



# Convention on the Rights of the Child

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**Committee on the Rights of the Child****Fifty-seventh session**

30 May – 17 June 2011

## **Consideration of reports submitted by States parties under article 44 of the Convention**

### **Concluding Observations: Czech Republic**

1. The Committee considered the combined third and fourth periodic report of the Czech Republic (CRC/C/CZE/3-4) at its 1616<sup>th</sup> and 1617<sup>th</sup> meetings (see CRC/C/SR1616 and 1617), held on 31 May 2011, and adopted, at its 1639<sup>th</sup> meeting, held on 17 June 2011, the following concluding observations.

#### **I. Introduction**

2. The Committee welcomes the submission of the combined third and fourth periodic report as well as the written replies to its list of issues (CRC/C/CZE/Q/3-4/Add.1) and appreciates the constructive dialogue with the State party's multi-sectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with the concluding observations on the initial report of the State party under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/CZE/CO/1), adopted on 2 June 2006.

#### **II. Follow-up measures undertaken and progress achieved by the State party**

4. The Committee welcomes as positive the adoption of the following legislative, institutional, policy and other measures:

(a) Act No 20/2009 Coll. of the Criminal Code which raised the standard of criminal law protection of children against abuse, exploitation, neglect and trafficking, implemented on 1 January 2010;

(b) Act No 427/2010 regarding family reunification, in 2010;

(c) Act No 52/2009 amending Act No 141/1961 Coll., on the Rules on Criminal Procedure concerning victims of crime requiring extra protection, in 2009;

(d) the National Action Plan for Inclusive Education, in 2010;

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- (e) the National Coordination Mechanism for Missing Children, in 2010;
  - (f) Resolution No 883 on the National Action Plan to Transform and Unify the System for the Care of Vulnerable Children 2009-2011, in 2009;
  - (g) National Plan of Action for Implementation of the National Strategy to Prevent Violence against Children in the Czech Republic 2009–2010, in 2009;
  - (h) the Action Plan to Implement the Early-Care Concept, in 2009;
5. The Committee also welcomes the ratification of or signature of:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in January 2005.
  - (b) *The Convention on the Rights of Persons with Disabilities, in September 2009;*
  - (c) The European Charter for Regional or Minority Languages, on 1 March 2007;

### III. Main areas of concern and recommendations

#### A. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

##### The Committee's previous recommendations

6. The Committee welcomes efforts by the State party to implement previous concluding observations of the Committee adopted in March 2003 (CRC/C/15/Add.201) following the consideration of the second periodic report of the State party. Nevertheless, the Committee regrets that many of its concerns and recommendations have been insufficiently or only partly addressed.

7. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the second report that have not yet been implemented or sufficiently implemented, particularly those related to: the development of a national plan of action; the establishment of an independent body to oversee the implementation of the Convention; data collection and the full integration of the right to non-discrimination.**

##### Reservations

8. While noting that the State party has been making efforts to amend its Civil Code to include a specific provision on the right of the child to know his or her biological parents as well as preserve his or her identity, the Committee remains concerned at the continued reservation to this article of the Convention by the State party.

9. **In light of the Vienna Declaration and Plan of Action of the World Conference on Human Rights of 1993 (A/CONF.157/23), the Committee recommends that the State party consider withdrawing the reservation made to article 7 paragraph (1) of the Convention.**

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## Legislation

10. While welcoming the Amendment No. 134/2006 Coll., to the State party's Social and Legal Protection of Children Act (Act No 359/1999 Coll.), the Committee is concerned that a comprehensive review of all its legislation in order to accord children their rightful status as rights holders and ensure the full compatibility of its domestic law with the Convention has yet to take place. Furthermore, the Committee is concerned that provisions of the Convention are rarely invoked or directly enforced by tribunals, courts and administrative authorities

**11. The Committee recommends that the State party undertake a comprehensive review of all its legislation and take all necessary measures to ensure the full applicability of the Convention in its domestic legal system.**

## Coordination

12. While noting that the State party's Ministry of Labour and Social Affairs (MLSA) has been mandated to ensure the coordination of the implementation of the Convention, the Committee remains concerned about the fact that coordination between the different government ministries, departments and institutions dealing with children's rights is insufficient at national, regional and municipal levels.

**13. The Committee calls upon the State party to ensure that it undertakes measures to establish an effective mechanism or substantially strengthen its existing mechanism, under the Ministry of Labour and Social Affairs, for coordinating the implementation of child rights policy amongst all the relevant bodies and institutions and at all levels. In doing so, the State party is urged to ensure that it is provided with the necessary human, technical and financial resources to implement child rights policy that is comprehensive, coherent and consistent at national, regional and municipal levels.**

## National Plan of Action

14. While noting the establishment of an inter-ministerial coordination group for the preparation of a National Plan of Action for the implementation of the Convention, the Committee is concerned that a comprehensive national plan of implementation has yet to be developed and that the State party's sectorial approach to the Convention leads to fragmentation of its implementation.

