WRITTEN COMMENTS

of the European Roma Rights Centre, Mental Disability Advocacy Centre, League of Human Rights and the Platform for Social Housing, Concerning the Czech Republic

For Consideration by the Committee on Economic, Social and Cultural Rights at the 52nd Session (28th April to 23rd May 2014).

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CHALLENGING DISCRIMINATION PROMOTING EQUALITY

errc
european roma rights centre

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INTRODUCTION

This submission is presented by the European Roma Rights Centre (ERRC),[1] Mental Disability Advocacy Centre (MDAC)[2], League of Human Rights (LIGA)[3], and the Platform for Social Housing.[4] Our organisations would like to provide supporting evidence for consideration by the Committee on Economic, Social and Cultural Rights (the Committee) during its second periodic review of the Czech Republic. The submission provides a factual base and recommendations for two key issues of the right to education and housing. It concentrates on these selected questions from the List of Issues previously sent by the Committee to the Czech Government:[5]

ARTICLE 2, PARAGRAPH 2 – NON-DISCRIMINATION

5. With regard to addressing social exclusion of the Roma, please explain to what extent the changes introduced in the areas of housing, promotion of employment and education, as recommended by the 2005 analysis mentioned in paragraphs 64 and 66 of the State report, as well as the implementation of the 2010 Roma Integration Concept have brought about progress in the integration of Roma and in their enjoyment of economic, social and cultural rights.

ARTICLE 11 – THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

15. Please provide information on the impact of the implementation of the 2011-2015 Strategy for Combating Social Exclusion on the enjoyment of the right to an adequate standard of living by the most disadvantaged and marginalized groups.

16. Please clarify the conditions under which a person may be subject to forced eviction without being provided with alternative housing, bearing in mind the Committee's general comment No. 7 (1997) on the right to adequate housing: forced evictions.

ARTICLES 13 AND 14 – THE RIGHT TO EDUCATION

21. Please explain why how the State party's "racially neutral" education system continues to lead to overrepresentation of Roma children in certain programmes and classes, a concern raised by the Committee in 2002 in paragraph 23 of the concluding observations.[6]

The ERRC has worked in the Czech Republic since 1996, and has documented widespread and systematic discrimination against Roma in the areas of education, housing, health, access to services, and employment. The ERRC has also recorded and litigated several cases of violent hate crimes, hate speech and anti-Roma marches. It is estimated that up to 300 000 Roma live in the Czech Republic.[7]

The chapter on housing was prepared in collaboration with the Platform on Social Housing.

1 The ERRC is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. See: www.errc.org.

2 The Mental Disability Advocacy Center is an international non-governmental human rights organisation headquartered in Budapest, Hungary. MDAC has been working with Czech NGO partners since 2002. The organisation advances the rights of children and adults with intellectual disabilities and those with psycho-social (mental health) disabilities. MDAC does this through a combination of strategic litigation, research, advocacy and capacity-building, and the organisation has participatory status at the Council of Europe and special consultative status at the UN Economic and Social Council. See: www.mdac.info.

3 The League of Human Rights (LIGA) is a Czech human rights organisation, which advances the rights and freedoms of all people the Czech Republic. In our work, we mainly focus on the rights of especially vulnerable persons or persons facing social exclusion, such as the rights of children, persons with disabilities or victims of police violence. Our vision is just, free and engaged society for all. See: www.llp.cz/en.

4 The Platform for Social Housing is a platform of Czech NGOs and expert association which advocates for the introduction of social housing policies and practices in the Czech Republic, and monitors the implementation of the current policies and their impacts on vulnerable groups. The platform currently consists of 32 members, of which 20 are organisations (social housing and social services providers, and human rights organisations). Among others, all Czech members of FEANTSA are included. See: http://www.socialnibydleni.org/.

5 UN Committee on Economic, Social and Cultural Rights, List of issues in relation to the second periodic report of the Czech Republic, 19. December, 2013, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=820&Lang=en.

6 [Amnesty International and the European Roma Rights Centre, *Five more years of injustice* (November 2012), pp. 1-2: "… Romani children continue to be over-represented in schools and classes designed for children with mild mental disabilities. … There are shortcomings in the Czech educational system that obstruct the inclusion of Romani children in integrated mainstream education. To date, the government has failed to end racial segregation in Czech schools or effectively implement its own, more inclusive education policies, such as the National Action Plan for Inclusive Education (NAPIE) and the Strategy for Combating Social Exclusion for 2011-2015."

