

FOLLOW UP TO THE PREVIOUS REVIEW

Women's rights

1. On 13 August 2021, the Czech Republic passed a law providing for reparations for Roma women,¹ who have been forced or coerced into forced sterilization procedure in the past, as it had accepted to do in the previous review.²
2. Although Czech Republic supported six recommendations regarding the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, they have not yet taken the action necessary to ratify the treaty. Additionally, the Convention has become a target of a lot of misinformation, which the government has failed to address.³

Children's rights

3. In accordance with supported recommendations from the previous review⁴, the Czech Republic has passed a law ending the practice of putting children, under the age of three, whose parents or relatives cannot care for them, into institutional care on 8 October 2021.⁵ The practice is set to end by the year 2024.
4. Contrary to supported recommendations from the previous review⁶, the Czech Republic has failed to establish a separate public protector of children's rights and the mandate still belongs to the ombudsperson.
5. Regrettably, at the previous review, the Czech Republic only noted recommendations to prohibit the corporal punishment of children.⁷ Corporal punishment of children remains not only legal,⁸ but the government does little to combat its use and very little to promote alternatives and non-violent parenting styles.⁹ These recommendations remain relevant and should be implemented as soon as possible.

Roma population

6. Although the 2016 amendment of the Schools Act abolished the system of parallel education for pupils diagnosed with mild mental illness, which has been a key factor in discrimination against the Roma population in education, discrimination and racial segregation persist. A 2017 report¹⁰ concluded that Roma students continue to be more likely to be sent and accepted by schools with already a high percentage of such students, while usually being rejected by other non-Roma majority schools ostensibly due to capacity reasons.¹¹ Such Roma-majority schools are usually in isolated secluded locations with insufficient funding and lacking in quality of education¹².

THE NATIONAL HUMAN RIGHTS FRAMEWORK

7. There is no National Human Rights Institution in the Czech Republic despite long-standing calls for expanding the capacities and responsibilities of the ombudsperson to meet the requirements of the Paris Principles.¹³
8. The Czech criminal law does not explicitly recognize sexual orientation and gender identity (unlike race, religion, nationality, ethnicity) as a valid basis for hate crimes. In practice, hate crimes based on victim's gender or sexuality are treated as less severe¹⁴ in comparison to offences related to race or religion. The public defender of rights has deemed this as unjust and has recommended in 2019 to amend the law for hate crimes related to gender or sexuality, but no such amendment has yet been passed.¹⁵
9. Despite supporting a recommendation in the previous review to continue working on closing the gaps that still exist between the rights enjoyed by same-sex couples, compared with couples of opposite sexes,¹⁶ Czech civil law does not allow same sex couples to marry, nor does it allow them to enter a civil union with equal rights. Same sex couples in civil unions are not allowed to adopt children as a couple; they do not receive a pension in case of their spouse's death; nor are they allowed to own shared estate.
10. Restrictions that were put in place because of Covid-19 had different impact on same-sex couples in civil unions and married couples, with married couples having an exception being able to travel across closed borders if separated, and with civil union ceremonies being forbidden during the harshest lockdown, unlike marriage

ceremonies.

11. If a same-sex couple is raising a child together, only one of the parents can be a lawful parent, while the other is considered a stranger by law. This unjustifiably reduces the medical, social and lawful protection of children raised by same-sex couples.¹⁷ Approximately 60-65% of the public supports equal marriage.¹⁸
12. Sterilization is still required¹⁹ as a necessary step in gender affirmation despite the ruling of the European Court of Human Rights, which found it as a breach of human rights,²⁰ and despite the decision of European Committee of Social rights, which found it violated the right to health.²¹
13. The legal definition of rape is not consent-based. Rape continues to be defined in the Criminal Code by the use of force, the threat of force or the use of victim's defencelessness, which is not aligned with human rights law and standards. This means that cases in which the victim froze and was unable to defend herself/himself often go unpunished.²²