**15. The Committee recommends that the State party develop a comprehensive National Plan of Action for the implementation of children's rights and allocate specific human, technical and financial resources for its full implementation. In doing so, the Committee recommends that the State party ensure that its National Plan of Action for Children:**

- (a) Is based on children's rights and constitutes an integral component of development planning;**
- (b) Is implemented and operationalised by, inter alia, appropriate by-laws;**
- (c) Defines specific goals, targets, indicators and timetables and includes a monitoring mechanism for assessing implementation progress and identifying possible deficiencies;**
- (d) Facilitates greater involvement of all partners concerned, including civil society and children themselves;**

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**(e) Facilitates a coherent and consistent approach to the Convention amongst all of the State party's bodies and institutions;**

**(f) Takes into account the principles and provisions of the Convention, its Optional Protocols as well as the Plan of Action "A world fit for children" of 2002 and the "World fit for children + 5" review declaration of 2007.**

#### **Independent monitoring**

16. While noting that the State party has made initial efforts at establishing an independent Children's Ombudsman, the Committee regrets that the State party has yet to implement its previous recommendation (CRC/C/15/Add.201 para 17) on the establishment of an independent body to monitor the implementation of the Convention, including the investigation of individual complaints by children in a child-sensitive manner. Furthermore, the Committee is concerned that although the Public Defender for Human Rights can receive complaints from children, it is not provided with adequate financial, technical and human resources to effectively fulfill this function.

**17. The Committee reiterates its previous recommendation (CRC/C/15/Add.201 para 17) for the State party to take into full account the Committee's General Comment No. 2 on the role of national human rights institutions, and establish an independent body to monitor the implementation of the Convention, including the investigation of individual complaints by children in a child-sensitive manner. The Committee also urges the State party to ensure that the Public Defender for Human Rights is provided with all the necessary financial, technical and human resources to effectively address complaints it receives from children.**

#### **Allocation of resources**

18. The Committee regrets that its previous recommendation (CRC/C/15/Add.201 para 19) on the allocation of resources has not been adequately implemented. In particular, the Committee remains concerned that the State party's budget continues to lack an allocation of resources that is clearly and specifically designated for the implementation of all the rights of children under the Convention.

**19. The Committee urges the State party to consider amending its State Budget Act to implement article 4 of the Convention in the light of articles 3 and 6 in order to ensure that the proportions of the State budget that are allocated for the implementation of all rights, and to the maximum extent of all resources available for the economic, social and cultural rights of children, are easily identifiable and presented in a transparent way. The Committee further encourages the State party to clearly state on a yearly basis its priorities with respect to child rights issues and to identify the amount and proportion of the budget spent on children, and especially on marginalized groups, at the national and local levels in order to make possible an evaluation of the impact of expenditures on children and their effective utilization. In doing so, the State party should take into account the Committee's recommendations of the Day of General Discussion of 21 September 2007 devoted to "Resources for the rights of the child - responsibility of States".**

#### **Data collection**

20. The Committee reiterates its concerns (CRC/C/15/Add.201 para 21) on the need for the State party to further strengthen its data collection system with regards to:

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(a) data compiled by the various ministries not being sufficiently disaggregated for all areas covered by the Convention, particularly for children with disabilities, children of ethnic minorities, and children in vulnerable and disadvantaged situations;

(b) data on children not being used in a manner that is effective in assessing progress as a basis for policy-making in the field of ensuring children's rights.

Furthermore, the Committee is concerned that there are no adequate methodologies to identify the Roma minority with a view to collecting data in order to facilitate the fulfilment of their rights.

**21. The Committee reiterates its previous recommendation (CRC/C/15/Add.201 para 21) and urges the State party to:**

(a) **strengthen and centralize its mechanism for integrating and analyzing systematically disaggregated data on all children under 18 years of age for all areas covered by the Convention, with special emphasis on persons in situations of vulnerability, including children belonging to ethnic minorities; children of economically disadvantaged households; children living in rural areas; children in alternative care; children with disabilities and children in need of special protection, e.g. working children; children who have been sexually exploited and trafficked children; and**

(b) **use these indicators and data effectively in formulating and evaluating legislation, policies and programmes for the implementation, resource allocation and monitoring of the Convention.**

**Furthermore, the Committee urges the State party to establish a clear method for identifying the Roma minority in its data collection to facilitate the clarity and effectiveness of policy-making; and in doing so, ensure that such a definition is complemented by adequate support and protection mechanisms to prevent the discriminatory abuse of such data.**

#### **Dissemination and awareness raising**

22. The Committee is concerned that the general awareness of the Convention remains low and that there is no specific inclusion of the Convention in the school curricula for children.

**23. The Committee urges the State party to take measures to raise public awareness of the Convention, including by, inter alia, the mass media and incorporating teaching on the Convention as a specific subject in school curricula.**

#### **Training**

24. While welcoming the initiatives of the State party's Ministry of Education, Youth and Sports, the Ministry of Interior, as well as the Judicial Academy, to train the police, physicians, government personnel in the area of social and legal protection of children, and members of the justice system, the Committee is concerned that there is no systematic and ongoing training programmes on human rights, including children's rights, for all professionals working for and with children.