7 UNDP, *The Housing Situation of Roma Communities: Regional Roma Survey 2011,* p. 41.

HOUSING AND AN ADEQUATE STANDARD OF LIVING – ARTICLE 11

EVICTIONS

In the Czech Republic, there are a number of laws dealing with housing issues – buildings' erection and demolition,[8] rent,[9] ownership[10] and cooperative housing.[11] One of the main problems Roma face in the housing sphere in the Czech Republic is the problem of forced evictions.

There are several reasons why Roma and other socially vulnerable groups in the Czech Republic are being evicted. The evictions are usually exercised in an organised way and affect several families.[12] The laws which are used the most frequently for evictions are the Czech Civil Code[13] and the Building Act.[14] The most frequently reported reason for evictions are problems with rental contracts determined by the Civil Code, including tenants not paying rent; dangerous and unhealthy living conditions and the dangerous state of the building/flat. The Building Act allows the Building Office to order demolition of a building threatening lives and health of others, security, environment or property of others.[15] The Building Act gives the owners of such buildings the opportunity to legalise their buildings, if the building can be shown to meet the prescribed criteria.[16] However, the procedure is administratively complicated.

The ERRC has monitored two evictions in the towns of Ostrava and Ústí nad Labem executed in the period of 2012-2013. The case in Ostrava demonstrates the general procedure applied by the Czech authorities and the consequences for the affected Roma.[17]

On 3rd August 2012 the Head of Ostrava's Construction Office delivered an eviction notice to more than 70 families living in rented housing on Přednádraží Street, Ostrava-Přívoz, the majority of which were Romani families. The eviction order declared the houses of Přednádraží Street unsafe for human habitation due to damage to the structure and electrical installations, as well as inadequate sanitation. The local authorities completely failed to consult the Roma families adequately before the planned eviction and provided only one day's notice[18]. Not all the evicted families were provided with alternative accommodation and no family was provided a sustainable solution.[19] The privately-owned dormitories offered (to fourteen families only) as alternative housing were inadequate as they assigned in most cases one room to each family – some of which have up to nine members. Moreover, rental prices for a room at the dormitories are more than double what the families were previously paying for a flat and this raised serious concern about their ability to afford the proposed alternative. Finally, similar bad sanitary conditions, which served as a main argument for evictions, were found in the private dormitories where some of the evicted Roma suffered dysentery.[20] Due to the discrimination in the official rental market and inability to pay regular rents, the evicted Roma families could not find alternative accommodation. The evicted families had no other choice than to move to dormitories as they did not meet the criteria set up by the local authorities for being eligible for social housing. The criteria include a requirement of regular employment or being retired, which were not met by most of the Roma from Přednádraží Street.[21]

8 Act no. 183-2006 Coll. Building Act

9 Act no. 40/1964 Coll. the Civil Code. Since January 1, 2014, a new Civic Code, with amendments to rental contracts, is in force; Act no..128/2000 Coll. on Municipalities.

10 Act no. 72/1994 Coll. on Ownership of Flats.

11 Act no. 40/1964 Coll. Civil Code; Act no. 513/1991 Coll. Commercial Code.

12 Czech Helsinki Committee, *Romové a potřeby bydlení*, 2008, available at: http://www.helcom.cz/view.php?cisloclanku=2009042106.

13 *Ibid*, Supra, note 117.

14 Act no. 183-2006 Coll. Building Act, note 116.

15 *Ibid*., Art. 129 (1,a).

16 Act no. 183-2006 Coll. Building Act, Art. 129 (2,3).

17 ERRC, Country Profiles 2011-2013: Czech Republic, pp. 31-38.

18 ERRC, Amnesty International, *Ostrava Municipality must Act Now to Provide a Sustainable Housing Solution for Roma*, available at: http://www.errc.org/article/ostrava-municipality-must-act-now-to-provide-a-sustainable-housing-solution-for-roma/4056.

19 ERRC, Amnesty International, *Roma families at imminent risk of forced evictions,* available at: http://www.errc.org/article/czech-republic-roma-families-at-imminent-risk-of-forced-eviction/4034.

20 Romea, *Dysentery on the rise in Ostrava residential hostels*, available at: http://www.romea.cz/en/news/czech/czech-republic-dysentery-on-the-rise-in-ostrava-s-residential-hotels.

