



Country fact sheet for the CRC

CZECH REPUBLIC

REPORT N°	<ul style="list-style-type: none"> ▪ Combined Fifth and Sixth Periodic Report (UNCRC)
PRE-SESSION / SESSION	<ul style="list-style-type: none"> ▪ Pre-sessional: 84th (September-October 2019) ▪ Sessional: 84th (May 2020)
LEGAL FRAMEWORK	<p>International and regional legal framework:</p> <ul style="list-style-type: none"> ▪ Convention on the Rights of the Child: 1993; ▪ Optional Protocol on the sale of children: 2005; ▪ 1993 Hague Convention on Intercountry Adoption: 2000; ▪ 1996 Hague Convention on Protection of Children: 2000; ▪ European Social Charter: 2000. <p>Domestic legal framework:</p> <ul style="list-style-type: none"> ▪ Civil Code (2012); ▪ Act on Special Court Proceedings (2013); ▪ Act on Socio-Legal Protection of Children (1999, amended in 2012); ▪ Act on International Private Law (2012); ▪ Law on residential care, protective education and prevention care in educational facilities (2002); ▪ Act on Educational Facilities (1978).
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<p>An amendment to the <i>Act on Social-Legal Protection of Children</i> (2012) entered into force in 2013:</p> <ul style="list-style-type: none"> → Emphasis was put on prevention and systematic work with the family so that as many children at risk as possible could keep growing up in a family or family-like environment. → As mentioned by the European Commission, the new amendment brought numerous changes in foster care, which became significantly more professional (e.g. rewards for foster parents would be increased, their training was to be unified and a system for their monitoring was introduced). → The institutional care was to remain a last resort. <p>The <i>Civil Code</i> (89/2012) entered into force on January 1, 2014 and regulates adoption as well as institutional care, guardianship, and foster care. The new Civil Code stipulates in particular that foster care takes precedence to institutional care and stipulates that it will no longer be possible to place children in children's homes for an indefinite duration – the maximum period will be three years, after which a court must re-evaluate and decide.</p> <p>Prevention and reintegration: Reinforced efforts are made to support families and prevent separations, as well as to reintegrate children with their families. Only if all attempts at family therapy fail, the childcare authority files an application with the court to issue a preliminary injunction or an application to order institutional care. In the experience of the NGOs, however, family therapy is often inadequate owing to a lack of social workers and a lack of financial resources for the necessary material and financial assistance. In 2016, 1,403 children were returned to their biological families from children's homes.</p>

	<p>Baby boxes: There are currently 70 baby boxes in the Czech Republic. In 2016 and 2017, 17 children were left in baby boxes. It appears that the country has not taken any preventive measures to end its baby box programme. In a 2018 report, the latter specifies that while measures are taken to identify the child, there is no explicit explanation of the measures undertaken to identify and support the child’s biological parents.</p>
<p>ALTERNATIVE CARE OPTIONS</p>	<p>Children who require special protection and care, who were temporarily or permanently deprived of their family environment, or for whom, according to their best interests, it was not possible to be left in their current environment, are recorded and monitored by childcare authorities at the appropriate District Offices and Municipal Offices. Only a court is now authorised to issue a preliminary injunction concerning, e.g. the placement of a child in the care of another person (including a legal entity), and the measure is issued by a judge. The court is then required, based on an application from the District Office, to decide on the measure within 24 hours. The measures that may be decided are provided for in Articles 971 and ff of the Civil Code and must be decided by a Court.</p> <p>Guardianship (art. 943ss Civil Code) and kinship care: A court appoints a guardian if both parents have died, have had their parental responsibility removed, exercise of their parental responsibility has been suspended or they do not have full legal capacity. The guardian brings up the child, represents him and manages his property. If a natural person cannot be appointed as a guardian, the court shall appoint a body for the social and legal protection of children as guardian. As per <i>TransMONEE</i>, there were 3,005 under guardianship in 2014.</p> <p>Entrusting a child to the care of someone other than their parent (art. 953ss Civil Code): This possibility should be used to solve short-term situations, and often includes the placement of the child with his grand-parents or extended family, given that the court generally gives priority to a child’s relatives. The child and the appointed person are under regular supervision by authorities responsible for social and legal protection of children. The caring person must qualify as a person who can guarantee due care, has residence in the Czech Republic and consents to being entrusted with the care for the child.</p> <p>Foster care: Children who are not legally available or who are difficult to put up for adoption because of a health or mental disability are placed in foster care. As mentioned above, the amendment to the Act on Social Legal Protection of Children greatly improved the conditions of foster carers. In addition, according to another report from Lumos, this amendment <i>‘involved a substantial improvement in the system of short-term foster care. Short-term foster care is a specific form of substitute care that makes it possible for children not to have to stay in institutional care while plans are put in place to address their long-term needs. This may mean supporting their biological family so the children can return to their parents, or placing them in an adoptive family or into long- term foster care. The 2013 amendment – (...)– allows a child to be placed with short-term carers for the period of up to one year. It is aimed primarily at babies and infants, whose development suffers the most severe harm in institutional care (...). Between January 2013, and June 2015, more than 400 new foster carers were selected, trained and registered on a database. During those two and a half years, they looked after over 500 children who would have otherwise have been in institutional care’</i>. Foster parents are also entitled to a monthly child allowance, a lump-sum allowance on accepting a child, and transport allowances. Upon achieving economic independence, a child in foster care is entitled to CZK 25,000. Foster family support also includes the mediation of other expert services (e.g. psychotherapeutic services) or the provision of a respite care service. Allowances are given to short-term foster carers, however in practice long-term foster carers seem to receive less allowance. An obligation for foster parents to undergo childcare training of at least 24 hours per year was also introduced. <i>TransMONEE</i> indicates that in 2014 there were 9’771 children in foster care. According to a recent academic article, ‘the number of children in foster care has increased by 2.5 times since 2004. In 2016 40% more children lived in all forms of formal family substitute</p>