**25. The Committee recommends that the State party develop systematic and ongoing training programmes on human rights, including children's rights, for all professionals working for and with children.**

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### Cooperation with civil society

26. The Committee notes the opportunities for civil society to participate in the implementation of the rights of the child in the State party. However, it is concerned that there is no consistent, timely and transparent system of allocating grants and subsidies to relevant civil society organizations. The Committee is further concerned that the current system does not allow for adequate dialogue with civil society on issues relating to resources, policies and priorities for children.

**27. The Committee calls upon the State party to strengthen its cooperation with civil society and establish a transparent system, allowing for and taking into account dialogue with civil society, for the allocation of grants and subsidies for civil society organizations that assist in the implementation of the Convention and participate in the formulation of policies on children's rights. In doing so, the Committee draws the State party's attention to its General Comment No. 5 (CRC/GC/2003/5 paras 56 to 59) on General measures of implementation of the Convention on the Rights of the Child.**

### International cooperation

28. With respect to article 4 of the Convention, the Committee notes contributions by the State party to international cooperation efforts, in particular United Nations peacekeeping operations and bilateral and multilateral humanitarian action. Nevertheless, it notes that the State party's current level of contribution, at 0.12% of its Gross National Income (GNI), to official development assistance (ODA) is significantly below the level called for in the Monterrey Consensus of the International Conference on Financing for Development (2002) and World Summit Outcome Document (2005).

**29. The Committee encourages the State party to meet the internationally agreed ODA target of 0.7 per cent of GNI. It also encourages the State party to ensure that the realization of child rights becomes a priority in international cooperation agreements established with developing countries, in its bilateral cooperation. In this regard, the Committee urges the State party to pay particular attention to the concluding observations and recommendations made by the Committee in respect of the State party's partner countries. The Committee invites the State party to take into account its recommendations arising from the day of general discussion held in 2007 on "Resources for the rights of the child – responsibility of States".**

## **B. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### Non-discrimination

30. The Committee notes with appreciation the State party's acknowledgement of the severity of the discrimination faced by the Roma population in its territory and also welcomes the various non-discrimination awareness-raising campaigns and projects undertaken by the State party. However, the Committee is deeply concerned that in spite of its previous recommendations (CRC/C/15/Add.201 paras 29, 30, 55 and 68) and the 2007 decision of the European Court of Human Rights, *D.H. et al. vs. the Czech Republic*, there continues to be serious and widespread issues of discrimination, particularly against the minority Roma children in the State party, including the systemic and unlawful segregation of children of Roma origin from mainstream education. The Committee also regrets that, although the State party has implemented an Anti-Discrimination Act in accordance with European Union law (European Community Directives 2000/43/EC and 2000/78/EC) and committed to the Strasbourg Declaration on Roma (2010) and Council of Europe Committee of Ministers' Recommendation on policies for Roma and/or Travellers in

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Europe, it has yet to effectively implement a comprehensive national plan on the prevention of racism, racial discrimination, xenophobia and intolerance in accordance with the Durban Declaration and Plan of Action.

**31. The Committee urges the State party to expeditiously take all measures necessary to ensure the effective elimination of any and all forms of segregating children of Roma origin, especially the discriminatory practices against them in the education system and the provision of essential services and housing in accordance with its commitments under the Strasbourg Declaration on Roma (2010) and in pursuance of the Council of Europe Committee of Ministers' Recommendation on policies for Roma and/or Travellers in Europe. The Committee further urges the State party to effectively adopt a comprehensive national action plan on the prevention of racism, racial discrimination, xenophobia and intolerance, taking into full account all the relevant provisions of the Durban Declaration and Plan of Action, with particular emphasis on Article 2 of the Convention.**

#### **Best interests of the child**

32. The Committee notes with appreciation the State party's assurance, during its dialogue with the Committee, that it was applying the principle of the best interests of the child in various programs, including the National Action Plan to Transform and Unify the System of Care for Vulnerable Children (2009) and the National Action Plan for Inclusive Education (2010). However, the Committee is concerned about the continued lack of reference to the principle of the best interests of the child in most of the legislations concerning children, as well as in judicial and administrative decisions, and policies and programmes relevant to children.

**33. The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.**

#### **Respect for the views of the child**

34. While noting that the State party has implemented elements of the right for the child to have his/her views considered in, inter alia, its Civil Procedure Code and Education Act, the Committee is concerned that traditional perceptions of children as objects rather than subjects of rights is widespread. In this context, the Committee is concerned that not all legal and administrative proceedings, including in asylum cases, allow for the views of the child to be heard directly and independent of his or her legal representative or guardian. Furthermore, the Committee is concerned that, in practice, on matters such as custody and/or withdrawal from existing family environment, the views of the child are not taken into account.

35. While welcoming the State party's Education Act (Act no. 561/2004 Coll.), the Committee remains concerned that the Children and Youth Bill has yet to be adopted, resulting in respect for the views of the child remaining without legislative regulation or sufficiently observed in practice. Furthermore, while appreciating the availability of school boards and other student bodies, the Committee is concerned as to whether the views communicated by children in these fora are genuinely taken into account. The Committee is also concerned that the State party does not have initiatives to establish systems to take into account the views of children in all decisions affecting them.



