violence, however, this was committed against the police (21 officers were injured in Ostrava where the worst violence took place); therefore, the acts could not be classified as racially-motivated violence.
69. ECRI has been informed that in 2013, as a reaction to the growing violence against the Roma population and frequent anti-Roma marches, police officers in the criminal police specialised in extremism are now included in every regional police department and anti-conflict teams are deployed during public gatherings. Training has been organised to help officers in the field to identify potentially dangerous situations during demonstrations. In addition, while there are few Roma in the police, ECRI has been informed that in many areas there are now special units made up of "Roma police assistants", helping to solve local issues. The police have been commended by a number of NGOs for their improved responses and for acting to protect Roma during the riots. The good work of the police has also been put forward as an explanation for the more peaceful situation in 2014.

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<sup>47</sup> Council of Europe Commissioner for Human Rights 2014.

70. As mentioned above, the authorities have acknowledged that while the protests were organised and led by neo-Nazis, ordinary local people readily joined in and took part in the violence. In ECRI's view this reveals the extremely deep prejudice of the majority population towards the Roma.<sup>48</sup> The authorities should focus all their efforts on measures to combat hostility towards this community rather than treating the events as a protest against the system.
71. Moreover, the average age of offenders was 18 years. Therefore, ECRI welcomes the Government's announcement in 2014 that a Campaign against Racism and Hate Violence targeting young people aged 15-25 would be conducted in 2016. The focus will be on "vulnerable minority communities", among them Roma and LGBT, and the "no hate" message will be diffused via the Internet, social media, television and radio. There will also be an educational aspect with training for teachers, police and employees of municipalities and public administration. Some NGOs have raised concerns that the group most vulnerable to racist violence, the Roma, are not the main target group. In view of the anti-Roma events of 2013 and with the aim of preventing further violence, ECRI also considers that the campaign should focus primarily on the Roma.
72. ECRI strongly recommends that the Campaign against Racism and Hate Violence focuses primarily on the Roma and that Roma people and Roma organisations are fully involved in its conception, planning and implementation.

#### **IV. Integration policies**

##### **1. Historical ethnic, religious and linguistic minorities**

73. As of 2013 there are 14 officially recognised minorities: Belarusians, Bulgarians, Croatians, Hungarians, Germans, Greeks, Poles, Roma, Russians, Rutherians, Serbians, Slovaks, Ukrainians and Vietnamese. There is no official integration policy for these minorities. The Advisory Committee on the Framework Convention for the Protection of National Minorities stated in its latest report<sup>49</sup> that a climate of tolerance and dialogue generally prevailed in the Czech Republic, but it deplored the persisting negative attitudes and prejudice against Roma.

##### **- Roma**

74. The situation of the Roma minority is one of the country's most urgent social and human rights problems. The Czech Republic's integration policy is defined in two strategic documents: the Concept for Roma Integration 2010-2013 and the Strategy for Combating Social Exclusion 2011-2015. ECRI notes that an updated National Roma Integration Strategy 2014-2020 is under preparation, aiming at the successful integration of the Roma in Czech society as well as eliminating discrimination against Roma and their social exclusion.
75. The Concept for Roma Integration was adopted in 2009 and has the status of the Czech Republic's National Strategy for Roma Inclusion (NSRI) under the EU Framework for National Roma Integration Strategies up to 2020. Its main goal is the conflict-free co-existence of Roma communities and the rest of society. The Concept addresses the four main issues of education, employment, health care and housing, with particular focus on problems of indebtedness and security, as well as Roma culture and language. An Implementation Plan is provided in appendix, which contains the tasks for individual ministries and recommendations for other key persons and organisations.

<sup>48</sup> According to a 2013 survey of the Public Opinion Research Centre, only 4% of respondents expressed sympathy towards Roma, as reported by the European Network Against Racism 2014.

<sup>49</sup> Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities 2011.

