

VIOLENT HATE CRIME IN THE CZECH REPUBLIC

Introduction

1. This report is a joint submission by In IUSTITIA (Prague, Czech Republic) and Human Rights First (Washington, DC and New York, USA) to the Office of the High Commissioner for Human Rights (OHCHR) for consideration in its summary of stakeholder submissions for the Czech Republic's appearance before the fourteenth Universal Periodic Review session, scheduled from October 22-November 5, 2012.
2. This submission is consistent with the guidelines approved by the Human Rights Council and the Civil Society Unit of the OHCHR. This submission focuses primarily on the situation of **hate crime in the Czech Republic**, which is of particular relevance to sections I.(C), I.(F), and I.(G) of the Human Rights Council's Guidelines, and to sections 7 (c), (f), and (g) of the Civil Society Unit's Guidelines.
3. In IUSTITIA is a Prague-based nongovernmental organization working to provide counseling for victims of hate crime violence and to monitor right-wing and ultranationalist activities in the Czech Republic. Human Rights First's Fighting Discrimination Program seeks to reverse the tide of antisemitic, anti-immigrant, anti-Muslim, and homophobic violence, and reduce other hate crimes in North America, Europe and the former Soviet Union.

Executive Summary

In addition to the recommendations contained in the final section, this submission makes the following key points:

4. Bias-motivated violence and harassments are a serious problem in the Czech Republic. Hate crimes have had particularly devastating effects on Roma communities; lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons; the Jewish community; and other vulnerable minorities.
5. The government continues to take steps to improve response to "extremist" crimes, which include a range of bias-motivated offenses. The Criminal Code defines specific bias-motivated acts as separate offenses while also containing provisions by which racist or other bias motivations can be considered as a specific aggravating circumstance in the commission of certain offenses. The new Czech Criminal Code (40/2009) has amended provisions for racial, ethnic, religious, national, political, and other hatred as a general aggravating circumstance which should be considered by the Court when imposing a punishment. However, this general aggravating circumstance is considered against extenuating circumstances and has little impact on the final sentencing. The Ministry of Interior reports annually on incidents of "extremist" nature and oversees the implementation of a cross-departmental policy for "combating extremism."
6. Implementation of hate crime legal provisions remains inadequate. There are considerable obstacles and challenges to a better overall response to hate crime: significant underreporting of hate crimes; limiting data collection mechanisms; low rates of criminal prosecutions in which hate crime statutes are applied. Additionally, a number of public officials in recent years have turned to populist rhetoric that often relies on xenophobic and anti-Roma statements.

Violent Hate Crimes—Serious Human Rights Abuses

7. Violent attacks on individuals on account of their race, ethnicity, religion, national origin, sexual orientation, gender, gender identity, disability, or other similar attributes, or a combination thereof are serious abuses of the rights to life, liberty and security of the person, threatening the equal enjoyment of fundamental rights and freedoms. States have an obligation to respond to such abuses by recording, adequately investigating bias motives and prosecuting the perpetrators of these abuses, thereby prohibiting discrimination and upholding the equal protection of the law in accordance with the Universal Declaration of Human Rights and state obligations under the International Covenant on Civil and Political Rights.
8. In its 2005 judgment in the case of *Nachova and Others vs. Bulgaria*, the European Court of Human Rights for the first time noted that the states “have the additional duty to take all reasonable steps to unmask any racial motive and to establish whether or not ethnic hatred and prejudice may have played a role in the events.” Two other subsequent decisions in 2007—*Angelova and Iliev vs. Bulgaria* and *Šečić vs. Croatia* made similar points regarding cases of racially motivated violence.

Hate Crime in the Czech Republic

9. The Ministry of Interior collects statistics on crimes with “an extremist” context, registering 252 incidents in 2010 and 265 in 2009. The “extremist” crimes represent a meager .08 percent of the total number of criminal offenses registered by law enforcement authorities. However, nongovernmental assessments suggest that hate crimes are severely underreported, and as many as 90 percent of incidents are never registered or investigated for a bias motive, meaning that nine out of ten victims do not report attacks against them to the police or are not registered as hate crime victims. Underreporting of crimes remains one of the principle impediments to improved government responses, especially among Roma, LGBTI community, and irregular migrants, refugees, asylum seekers, and other vulnerable minorities. Victim surveys also paint a bleak image of the extent of hate crime violence in the country: for example, the Fundamental Rights Agency’s (FRA) groundbreaking EU-MIDIS survey found that more than one in four Roma in the Czech Republic (32 percent) considered they were a victim of racially motivated crime within a 12-month period.