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36. The Committee reiterates its recommendation (CRC/C/15/Add.201) for the State party to introduce a comprehensive legal provision establishing the right of the child to be heard that would be applicable to courts, administrative bodies, institutions, schools, childcare institutions and families in matters affecting children, and guarantee the right to appeal against the decisions, in accordance with article 12 of the Convention. Furthermore, awareness-raising and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights. The Committee also recommends that the State party take measures to allow for the direct hearing of the views of the child in all proceedings involving children, and in doing so provide adequate safeguards and mechanisms for ensuring that such participation can be carried out effectively and free of manipulation or intimidation. The Committee further encourages the establishment of systems for including the views of the child in political discussions and decisions affecting them. In doing so, the Committee draws the attention of the State party to its General Comment No. 12 (CRC/C/GC/12) on the right of the child to be heard.

**C. Civil rights and freedoms (arts. 7, 8, 13-17, 19 and 37 (a) of the Convention)**

**Name and nationality**

37. The Committee notes the measures undertaken by the State party to guarantee the right of the child to acquire nationality at birth, however, the Committee remains concerned about the situation of stateless minor applicants in the Czech Republic whose applications for nationality have been pending for a prolonged period of time. Furthermore, while noting that articles 740 and 786 of the State party's new draft Civil Code establish the right of the child to deny the paternity of his or her registered father and access his or her adoption file upon obtaining the age of maturity, the Committee is concerned that insufficient measures have been undertaken to ensure that all children have the right to know and be cared for by their parents.

38. The Committee urges the State party to undertake all necessary measures to ensure the expeditious granting of nationality to all children born in its territory. In doing so, the Committee recalls the provisions of the 1961 Convention on the Reduction of Statelessness which state that the outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless. The Committee also urges the State party to undertake all measures necessary for ensuring that all children have the right, from birth and to the greatest extent possible, to know and be cared for by their parents.

**Corporal punishment**

39. While noting that the corporal punishment of children is prohibited in public care, the Committee notes with concern there that is still no legislation which explicitly prohibits corporal punishment of children in all settings, including in the family. The Committee is also concerned at the fact that according to surveys undertaken by the State party, the vast majority of Czech citizens expressed acceptance of corporal punishment in a child's upbringing.



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40. The Committee urges the State party to address the widespread tolerance of corporal punishment by, *inter alia*, conducting awareness-raising and public education programmes with a view to encouraging the use of alternative disciplinary measures in accordance with the inherent dignity of the child, and in doing so, ensure that corporal punishment is prohibited in all settings including the family.

**Follow-up to the United Nations Study on Violence against Children**

41. The Committee welcomes the State party joining the initiatives of the Council of Europe and the United Nations to prevent and ban the corporal punishment of children and drawing up a National Strategy of Preventing Violence against Children (2008-2018) as well as its accompanying National Action Plan (2009-2010).

42. To further strengthen the State party's current initiatives, the Committee encourages the State party to continue to:

(a) Prioritize the elimination of all forms of violence against children and ensure the implementation of the recommendations of the United Nations study on violence against children (A/61/299), taking into account the outcome and recommendations of the regional consultation for Europe and Central Asia, held in Ljubljana from 5 to 7 July 2005, paying particular attention to gender;

(b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, namely:

(i) The development in each State of a national comprehensive strategy to prevent and address all forms of violence against children;

(ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and

(iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.

(c) Cooperate with the Special Representative of the Secretary-General on violence against children and seek technical assistance, *inter alia*, from UNICEF, the Office of the High Commissioner for Human Rights (OHCHR), World Health Organization (WHO), International Labour Office (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

**D. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

**Family environment**

43. While welcoming the State party's amendment (Act No. 427/2010) to the Act on the Residence of Foreign Nationals (Act No. 326/1999), which facilitates family reunification for foreign nationals who have been granted asylum or subsidiary protection, and while noting as positive the increasing assistance provided to families in vulnerable socio-economic situations since the amendment (Act No 134/2006) to the State party's Act on Social and Legal Protection of Children (Act No 359/1999

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Coll.), the Committee remains concerned that the level of socio-economic support to families is low, and that the assistance provided for families in situations of particular vulnerability is insufficient. While acknowledging the efforts made by the State party to ensure the early mother-child bonding by providing long maternity leave of up to four years in duration, the Committee expresses its concern that preparation for parenthood and services provided to families with small children are lacking.