76. According to the European Commission's assessment, the Concept lacked clear measures, timelines and budget allocations, as well as a monitoring and evaluation system. More concrete targets were needed on how to tackle segregation in education, on integration into the open labour market and on non-discriminatory access to housing, including good quality social housing (see Interim follow-up recommendations of the fourth cycle). Another report<sup>50</sup> criticised the Concept for not providing a comprehensive description of the situation of Roma in the Czech Republic and no specific data on numbers or geographic distribution. Moreover, it did not deal at all with the issue of lack of ethnically disaggregated data nor the active involvement or participation of Roma themselves in resolving the various challenges.
77. The other major policy document is the Strategy for Combating Social Exclusion 2011-2015, which contains a total of 71 measures addressing persons affected by social exclusion, including Roma, in the areas of safety, housing, education, social services, health, employment and regional development. It has been qualified as the best political plan so far which could significantly improve the position of Roma in Czech society.<sup>51</sup> It is the first document of its type containing designation of administrators for individual measures, as well as clear target dates and outlines of financial requirements, and even estimates of the savings from the State budget if the given measures were implemented. Its major shortcoming is in the field of housing; the analysis only mentions in passing discrimination in the housing market and does not mention at all the segregational and racist housing policies of municipalities. The chapter on employment does not address discrimination in the labour market.
78. In addition, ECRI notes that the Agency for Social Inclusion began to work in 2008 as a coordinating body for Roma integration at local level. During the period 2010 to 2012 it ran a project on Promoting Social Inclusion in Selected Roma Localities, based on collaboration with municipalities to establish local partnerships of municipality leaders, NGOs, schools, police and others. Within the three-year project cycle the Agency operated in 33 locations and prepared 20 strategies of social inclusion with local partners. The project has been extended until the end of 2015.

**- Policies' results**

79. According to various reports, the Czech Republic's policies regarding Roma have had little effect. The Council of Europe's Human Rights Commissioner expressed his regret that the implementation of the Concept and the Strategy have been hampered inter alia by the lack of an enforcement mechanism and of adequate resources.<sup>52</sup> He also noted the continued difficulties caused by the limited involvement of the regions and municipalities, particularly in the areas of special education and housing. The Advisory Committee on the Framework Convention for the Protection of National Minorities regretted that, despite efforts, the Roma continue to face serious difficulties and discrimination, in particular as regards access to employment, health services, mainstream and higher education, housing segregation, eviction from town centres, widespread anti-Gypsyism, and hate speech.<sup>53</sup> Even the new National Roma Integration Strategy currently being developed states that no progress has been made in the last five years.

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<sup>50</sup> Open Society Foundations Review of EU Framework National Roma Integration Strategies (NRIS), Bernard Rorke, Open Society Roma Initiatives.

<sup>51</sup> Idem.

<sup>52</sup> Council of Europe Commissioner for Human Rights 2013.

<sup>53</sup> Council of Europe, Advisory Committee on the Framework Convention for the Protection of National Minorities 2011.



80. ECRI recalls that its fourth report contained a large number of recommendations relating to Roma as a vulnerable/target group, mainly in the areas of education, employment and housing. Since then, there is little evidence of improvements in any of these areas.
81. In education, ECRI's recommendations focused on the disproportionate representation of Roma in special schools for children with mental disabilities and the situation of Roma in mainstream schools. Both of these issues involve educational segregation of Roma children. The former topic is dealt with in the section below on Interim follow-up recommendations of the fourth cycle. As for mainstream schooling, ECRI notes that many "Roma-only" schools continue to exist with up to 90% of children of Roma ethnicity. This phenomenon is linked to segregation in housing, but also to the free choice of parents as to where to send their children to school. Many Roma parents fear bullying if their children attend mixed schools. Moreover, mainstream schools provide classes for children identified as having special needs, which invariably end up being predominantly Roma. In such schools and classes a reduced curriculum<sup>54</sup> and lower quality education are provided. Such circumstances reinforce a tendency to place lower academic expectations on the pupils concerned. The system in place produces children with low achievement in education and a low level of employability, thus perpetuating the cycle of poverty of the Roma population.
82. In addition, according to a 2014 survey of the Fundamental Rights Agency, less than 30 % of Roma children attend preschool in the Czech Republic (compared to 80% of the non-Roma population).<sup>55</sup> Low preschool attendance makes it difficult for pupils to catch up at primary school and is a principal determinant of premature drop-out rates. Therefore, ECRI very much welcomes the authorities' plans to make the last year of preschool compulsory for all children (it has been free of charge since 2012 but attendance is not obligatory). This will help to close the gap between Roma children and their non-Roma peers and prepare Roma pupils to be able to follow an ordinary mainstream curriculum.
83. ECRI strongly recommends that the authorities carry out their plans to introduce at least one year of compulsory and free of charge preschool for all children before entry to mainstream primary education.
84. In employment, ECRI urged the authorities to pursue vigorously their efforts to tackle the disadvantage faced by the Roma and carry out awareness-raising measures aimed at employers in order to overcome long-standing prejudice. ECRI is not aware of any such measures being taken. Moreover, there is evidence that discrimination and prejudice continue to be key factors hindering labour market integration. According to a study, three out of four Roma looking for work in the last five years reported experiencing discrimination and 41 % said that they have experienced such treatment at work by their employers or colleagues.<sup>56</sup> On a positive note, another study found that 36 % of Roma women and 33 % of Roma men indicate some form of paid work as their main activity.<sup>57</sup>
85. Concerning housing, ECRI urged the authorities to develop and put in place, as a matter of high priority, a coherent system of social housing, take steps to prevent the creation of new areas of segregated housing and reduce the number of existing segregated areas. ECRI examines the question of social housing and discrimination in housing in the section below on Interim follow-up

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<sup>54</sup> According to the Framework Education Programme for Elementary Education – Annex regulating education of pupils with light mental disabilities.