THE HUMAN RIGHTS SITUATION ON THE GROUND

Discrimination

14. In the previous review, the Czech Republic supported 12 recommendations²³ on the advancement of women's rights, including four on the implementation of the national strategy and plans for equality between men and women.²⁴ On 8 March 2021, the Government approved a new Strategy for Equality of Men and Women (2021-2030). This document plans specific steps in eight areas – work, health, decision-making, safety, institutions, public awareness, foreign policy, and civil society. It would be an important step towards gender equality if implemented correctly, but the implementation is subject to political will and so far, there has been little effort to address this issue.²⁵
15. LGBTI people are still facing prejudice and discrimination, which often results in gender-based violence. According to a report from the public rights defender only one third of Czechs think there is any discrimination towards LGBTI people²⁶ However, two thirds of LGBTI respondents in the report said there is such discrimination.²⁷ The report states that one third of LGBTI respondents have experienced discrimination in the last five years, 15% experienced sexual or physical violence, assaults, or threats. According to the report, there is a worryingly low report rate of instances of discrimination, with 91% of respondents with experiences of discrimination saying that they did not report it anywhere.²⁸
16. A key problem regarding the status and well-being of LGBTI people is a persistent lack of statistical data describing the situation and the amount of discrimination, instances of harassment and violence. Such data could be key in setting up relevant and effective measures to improve the situation.
17. On 19th June 2021, Stanislav Tomáš, a Roma man, was arrested by three policemen using force. The video footage shows a policeman kneeling on Stanislav Tomáš's neck for at least five minutes, even after he had been handcuffed and was no longer resisting. Stanislav Tomáš died shortly afterwards in an ambulance. Human rights organizations and Roma organizations called for a prompt, full and independent investigation of the death.²⁹ The General Inspection of Security Forces has concluded in the investigation that the policemen had acted legally and according to standard practice. The public protector of citizen's rights (ombudsperson's) office has raised several concerns regarding the police's actions and procedure.³⁰

Rights of refugees and migrants

18. In response to the war in Ukraine, the Czech Republic has been providing assistance to people fleeing the conflict. However, there are serious concerns about racism and the failure to provide all those seeking safety the protection and support they need and have a right to, in particular Roma people.³¹ Hundreds of Roma people fleeing the conflict in Ukraine were stranded at train stations, only receiving limited amount of food, water, and basic supplies.³²

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of the Czech Republic to:

National human rights framework

19. Ratify, and implement into domestic law, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul convention).
20. Strengthen the position of Ombudsperson to take up the role of National Human Rights Institution according to Paris Principles.

Children's rights

21. Comply with the recommendations made by the Committee on the Rights of the Child to explicitly prohibit corporal punishment in law, in all forms and settings, and promote positive, non-violent and participatory forms of child-rearing and discipline.³³

Roma people

22. Fully implement the Roma Equality, Inclusion and Participation Strategies (Roma integration strategy) 2021-2030, including by ensuring that it is adequately resourced.
23. Ensure that segregation in school is effectively ended through monitoring and redress.

Women's rights and gender equality

24. Fully implement the Strategy for Equality of Men and Women (2021-2030), including by ensuring that it is adequately resourced.
25. Change the legal definition of rape within the criminal code to be based on a lack of consent, rather than use of force or threat.

LGBTI rights

26. Extend the right of marriage to same-sex couples by amending the Civil Code, thereby removing the discrimination children brought up by same-sex couples face compared to the children brought up by heterosexual married couples.
27. Amend criminal and anti-discrimination law to reduce criminal offences as well as prejudice and discrimination based on sexual orientation and gender identity. Specifically, amend the Czech Criminal Code to the effect that victims of crimes motivated by hate towards LGBTI people receive the same protection as victims of other hate motivated crimes, for example race or religion.
28. Abolish the requirement of sterilization in the process of legal gender recognition due to it being a violation of human rights according to the European Court of Human Rights.