**44. The Committee recommends that the State party undertake measures to ensure that families in vulnerable socio-economic situations are provided with the financial resources and social support necessary so that all parents may realise their primary responsibility for their children in order for all children to enjoy the fulfilment of their rights to the greatest extent possible. The Committee further recommends that the State party provides the necessary services for parents and young children, especially those in deprived circumstances, to avoid developmental delays in children in situations of vulnerability.**

**In doing so, the Committee draws the attention of the State party to the Communication from the European Commission on Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow (COM (2011) 66).**

#### **Children deprived of a family environment**

45. The Committee welcomes the State party's amendment of its Social Legal Protection Act, which will come into effect in 2012 and prioritise the use of European funding for the deinstitutionalisation of children and increase the rates of foster care being provided in lieu of institutionalisation. The Committee also notes as positive other intended measures such as improved training of case managers and the mandatory drafting of case assessments and individual strategies for each family. However, the Committee is concerned at the widespread attitude of accepting institutionalised care as a primary alternative to the family environment. Furthermore, the Committee is concerned that:

(a) There is a lack of preventive services and admission criteria for placement into institutional care which results in large numbers of children, especially children with disabilities and/or Roma origin, being placed in care outside their home, particularly in institutional care, and that in the majority of such cases, the material and financial situation of the family has been the main basis for such removal;

(b) There are inadequate community-based family type services and foster care to avoid institutionalisation of children;

(c) There is no central mechanism for: (i) regulating institutional care providers, or (ii) coordinating the programming and provision of institutional care, resulting in inconsistent standards of care being provided;

(d) The standard of facilities as well as the numbers and level of training of personnel at many institutional care providers is low;

(e) The long duration for which children remain in institutional care, and that the majority of these children only leave institutional care after attaining the age of majority;

(f) Inadequate efforts have been made for children to maintain contact with their parents and to be reintegrated with their families;

(g) The envisaged plans for improving the system of Alternative Care have implementation time frames that will result in many of the changes coming into effect in late 2012 or 2013 at the earliest.

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46. Drawing attention to the Guidelines for the Alternative Care of Children contained in General Assembly resolution 64/142 adopted on 20 November 2009, the Committee calls upon the State party to urgently formulate a coherent national policy on de-institutionalisation, and in particular :

(a) Develop comprehensive assessments of the family situation, preventive services, admission criteria and strategies to reduce the number of children living in care institutions and ensure that placement of children in institutions is only used as a last resort and regularly monitored and reviewed in instances of it being applied;

(b) Develop community based family type services and foster care to avoid institutionalisation of children.

(c) Make the necessary amendments to the Orphanage Ordinance expeditiously so as to enforce a mandatory registration requirement for childcare institutions and criminalize running an institution without a license, and establish a uniform set of standards for public and private institutions and voluntary homes and a system to monitor them regularly;

(d) Urgently improve the facilities within institutions for children and allocate the necessary resources for the effective functioning and monitoring of child care institutions; and, take measures to increase the number of social workers available while establishing criteria for the selection of child-care workers and also ensure that they are adequately trained; and

(e) Ensure the timely development of individual child care plans from the time the child enters the institution and strengthen inclusive education policies and practices, and in doing so facilitate the child's return to a family-type environment expeditiously;

(f) Promote and facilitate contact between the child in institutional care and his/her family, as well as implement mechanisms to expand and stimulate the reintegration of children with their families, and;

(g) Ensure that the proposed improvements to the system of institutional care are guided by a clear timeline with concrete benchmarks for implementation that are effectively monitored at regular intervals.

#### **Adoption**

47. While noting the State party's Act of social and legal protection of children, the Committee is concerned about the absence of a clear, consistent and objectively determined set of criteria for assessing a child's suitability for adoption.

48. The Committee recommends that the State party develop and implement a set of guidelines, prepared in consultation with professionals and civil society involved in child-care, for the consistent and objective assessment of the suitability of children for adoption throughout its territory.

#### **Abuse and neglect**

49. The Committee is seriously concerned about the State party's so-called "Baby Box" programme, which is in violation of, inter alia, articles 6, 7, 8, 9 and 19 of the Convention.

50. The Committee strongly urges the State party to undertake all measures necessary to end the "Baby Box" programme as soon as possible and expeditiously strengthen and promote alternatives, taking into full account the duty to fully comply

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**with all provisions of the Convention. Furthermore, the Committee urges the State party to increase its efforts to address the root causes which lead to the abandonment of infants, including the provision of family planning as well as adequate counseling and social support for unplanned pregnancies and the prevention of risk pregnancies.**

**E Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

**Children with disabilities**

51. While welcoming the State party's Education Act (Act No 73/2005) which provides for the integration of children with disabilities into mainstream schools, the Committee is seriously concerned that:

(a) The Executive Ordinance of the Education Act (2004) allows schools to refuse providing integrated education on the basis of insufficient material resources which results in *de facto* exclusion of children with disabilities from mainstream schools remaining the norm; furthermore, parents of children with special educational needs are required to contribute to the extra cost of providing their child with education in a mainstream environment, inappropriately transferring the onus from the State to parents to fund their children's education in a free public school;

(b) Current legislation precludes children with disabilities who are less than one year old from receiving care allowances;

(c) The majority of children with disabilities are placed in institutions because parents are unable to or do not want to care for these children;

(d) A medical model approach is applied in addressing the needs of children with disabilities;

(e) The availability of data concerning children with disabilities is quantitatively as well as qualitatively limited.