<sup>55</sup> European Union Agency for Fundamental Rights 2014a.

<sup>56</sup> European Union Agency for Fundamental Rights 2014b.

<sup>57</sup> European Union Agency for Fundamental Rights 2014c.

recommendations of the fourth cycle. It notes that the Roma population tends to live on the outskirts of towns and villages. According to a 2014 report,<sup>58</sup> 70% of Roma live in households with severe material deprivation, compared to 21% of non-Roma. Due to a number of factors, including poor living conditions, Roma life expectancy is about 10-15 years less than the majority population, with the gap even greater for Roma women (17 years less).

86. In this context, ECRI also points out that in February 2014, the European Roma and Travellers Forum lodged a complaint against the Czech Republic under the revised European Social Charter, alleging that Roma are disproportionately subjected to residential segregation, substandard housing conditions, forced evictions and other systemic violations of the right to adequate housing and the right to health.<sup>59</sup> The case is under examination.
87. There is ample evidence, therefore, of a failure to implement integration measures for Roma that work in practice. ECRI urges the authorities to take note of the various comments highlighted above and ensure that the new National Roma Integration Strategy under preparation will have a more positive impact.
88. ECRI recommends that the authorities conduct a thorough evaluation of the shortcomings of the Concept for Roma Integration and the Strategy for Combating Social Exclusion. They should ensure that these are taken into account in the preparation of the new National Roma Integration Strategy, which should be developed and implemented in consultation with Roma people. In particular, the new strategy should specifically address non-discrimination in the fields of education, employment, health care and housing.

## **2. Non-nationals**

89. ECRI notes that the first Foreigners' Integration Policy was adopted in 2000 and was revised in February 2011. The Ministry of the Interior is responsible for its implementation and submits an annual report to the Government.
90. The basic target group concerns legally residing third-country nationals<sup>60</sup> who are neither applicants for international protection nor recognised refugees. The policy is focused not only on supporting the integration of these foreigners into society but especially on preventing possible problems within immigrant communities and their relations with the majority population. All the activities aim at trying to avoid the creation of closed immigrant communities and their social exclusion. Key priorities for the successful integration of foreigners include knowledge of the Czech language, economic self-sufficiency, knowledge about Czech society, and good relations between foreigners and the majority society.
91. Efforts to transfer specific integration measures to the level of the regions are reflected in the setting up of regional Integration Support Centres for Foreigners. Since September 2009, centres have been established in all regions of the country. The centres are managed by different organisations, including NGOs, local authorities or government bodies, but they are all under the supervision of the Ministry of the Interior. They serve as information centres for foreigners and provide advisory and other services, including legal counselling and language courses. The centres work in close collaboration with civil society.
92. The State Integration Programme provides assistance to recognised refugees and, since 2014, also to beneficiaries of subsidiary protection. It is proposed on a

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<sup>58</sup> European Commission 2014b.

<sup>59</sup> European Roma and Travellers Forum (ERTF) v. the Czech Republic, No. 104/2014.

<sup>60</sup> The authorities estimate that there are around 270 000 legally residing third-country nationals currently in the Czech Republic, 70% of whom have permanent residence permits.

voluntary basis and starts once a decision on granting international protection has become legally effective. The focus is on helping refugees learn the Czech language, with a free course of 400 hours, access housing and find a job. Refugees may remain in one of four Asylum Integration Centres for the first 18 months, primarily for the purpose of completing language courses while actively seeking accommodation. Housing support thereafter, which is available for three years, takes the form of contributions towards rent in either municipally owned apartments or accommodation in the private market.

#### **- Policies' results**

93. In general, ECRI is not aware of any major problems hindering immigrants' integration in the Czech Republic, apart from occasional xenophobic expression from certain political figures, as observed above. Moreover, it welcomes the setting up of regional Integration Support Centres, which appear to function well and provide useful assistance for foreigners.
94. As for refugees, ECRI notes that the four Asylum Integration Centres, while of a high standard, are mostly located in small villages and in socially disadvantaged areas. This makes finding jobs and accommodation very difficult. One of the centres is in a Roma neighbourhood where unemployment is particularly high. Some conflicts have been reported between the refugees and Roma.
95. ECRI recommends that Asylum Integration Centres are relocated to cities where beneficiaries of international protection may have better chances to integrate.

