

**Opening Statement by the Head of the Delegation Mr Jakub Machačka,
Head of the Secretariat of the Government Council for Human Rights
Office of the Government of the Czech Republic
Presentation of the initial periodic report of the Czech Republic,
Committee on Enforced Disappearances, 23rd Session (13th September 2022)**

Dear Madame Chair, Dear Rapporteurs, Distinguished Committee Members,

My name is Jakub Machačka, and I am the Head of the Secretariat of the Government Council for Human Rights at the Office of the Government of the Czech Republic. I would also like to introduce the other members of the delegation. They are Mr. Pavel Polákovič from the Internal Control Authority of the Presidium of the Czech Police Force and Ms Eva Mazza, 2nd secretary at the Permanent Mission of the Czech Republic to the United Nations Office and other International Organizations at Geneva.

First I would like to thank the Committee for the opportunity to discuss the initial periodic report of the Czech Republic concerning the implementation of the Convention for the Protection of all Persons against Enforced Disappearance. We are looking forward to engaging in an open and constructive dialogue with the Committee. Now I would like to present to the Committee the situation in Czech Republic concerning the protection against enforced disappearances, as well as the protection of personal liberty and security and other related questions.

Generally speaking, the topic of enforced disappearances has not been a major issue in the Czech Republic in the past as well as the recent history. Although we went through a period of communist totality in the 20th century, according to the historical consensus, the communist regime did not use enforced disappearances against its critics and enemies. And since the Velvet Revolution in 1989, the Czech Republic is one of traditional European democratic countries. We became members of the EU, the Council of Europe and other international organisations upholding their human rights standards. We also ratified all the major human rights instruments like the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, the European Convention on Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment or the Charter of

an adult is the crime of limiting or depriving a person of their personal liberty. Specific cases can also fall under the crime of Human Trafficking if other elements like forced labour, involuntary armed service or sexual exploitation join in. Some cases can constitute also the crime of torture or a terrorist attack. If a physical harm is caused to the victim, we speak of Bodily Harm, Grievous Bodily Harm, Manslaughter or Murder. Widespread or systemic attack against the civilian population can be prosecuted as Attack against Humanity. The commission of these acts by public officials including order or any other participation can be punished as an aggravating circumstance or a special crime of Abuse of Power. For the aforementioned reasons, the Czech Republic considers the selected solution, which has been implemented in a similar manner by a number of other states, to be consistent with the requirement of the Convention.

Czech criminal law also covers the phases of the criminal act as preparation or attempt as well as various forms of participation like indication, instruction or organisation which can be punished in the same manner as the perpetrator themselves. Czech criminal law includes any outcome of the crime taken place in the country and covers all offenders being Czech citizens or permanent residents. In case of serious crimes including torture, terrorism or crimes against humanity, the law allows for the prosecution of any offender regardless of their nationality. It includes also the possibility to prosecute any offender committing a crime against a Czech citizen or permanent resident if the crime cannot be prosecuted elsewhere. The sanctions for the mentioned crimes reach from 2 years of imprisonment to life-long prison sentences in the most serious cases. The Criminal Code includes also an open list of relieving and aggravating circumstances which can be used by the judge to diminish or increase the sentence according to the facts of the case. The statutory limitation of criminal prosecution depends on the sanctions set, starting by three to five years and ending by thirty years. Crimes against humanity are of course non-prescriptive.

According to the Criminal Procedure Code, Czech law enforcement authorities are generally obliged to prosecute any crime they become aware of, due to a complaint or otherwise. Their task is to establish the facts of the case beyond reasonable doubt. They proceed with all due respect to the procedural rights of the accused including the presumption of innocence, the right to access to court, the right to be heard, the right to counsel, the right to defence, the equality of arms, the prohibition of self-incrimination, etc. The Criminal Procedure Code also knows measures for arrest and custody of suspected criminals to guarantee the outcome of the

the first days before their security check. Subsequently, they can stay in open facilities without restriction of movement. The detention thus concerns foreigners entering or staying in the Czech Republic illegally. Their detention is also subject to judicial review upon their request with strict time limits for decision. Again, any illegal detention has to be terminated immediately. The rights of family members and close person are more limited as they cannot ask for the end of detention and release but their visitation rights allow them to assist the detained persons from the outside.

The last type of detention is involuntary hospitalisation in cases of patients with mental troubles or intoxication, presenting a danger for themselves or others, which cannot be solved in any other way, or who are unable to express their consent like in a coma. Any hospital has to report an involuntary hospitalisation within 24 hours to the court who decides on its legality within 7 days. The hospitalised patient is obligatorily heard in the proceeding and represented by a lawyer, selected or appointed by the court. Subsequently, if the hospitalisation is found legal and reasoned, the court, within 90 days, decides on the legality of the continuation of the hospitalisation. The decision on involuntary hospitalisation is valid for 1 year at maximum. During this time, the patient, their family, close person, guardian or other legal representative can ask for their release which the court has to evaluate within 60 days. If the hospitalisation is found illegal, the patient has to be immediately released.

Though not a detention itself, the court also oversees the stay in social care facilities of clients, who cannot not themselves express their consent due to their medical situation. If the client anyhow expresses their discontent with their stay in the facility, the facility has to report it to the court within 24 hours. The court then evaluates the situation by hearing the client and decides, if the stay in the facility is necessary to provide immediate assistance to the client due to their medical and social situation to avoid endangering their life or to prevent serious damage to their health and the situation cannot be solved otherwise. If those conditions are not met, the court orders that the person can leave the facility. The family members have similar rights in the proceeding as by the medical detention.

The rights of detained persons are also protected by the laws regulating their exercise. They provide for notification of family members, communication and visitation rights for family members on a regular basis. Records are kept of all detention cases by the authorities which covers the names, the dates of entrance and limits for detention and can be verified by the