**52. The Committee recommends that the State party:**

(a) **Ensure the provision of adequate financial, technical and human resources for schools to effectively provide mainstream education for children with disabilities; and amend its legislation to prohibit schools from refusing children on the basis of insufficient material resources;**

(b) **Provide socio-economic support to children with disabilities regardless of their age;**

(c) **Promote and facilitate care for children with disabilities in a family environment by providing adequate support to their parents or guardians;**

(d) **Adopt a social model approach which is in accordance with the Convention on the Rights of Persons with Disabilities, addressing attitudinal and environmental barriers that hinder the full and effective participation of children with disabilities in society on an equal basis, and train all professionals working with or for children with disabilities accordingly;**

(e) **Establish mechanisms for the collection of comprehensive and disaggregated data on children with disabilities and provide the human, technical and financial resources necessary for using such data to guide State party policy and programming for inclusive education.**

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**In the implementation of the above recommendations, the Committee highlights to the State party articles 23 and 29 of the Convention, its General Comment No. 9 (CRC/C/GC/9) on the rights of children with disabilities, as well as article 24 of the Convention of the Rights of Persons with Disabilities.**

#### **Health and health services**

53. The Committee is concerned that children of foreign nationals are precluded from access to public health insurance and are required to obtain private health insurance at significantly higher costs. The Committee is also concerned that children of foreign nationals who have severe illnesses are often rejected by private health insurance providers and cannot therefore access health services and care.

**54. The Committee urges the State party to undertake the necessary measures and legislative amendments to ensure that the children of foreign nationals are provided with the same quality and level of health care as nationals of the State party.**

#### **Breastfeeding**

55. The Committee notes with concern that:

- (a) Rates of exclusive breastfeeding in the State party have been declining;
- (b) The International Code of Marketing of Breastmilk Substitutes has not been adopted at the national level, and that consequently, the advertisement of infant formula and sponsorships to the health professionals by baby food industry is widespread;
- (c) The training of health personnel on the protection, promotion and support of breastfeeding is insufficient.

**56. The Committee recommends that the State party:**

- (a) Raise awareness about the advantages of breastfeeding, and exclusive breastfeeding up to 6 months and facilitate this by promoting the provision of facilities for breastfeeding at places of employment and public places;**
- (b) Draft a National Code of marketing for breastmilk substitutes, with clear implementation and monitoring regulations;**
- (c) Train and sensitize health personnel on the importance of the protection, promotion and support to breastfeeding.**

#### **Adolescent health**

57. While welcoming the State party's National Action Plan of Child Accident Prevention 2007–2017, the Committee notes with concern the high rates of teenage pregnancies and abortions as well as the high rates of suicide, which constitute the second-highest cause of death amongst 15 to 19 year olds. Furthermore, while welcoming the State party's legislative prohibition on the sale of tobacco and alcohol products to persons under the age of 18, the Committee is concerned that there is neither a regular systemic review of the effective observance of this prohibition nor an effective enforcement of it, resulting in a continued increase in alcohol and tobacco consumption amongst children.

**58. The Committee recommends that the State party, taking into account the Committee's general comment No. 4 (2003) on adolescent health:**

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(a) Strengthen efforts in adolescent sex and reproductive health education as well as improve the accessibility of contraception to reduce the number of teenage pregnancies and develop child-friendly programmes to assist teenage mothers and their children;

(b) Take further measures to address the high rates of suicide amongst adolescents, including the allocation of adequate human, technical and financial resources to support the development of youth-sensitive and confidential counseling, care and rehabilitation facilities;

(c) Systematically collect information on the consumption of alcohol and tobacco products amongst children;

(d) Undertake measures necessary for the effective enforcement of the prohibition of the sale of such products to children; in doing so, the Committee recommends that the State party consider prohibiting the promotion of alcohol and tobacco products in media and/or information that is commonly accessed by children.

#### **Standard of living**

59. The Committee notes that the State party does not have legislation providing for social housing and is concerned that this is a major factor contributing to the social exclusion and/or placement into care of children, particularly those from financially disadvantaged situations. Furthermore, the Committee notes that while the State party does have a system of social benefits, these do not provide an adequate solution for the large numbers of families with children lacking adequate housing.

60. The Committee recommends that the State party consider the development and establishment of a system for the provision of adequate housing for persons in financially and/or socially disadvantaged situations, with a view to ensuring that, *inter alia*, children are provided with access to adequate living conditions in a family environment.

### **F. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

#### **Education, including vocational training and guidance**

61. The Committee notes as positive the Education Act (2004) which formally abolished the State party's so-called special schools and the ongoing implementation of the National Action Plan for Inclusive Education (2010) which aims at establishing clear and objective criteria for placement in special education as well as improving the sensitivity of the educational professionals and fostering a system based on cultural diversity. However, the Committee remains deeply concerned that in practice the segregation of children of Roma origin continues to take place, through, *inter alia*:

(a) the slow operationalisation of effective reform measures to facilitate inclusion and integration, which has led to schools formerly designated as 'special' and those in socially excluded areas continuing to be attended by a majority of children of Roma origin;

(b) the low rates of actual implementation of culturally sensitive or adapted tests at pedagogical-psychological clinics for determining the academic/intellectual abilities of children from ethnic minorities;