#### **V. Topics specific to the Czech Republic**

##### **1. Interim follow-up recommendations of the fourth cycle**

96. ECRI, in its first interim follow-up recommendation, strongly encouraged the authorities to complete the work under way in drafting and enacting a law on legal aid as soon as possible, ensuring that such aid is granted in cases where racial discrimination is at stake. In its conclusions adopted on 23 March 2012, ECRI noted with regret that its recommendation had not been complied with and that the situation of victims of discrimination as regards access to legal aid had not changed. ECRI referred to § 26 of its General Policy Recommendation No. 7, according to which the law should guarantee free legal aid and, where necessary, a court-appointed lawyer, for victims who wish to go before the courts as applicants or plaintiffs and who do not have the means to do so.
97. ECRI has described the new legal aid possibility, available since 2012, for victims of discrimination wishing to pursue their cases through the courts in § 23 of this report. According to information provided by the office of the Public Defender of Rights in November 2014, the Pro Bono Alliance has provided free legal aid in ten cases so far. ECRI welcomes this development.
98. Furthermore, ECRI notes that government proposals concerning legislative work for 2015-2017 include the task of preparing a bill on free legal aid. The Ministry of Justice should submit the bill before the end of 2015 and the law is expected to enter into force by December 2016. The authorities have informed ECRI that the aim is to bring together into one piece of legislation fragmented provisions already existing on free legal aid in other laws.
99. In its second interim follow-up recommendation, 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 urged 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. In its conclusions adopted on 23 March 2012, ECRI noted that despite steps taken towards improving inclusiveness in education, it was not in a position to conclude that its recommendation had been fulfilled.

100. ECRI recalls that its recommendation follows from the judgment of 13 November 2007 in the case of *D.H. and Others v. the Czech Republic*<sup>61</sup> in which the Grand Chamber of the European Court of Human Rights challenged the disproportionate placement of Roma children in “special schools”<sup>62</sup> providing less demanding education designed for children with disabilities. It found that this practice discriminated against Roma children in respect of their right to education (violation of Article 14 taken in conjunction with Article 2 of Protocol No. 1 to the European Convention on Human Rights) and required the Czech Republic to take effective measures to put an end to this situation.
101. The authorities have submitted several action plans to the Committee of Ministers of the Council of Europe, which is supervising execution of the judgment, the latest being the Revised Action Plan of February 2015. This sets out eight key measures to ensure that ethnicity and social background no longer have an impact on the placement of children in any specific education programme, including abolishing the short-term placement of children without disabilities in classes for pupils with disabilities, revision of diagnostic tools and collection of relevant data by the Czech School Inspectorate for monitoring the ethnicity of children educated according to a reduced syllabus.<sup>63</sup>
102. ECRI notes that the above main measures have been carried out to some extent. Decrees have been amended to abolish the possibility of short-term placement of socially disadvantaged pupils in classes for children with mild mental disability, revised diagnostic tools have been developed and put into effect from September 2014, and data are now collected annually via a questionnaire sent to heads of all practical schools, on the ethnicity of children in these schools. Recent records indicate that of around 26 000 children currently in practical schools, 32.4% are Roma.<sup>64</sup> While this represents a drop of around one third in the last four years, the Committee of Ministers stated in its June 2014 assessment that this figure remained disproportionately high.
103. The overall decrease in the number of Roma in practical schools is reportedly due to more awareness of the issue and more caution taken in diagnosis. In addition, ECRI is pleased to note that efforts have been made to phase out practical schools. However, to date, no specific and measurable targets have been fixed for transfers of children from practical to ordinary education. The authorities informed ECRI that in the school year 2013-14, a total of 9 216 pupils in practical schools were re-diagnosed, of whom only 912 (9.9%) were transferred to mainstream schools. Since there is no tracking of ethnicity in these cases, there is no evidence or figures available to indicate that Roma pupils have been transferred following re-diagnosis. By all accounts, including the authorities themselves, it seems safe to state that no such transfers have taken place.

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<sup>61</sup> Application no. 57325/00.

<sup>62</sup> Special schools have now been renamed as practical schools.

<sup>63</sup> See Thematic Report: Pupils educated according to the Framework Education Programme for Elementary Education – Annex regulating education of pupils with light mental disabilities, Prague, January 2015.