21 Romea, *Power cut to ghetto, Romani residents plan temporary move,* available at: http://www.romea.cz/en/news/czech/czech-republic-power-cut-to-ghetto-romani-residents-plan-temporary-move.

On 1 January 2014, a new Civic Code came into force. The new Code significantly restricts the rights of tenants. For example, renting contract terminations do not have to be reviewed by courts anymore; hence it will remain up to a tenant to file a law suit in all termination cases. The notice period can be skipped should the tenant break her obligations in a 'specifically serious way', under which is meant mainly failure to pay rent for a three-months period. The provision obliging owners wishing to terminate a contract to provide equivalent alternative housing was entirely abandoned. Finally, the maximal deposit limit has been raised from three times the monthly rent amount to six times the monthly rent amount.

SOCIAL HOUSING

Experts estimate that 30 000 people live under substandard living conditions in the Czech Republic, and an additional 100 000 live in uncertain or unsuitable conditions according to European Typology of Homelessness and Housing Exclusion (ETHOS).[22] Among the hidden homeless, there has been an increasing number of youth, physically handicapped, women, and whole families with children. Among youth the most endangered are the people who are leaving institutional care. The share of women among homeless has been estimated to have increased from 5% in the beginning of the 1990s to 17% in 2009; 4% of clients were over 60 years old (clients of Naděje, c. a.).[23]

According to the EC/UNDP/WB 2011 Regional Roma Housing survey, almost half of the Roma in the Czech Republic (48%) feel under threat of evictions: 18% feel worried and 30% very worried that they will be evicted in the near future. In the comparative perspective of all 11 countries, the situation with eviction threats is the worst in the Czech Republic, where the largest share of Roma is afraid of evictions.

While Roma are statistically underrepresented in the group of visible homeless, their housing conditions have been deteriorating since the 1990s. A previously centralised state housing stock was, through previous decentralisation policies, transferred to the administration of local authorities. Since the 1990s, most of the local authorities decided to privatise their housing capacities and up to 90% of the municipal housing stock has been privatised to date. Roma, low-income and indebted households were those who lost out during privatisation: they were not allowed, offered or capable of buying the flats they were renting from the municipalities, and their housing, especially in lucrative areas of cities, was sold to private landlords. The new owners evicted Roma from city centres to peripheries, from developed areas to structurally disadvantaged regions. The government has not introduced any policy to control or revert these processes, and Roma continue to be evicted from cities.

For many Romani families the only way to find accommodation is through privately (or municipally)-owned residential hostels, as they are systematically denied housing on the official housing market.[24] Although in 2011, the allocation of housing subsidies was transferred from the discretion of the local authorities to State Labour offices, the Labour offices continued the established practice of paying these subsidies directly to the landlords of residential hostels. This practice of bypassing the subsidy beneficiaries was restricted only in November 2013 with a new set of normative instructions of the Ministry of Labour and Social Affairs. State support is calculated as a proportion (depending on the subjective assessment of a local officer) of the rents, and, unless selected as a case of special attention, there is no ceiling on its amount.[25] The processes of eviction of Roma from municipal housing, creation of segregated neighbourhoods in structurally disadvantaged areas, and subsidy preference for substandard housing in residential hostels has driven an increasing number of Roma, and other disadvantaged groups, into functional homelessness according to the ETHOS typology.

There has been no systematic policy on social housing in the Czech Republic. Since the 1990s experts have called for the introduction of a Social Housing Act, but no government has presented it. Around 80% of overall government housing expenditure has been directed to support the building owners, which means that the government has supported the housing of higher-income groups. Recently, the Ministry of Regional Development and the Ministry of Labour and Social Affairs have been jointly preparing a new comprehensive Concept of Social Housing, and some early draft suggests that the situation of many Czech citizens including Roma,

22 Hradecký et al. (2012): *Souhrnný materiál pro tvorbu koncepce práce s bezdomovci na období do roku 2020*. Praha: MPSV.

23 MPSV (2012): *Koncepce prevence a řešení problematiky bezdomovectví do roku 2020*.

24 Agency for Social Inclusion, *Residential dormitories do not solve the situation of socially vulnerable people in the long-term perspective*, available at: http://www.socialni-zaclenovani.cz/ubytovny-nemohou-dlouhodobe-resit-situaci-socialne-slabych-uvadi-vyzkum.