Rights of refugees and migrants

29. Provide necessary protection to refugees and asylum seekers, preserve their dignity and guarantee their access to legal aid.
30. Facilitate family reunification for refugees and migrants and provide them with social security.

¹ Zákon o poskytnutí jednorázové peněžní částky osobám sterilizovaným v rozporu s právem a o změně některých souvisejících zákonů, <https://www.zakonyprolidi.cz/cs/2021-297>

² Report of the Working Group on the Universal Periodic Review, Czech Republic, 27 December 2017, UN Doc. A/HRC/37/4, and its Addendum, 1 March 2018, UN Doc. A/HRC/37/4/Add.1, recommendations 115.108 (Estonia), 115.106 (Greece)

³ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.16-20 (Chile, Denmark, Switzerland, Finland) and 115.138 (Belgium)

⁴ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.154-159 (Bulgaria, Croatia, Namibia, Republic of Moldova, Austria, Angola)

⁵ Zákon, kterým se mění zákon č. 359/1999 Sb., o sociálně-právní ochraně dětí, ve znění pozdějších předpisů, a další související zákony <https://www.zakonyprolidi.cz/cs/2021-363#cast13>

⁶ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.144-147 (Bosnia and Herzegovina, Ireland, Italy, Norway)

⁷ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.149 and 115.153 (Austria, Bolivarian Republic of Venezuela)

⁸ Liga otevřených mužů a Nielsen Admosphere (2018), https://ilom.cz/wp-content/uploads/2018/10/2018_10_LOM_Fyzicke_tresty.pdf

⁹ "Minister of Labour and Social Affairs, "A spank can be used as a way to set up boundaries, I don't want to forbid that practice", <https://zpravy.aktualne.cz/domaci/rozhovor-marian-jurecka/r~652e97c27eb911ecb5bd0cc47ab5f122/>

¹⁰ "Ombudsperson's recommendations to end segregation in education of Roma and non-Roma students" (2017), https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporuzeni_desegregace.pdf

¹¹ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.110 (United Kingdom of Great Britain and Northern Ireland), 115.167 (Australia) and 115.178 (Turkey)

¹² "Ombudsperson's recommendations to end segregation in education of Roma and non-Roma students" (2017) https://www.ochrance.cz/uploads-import/ESO/86-2017-DIS-VB_Doporuzeni_desegregace.pdf

¹³ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.23-30 (Norway, Russian Federation, Bolivarian Republic of Venezuela, Norway, China, Georgia, Iceland, Chile)

¹⁴ Ombudsperson's report: "Be LGBT+ in Czechia." (2019) In Czech, <https://www.ochrance.cz/uploads-import/DISKRIMINACE/Vyzkum/Vyzkum-LGBT.pdf>; and "What is a hate crime? The definition may extend to include race and sexuality" *Co vše je nenávistným projevem? Kategorie se mohou rozšířit o věk či orientaci - iDNES.cz*, https://www.idnes.cz/zpravy/domaci/hatespeech-trestny-cin-z-nenavisti-gender-sexualita-vek-evropska-komise.A220518_105227_domaci_knn

¹⁵ Ombudsperson's report: "Be LGBT+ in Czechia." (2019) In Czech: www.ochrance.cz/uploads-import/DISKRIMINACE/Vyzkum/Vyzkum-LGBT.pdf

¹⁶ A/HRC/37/4 and A/HRC/37/4/Add.1, Recommendation 115.43 (Israel)

¹⁷ Jsme fér, "Differences between marriage and civil union", in Czech, www.jsmefer.cz/rozdily

¹⁸ Radio Prague International, "LGBTI rights: Two thirds of Czechs now support same-sex marriage, poll shows" 24 January 2020, In English: <https://english.radio.cz/lgbti-rights-two-thirds-czechs-now-support-same-sex-marriage-poll-shows-8109796>

¹⁹ Civil code 89/2012 Sb § 29, <https://www.zakonyprolidi.cz/cs/2012-89?text=zm%C4%9Bna%20pohlav%C3%AD>