care compared to 2009'¹. Furthermore, 'since 2006 the legislation regarding foster care was supplemented with new special legislation [with an emphasis on] the need for short-term foster care in clearly defined situations as a crisis intervention for the child', called transitional foster care, and 'since January 2013 transitional foster parenting has become a profession'².

Institutional care (Arts. 971f Civil Code and Act on Social Legal Protection of children N°359/1999, amended in 2012): Before ordering a placement in an institution, the court is required to investigate whether the child can be raised in alternative family care, which takes precedence over institutionalisation. In the past years, the children subject to an institutional regime were excluded from the normal way of life and the supervision of these institutions were not regulated. The contacts with the parents were also not regulated. To rectify this, the new Civil code now provides (art. 973) that 'the court must at least once every six months to examine whether there are grounds for the enactment of this measure or that it is not possible to provide child foster care (...)'

The various types of institutions are:

- **Facilities under the jurisdiction of the Ministry of Health:** Children up to the age of 3 are placed in infants' institutions and children's homes for children from 0 to 3 years old, in which these are provided with health, educational and social care. Despite all efforts, children's stays in institutions are lengthening. The most difficult to place in alternative family care are severely medically disabled children, children with behavioural and developmental problems and Roma children. The prevention of separation remains weak in these situations, and only some facilities for babies are equipped in order for mothers to remain in the facility. Some of these homes have over 100 children per one facility, with one nurse working in shifts and looking after five children on the average and even more for infants between 0-3 years of age. According to a recent academic article, 'in the year 2012 there were a total of 33 institutes for infants and children's homes for children up to three years of age in the Czech Republic'. Furthermore, 'after ten years of gradual changes oriented toward a preference for foster care, fewer children live in institutional facilities for children up to three years of age, between the years of 2007 and 2016 this resulted in a decrease of 30% (1,407 children in the year 2007 versus 1,037 in 2016); the total number of children accepted for social reasons also decreased (from 734 children in 2007 to 394 in 2017)³.
- **Facilities under the jurisdiction of the Ministry of Education, Youth and Sports:** These educational facilities provide protection for children and youth aged 3-18 against the negative influences of a dysfunctional family or other socially negative environment, based on a court decision, or at the request of the parents or legal guardian. Children's homes are divided into residential-type and family-type homes. Rehabilitation homes, for offenders, still seem to be based in the same facilities as other types of homes, and to apply the same regime, given that there are no special facilities for rehabilitation. These facilities house up to 48 children; children between 3-18 years of age live in groups of 6-8 and are looked after by one caretaker who works in 8-hour shifts. According to the above-mentioned academic article, 'with priority given to other forms of substitute care, the number of children older than three years of age in institutional care decreased between the years 2005 and 2016 by 30%⁴.
- **Institutions for social care under the jurisdiction of the Ministry of Labour and Social Affairs or Ministry of Health:** The institutions for social care provide health, social and developmental assistance for children and youth with severe mental and/or physical

¹ Vavrečková, V., Tichá, M. and Ondrúšová, Z. (2017). Substitute Child Care as a Current Problem of Social Care in the Czech Republic. In *DANUBE: Law, Economics and Social Issues Review*, 8 (4), 237–248.