<sup>64</sup> According to the Report on the State of the Romani Minority in the Czech Republic for 2013, which was discussed by the Government on 17 November 2014, the number of Roma pupils in practical schools in the Moravian-Silesian Region is as high as 36%.

104. Moreover, on 26 September 2014, the European Commission initiated infringement proceedings against the Czech Republic for breaching the European Union's Racial Equality Directive due to ongoing discrimination of Roma children in education. ECRI notes that the Czech Education Ministry opposes the claim. On 12 November 2014, the European Roma Rights Centre, in a joint declaration with other NGOs, published a press release marking seven years since the D.H. judgment and recalling that the violations of the right to education and discrimination have not been addressed.<sup>65</sup>
105. ECRI notes that there are certain obstacles to progress in this field. Firstly, there is considerable support for the continuation of practical schools. Some politicians, the Deputy Public Defender of Rights and special teachers of these schools are ardent supporters of the status quo. They argue that it would be next to impossible for children from practical schools, where a reduced curriculum is in place, to be able to follow the ordinary curriculum in mainstream schools. While this may be the case for certain children who have already spent several years in practical schools, ECRI cannot accept that it would not be possible for more than only 10% of re-diagnosed children to be transferred to mainstream schools. Above all, future generations of Roma children must be prevented from unnecessary enrolment in schools intended for those with mental disabilities and who will consequently have reduced chances in life. According to an NGO, only 53 % of children from practical schools continue their education after the end of compulsory schooling, 98 % of whom take up low-level vocational training.
106. Secondly, ECRI notes that while mainstream schools are run by municipalities, practical schools are under the responsibility of regional authorities. These same authorities, via the school counselling centre, are responsible for the diagnosis of children with mental disability and referring them to practical schools.
107. ECRI notes a potential positive development concerning both transfers and future non-placement of children in practical schools. Amendments to Article 16 of the Schools Act (on the education of children, pupils and students with special educational needs) were enacted on 19 March 2015, introducing measures to support children with special education needs in an individual manner in mainstream schools. Supportive measures are defined as "necessary adjustments in education and educational services appropriate to the health, cultural, environmental or other conditions of life of the child". This has been met with broad approval and ECRI fully supports the inclusive education<sup>66</sup> approach. It will follow carefully the application of these new provisions in practice.
108. To conclude, ECRI deeply regrets that the overall situation of Roma children in education has changed little since its fourth report. It considers that the authorities should come up with clear proposals on how to reduce the number of Roma pupils in practical schools and on how transfers could be achieved following re-diagnosis using updated methods.
109. ECRI strongly recommends that the authorities identify ways to reduce the number of Roma pupils in practical schools following re-diagnosis using updated methods.

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<sup>65</sup> Czech Republic must put an end to unlawful segregation of Romani children, Budapest, Prague, 12 November 2014: A statement of Amnesty International, European Roma Rights Centre, Open Society Fund Prague, Open Society Justice Initiative, League of Human Rights, IQ Roma Servis and Life Together.

<sup>66</sup> Defined as "the process of increasing participation and decreasing exclusion from the culture, curriculum and community of mainstream schools", Booth, T. (2000).

110. In its third interim follow-up recommendation, ECRI strongly urged the authorities to develop and put in place, as a matter of high priority, a coherent system of social housing, 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. In its conclusions adopted on 23 March 2012, ECRI continued to be deeply concerned at the situation with regard to housing of socially excluded persons, most of whom were Roma. It noted that the number of socially excluded localities was reported to have increased to 400 and that such issues continued to be at the heart of tensions between the majority population and Roma in some parts of the country. Moreover, discrimination in the housing market continued to affect access to housing of vulnerable groups such as Roma and migrants. ECRI emphasised that more needed to be done urgently to address these problems.
111. ECRI is pleased to note, therefore, that the Ministry of Labour and Social Affairs together with the Ministry for Regional Development and the Minister for Human Rights, Equal Opportunities and Legislation, will prepare a bill on social housing in the second half of 2015. This is expected to be enacted and enter into force in 2017. The plans do not include construction of new housing, but rather renovation and refurbishment of around 500 000 vacant flats in the country.
112. ECRI strongly recommends that the authorities go ahead with their plans to enact a law on social housing and encourages them to undertake a wide consultation beforehand, including with the Roma community.
113. As for discrimination in the housing market, ECRI notes that this is a very serious issue for the Roma. Housing vacancy notices frequently state “No Roma” and they are virtually unable to rent accommodation in the normal housing market. As a result, a business has grown up in the private market of renting accommodation in hostels or dormitories to Roma at extremely high prices – up to three times the market value of an ordinary flat. These dormitories are often set up in unused offices converted into basic living spaces with shared bathrooms and kitchens; the accommodation is sub-standard and insalubrious. The authorities are fully aware of the situation and have informed ECRI that around 4 000 such dormitories are occupied by some 100 000 people. Moreover, housing support is provided in order for tenants to pay the exorbitant rents to the so-called “slumlords”. ECRI is astonished that the authorities are complicit in this corrupt and degrading practice, which is contributing further to the segregation of Roma.
114. ECRI strongly recommends that steps are taken to end the practice of subsidising exorbitant rent for sub-standard accommodation in hostels and dormitories.