25 Czech Radio, *Interview with Martin Šimáček, Director of the Agency for Social Inclusion*, available at:: http://www.rozhlas.cz/zpravy/politika/_zprava/za-nefungujici-kanalizaci-v-prednadrazi-muze-mesto-ostrava-rika-martin-simacek--1101638.

who rely on state support in their housing, will deteriorate with this new policy. For example it wants to introduce social housing premises, in which several families would share a kitchen and other facilities, and further segregate people in housing emergency. The Concept should identify a specific group of people living under housing emergency, who would become eligible beneficiaries of state interventions. The way how the Concept eventually identifies this target group is, however, highly problematic; it excludes those households which ended up in the precarious situation "by their own activities". Such definition would not meet the Concept's aspiration of a "comprehensive social housing solution" as it would omit addressing a significant number of socially excluded households, and thus it would cause their conditions to further deteriorate. Following strong criticism from the side of civil society and the Government's Agency for Social Inclusion, the Ministry of Labour and Social Affairs has abandoned this particular definition of housing emergency. The same happened with the Concept in general as the two ministries were unable to defend proposed measures during the inter-ministerial reviews. The Concept thus eventually did not reach the level of government scrutiny. The newly-inaugurated government suggested that they will request the Concept's amendments.

Meanwhile, after the Czech Ombudsperson's criticism,[26] the new government requested a revision of the previously proposed amendment to the decree on minimal subsistence state assistance. The adoption of the proposed amendments would make a great number of families currently living in residential dormitories effectively homeless.

The current system of state housing subsidies does not facilitate access to the housing market for many vulnerable families. Moreover, it leads to residential segregation in low-quality and overpriced residential dormitories owned by private persons or municipalities. The living conditions in residential hostels often do not meet minimal housing and sanitation standards. Several people were asked to live in one room, and share kitchen and bathroom facilities; this all in inadequate-sanitation conditions.

Long-term provisional housing goes hand in hand with a poor system of education for Roma children. The lack of stable and decent housing with adequate privacy could have an even worse impact on the school attainment of Roma children, than the segregated system of special education. Without stable and calm housing, children lack psychological stability, have worse school attainment as a consequence and are less able to socialise.

ACCESS TO EDUCATION – ARTICLE 13

Six years ago the European Court of Human Rights (ECHR) judgment in *D.H.v the Czech Republic,*[27] which ruled that the country discriminated against Romani pupils by offering them inferior education in doubly-segregated schools, designed for pupils with intellectual disabilities and disproportionately attended by Roma. The Czech Republic has made very little progress in securing non-discriminatory access to education for Roma or children with disabilities since then. Romani children and other children determined to have intellectual disabilities continue to be trapped in a cycle of low-quality segregated education. The Czech government has failed to address the problem of discrimination against Romani pupils in education and has failed to establish an inclusive education system for all as a matter of priority, and it has not carried out the necessary systemic reform in order to comply with the *D.H.* decision. As a result, Romani pupils in practical and Roma-only schools and classes and pupils with disabilities in special or mainstream schools are re-living the same violations of their right to equal treatment in the field of education experienced by their parents and relatives.

FAILURE TO ENSURE EQUAL ACCESS TO EDUCATION FOR ROMANI CHILDREN

In the *D.H.* judgment, the ECHR noted "*with interest that the new legislation has abolished special schools and provides for children with special educational needs, including socially disadvantaged children, to be educated in ordinary schools*".[28] In fact, this change has in many ways made things worse. In fact, this amounted to a rebranding exercise in 2005 through

26 The Public Defender of Rights, Press release – the amendment of the minimal subsistence decree will even more deteriorate the lives of socially vulnerable people, available at: http://www.ochrance.cz/tiskove-zpravy/tiskove-zpravy-2014/novela-zakona-o-pomoci-v-hmotne-nouzi-socialni-situaci-lidi-jeste-zhorsi/#.Ut0l_Z1On8w.facebook.

27 European Court of Human Rights, *Case of D.H. and Others v. The Czech Republic*, 13 November 2007, available at: http://www.errc.org/cms/upload/media/02/D1/m000002D1.pdf.

