

## **ODIHR Submission of Information about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review Process**

### **Participating State: the Czech Republic**

**UPR Session and Date of Review:** 28<sup>th</sup> session (Oct-Nov 2017)

### **Background**

The Czech Republic has been a participating State in the former Conference for Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1993, and has thus undertaken a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.<sup>1</sup> The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including the Czech Republic, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in the Czech Republic and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in the Czech Republic.

### **Overview of this Submission**

In the period under review, ODIHR has undertaken the Election Assessment Mission (EAM) for the January 2013 presidential elections. The findings of the Final Report of the EAM are summarized below.

The authorities in the Czech Republic and other sources have provided information to ODIHR most recently for its 2015 annual report on *Hate Crimes: Incidents and Responses*. Extracts from this information are included below.

Other materials included in the submission relate to the Roma and Sinti issues: the October 2012 report: “Equal Access to Quality Education for Roma children: Field Assessment visit to the Czech Republic” and the December 2016 “Summary Report of ODIHR Conference on Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic”.

### **Election-related activities**

In 2013, ODIHR deployed the EAM for the 11-12 January presidential elections. This was the fourth ODIHR election related activity in the Czech Republic.

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<sup>1</sup> Compendium of OSCE Human Dimension Commitments, vol 1 and 2; Astana Commemorative Declaration, 2010.

The final report of the ODIHR EAM concluded that “the election was competitive, contested by nine presidential candidates who offered voters a diverse and genuine choice. Three of the nine candidates were women. The election was professionally organized and enjoyed a high level of public confidence. This was the first election in which the president was elected through a popular vote, after constitutional amendments in February 2012.“

Key recommendations and background from the final report are:

The report contains a total of 17 recommendations, among them 4 priority ones:

On 7 January 2013, the Constitutional Court judged that the number of required signatures is adequate and non-restrictive to the complainant’s right to stand, and that the requirement of wide public support is acceptable to prove the seriousness of a potential candidate. On the methodology for the verification of signatures and the deadline to submit the complaint to the Supreme Administrative Court, the court agreed with the resolution of the Supreme Administrative Court. In its final remarks, the court invited legislators to change the law by setting an obligation for signature verification and suggested that the number of signatures required could be reviewed.

**RECOMMENDATION:** *The legal framework for the candidate registration process could be reviewed as indicated by the Constitutional Court, particularly with regard to the verification of signatures. Such review should address any doubts about the fairness and consistency of the registration process.*

The Ministry of Interior informed the ODIHR EAM that it does not have the means to identify duplicates in the voter lists as they are produced by local authorities. It is the responsibility of the bodies compiling the lists to prevent double entries. EAM interlocutors stated that double voting could theoretically happen, but that it was very unlikely as municipalities make sure that they update their voter lists up until the last moment.

**RECOMMENDATION:** *Consideration could be given to introducing standard procedures on the compilation and update of voter lists to avoid inconsistencies or multiple entries.*

Within 60 days of the announcement of official results, a report on campaign accounting has to be published on candidates’ websites and provided to the Mandate and Immunity Committee of the Senate. This committee is a depository body for the campaign financing reports, and has no mandate to scrutinize their accuracy. No other institution is responsible for checking the accuracy of the reports, and no sanctions are foreseen for incomplete reporting or failure to report.

**RECOMMENDATION:** *In order to improve the transparency and accuracy of reporting on campaign financing, the law could be amended to introduce meaningful control and oversight mechanisms, as well as timely sanctions for potential infringements.*

The election law stipulates that the election campaign “must be honest and fair” and that “no false information on individual candidates may be published”. Nevertheless, there is no judicial remedy for alleged breaches of these provisions. According to the president of the Supreme Administrative Court, the only remedy is to challenge the validity of the election, which can only be submitted after the completion of the election process.

**RECOMMENDATION:** *The authorities could consider introducing a specific judicial review of decisions of administrative bodies governing the election process. Consideration could also be given to introduce a judicial remedy during the election campaign in case of alleged breaches of the “honest and fair” campaign standards. Finally, stipulations introducing*

*specific judicial review in the election legislation could include clear and short timeframes for their review.*

### **Legislation reviewed by ODIHR**

Upon request by authorities of a participating State, an OSCE field operation or another OSCE institution, ODIHR reviews - for conformity with OSCE commitments and other international standards - draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security. The legal reviews and opinions, often produced in co-operation with the Venice Commission of the Council of Europe, are available at [www.legislationline.org](http://www.legislationline.org).

Basic information about the constitutional system and legislation pertaining to the human dimension of the Czech Republic is available on [www.legislationline.org/countries/country/35](http://www.legislationline.org/countries/country/35).

During the period under review, ODIHR has not been requested by the Czech Republic to review draft or existing legislation.

### **Tolerance and non-discrimination issues, including incidents of and responses to hate crime**

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and to combat hate crime, and ODIHR supports states in their implementation of those commitments. ODIHR reports at <http://hatecrime.osce.org/> to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR's data on hate crime is launched online each year on 16 November, covering information from the past calendar year. ODIHR also helps participating States design and draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and law enforcement officials, prosecutors and judges that staff them; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports efforts of civil society to monitor and report hate crimes.