Violence against Roma

10. The Roma community is undoubtedly the most vulnerable to hate crime violence and serious harassment. NGOs reported a significant increase in the activities of ultranationalist groups in early 2010 and fall of 2011, providing numerous incidents of harassment, intimidation, and violence reported at Roma settlements. Exemplary cases include:
 - In September 2011, a series of isolated fights escalated into riots between Czech locals and newly settled Roma residents in northern Bohemia. Police forces of up to 600 officers had to be engaged to protect Roma communities from threats and provocations.
 - In August 2011, a Roma family was attacked in their home in Býchory in Central Bohemia Region. Molotov cocktails have been thrown into the living room, but fortunately did not flame up. The alleged perpetrators were neighbors of the attacked family. Case is pending.
 - In August 2011, several Roma teenagers have been chased by two neo-Nazis in Nýrsko, Southern Bohemia. They sought refuge at home, where their 25-year-old relative was then been beaten and choked in an attempt to protect them.
 - On March 15, 2010, an unknown perpetrator threw a Molotov cocktail at a house occupied by a Roma family in Ostrava. No one was injured in the incident; however, a 14-year-old girl was sleeping in the room where the device was thrown. Prime Minister Jan Fischer condemned the incident and promised a full

investigation into the attack. In a similar Molotov-cocktail attack in 2009, a four-year-old girl suffered burns to 80 percent of her body while three others were injured; the incident led to a groundbreaking prosecution of four attackers who received between 20 and 22 years in prison in 2011.

- In November 2008, riot police had to be summoned to the town of Litvinov, where a 500-strong crowd of ultranationalist supporters made an attempt to reach a suburb largely populated by Roma. Seven demonstrators and seven police officers were injured in the clashes, and 15 attackers were arrested.
- In Olomouc, on August 24, 2007, a group shouting anti-Roma epithets attacked two young Roma Czechs, aged 18 and 23, at an open air cinema. The younger victim received facial injuries while the other, who was knocked to the ground and kicked, suffered a broken nose and a concussion.

Violence Based on Sexual Orientation or Gender Identity Bias

11. The Czech Republic's constitution and laws guarantee a wide range of rights for lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. Same-sex sexual relations were decriminalized in 1962, and in 2006 the country legalized same sex civil unions for same-sex couples. Internationally, the country is a firm supporter of LGBTI rights as human rights. Most recently, the Czech Republic acted as a cosponsor of the Human Rights Council resolution on human rights, sexual orientation, and gender identity, reaffirming the country's endorsement of and promise to use the Yogyakarta Principles as a guide to assist internal human rights policies. However, the day-to-day reality for many LGBTI individuals can be dim due to the ongoing harassment, intimidation, and violence motivated by a sexual orientation or gender identity bias. Although reporting rates of such violence are extremely low, the LGBTI community is particularly vulnerable during and in the run-up to pride parades or similar public events. As elsewhere in Eastern Europe, the gay community in the Czech Republic has had to address diatribes from political and other leaders, inadequate police protection, and acts of harassment and violence against the participants in major pride events.

- On June 28, 2008, in Brno, about five hundred people participated in the country's first gay pride parade. Several hundred police officials were present at the parade to provide protection to the marchers from an aggressive group of right-wing extremists. The protestors shouted insults and assaulted the marchers with rocks, eggs, fireworks, and tear gas. At least twenty marchers were injured. The tear gas sent two civilian victims to the hospital for emergency care, and one police officer collapsed and was subsequently hospitalized. According to *Agence France Presse*, fifteen antigay demonstrators were jailed and two were charged with public disturbance. At the parade in Tabor in 2009, attempts to disrupt the march were halted by a special police unit. During the third annual gay pride march in Brno in 2010, police succeeded in separating the marchers and counter-protestors from the National Resistance. In 2011, a five-day LGBTI festival in Prague culminated with a Pride Parade with as many as seven thousand participants and ten thousand witnesses. A small group of 40 protesters hurled homophobic slurs, but the situation was kept at bay. In the run up to the parade, the Czech President's secretary went on record labeling gays and lesbians as "deviants," and was supported by the President Klaus. Although there were no serious attacks at the 2011 parade, several minor incidents nevertheless occurred. A female participant in the Prague Pride Parade wearing a rainbow umbrella was attacked by a neo-Nazi supporter who broke the umbrella. A rainbow flag on a gay-friendly café was burned, and threatening emails were sent to the organizers of Prague Pride.