28 *D.H.*, § 208.

which "special schools", designed for children with mild mental disabilities, were renamed "practical elementary schools" or mainstream elementary schools. This has failed to eradicate the system of inferior education which thousands of Romani pupils face on a daily basis. A great number of Romani pupils in both practical schools and segregated elementary schools continue to follow the curriculum for children with mild mental disabilities. All that the change in name has achieved is confusion; neither parents nor the Ministry of Education have a clear idea about the type and quality of education provided to Roma in various schools. The legislation governing the new system is impenetrable. Moreover, the use of the term 'practical school' has not been clearly defined by the Czech legislature; different laws, decrees and policies refer to the term with discrepancies.[29] In other words, there is now even less legal certainty than there was under the system the ECHR condemned in *D.H.*

The Czech Republic adopted the National Action Plan on Inclusive Education (NAPIE) in March 2010,[30] to implement the ECHR judgment in the DH case. The Czech Republic has also developed a competing inclusive education plan amid a larger strategy for Roma generally. In September 2011, the Czech government approved the Strategy for the Fight against Social Exclusion 2011-2015.[31] However, until now, no targeted budget and schedule have been allocated to implement the NAPIE and Strategy, nor are they binding on any government department. Finally, in November 2012, the Czech government submitted a New Consolidated Action Plan to the Council of Europe's Committee of Ministers.[32] It remains unclear whether the new plan essentially replaces, or should be seen in addition to, the current NAPIE, nor how it relates to the Czech Strategy for Combating Social Exclusion 2011-2015.

Some of the measures indicated in the Action Plan have already been delayed or entirely neglected. The Czech government has pointed to the political instability which rocked the country in 2013 (the government fell in June, elections were held in October, and the new government, following a series of President's obstructions, were confirmed by the Parliament in late February 2014) as reason for this lack of movement on implementing the *D.H.* judgment. This, however, is a weak defence. Implementation of most measures under the Consolidated Action Plan did not require political action but rather a concerted effort by the Education Ministry to stick to the timetable and activities it proposed in 2012.[33] Meanwhile, although the phasing out of practical schools has been included in the Strategy and the Action Plan, the newly appointed Minister of Education made statements of having no intentions to close down practical schools;[34] for example, the Minister pointed out by closing down practical schools "we will not solve the problem. We have system of special and practical schools we should proudly promote in Europe".[35] Practical school will thus continue depriving children with disabilities and a great number of Romani children of their right to quality and equal education.

In July 2012, the Association of Psychological-Pedagogical Centres raised serious concerns over the accuracy and adequacy of the assessment practices within the process of enrolment into the practical education system when it comes to Romani pupils. They concluded that the most commonly used test (WISC III) does not adequately reflect the specific situation of Romani children. Although the Ministry of Education established a working group to review the objectivity and purpose of the assessment instruments, there have not been any changes in the use of the flawed tests and assessment instruments. Diagnostic centres thus continue segregating children based on the tools about which "well founded doubts" exist. No safeguards or guidance exist to ensure that these unreliable tests are no longer used. These tests, even if safeguarded and objectified, suggest

29 Public Defender of Rights, *Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools*, Brno, 2012, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf.

30 Ministry of Education, *National Plan for Inclusive Education,* 2010, available at: http://www.msmt.cz/socialni-programy/narodni-akcni-plan-inkluzivniho-vzdelavani.

31 Agency for Social Inclusion, *Strategy for Combating Social Exclusion for the Period 2011-2015*.

32 Government of the Czech Republic, *Consolidated Action Plan for the Execution of the Judgment of the European Court of Human Rights in the Case of D.H. and Others v. The Czech Republic*, available at: https://wcd.coe.int/ViewDoc.jsp?id=1846711&Site=CM&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864. Please, see the overview of the DH case documentation and developments since 2007 up today here: http://www.errc.org/cikk.php?cikk=3559.

33 ERRC, OSJI, OSF Prague, COSIV, Submission to the Committee of Ministers, Council of Europe on the DH Case, November 2013, available at: http://www.errc.org/cms/upload/file/tenth-communication-to-the-committee-of-ministers-on-judgment-implementation-november-2013.pdf.

34 Parlamentni Listy.cz, *'Chladek: We welcome that Minister Fiala will not close down practical schools'*, 9 March, 2013, available at: http://www.parlamentnilisty.cz/arena/politici-volicum/Chladek-Vitam-ze-ministr-Fiala-prakticke-skoly-rusit-nebude-264980; Idnes.cz, *'Schools lack conditions for promoting inclusion'*, 19 January, 2014, available at: http://zpravy.idnes.cz/skolam-chybi-podminky-na-inkluzi-d4n-/domaci.aspx?c=A131017_164157_domaci_jj.