Information concerning the Czech Republic in the most recent (2015) edition of the annual hate crimes reporting<sup>2</sup> includes the following:

- Overview of officially reported data**

The Czech Republic regularly reports hate crime data to ODIHR. The Czech Republic's hate crime laws consist of a combination of general and specific penalty-enhancement provisions and substantive offences. The data reported to ODIHR combine hate crime and hate speech. The Informatics and Analytical Centre of the Criminal Police and Investigation Service of the Police Presidium, the Analytical and Legislative Department of the Supreme Public Prosecutor's Office and the Informatics Department of the Ministry of Justice collect hate crime data, which are then published annually in a Report on Extremism.

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<sup>2</sup> Available at <http://hatecrime.osce.org/czech-republic>

The annual 2015 figures included 64 incidents recorded by police, 20 prosecuted and 29 sentenced cases.

Hate crimes recorded by police were disaggregated by bias motivation but the Czech Republic has not reported on cases of hate crimes separately from cases of hate speech and/or discrimination. Police recorded 26 hate crimes motivated by racism and/or xenophobia, 22 incidents against Roma and Sinti, one anti-Semitic incident, six anti-Muslim, two anti-Christian and seven of unspecified motivation. About two thirds of these incidents were verbal attacks, while the remaining one third included violence.

## National developments

An amendment to hate crime provisions of the criminal code was drafted and discussed at the ministerial level. The amendment would include sexual orientation among protected characteristics for the purposes of sentence enhancement.

An Act on the Victims of Crime, implementing the European Union's Victims Directive, came into effect providing for assistance to hate crime victims. Subsequently, a new training programme for the police on specific victim needs has been developed and is being implemented. Authorities also supported the work of a civil society organization providing services to hate crime victims.

The Hate Free Culture campaign, which began in 2014, continued with the creation of hate free zones – cafes, clubs and other facilities, which declare their space as a place without hatred and violence.

- **Overview of incidents reported to ODIHR by civil society**

Bias Motivation	Attacks Against People		Attacks Against Property
	Violent Attacks	Threats	
Racism and xenophobia	9	8	7
Bias against Roma and Sinti	12	13	5
Anti-Semitism	3	6	10
Bias against Muslims	6	8	8
Bias against LGBT people	2	1	0
Total	32	36	30
Grand Total	98		

## The following civil society organizations reported information on incidents to ODIHR

### *Racism and xenophobia*

In IUSTITIA reported nine physical assaults, eight threats, three incidents of damage to property and four incidents of vandalism involving graffiti.

### *Bias against Roma and Sinti*

In IUSTITIA reported 12 physical assaults, 13 threats, two incidents of damage to property and three incidents involving graffiti.

### ***Anti-Semitism***

The Federation of Jewish Communities reported two incidents of threats and three incidents of vandalism against a Holocaust memorial, a Jewish school and a memorial to Oskar Schindler, respectively.

In IUSTITIA reported three physical assaults, four threats, two incidents of damage to property and five incidents of anti-Semitic graffiti.

### ***Bias against Muslims***

In IUSTITIA reported six physical assaults, eight threats, five incidents of damage to property and one incident of graffiti. SETA reported two additional incidents of vandalism targeting one mosque, in which windows were broken and motor oil spilled over doors and walls.

### ***Bias against LGBT people***

ILGA-Europe and In IUSTITIA reported two physical assaults, including one in which a transgender victim suffered injuries requiring hospital treatment; and threats towards a lesbian couple, in which one of the women was transgender.

### **Roma and Sinti issues**

ODIHR has a specific mandate to assist participating States in implementing the OSCE Action Plan for Improving the Situation of Roma and Sinti within the OSCE Area.<sup>3</sup>

In October 2012, ODIHR published the report: “Equal Access to Quality Education for Roma children: Field Assessment visit to the Czech Republic”.<sup>4</sup> While the report notes examples of good practice in some Czech schools, overall it finds that many Roma children are still placed in specialized primary schools for no obvious reason. The report’s recommendations include phasing out separated schools, promoting and supporting inclusive education, and introducing supportive measures for pupils from disadvantaged backgrounds.

In December 2016, ODIHR published “Summary Report of ODIHR Conference on Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic”.<sup>5</sup> The report provides summary of the discussions between government representatives, Roma women victims of sterilizations, Roma and other civil society representatives, and the international community on the issue of forced and coercive sterilization of Roma women and on mechanisms to ensure access to justice and compensation for the victims of sterilization.

### **Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)**

N/A

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<sup>3</sup> <http://www.osce.org/odihr/17554>

<sup>4</sup> “Equal Access to Quality Education for Roma children: Field Assessment visit to the Czech Republic”, 26 October 2012, OSCE/ODIHR, <<http://www.osce.org/odihr/96661>>.

<sup>5</sup> “Summary Report of the OSCE/ODIHR Conference on Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic”, 13 December 2016, OSCE/ODIHR, <[http://www.osce.org/odihr/sterilization\\_report](http://www.osce.org/odihr/sterilization_report)>.

**Other assessments and recommendations contained in ODIHR reports on thematic human issues**

N/A