² *Idem.*

³ *Idem.*

⁴ *Idem.*

	<p>disabilities. Children’s homes under this Ministry have the average capacity for 20 children; children (usually between 3-18 years of age) live in groups of four.</p> <p><i>Opening Doors</i> indicates that, in 2017, there were approximately 9,000 children living in institutional care. In November 2017, a group of NGOs filed a collective complaint to the European Committee of Social Rights (ECSR), calling for the closure of residential care institutions for children under the age of three in the Czech Republic. Czech Republic remains one of the last European States to allow the long-term placement of young children in state institutions. Roma children and children with disabilities are significantly overrepresented. Finally, according to the same academic article mentioned above, ‘the situation of children in institutional facilities is addressed by the Public Defender of Rights, who since 2006 has been systematically visiting these facilities and monitoring the living conditions of children at risk. From the reports certain doubts about the selected facilities have arisen, such as the fact that the institutions inadequately work with the original family of the child’⁵.</p> <p>Sources: TransMONEE 2014 and 2013: http://transmonee.org/country/czech-republic/; European parliament, Policy Department, Citizens’ rights and constitutional affairs, Country Report on the Czech Republic for the Study on member states’ policies for Children with disabilities: http://www.europarl.europa.eu/meetdocs/2014_2019/documents/libe/dv/25_czcountrypol_en.pdf; Lumos: <i>Ending the institutionalisation of children, a summary of progress in changing systems of care and protection for children in Moldova, the Czech Republic and Bulgaria</i>: http://www.bettercarenetwork.org/sites/default/files/Ending%20the%20Institutionalisation%20of%20Children.pdf; Lumos: Short term foster care, results of a survey among short-term foster carers carried out by Lumos in June 2015: http://www.bettercarenetwork.org/sites/default/files/Short%20Term%20Foster%20Care%20Results%20of%20a%20Survey.pdf; ‘Právo: More Czech children returning from institutions to parents’, Prague Daily Monitor, 2017, https://bettercarenetwork.org/sites/default/files/Právo-%20More%20Czech%20children%20returning%20fr...stitutions%20to%20parents%20%7C%20Prague%20Monitor.pdf; Opening Doors, http://www.openingdoors.eu/czech-ngos-call-for-an-immediate-action-to-change-the-care-system-for-children-at-risk/; Vavrečková, V., Tichá, M. and Ondrušová, Z. (2017). Substitute Child Care as a Current Problem of Social Care in the Czech Republic. In DANUBE: Law, Economics and Social Issues Review, 8 (4), 237–248.</p>
ADOPTION	<ul style="list-style-type: none"> → Articles 794 ff of the Czech Republic’s Civil Code, in force since 1 January 2014, regulate domestic as well as intercountry adoption. → The Czech Republic only carries adoptions with other Contracting States to the 1993 Hague Convention. → The Czech Republic’s adoption legislation is, in many ways, in line with the 1993 Hague Convention on Intercountry Adoption. → The majority of children adoptable in intercountry adoption are Roma children (90%), therefore raising concerns as to the respect for the principle of subsidiarity for these children. → Finally, it seems that private adoptions are still possible in Czech Republic, despite being discouraged by the international community. <p>Source: HCCH Country Profile: Czech Republic (2014), https://www.hcch.net/en/publications-and-studies/details4/?pid=6221; Office for International Legal Protection of Children, Czech Republic, https://www.umpod.cz/en/adoption/intercountry-adoption-from-the-czech-republic/.</p>
STATISTICS	<p>Alternative care: See above.</p> <p>Adoption: According to the Czech Central Authority, the latter usually facilitates the pre-adoption custody of approximately 50 children to another country per year. As examples, there have been little to no intercountry adoptions from the Czech Republic to the USA in recent years (2 in 2016 and 1 in 2014); 9 children were adopted to Sweden in 2016; 4 children were adopted to Italy in 2015; 2 children were adopted to Germany in 2017; and 1 child was adopted in France in 2014 (and none since).</p>

⁵ Idem.

	<p><i>Sources:</i> Office for International Legal Protection of Children, Czech Republic, https://www.umpod.cz/en/adoption/intercountry-adoption-from-the-czech-republic/; HCCH statistics for Sweden, Italy and Germany, https://www.hcch.net/en/instruments/conventions/publications1/?dtid=32&cid=69; France Diplomatie, https://www.diplomatie.gouv.fr/fr/adopter-a-l-etranger/la-mission-de-l-adoption-internationale/les-statistiques-de-l-adoption-internationale/article/statistiques-annuelles.</p>
<p>RISKS</p>	<ul style="list-style-type: none"> ▪ Adequate financial resources must be allocated to ensure the full implementation of family strengthening measures, such as reintegration measures as well as maintenance of contact; ▪ There appears to remain a lack of coordination between the different ministries involved; ▪ The use of baby boxes is a concern and should be avoided; instead support for vulnerable families prior to, during and after pregnancy should be more than ever a priority in these countries' social policies; ▪ The situation and over-representation of children with disabilities and Roma children in care is a concern; ▪ Professional should be further trained and made aware of the importance of giving priority to care family-based settings; ▪ Children below the age of 3 years should exclusively be cared by in a family environment; ▪ Regular and systematic reviews of all forms of placement should be undertaken by competent professionals.
<p>POTENTIAL QUESTIONS</p>	<p>Child protection and alternative care:</p> <ul style="list-style-type: none"> ▪ Whilst the Czech Republic's National Strategy that aims to protect children rights and prioritise family support and environment is a key step forward, what is being undertaken to ensure adequate financial resources for its implementation? ▪ What is being undertaken to further strengthen family support measures, including prior to and preventing the use of baby boxes? ▪ What is being undertaken to further ensure that family-based care is being given priority over residential care, including for children with disabilities and Roma children? ▪ Given the recent increase in unaccompanied and separated children in the country, how is the Czech Republic appropriately addressing their protection and care? <p>Adoption:</p> <ul style="list-style-type: none"> ▪ Is the country considering prohibiting private adoptions? ▪ How is the principle of subsidiarity implemented equally for all children in the Czech Republic?