35 Idnes.cz, *'Schools lack conditions for promoting inclusion'*, 19 January, 2014, available at: http://zpravy.idnes.cz/skolam-chybi-podminky-na-inkluzi-d4n-/domaci.aspx?c=A131017_164157_domaci_jj.

that an actual disability can be a legitimate reason for segregating Romani children and perpetuate discrimination contrary to the UN Convention on the Rights of Persons with Disabilities (CPRD).

The Czech Ombudsperson research in 2012, which is considered by the broad coalition of experts to be the most representative out of six existing statistical surveys on the proportion of Romani children in practical education,[36] highlighted that Romani children continue to be overrepresented in schools and classes designed for children with mild mental disabilities where they constitute around 35% of all children.[37] According to different estimates, 150,000 to 300,000 Roma live in the Czech Republic (1.4 to 2.8 per cent of the population),[38] so the proportion of Romani children in schools and classes designed for children with mental disabilities is more than 10-times higher.

Furthermore, the newest UNDP household survey emphasises that 17% of all Romani children between the ages of seven and 15 attend practical and special schools and 60% of these Romani children are placed in ethnically segregated special/practical schools with the majority of their schoolmates being Roma.[39]

The result is that the Czech Republic's education system is failing Romani children, with devastating consequences for their future. Substantial numbers of pupils do not finish elementary school, and only a very few of the graduates continue their education at secondary schools. This leads to restricted access to employment opportunities; further segregation in housing; deepening inequalities of living conditions, etc. The government's failure to act is affecting a new generation and will affect the whole of Czech society into the foreseeable future.

FAILURE TO ENSURE EQUAL ACCESS TO EDUCATION FOR CHILDREN WITH DISABILITIES

The Czech Government also continues to overlook the insufficient education of children with disabilities, which leads to a major violation of their right to equal access to education. The segregation of children with disabilities from the mainstream education system or failure to provide reasonable accommodation has long-lasting consequences for their inclusion in society, leaving them marginalised and rendering them vulnerable.

The organisations making this submission firmly believe that the provision of inclusive education for all children should be a priority for the ICESCR Committee in conducting reviews of States parties to the Convention. We are encouraged by recent concluding observations of the Committee in respect of Denmark[40] and Iran[41] in which the Committee called for the advancement of the right to inclusive education, and we invite the Committee to continue this approach in its review of the Czech Republic.

36 Romani children in (former) special schools - statistical evidence:
Ministry of Education 2009a: Education Paths and Education Chances of Roma Pupils in Elementary Schools in the Neighbourhood of Socially Excluded Localities: Half of the monitored schools had more than 50 per cent of Romani pupils.
Ministry of Education 2009b: Analysis of An individual teacher's approach to the Pupils with Special Educational Needs: The monitored schools had more than 44 per cent Roma pupils.
Institute for Information in Education 2009: Monitoring of the General Education Program (RVP), Prague, Institute for Information in Education: The monitored schools had more than 35 per cent Roma pupils.
Czech School Inspectorate 2010: General Information from the Thematic Inspection in the Former Special Schools, Prague, Czech School Inspectorate: The monitored schools had more than 35 per cent Roma pupils.
Public Defender of Rights 2012: Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools, Brno, Public Defender of Rights: The monitored schools had more than 32 per cent Roma pupils.
Czech School Inspectorate 2012: Thematic Report on the Progress in Transformation of Former Special School in the School Year 2011/2012: 26.4 per cent of the pupils were Roma. This methodological validity of the survey has been challenged by the Public Defender of Rights and ERRC.
Czech School Inspectorate 2013: The CSI Annual Survey found that Romani children represent 28% all children taught practical curricula. The survey and its methodology have not been made public; the reservations prevails about the methodology, validity and representativeness of this survey.

37 Public Defender of Rights, *Research of the Public Defender of Rights into the Question of Ethnic Composition of Pupils of Former Special Schools*, Brno, 2012, available at: http://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/Vyzkum_skoly-zprava.pdf

38 Minister for Human Rights, *The Roma Integration Concept 2010-2013*, available at: http://ec.europa.eu/justice/discrimination/files/roma_czech_republic_strategy_en.pdf . See also European Commission, An EC *Framework for National Roma Integration Strategies' Annex*: available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0173:FIN:EN:PDF.