(c) the continued placement of children of Roma origin in separate classes as well as the teaching of such children with reduced syllabus formerly used for special schools;

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(d) the absence of financial support for children from socially or financially disadvantaged situations resulting in the tendency for such children to be categorised as having ‘disabilities’ in order to receive additional financial resources designated for children with disabilities;

(e) the lack of early childhood development and care programmes for all children, especially those in need of preparation for school and additional support during the first 6 years of life;

(f) the lack of genuine informed consent in the process leading to a child’s placement in Framework Education Programme for Children with Light Mental Disabilities, due to the fact that the informed consent materials have, up to now, been written in technical language that is not readily comprehensible. Furthermore, the documentation does not provide for any clear means for contesting a decision on placing the child into “special education” or reviewing it on a regular basis.

**62. The Committee recommends that the State party ensure:**

**(a) The full and effective integration of children of Roma origin in the school system, and in doing so apply practical measures that facilitate diversity and inclusion in all schools for all children, regardless of their ethnic or socio-cultural background;**

**(b) That the content and conduct of tests for determining a child’s academic/intellectual abilities are culturally sensitive and applied consistently and universally;**

**(c) That all mainstream schools use an educational syllabus that is standardised, consistent and applied throughout the State party’s territory;**

**(d) The provision of adequate financial support for children from socially or financially disadvantaged situations, so as to rectify systemic tendencies for schools to intentionally place children without disabilities in special education in order to obtain additional financial resources;**

**(e) That a comprehensive policy of childhood care is developed, taking into consideration (i) the Communication from the European Commission on Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow (COM(2011) 66 ), (ii) the Decision of the Council of Europe Committee of Ministers (CM/Del/Dec(2011)1115), and (iii) the Committee’s General Comment No. 7 (CRC/C/GC/7/Rev.1) on implementing children’s rights in early childhood.**

**(f) that the Ministry of Education and other relevant authorities, including school authorities interacting directly with parents, take all measures to ensure that (i) the information, materials and process relating to the placement of a child in special education is written in language that is comprehensible and fully explains the implications of such placement, (ii) the decision for such placement be properly documented in written form, (iii) channels for contesting such placement decisions be made readily and practicably accessible to parents, and (iv) regular review by an independent body be undertaken to ensure that continued placement in special education is in the best interests of the child.**

**In doing so, the Committee urges the State party to establish a detailed timeline with defined benchmarks in order to expeditiously implement the above recommendations and regularly monitor the State party’s progress in doing so.**



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**G. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

**Asylum-seeking and refugee children**

63. The Committee welcomes the latest amendment to the Act on the Residence of Foreign Nationals (Act No. 326/1999 Coll.), and the improvements it makes to the situation regarding the possible detention of asylum-seeking children. The Committee also welcomes the establishment of a specialized foster facility for providing care to separated children seeking international protection run by the Ministry of Education. However, the Committee remains seriously concerned about the continuing practice of detaining asylum-seekers, including children. While noting the State party's ongoing efforts to improve the situation, the Committee is concerned at the situation of detained asylum-seeking families and guardians with minors at the specialized detention centre in Bela-Jezova which does not meet the required standard for asylum-seeking children's well-being and their best interests.

**64. The Committee reiterates its previous recommendation (CRC/C/15/Add.201) to the State party to avoid any form of detention of asylum-seekers under 18 years of age. The Committee further recommends that the State party consider all possible alternatives, including unconditional release, prior to detention and emphasizes that this should not be limited to unaccompanied or separated minors, but extended to all cases involving children. In doing so, the Committee draws attention to UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers (26 February 1999).**

65. The Committee is deeply concerned that refugees face serious challenges in exercising their right to education in the Czech Republic. While noting that the State Integration Program, as defined by the Asylum Act (No. 325/1999 Coll.) guarantees access to language training to all beneficiaries of international protection, the Committee is concerned that children below the age of 16 are excluded from the language training and that such training for those residing outside state-run refugee facilities has been discontinued. The Committee is further concerned that non-Czech-speaking children are often placed in classes not correspondent with their age, intellectual development or needs. Reiterating the above-mentioned concern on the segregated system of special education, the Committee is also concerned that refugee children are often similarly subject to such segregation. In instances where such placement into special education has occurred, the Committee is concerned that refugee students and their parents were not fully informed of this and its implications.