## **2. Effectiveness of the Public Defender of Rights**

115. ECRI stresses the importance of a properly functioning independent specialised body to combat racism and intolerance at national level. It is therefore concerned about the current discord within the institution; the Deputy Public Defender has openly contradicted certain statements made by the Public Defender. The two recently clashed over a medical school’s ban on Muslim students wearing headscarves (see § 36). The Public Defender spoke out in September 2014, stating that her Deputy had a habit of expressing opinions at variance with official statements released by her office. ECRI considers that this friction seriously undermines the institution’s credibility.

116. ECRI notes that both the Public Defender and the Deputy Public Defender are elected by Parliament in exactly the same way.<sup>67</sup> Thus the Public Defender has no say whatsoever in the appointment of her Deputy. ECRI recalls that a bill to enlarge the powers of the Public Defender is under preparation (see § 24); it encourages the authorities to take the opportunity also to resolve the above problem in the new legislation. In ECRI's view, the authorities could consider two possible solutions: either they should grant the Public Defender the power to propose her/his deputy for election by Parliament, which is the procedure followed in some Council of Europe member states; or they could take the example of other member states which do not define in law the appointment of a deputy but give freedom to the Ombudsman to appoint his/her own staff, as per principle 5 of ECRI's GPR No. 2.

117. ECRI recommends that the Law on the Public Defender of Rights is amended so as to prevent conflicts between the Public Defender and his/her deputy.

118. Further, ECRI urges the authorities to ensure that increased staff and funding are also allocated to the Public Defender in order for any new tasks to be carried out effectively.

### **3. Former Roma concentration camp in Lety**

119. ECRI notes that the site in Lety of the former World War II Roma internment and hard labour camp<sup>68</sup> continues to be a problematic issue; it is next to a large privately owned pig farm. Roma activists have been campaigning since 1998 and have repeatedly asked the authorities to relocate the farm. The Czech Government has recognised Lety as a Holocaust site, but has done nothing so far to remove the pig farm, despite pressure from international and human rights institutions.<sup>69</sup> ECRI urges the authorities to find a solution once and for all in order for the Roma to have a decent and dignified memorial site for Holocaust victims.

120. ECRI strongly recommends that the authorities find a solution and relocate the pig farm away from the Roma Holocaust site in Lety.

### **4. Policies to combat discrimination and intolerance against LGBT persons**

#### **- Data**

121. ECRI notes that there is no official data on the LGBT population in the country, although the authorities carried out an in-depth Analysis of the Situation of the Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic in 2007. Research demonstrates that in general there is broad tolerance for LGBT persons in the country. In a global survey published in June 2013, the Czech Republic had the third highest percentage in Europe (80%, after Spain and Germany) and worldwide (on a par with Canada) of people agreeing that "society should accept homosexuality".<sup>70</sup> In August 2014, the fourth Gay Pride took place under the auspices of the Minister for Human Rights. The official opening was held in the Hrzánský Palace, a government building. In previous years there were

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<sup>67</sup> According to the Law on the Public Defender of Rights, both the Defender and the Deputy Defender are elected by the Chamber of Deputies for a term of office of six years, from among candidates of whom two shall be nominated by the President of the Republic and two by the Senate.

<sup>68</sup> According to information provided by the Committee for the Redress of the Romani Holocaust in the Czech Republic, between 1942-1943, around 1 100 Roma men, women and children were taken to Lety and, of those not deported to Auschwitz, 326 people died there, 241 of whom were children.

<sup>69</sup> Including a European Parliament Resolution of 2005 on the situation of the Roma in the European Union, which called on the Commission and the authorities "to take all necessary steps to remove the pig farm from the site of the former concentration camp at Lety and to create a suitable memorial".