Racist and Xenophobic Violence

12. The expansion of the European Union coincided with racist violence that reflected shifting patterns of immigration from new member states to other parts of the E.U. As a seven-year veteran of the European Union, the Czech Republic should be held to the E.U. standards in response to longstanding patterns of racist violence. Notable incidents include:

- On January 22, 2012, a Cuban man was attacked by a group of unknown perpetrators in Brno. The attackers shouted racist slurs and were reportedly affiliated with neo-Nazi groups. The case is pending.

- On June 19, 2009, two Sri Lankan diplomats were attacked by a group of neo-Nazi perpetrators, suffering serious bodily harm.
- On November 24, 2007, in Zlin, three young men described as skinheads shouted racist insults and attacked Sri Lankan student Pradeep Manohara Mahadura as he waited with friends at a bus stop. He was beaten and knocked to the ground and then kicked in the stomach and head before a passerby intervened to help.

Antisemitic Incidents

13. The Ministry of Interior continued to improve its monitoring of ultranationalist activities threatening the Jewish community. The antisemitic motive is registered as a specific category in the Ministry's reporting of "extremist" crimes. In 2010, police recorded 28 criminal offenses with an antisemitic motive (a decrease of 42 percent over the 48 incidents reported in 2009). Attacks against persons remain extremely rare, as most incidents involve damage to property and antisemitic or Nazi graffiti.
- On January 17, 2012, vandals damaged close to ten gravestones at the Jewish cemetery in Puklice. The police opened an investigation into the case.
 - On August 14, 2011, unknown perpetrators spray-painted on a Holocaust Memorial in Ostrava. The police opened an investigation accounting for a possible bias in the incident.
 - Between April 21—26, 2010, unknown perpetrators knocked over or damaged 80 tombstones at a Jewish Cemetery in Pristoupim.

United Nations Reporting

14. In September 2011, the Committee on the Elimination of Racial Discrimination Committee noted a concern by "manifestations of hatred, hate crime, racist and xenophobic discourse in politics and the media, urged the Czech Republic to ensure that "hate crime and violence ... are thoroughly investigated and that perpetrators ... are effectively prosecuted."
15. In March 2008, the Office of the United Nations High Commissioner for Human Rights offered a summary of stakeholder submissions, which provided additional information about hate crimes in the Czech Republic. OHCHR's summary noted concerns over both "private individuals and State actors who have threatened the lives of Roma." Amnesty International, in particular, had stressed that "incidents of Violence Against Roma and Sinti are reported to have been perpetrated by youths with extreme racist views"; even when involving repeat offenders, attackers received "only light or suspended sentences." Thomas Hammarberg, the Commissioner for Human Rights of the Council of Europe, in turn, was cited expressing his hope that increased awareness of racial motivations in crimes of violence by police and prosecutors would lead "to additional prosecutions and to the imposition of sanctions which are proportionate to the gravity of this type of crime and sufficiently dissuasive for the future." According to NGO submissions, including those of the European Roma Rights Center, the regular and systemic human rights abuses against Roma in the Czech Republic are aggravated by the fact that anti-Romani hate speech is a regular part of public discourse in the country.
16. During the first peer review of the Czech Republic, the government accepted the recommendation to "fight discrimination and violence against Roma," proposed by Algeria and Romania. In addition, Canada's, China's, and Mexico's general recommendations to implement antidiscrimination legislation were likewise accepted, as was Slovenia's suggestion to consider using the Yogyakarta Principles in drafting human rights policies

The State's Challenges in Addressing Hate Crimes

Data Collection Mechanisms and Underreporting

17. According to the Fundamental Rights Agency's ranking, the Czech Republic's hate crime data collection efforts can be classified as "good," placing the country in the second tier (worse than "comprehensive" but better than "limited"). Human Rights First's report card also ranks the Czech Republic among the seventeen states that are fulfilling their basic Organization for Security and Cooperation in Europe (OSCE) commitments to monitor hate crimes. The government also openly publicizes its record and submits data to the OSCE for ODIHR's annual hate crime report. Yet, although the most serious racist crimes have attracted media attention and resulted in police investigations, many lower-profile cases go unreported and thus unrecorded by the police. Enhancing the level of reporting of incidents lies at the very root of what needs to be done to address bias-motivated violence. The "good" ranking awarded by FRA means that fully comprehensive disaggregate data is still lacking in the Czech Republic. For example, the government does not keep statistics regarding incidents of violence directed at individuals based on their sexual orientation or gender identity.