**66. The Committee recommends that the State party allocate the necessary financial, technical and human resources to provide special language programs for refugee or asylum-seeking children to prepare them for full-time entry into the general educational system of the country. In doing so, the Committee further highlights the importance of taking into account the age, educational development and needs of the children concerned. The Committee also recalls the State party's Schools Act No. 561/2004, pursuant to which, schools are required to provide supplementary assistance to refugee children according to the Individual Education Plans, in order to prevent early drop out and meet specific educational needs.**

**Sexual exploitation and abuse**

67. The Committee welcomes the State party's 2007 amendment to the Criminal Justice Act which criminalizes the possession of child pornography and its 2004 amendment and Act No 40/2009 Coll., Criminal Code which criminalizes the solicitation of sexual

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intercourse from minors and raises the standard of the criminal-law protection of children against abuse, exploitation, neglect and child trafficking respectively. However, while noting that the State party's Police, Ministry of Labour and Social Affairs and Ministry of Justice collect data on children who have been sexually exploited and/or abused, the Committee is concerned that:

- (a) there is no standardised methodology of data collection that is used by all sectors of the State party addressing this issue;
- (b) no comprehensive studies on this issue have been undertaken by the State party;
- (c) there is no coordinated system of cooperation among agencies, institutions, organisations and professionals addressing this issue;
- (d) there are weaknesses in the provision of a holistic and long-term psychosocial support system for victims of such exploitation and abuse;
- (e) the National Action Plans for addressing this issue are expert-oriented and not adequately accessible to all children, their parents and the general public;
- (f) the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse has yet to be ratified by the State party.

**68. The Committee recommends that the State party:**

- (a) **develop and implement a standardised system of data collection on children who have been sexually exploited and/or abused with a view to allowing the effective cross-comparison, analysis and application of such data by relevant sectors of the State party for addressing this issue;**
- (b) **undertake comprehensive studies on this issue, taking into account, inter alia, the prevalence of sexual exploitation and abuse, its causes, victim and perpetrator typology, latency rates, and the efficacy of measures adopted;**
- (c) **establish a coordinated system of cooperation and information exchange among agencies, institutions, organisations and professionals addressing this issue;**
- (d) **strengthen the provision of holistic and long-term psychosocial support to child victims of sexual abuse in its updated Plan of Action;**
- (e) **improve the accessibility to and awareness of the National Action Plan on this issue for the general public, especially children and parents;**
- (f) **ensure, through adequate legal provisions, procedures, and regulations, that all child victims and and/or witnesses of crimes, including children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking, have effective access to justice and are provided with the protection required by the Convention, fully taking into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).**

**Administration of juvenile justice**

69. While noting that the State party has undertaken measures to make sections of criminal courts dealing specifically with children under the age of 18 available throughout its territory, the Committee is concerned that:

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(a) The majority of judges working on the administration of juvenile justice have not been provided with the necessary training for dealing with children in conflict with the law;

(b) Children under the age of 15 are not held criminally responsible, but can be placed even for petty offences, in institutional care prior to a legal proceeding taking place, without the guarantees connected to a standard criminal proceeding;

**For children between the age of 15 and 18 years, the Committee regrets that:**

(c) Deprivation of liberty is not, in practice, reserved as a measure of last resort, despite the existence of alternative measures in the judicial system of the State party;

(d) Children are not always held separately from adults and under acceptable conditions and are detained in poor conditions, when staying in police stations during arrests or pre-trial detention.

**70. The Committee urges the State party to continue reforming its juvenile justice system in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). In particular, the Committee urges the State party to:**

(a) Take the necessary steps to ensure that juvenile judges and other persons working with children in the justice system receive appropriate training on the administration of juvenile justice (CRC/C/GC/10, 2007); and

(b) Undertake the legislative amendments necessary for ensuring that children under the age of 15 years have, at minimum, the same level of legal guarantees connected to a standard criminal proceeding;

(c) Take all necessary measures to ensure that children aged between 15 and 18 years are held in detention only as a last resort, for very serious offences and for as short a time as possible, and refrain from the placement of children suspected of having committed an offence in institutional care, and give due consideration to other measures which do not entail the deprivation of a child's liberty;

(d) Take all necessary measures to ensure that when arrest or pre-trial detention is carried out, it is done in compliance with the law and respects the rights of the child under the Convention, and that children are detained for as short a time as possible and separately from adults;

In implementing the above recommendations, the Committee encourages the State party to make use of the technical assistance tools developed by the United Nations Interagency Panel on Juvenile Justice and its members, which include UNODC, UNICEF, OHCHR and NGOs and seek technical assistance in the area of juvenile justice from members of the Panel.

## **H. Ratification of international human rights instruments**

**71. The Committee urges the State party to ratify the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. The Committee also recommends that, in order to further**

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strengthen the fulfillment of children's rights, the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) and the Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006).

## **I. Cooperation with regional and international bodies**

72. The Committee recommends that the State party cooperate with the Council of Europe towards the implementation of the Convention and any other human rights instruments, both in the State party and in other Council of Europe member States.

## **J. Follow-up and dissemination**

### **Follow-up**

73. The Committee recommends that the State party take all appropriate measures to ensure the full implementation of the present recommendations, *inter alia*, by transmitting them to the Head of State, the Supreme Court, Parliament, relevant ministries and local authorities for appropriate consideration and further action.

### **Dissemination**

74. The Committee further recommends that the cumulative third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

## **K. Next report**

75. The Committee invites the State party to submit its combined fifth and sixth periodic report by 30 June 2018. The Committee draws attention to its harmonized treaty specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In the event that a report exceeding the page limitation is submitted, the State party will be asked to review and resubmit their report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.

76. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3). The treaty-specific report and the common core document together constitute the harmonized reporting obligation under the Convention.