<sup>70</sup> Pew Research 2013.

protests against the festival, but this appears not to be the case in 2014. Nevertheless, ECRI notes that of 2 469 respondents from the Czech Republic who took part in the FRA survey of LGBT people's experiences of discrimination, 36% felt discriminated or harassed because of their sexual orientation in the year preceding the survey (the EU average was 47%).<sup>71</sup>

- **Legislative issues**

122. The Criminal Code does not specifically mention homophobic or transphobic motivation under Section 352 (violence against a group of persons or an individual), Section 355 (defamation) or Section 356 (incitement to hatred). In theory, public incitement to hatred against LGBT persons could be covered by the wording "or other group of persons", but there is no case law confirming this.
123. ECRI recommends that Sections 352, 355 and 356 of the Criminal Code should include specific references to the grounds of sexual orientation and gender identity.
124. The Anti-Discrimination Act prohibits discrimination based on sexual orientation and covers so-called "sexual identification" (gender identity) under the ground of sex.<sup>72</sup> As concerns the burden of proof, ECRI regrets that, in the case of discrimination on grounds of sexual orientation and gender identity, the sharing may only occur when discrimination is alleged in the field of employment; it does not apply in any other area. ECRI refers to its recommendation in § 18 of this report.
125. While a number of laws ban discrimination on the basis of sexual orientation and gender identity (the Labour Code, the Employment Act and the Anti-Discrimination Act), according to the above-mentioned FRA survey, 59% of respondents were not aware of the existence of a law forbidding discrimination on account of sexual orientation when applying for a job. ECRI encourages the authorities to organise an awareness raising campaign on this issue.
126. Same sex marriage is not permitted. However, in 2006 the institution of registered partnership was recognised in law. LGBT activists claim that the extent of partners' rights and obligations remains very disadvantageous in comparison with marriage. Differences include that partners cannot jointly own property, there are no tax benefits as provided to a husband and wife, and there is an automatic ban on adoption of a child.<sup>73</sup> As concerns adoption, ECRI notes that the Public Defender, when investigating a complaint, did not find any objective and rational reason for denying registered partners the possibility of adoption and considered the relevant provisions of the Registered Partnership Act unconstitutional.<sup>74</sup> Procedures have been initiated for an assessment by the Constitutional Court.
127. Gender reassignment is regulated by the 2012 Act on Special Health Services. Persons wishing to change their sex must obtain the positive opinion of a committee of experts which consists of seven persons, including a representative of the Ministry of Health. Legal gender recognition is not possible without surgery; a certificate of surgical gender reassignment is required for change of birth number and name. ECRI considers that gender reassignment should not be a

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<sup>71</sup> European Union Agency for Fundamental Rights 2012.

<sup>72</sup> According to Section 2 (4): "Discrimination on grounds of pregnancy, maternity and paternity and on grounds of sexual identification shall also be considered to be discrimination on grounds of sex".

<sup>73</sup> Section 13 (2) of the Registered Partnership Act.

<sup>74</sup> Report of the Public Defender for the second quarter of 2014, p. 10-11.



prerequisite for gender changes in personal documents.<sup>75</sup> According to the new Civil Code of 2014, “marriage or registered partnership ceases to exist automatically as a result of gender reassignment transition”.

128. Lastly, ECRI notes that the Czech Republic has explicitly recognised in its national legislation that sexual orientation is included in the notion of “membership of a particular social group” for the purpose of refugee recognition.<sup>76</sup>

- **Promoting tolerance and combating discrimination**

129. ECRI is pleased to note that in some fields of everyday life, steps have been taken to promote tolerance towards LGBT persons. In education for instance, the subject People and the World, which provides information on sexual orientation and gender identity, is part of the framework curriculum for all pupils at elementary and secondary levels. Public health insurance covers the costs of gender reassignment and counselling. Between 2012 and 2014, 173 applications for gender reassignment were registered and all but one were accepted. However, hormonal treatment is not covered; in view of the fact that hormone therapy is an essential part of gender reassignment, ECRI encourages the authorities to consider providing financial assistance to those in need of such treatment.

130. Although there is no government action plan or strategy to promote tolerance and combat discrimination against LGBT persons in the Czech Republic, ECRI welcomes the setting up, in 2009, of a Committee for Sexual Minorities in the Government Council for Human Rights.<sup>77</sup> Its members include representatives of ministries and civil society. They analyse the situation and rights of sexual minorities in the Czech Republic and may present to the Government Council proposals concerning legislative amendments or solutions to other problems facing LGBT persons. For example, the Committee helped create a handbook on Homophobia in the Classroom and recommendations for the media on how to treat and present to the public different sexual identities. In addition, as mentioned above (§ 71), the Government is planning a Campaign against Racism and Hate Violence to be conducted in 2016, focusing on vulnerable minority communities including LGBT.

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<sup>75</sup> See § 20 of Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity and the relevant part of its Explanatory memorandum.