39 UNDP, *Roma Education in Comparative Perspective*, 2012, pp. 67-68.

40 Committee on Economic, Social and Cultural Rights, Concluding observations of Committee: Denmark, E/C.12/DNK/CO/5.

41 Committee on Economic, Social and Cultural Rights, Concluding observations of Committee: Iran, E/C.12/IRN/2.

Further, the submission references recommendations set out by the UN Committee on the Rights of the Child with regards to inclusive education during the Third and Fourth Periodic Review of the Czech Republic in 2011.[42] We encourage the Committee to reiterate the recommendations within the State's ICESCR obligations, and continue to place a high priority on the right to inclusive education.

We further urge the Committee to review the Czech Republic's compliance with the Covenant in a manner consistent with and supportive of the CRPD, which the Czech Republic ratified in 2009. The CRPD sets out the most comprehensive standards on the human rights of persons with disabilities, and the most up-to-date articulation of the right to inclusive education for all children under Article 24.

In the Czech Republic, segregated schooling for children with intellectual or psycho-social (mental health) disabilities remains widespread. According to the Czech Ombudsman, one of the reasons for this is that there is "insufficient legal regulation of integrated education of pupils with special educational needs" in the country.[43]

The Education Act (2005)[44] still allows for segregated education and does not encourage the establishment of measures for inclusive education for all children or provide for individualised support and reasonable accommodation for children with disabilities. The Act provides for "individual integration", which however can take place not only in mainstream, but in special schools as well. In addition, there is no disaggregated data available on the number of children with disabilities placed in segregated educational facilities.

The National Framework Education Programme (FEP) that was instituted through the Education Act, administers two separate school systems that differentiate children with mental disabilities from their non-disabled peers. The FEP specifies that the reduced curriculum in these settings offers significantly fewer hours of tuition in maths, sciences, languages and communication, with far greater focus on "work" skills and physical education than for children who follow the mainstream curriculum. Students in special settings will have fewer chances to access higher education or the open labour market. In such a context, they are made to believe at an early age that they can be labelled as inferior and discriminated against because of their disability or ethnicity.

The two streams of education are independently administered and funded. Mainstream schools are run and financed by municipalities and special schools by regional authorities. Mainstream schools are not resourced, funded or equipped to provide an inclusive education for all children and can reject children with disabilities on the basis of insufficient capacity or resources.[45] In particular, children with disabilities can be lawfully refused admission if the school claims they have no capacity to offer entrance to any new students. Schools often claim they are on full capacity so as to be able to turn down children with disabilities.

In his annual report for the Government from January 2014, the Ombudsperson recognised the failure of the state to ensure equal access to education for children with disabilities in primary education. Within his mandate he has dealt with numerous complaints of parents of children with disabilities educated in mainstream schools, who have been denied the right to reasonable accommodation by means of a pedagogical assistant. The regional authority is responsible for financing the salary of a pedagogical assistant, but there are no clear criteria and the decision-making of the regional authority on the extent of the support for school is arbitrary. This leads to a situation where the parents must co-finance or fully finance the salary of the assistant despite the fact that by law provision of reasonable accommodation in primary education is free of cost. According to the Ombudsman, this amounts to indirect discrimination.

It is clear that the Czech government has failed to take adequate steps to ensure that all children can benefit from an inclusive education. It is our opinion that the Czech government must now take firm action to enshrine the right to inclusive education in law, ensuring that support for children with a variety of disabilities are provided as a matter of right. Indeed, the segregation of children with disabilities at such an early age through the education system perpetuates the social segregation of people with disabilities throughout society, often condemning them to lifelong institutionalisation and is in conflict with Article 19 of the UN Convention on the Rights of Persons with Disabilities.

42 Committee on the Rights of the Child, Concluding Observations of Committee: Czech Republic, June 2011, CRC/C/CZE/CE/3-4. 4 August 2011, available at: http://www2.ohchr.org/english/bodies/crc/crcs57.htm.

43 Public Defender of Rights, Annual Report on the Activities of the Public Defender of Rights 2012, 2013.

44 Act No. 561/2004 Coll., Education Act.

45 Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe, following his visit to the Czech Republic from 12 to 15 November 2012. CommDH(2013)1, 21 February 2013, available at: https://wcd.coe.int/ViewDoc.jsp?id=2030637, para 114.

The Czech government should take steps to end the two-track education system, ensuring that all education services for children are provided through one national framework which guarantees inclusive education for all children, regardless of their disability or ethnicity. In addition, parents and guardians must be provided with the right to obtain support services for their child, and to challenge any denial of such supports in person.