Legislative Framework

18. The Criminal Code of the Czech Republic defines specific bias-motivated acts as separate offenses, containing provisions by which racist or other bias motivations can be considered as a specific aggravating circumstance in the commission of certain offenses. A 1995 amendment to the Code increased all sentences for crimes with racial motives, extending the range of evidence for crimes such as murder, battery, intimidation, and damage to property. In 2008, the Czech Parliament enacted a new Criminal Code which came into force in 2010. The new code expands the number of offenses in which bias is to be considered an aggravating factor.
19. There are also a number of crimes in which bias motivation can be considered an aggravating factor. Under section 42(b) of the new Criminal Code, penalties are enhanced for crimes of "murder, grievous bodily harm, bodily harm, torture, and other inhuman and cruel treatment, false imprisonment, unlawful restraint, kidnapping, blackmail, breach of secrecy of documents held in private, damage to private property, abuse of the authority of an official, violence against a group of persons and against an individual...and some military offenses," when the act is committed against an individual because of "race, ethnic affiliation, nationality, political persuasion, religion or perceived lack of religious belief." In addition, the Czech Republic includes so-called "other hatred" among generally aggravating circumstances. Social groups defined by sexual orientation can theoretically be subsumed under the general terms, but in practice this has never been done.
20. The European Commission against Racism and Intolerance continuously notes, however, that "implementation of criminal law provisions devoted to racially motivated crimes remains inadequate," and "reports of racially-motivated violence continue unabated." This conclusion is shared by Czech and international NGOs that observe the persistence of bias-motivated violence in the country. Unfortunately, such cases are not always vigorously pursued by the relevant authorities. Sometimes the police play down the gravity of the violence, and prior incidents of police involvement in attacks or harassment of minorities, particularly Roma, have been recorded.
21. The Bill on Victims Rights has also been introduced by the government, according to which people attacked because of their race, national or ethnic origin, religion, sexual orientation and

other characteristics are considered a vulnerable victim and granted free social and legal help. However, such legal assistance can be provided only by attorneys at law that cannot be employed by the nongovernmental organizations. The system is potentially difficult to access for marginalized groups who fear contact with officials or legal practitioners but confide in community organizations or nongovernmental service providers. Irregular migrants as well as nonresident foreigners are also not entitled to this assistance.

Recommendations for Combating Hate Crimes in the Czech Republic

22. Senior government officials should speak out against hate crime incidents whenever such acts occur and ensure that there is a rapid response of the law enforcement and the criminal justice authorities. The Police should voice and maintain a strong and open commitment to investigate hate crimes and to support hate crime victims.
23. In order to hold to account those public officials and other leaders who engage in hateful rhetoric scapegoating or vilifying minorities and foreigners, the government should seek to establish guidelines and best practices for public officials at all levels to prevent statements that incite violence or promote acts that would curtail the enjoyment of rights by others.
24. The Ministry of Interior should improve efforts to collect comprehensive disaggregated data on hate crime attacks in the country. The databases held by the Police, State Prosecutor Office and the Court should be interconnected to provide comprehensive picture of hate crimes committed and investigated in the Czech Republic. Law enforcement agencies should publicly commit to investigate all hate crimes, committed against any individual, and to provide regular public updates into the investigation and prosecution of such crimes.
25. Law enforcement officials should take steps—including reaching out to community and other nongovernmental groups—to increase the confidence of crime victims from marginalized groups such as Roma to report crimes to the police. The authorities should ensure thorough investigations and prosecution of any reports of police misconduct or abuse. Additional steps to increase confidence in the system and encourage reporting include the development of third party reporting, providing guarantees that victims' legal status in the country will not be regarded when reporting an incident to the police, and enhancing outreach to civil society and intergovernmental organizations that work with various populations vulnerable to hate crime attacks.
26. Appropriate help to hate crime victims should be granted. The law enforcement agencies should be trained in cultural sensitivity and their approach should avoid and prevent repeat victimization. Law enforcement agencies should closely cooperate with nongovernmental organizations providing legal, medical, psychological, and social assistance. Confidential victim reporting should be permitted to further ensure victims' protection.
27. Senior law enforcement officials should ensure that police receive adequate training on community policing and conflict resolution at the local level, as well as training on identifying and recording bias motivations when hate crimes do occur.
28. The Ministry of Justice authorities should train prosecutors and judges on recognizing and prosecuting bias-motivated offenses to ensure the systematic use of penalty enhancement provisions in appropriate cases. Judges should use the opportunity of the sentencing process to clearly and publicly articulate when and how a bias motivation was factored into the sentence.