

Statement by the Head of the Delegation of the Czech Republic

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Czech Republic**

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Dear Mr. Chairman, Dear Rapporteurs, Distinguished Members of the Committee,
Ladies and Gentlemen,

I would like to thank the Committee for its consideration of the Sixth periodic report submitted by the Government of the Czech Republic concerning the implementation of the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. We welcome the opportunity to continue an open dialogue with the Committee, which is very important for us.

Let me now introduce the members of the delegation. My name is Andrea Baršová and I am the Director of the Human Rights Department of the Office of the Government. Members of the delegation are His Excellency Mr. Jan Kára, Ambassador and Plenipotentiary Permanent Representative of the Czech Republic to the United Nations in Geneva , Mr. Jakub Machačka from the Human Rights Department at the Office of the Government, Ms. Eliška Hodysová from the Ministry of Justice, Mr. Lubomír Janků and Ms. Nataša Chmelíčková from the Ministry of the Interior, Mr. Jaroslav Faltýn from the Ministry of Education, Youth and Sports, Mr. Štefan Čulík and Ms Eva Capicarová from the Ministry of Labour and Social Affairs, Ms. Jana Hlaváčová from the Ministry of Health and Mr Michal Dvořák, Second Secretary at the Permanent Mission of the Czech Republic to the United Nations in Geneva.

The Sixth periodic report of the Czech Republic was submitted to the Committee in 2016 according to its concluding observations adopted after the

consideration of the Fourth and Fifth periodic report. The Sixth periodic report covers the period from 1 August 2009 to 31 December 2015. In this period the Czech Republic adopted new measures which contributed to the improvement of the situation in implementing the Convention in many areas, for instance in the area of imprisonment and prison conditions, detention of foreigners, inclusive education, human trafficking and criminal liability of legal persons. Now I would like to draw the attention of the Committee to particular issues of the implementation of the Convention in the Czech Republic in the last couple of years, as well as update it on the recent developments after the submission of the report.

I would like to start by informing the Committee that discussions on the punishability of all forms of ill treatment under the Convention and the European Convention on Human Rights are currently being held in the Czech Republic at an expert level.

Imprisonment and prisons have undergone significant changes. The Criminal Code effective from 1 January 2010 expanded the options for the use of alternative sentences to imprisonment. Two new alternatives were laid down, namely the sentence of house arrest and the sentence of ban on attending sports, cultural and other social events. A new system of electronic bracelets will be implemented to control the compliance with the sentence of house arrest. These bracelets will monitor the location of the convicted persons and ensure that they adhere to the imposed punishment.

In January 2016, the Government approved the Concept of the Prison System, which shall govern its development until 2025. The Concept envisages the implementation of measures aimed at reducing recidivism of criminal behaviour and effective reintegration of released prisoners into society. It covers not only programs for sentenced prisoners but also ensures assistance to persons after their release. This includes social work, debt counselling, assistance in cases of addiction, education and retraining, or financial literacy courses. One of the goals

of the Concept is also to create a system of support for governmental organisations and other bodies offering these programs and activities. The Concept also promotes the support of socially responsible public procurement by allowing to include the requirement of employment of convicted persons or persons with a criminal record into public tenders. The Concept also envisages measures leading to the necessary restructuring, and increase in the number of employees and members of the prison service, especially those dealing with the education and re-socialisation of prisoners.

In line with the Concept, the conditions in custody have been systematically improved in the last years. The custody departments are being reconstructed, which involves repair of energy nets, repainting, etc. The Concept also aims to allow the accommodation of convicted persons in more private cells and dormitories for smaller groups. Currently, the construction of at least two new prison facilities is being prepared that will meet the latest requirements of the prison system.

In April 2018, the rewards for working prisoners were significantly increased. In addition to the existing categories, the regulation formed a fourth level of reward for prisoners with university education. The regulation expects that prisoners will make a financial reserve for the period after their release to reduce the risk of relapse into criminal activity.

In January 2014, the rule of exceptional use of handcuffs in police cells in line with the jurisprudence of the European Court of Human Rights was enshrined in the Guideline of the Police President on escorts, guarding of persons and on police cells. The handcuffing of a person in the police cell is reported by the officers in the official records on the detention.