RECOMMENDATIONS

HOUSING:

- The ERRC and the Platform for Social Housing make the following recommendations to the Czech government:
- Stop forcibly evicting Roma;
- Ensure that any evictions that do take place are a means of last resort, and are carried out in accordance with both national and international law, including ensuring that those evicted have access to effective remedies against forced eviction;
- No longer consider dormitories as an adequate housing solution, and engage meaningfully with representatives of the Roma community and local NGOs actively to seek solutions that fully satisfy the right to adequate housing;
- Introduce adequate social housing policies without further delay, namely:
    - adopt legal provisions for social housing, which would detail the role of the state and municipalities, target groups and minimal standards of social housing
    - ensure funding schemes for the provision, reconstruction or construction of new social housing premises, in adequate scale and under the conditions which would meet expectations of municipalities and civil society
    - introduce measures aimed at preventing the loss of eligibility for social housing
    - test the use of socially-innovative measures, specifically housing-led approaches, social rent agencies and programmes of housing first in the context of the Czech Republic
    - introduce eligibility criteria that could be met by vulnerable Roma

EDUCATION:

- The ERRC, MDAC and the LIGA make the following recommendations to the Ministry of Education/ Government of the Czech Republic:
- Fully and without further delay implement the new Consolidated Action Plan for the Execution of the D.H. Judgement. Make sure that the plan timelines and indicators for achieving inclusive education are respected, and link its implementation to a clear, secure funding source;
- Take concrete and targeted steps to implement the revised NAPIE and the Strategy for Combating Social Exclusion 2010-2015;
- Make available the necessary human and other resources, including the resources from European Union (EU) Structural Funds, for the effective implementation and monitoring of the NAPIE, the Strategy and other desegregation measures;
- Immediately adopt a moratorium on placements of Romani children in schools and classes for pupils with "mild mental disabilities" and undertake a comprehensive review of the system to ensure compliance with international and regional standards on education and non-discrimination, at all times ensuring the best interests of the child;

- Immediately review the system of assessments used to diagnose mild mental disabilities to adequately account for the range of issues it currently addresses (including mild mental disability, social disadvantage, etc.) and to eliminate the impact of racial discrimination against Roma in its application;
- Immediately transfer all Romani children erroneously placed in practical schools to mainstream schools containing a mix of Romani and non-Romani pupils, and provide the relevant support to facilitate their successful integration;
- Start implementing measures for progressive transformation of the system of schools established for "pupils with mild mental disabilities", including the phasing out of practical schools within a realistic time period and their replacement with inclusive education within the mainstream system in line with the Strategy and accompanied by the necessary resources to achieve this goal;
- Urgently adopt legislation and measures explicitly mandating the desegregation of Czech schools;
- Adopt a concrete plan and timeline commencing at the earliest opportunity, with clear annual targets to eliminate school segregation and secure inclusive education in compliance with the Strategy;
- Review the discriminatory impact of non-Romani parents taking their children away from schools with Romani children, and take concrete, targeted and effective steps to combat any increase in segregation in practice;
- Ensure that the designation of school districts does not result in racial segregation of Romani children and promote their integration in all mainstream schools. Measures such as provision of free transport, and adoption of temporary special measures such as quotas, or others, should be considered in line with the government's obligation to tackle racial discrimination and segregation;
- Consistently monitor and collect disaggregated data according to ethnicity, gender and disability as a tool to assess the implementation and impact on the ground of the decrees, the NAPIE, pilot projects and other steps to promote inclusive education;
- Empower the School Inspectorate to fulfil its function to prevent, prohibit and eradicate segregation in education. It will need: adequate financial and human resources, robust, detailed guidelines and procedures on how to identify, monitor and combat segregation in practice, the ability to impose sanctions for violations of the ban on discrimination and segregation, and provision of training for its staff on the issue of discrimination and the principle of equal treatment in education;
- Ensure that the Ombudsperson is adequately resourced to monitor the desegregation of schools and the integration of children from practical elementary schools into mainstream elementary schools.
- Take concrete steps in order to abandon the current two-track educational system towards an inclusive system open for all children regardless of their ethnicity, disability or other differences.
- Review the financing of education to prevent discrimination and contiguous segregation practices in education and secure sufficient funds for reasonable accommodations for each child when necessary
- Provide for legal safeguards for the child and their parents in case of failure of the school to provide inclusive education.