²⁰ European Court of Human Rights: AFFAIRE A.P., GARÇON ET NICOT c. FRANCE, (Requêtes nos 79885/12, 52471/13 et 52596/13), 6 April 2017, <https://hudoc.echr.coe.int/eng?i=001-172556>

²¹ In 2018, the European Committee of Social Rights found the Czech Republic to violate the right to health guaranteed in the European Social Charter by requiring sterilisation in LGR". TGEU, "Czech Court maintains mandatory sterilisation for LGR", 6 April 2022, <https://tgeu.org/czech-court-maintains-mandatory-sterilisation-for-lgr/>

²² Jen ano je ano, Vernonika Ježková (2017) http://www.profem.cz/shared/clanky/550/A5-JenAnoJeAno_WEB.pdf

²³ A/HRC/37/4 and A/HRC/37/4/Add.1, recommendations 115.127-135 (China, Georgia, Iceland, Chile, Namibia, Tunisia, Algeria, Egypt, Uruguay) and 115.141-143 (Bosnia and Herzegovina, Netherlands, Nicaragua)

²⁴ A/HRC/37/4 and A/HRC/37/4/Add.1, Recommendations 115.129-131 (Iceland, Chile, Namibia) and 115.141 (Bosnia and Herzegovina)

¹³ Ministry of Industry and Trade, *Strategy for equality of men and women 2021-2030* In Czech: www.mpo.cz/cz/rozcestnik/rovnost-zen-a-muzu/strategie-rovnosti-zen-a-muzu-na-leta-2021-2030--260284/

²⁶ Ombudsperson's report: "Be LGBT+ v Czechia." (2019) In Czech: www.ochrance.cz/uploads-import/DISKRIMINACE/Vyzkum/Vyzkum-LGBT.pdf

²⁷ Ombudsperson's report: "Be LGBT+ v Czechia." (2019) In Czech: www.ochrance.cz/uploads-import/DISKRIMINACE/Vyzkum/Vyzkum-LGBT.pdf

²⁸ Ombudsperson's report: "Be LGBT+ v Czechia." (2019) In Czech: www.ochrance.cz/uploads-import/DISKRIMINACE/Vyzkum/Vyzkum-LGBT.pdf

²⁹ Amnesty International, *Czech Republic: Concerns Over Possible Unlawful Killing by the Police* (Index: EUR 71/4329/2021), www.amnesty.org/en/documents/eur71/4329/2021/en/

³⁰ "Case of Stanislav Tomáš discussed during plenary session of European Parliament" In English: <http://www.romea.cz/en/news/world/case-of-stanislav-tomas-discussed-during-plenary-session-of-the-european-parliament>

³¹ The Guardian, "They won't accept us: Roma refugees forced to camp at Prague train station", 25 May 2022, <https://www.theguardian.com/global-development/2022/may/25/they-wont-accept-us-roma-refugees-forced-to-camp-at-prague-train-station>

"Romea.cz, "Romani refugees segregated in Czech center and discriminated against", 11 April 2022, <http://www.romea.cz/en/news/czech/romani-refugees-segregated-in-a-czech-center-and-discriminated-against-regional-governor-accuses-them-of-theft-police-say>; Romea.cz,

"Czech and Romani activists aid hundreds of Romani refugees with travelling to less racist countries", 20 April 2022,

<http://www.romea.cz/en/news/czech/czech-and-romani-activists-aid-hundreds-of-romani-refugee-ukrainians-with-traveling-on-to-countries-that-are-less>

³² EU Observer, "Roma refugees from Ukraine face Czech xenophobia", 17 May 2022, <https://euobserver.com/world/154968>

³³ UN Committee on the Rights of the Child, Concluding Observations on the combined fifth and sixth periodic reports of Czechia, 22 October 2021, UN Doc. CRC/C/CZE/CO/5-6