Major changes have been introduced in the area of combatting domestic and gender based violence. In 2015, the Government adopted the Action Plan on the Prevention of Domestic and Gender-Based Violence for the years 2015-2018. In

line with the definitions of the Istanbul Convention, the Action Plan covers not only domestic violence but also other forms of gender-based violence, namely rape, sexual harassment, and stalking. The Action Plan, which was formulated with the active involvement of civil society organisations, contains a total of 70 measures divided into seven strategic areas. These areas involve support for people at risk, children as victims and witnesses of gender-based violence, working with violent persons, and to change the social perception of domestic and gender-based violence. In May 2016 the Czech Republic signed the Council of Europe Convention on preventing and combating violence against women and domestic violence, and we hope that it will be ratified by the end of 2018.

The Czech law contains measures to protect the victim of domestic and gender-based violence from the perpetrator. The Police can order a banishment from the shared home for up to 10 days, which the victim can extend by applying for a judicial injunction. The court then decides in two days, and the injunction can then last for up to one month with the possibility of extension up to six months. The court can also limit or even exclude the spouse's right to live in the shared household for up to six months, if the further cohabitation of the spouses becomes unbearable for one of them because of physical or mental violence against him or her. A net of counselling services and intervention centres is provided, with contact points in each regional capital.

The protection of victims of domestic and gender-based violence, ill-treatment and other crimes was enhanced by the Act on Victims of Crime adopted in 2013. The Act declares that state authorities and other entities must treat victims politely, considerately and with respect for their dignity. Victims have the right to comprehensible information about their rights and duties, the right to professional assistance, the right to privacy, the right to be protected from secondary victimisation, and the right to monetary aid to compensate for the harm suffered. Law enforcement authorities inform victims about professional assistance

providers such as the Probation and Mediation Service, lawyers and non-governmental organisations. Vulnerable victims, including children, are provided with professional assistance free of charge. Victims and witnesses have the right to information concerning the accused or convicted person, e.g. on their release or escape. Since 2012, technical devices for video and audio transmission may be used in court proceedings to minimize the contact between the victims and the perpetrators.

The regulation of detention of foreigners has been consistently developing from 2010, especially by introducing alternatives to detention and the obligation to assess them before deciding on detention. These include the obligation of the foreigner to report their place of residence, the deposition of a sum of money, or the obligation of the foreigner to personally report to the police within a specified time. Currently there is an amendment in the legislative process that introduces a further alternative – the obligation of the foreigner to reside in a place designated by the police. This new alternative to detention will be able to substitute detention of families more effectively. The alternatives to detention were also introduced in the Act on Asylum in 2015, and are also applicable in the asylum procedure.

In response to the large increase in the number of foreigners detained in the second half of 2015 during the so-called migration crisis, the number of staff in detention facilities for foreigners and also the system as a whole was considerably strengthened. The facility in Bělá – Jezová is now earmarked for families with children and was adapted to their specific needs. For example, many security features, such as barbed wires, were removed, playgrounds, playrooms and leisure activities are now available, the security service uniforms do not resemble police uniforms, and families have access to free legal assistance and the newly equipped medical centre. The facility is regularly visited and controlled by the Ombudsperson and international organisations. Apart from that, two additional detention facilities for male foreigners were opened. A whole new building within

the Bělá – Jezová detention centre will also be opened in upcoming days to further increase accommodation capacity and overall standards for families with children. This building will have only basic security features.

Other measures were also introduced in the asylum policy. The definition of vulnerable groups of asylum seekers was clarified, as well as the obligation to assess whether a person needs special support in the asylum procedure. Time limits for court decisions were introduced to minimise the duration of limitation of personal liberty. Furthermore, the situation of refugees in situ was also better reflected by the last amendment.

The submitted report shows progress and many positive changes in inclusive education. I would like to mention the adoption of the pro-inclusive amendment to the Schools Act effective from the school year 2016/17, which provides for inclusive education of all pupils with special educational needs, including Roma children and children with disabilities. The new system provides each child with the best education according to his or her needs on an equal basis with others, in line with the Convention on the Rights of Persons with Disabilities. The categorisation of disadvantaged groups of pupils was abandoned. Pupils with special educational needs are assessed by counselling facilities, which then recommend supporting measures to achieve their maximum fully-fledged integration into mainstream education, which are provided free of charge. This law is now being implemented in schools. The system also allows for revision of the recommendations of counselling facilities by the National Institute for Education. The supportive measures are accompanied by changes in diagnostics procedures to better reflect the educational needs of pupils, as well as training of counselling facility staff. We can further elaborate on the details of the ongoing reforms during the dialogue.