<sup>76</sup> The Council of Europe Commissioner for Human Rights 2011.

<sup>77</sup> This continues the work of a previous Working Group on the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities, “Analysis of the Situation of the Lesbian, Gay, Bisexual and Transgender Minorities in the Czech Republic”, 2007.



## INTERIM FOLLOW-UP RECOMMENDATION

The specific recommendation for which ECRI requests priority implementation from the authorities of the Czech Republic is the following<sup>1</sup>:

- ECRI strongly recommends that the authorities carry out their plans to introduce at least one year of compulsory and free of charge preschool for all children before entry to mainstream primary education.

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

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<sup>1</sup> ECRI had made a second specific recommendation strongly recommending that the authorities remove from the amendment to Article 16 of the Schools Act all references to social and cultural environment for the assessment of mental disability in children, so that no Roma child could be wrongly assigned to a practical school. However, in the time between the drafting of this report and its adoption, the authorities removed the disputed provisions from the amendment. ECRI considers, therefore, that this recommendation has been implemented.



## LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 2) ECRI reiterates its recommendation urging the Czech Republic to ratify Protocol No. 12 to the European Convention on Human Rights.
2. (§ 10) ECRI recommends that the authorities revise the Criminal Code to include the following key elements in the fight against racism and racial discrimination: the offences of incitement to violence and to discrimination; public insults of a racist nature; the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons; and racial discrimination in the exercise of one's public office or occupation. They should also include the grounds of colour and language in Sections 352 and 356 and add colour to Section 355, and assess the need for further changes should an analysis of the case law show gaps in connection with citizenship.
3. (§ 18) ECRI recommends amending the Anti-Discrimination Act to remedy the gaps identified in paragraphs 12 to 16 of this report. In particular, it strongly recommends that the sharing of the burden of proof should apply in all cases and on all grounds.
4. (§ 25) ECRI strongly recommends that the authorities carry out their plans to enlarge the powers of the Public Defender of Rights. They should take the opportunity when doing so to ensure that all the elements relating to specialised bodies set out in ECRI's General Policy Recommendations Nos. 2 and 7 are included.
5. (§ 28) ECRI recommends that the authorities ensure that a single mechanism for collecting disaggregated data on hate crime, including hate speech, is put in place, recording the specific bias motivation, as well as the follow-up given by the justice system, and that this data is made available to the public.
6. (§ 35) ECRI strongly recommends that the authorities take steps to ensure that the term "inadaptable" to refer to vulnerable groups, especially Roma, is not used in any official capacity.
7. (§ 55) ECRI recommends that the Council for Radio and Television Broadcasting is encouraged to take firm action in all cases of incitement to hatred and impose appropriate fines to punish, as well as act as a deterrent against, dissemination of racist and intolerant expression.
8. (§ 72) ECRI strongly recommends that the Campaign against Racism and Hate Violence focuses primarily on the Roma and that Roma people and Roma organisations are fully involved in its conception, planning and implementation.
9. (§ 83) ECRI strongly recommends that the authorities carry out their plans to introduce at least one year of compulsory and free of charge preschool for all children before entry to mainstream primary education.
10. (§ 88) ECRI recommends that the authorities conduct a thorough evaluation of the shortcomings of the Concept for Roma Integration and the Strategy for Combating Social Exclusion. They should ensure that these are taken into account in the preparation of the new National Roma Integration Strategy, which should be developed and implemented in consultation with Roma people. In particular, the new strategy should specifically address non-discrimination in the fields of education, employment, health care and housing.

11. (§ 95) ECRI recommends that Asylum Integration Centres are relocated to cities where beneficiaries of international protection may have better chances to integrate.
12. (§ 109) ECRI strongly recommends that the authorities identify ways to reduce the number of Roma pupils in practical schools following re-diagnosis using updated methods.
13. (§ 112) ECRI strongly recommends that the authorities go ahead with their plans to enact a law on social housing and encourages them to undertake a wide consultation beforehand, including with the Roma community.
14. (§ 114) ECRI strongly recommends that steps are taken to end the practice of subsidising exorbitant rent for sub-standard accommodation in hostels and dormitories.
15. (§ 117) ECRI recommends that the Law on the Public Defender of Rights is amended so as to prevent conflicts between the Public Defender and his/her deputy.
16. (§ 120) ECRI strongly recommends that the authorities find a solution and relocate the pig farm away from the Roma Holocaust site in Lety.
17. (§ 123) ECRI recommends that Sections 352, 355 and 356 of the Criminal Code should include specific references to the grounds of sexual orientation and gender identity.

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