An important element in the prevention of all forms of ill-treatment is the education of professionals dealing with persons at risk of ill-treatment. In the whole

period under consideration, professional workers of social services were thoroughly trained in detection and prevention of torture and cruel, inhumane or degrading treatment or punishment of persons. These educational programmes covered, for example, the prevention of violence, assistance to victims of violent crimes, prevention of torture and abuse of persons, age-related discrimination, and coping with aggression and other problematic behaviour of the clients in line with human rights standards. The Judicial Academy also provided a wide range of training courses designed for judges, prosecutors and workers of the Prison Service of the Czech Republic. Recently, seminars were held, inter alia, on domestic violence and the rights of victims in criminal proceedings, detection and prevention of criminal activity in prisons, interrogation, and the specifics of imprisonment. All of these training courses were devoted in part to the issue of ill-treatment, and the specific needs of the victims. The education of professionals is also supported by the translation of standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which is published on the Committee's website.

New amendments have also been made in the Criminal Code concerning human trafficking. Firstly, the definition of the crime of human trafficking was changed to enable the sanctioning of offenders, who receive the victim of human trafficking into their disposition. Secondly, the offence of unauthorised employment of foreigners now covers situations where the offender unlawfully employs or mediates employment of a foreigner consistently, repeatedly or under particularly exploitative working conditions.

Another noteworthy issue is the criminal liability of legal persons. In 2012, the new Act on criminal liability of legal persons and proceedings against them came into effect. A legal person can now be prosecuted under this law for a number of criminal offences, including, for example, the crime of torture and other inhumane and cruel treatment, human trafficking, rape, sexual coercion, sexual

abuse, pimping, abuse of a child to produce pornography, and seductions to sexual intercourse.

The Law on Specific Health Care Services, effective from 2012, has brought new detailed regulation of sterilisation and surgical castration.

The Act allows sterilisation to be carried out either due to health reasons, or to reasons other than health. Health-conditioned sterilisation may be carried out on a patient older than 18 years, upon their explicit written consent. Sterilisation for reasons other than health may be carried out on a patient older than 21 years based on their written request. Under-aged patients or patients with limited legal capability may only undergo sterilisation for health reasons based on written consent by their legal representative, a positive viewpoint of an independent expert commission, and by consent of the court. The patient or their legal representative is always invited to attend the commission's deliberations. The patient is informed about the nature of the operation, its permanent consequences and possible risks. There is a compulsory period of seven days of reflection between the provision of the information and the granting of consent to sterilisation for health reasons; the time period extends to 14 days in cases of sterilisation for reasons other than health. Immediately before the actual operation, the patient, or their legal representative, must again explicitly express consent to the operation. In this way, a free and informed consent for the operation is secured, and shortcomings from the past shall be prevented.

Similar strict legal rules apply to surgical castration. The patient may only undergo castration if they are above 21 years of age, have a diagnosed paraphilic disorder which either resulted, or with a high probability will result, in committing a sexually motivated crime, and other treatment options cannot be used or were unsuccessful. Each case has to be approved by an expert commission. The law completely excludes the castration of paraphilic sex offenders who are in prison or in custody. Castration also cannot be performed on a patient with limited legal

capacity. Patients in protective treatment or in security detention may only undergo castration in particularly justified cases, provided that the court gives its consent to the procedure. Patients are also advised that castration does not constitute a right to their release. In practise, this treatment is applied in a minimum of cases.

The last issue I would like to mention is the activity of the Office of the Ombudsperson as our National Preventive Mechanism according to the Optional Protocol to the Convention. The Ombudsperson, her office and its highly qualified employees, are contributing in a significant manner to the prevention of ill-treatment in the Czech Republic. In line with the Optional Protocol, they conduct visits to facilities and evaluate conditions of treatment. Afterwards, they may formulate recommendations for improvement, set standards, organise education, and advocate for systemic changes. The Ombudsperson's recommendations, standards and other outputs help to raise awareness of the situation of people in detention and to improve their situation. Since 2010, the Ombudsperson also has the competence to monitor the expulsion procedure of foreigners in respect of the prohibition of ill-treatment. Recently, in 2018, the Ombudsperson was entrusted with monitoring the Convention on the Rights of Persons with disabilities, which also includes their right to freedom from torture or cruel, inhumane or degrading treatment or punishment, and covers treatment in facilities and assistance and care provided in other contexts. These activities complement the work of the Ombudsperson in line with human rights standards.

Dear Mr. Chairman, Dear Members of the Committee,

In my opening remarks, I have tried to summarise the development of the situation in the Czech Republic in the last years, but it is not possible to respond adequately to each of the issues under the Convention. Therefore, my colleagues and I would like to take the opportunity to discuss other issues and to answer your questions during the session.

Thank you for your attention.