

**THE ALTERNATIVE REPORT ON THE  
IMPLEMENTATION  
OF THE CONVENTION ON THE RIGHTS OF  
THE CHILD IN THE CZECH REPUBLIC  
2011 - 2019**

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**Alliance for the Rights of the Child**

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## INTRODUCTION

In accordance with Article 45a) of the Convention on the Rights of the Child we present the Alternative report of NGO's to the "Fifth and sixth periodic report of the Czech Republic on the implementation of the Convention on the Rights of the Child in the years 2012–2018" to the UN Committee on the Rights of the Child (UN CRC).

This Alternative report reflects the opinion of organizations, associations and experts from the non-governmental sector dealing with conceptual and practical issues of implementation of the rights of the child. During its preparation, written materials (research reports, theoretical studies, etc.) were used, as well as outcomes of discussions at seminars and conferences, meetings of the Committee on the Rights of the Child of the Governmental Council for Human Rights (some of them were involved in this report). Information was obtained from children and the public, too. Data was gained at various events dealing with the children issue in some places in the Czech Republic. Since 1993, NGO's have organized annually, in recent years under the auspices of the Members of the Parliament, twenty three national interdisciplinary seminars dealing with the implementation of the Convention. Children and young people under 26 years of age from the existing participative structures of children and youth work in their own separate section during the seminars. Outputs from this section are incorporated as conclusions of those seminars and they form the core of the section on children's participation in society in this report. The conclusions of the seminars are submitted as a petition for a public hearing or as a point of agenda to the Petition Committee of the Parliament.

When processing the collected data we followed the guidelines for the non-governmental reports from 1998 (revised in 2016) and other recommendations of ChildRightsConnect. The UN Committee expects from NGO reports to cover the period from 2012 by now and possibly provide the latest information on areas identified in its Concluding Observations in 2011.

The present report adds or specifies some missing information in the Fifth and Sixth Periodic Report of the Czech Republic, submitted in June 2018 by the Czech Government to the Committee. That Periodic Report pays in fact a little attention to both the fulfillment of the recommendations contained in the Concluding Observations and to the real situation of children as well as impacts of the measures taken by the Government on the children's lives and society. Therefore, this Alternative Report also seeks to present concrete standpoints to the recommendations adopted by the Committee on the Rights of the Child when discussing earlier Czech Republic's periodic reports on the implementation of the Convention.

For explicitness of this Alternative Report, paragraphs of the Fifth and Sixth (governmental) periodic report, which this Alternative Report refers to, are identified with the letter "G", while paragraphs of the Concluding Observations of the Committee on the Rights of the Child of 2011, respectively of 2003 and 1997, are marked with the letter "C".

## **I. General Measures of Implementation (Articles 4, 42, 44.6)**

### **Previous recommendations of the Committee**

**C 7 (2011). The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations on the second report that have not yet been implemented or sufficiently implemented, particularly those related to: the development of a national plan of action; the establishment of an independent body to oversee the implementation of the Convention; data collection and the full integration of the right to non-discrimination.**

Unfortunately, with the exception of C 54 recommendation (provision of health care to children of foreigners), C 56 (breastfeeding promotion) and C 71 (ratification of option protocols), the Committee could regret to claim repetitively the majority of its previous recommendations as not applied, see the details below.

So far, **the Declaration of the Committee on the Rights of the Child (hereafter VPD) of the Government Council for Human Rights**, adopted on November 19, 2009 to mark the 50th anniversary of the Declaration on the Rights of the Child and the 20th anniversary of the Convention on the Rights of the Child, in which VPD in particular expressed the need to change the respect of children's rights from the level of factual knowledge of rights to the everyday culture of interpersonal communication, has not been fulfilled, as follows:

“The Committee's conclusion still remains that children's rights to protection from all forms of violence, tobacco, alcohol, the use of narcotic and psychotropic substances, and the detrimental effects of certain information and the right of children to healthy development in a healthy environment are areas where the state is partly failing in its role to fulfill these rights.

The VPD notes that the current society faces five problem areas in respect of children's rights. These are, in particular, the lack of respect for children and the lack of respect for

their rights, the absence of the Children's Rights Ombudsman, the increasing number of children placed in institutions, where there is a lack of conditions to fulfill all their rights, the deprivation of the basic needs of children living in marginalized, socially excluded communities and the resulting social stigmatization.

In this context, the VPD declares its aim to support the children's voice in society until the establishment of the Children's Rights Ombudsman and will therefore develop an intensive partnership with the National Parliament of Children and Youth.

The VPD declares these objectives for the near future in accordance with the UN Convention on the Rights of the Child and its interpretation by the Committee on the Rights of the Child:

1. the need to respect the "interest" of children in day-to-day political practice at the level of executive, legislature and self-government in developing all concepts and strategies,
2. the need to set up an institute of Children's Rights Ombudsman possibly soonest,
3. the need for social discussion to educate children without violence and promote positive parenting,
4. the need to build safe and child-friendly communities, including safe internet,
5. the need for full and informal participation of children at all levels,
6. the need to develop a transitional period concept in the framework of transforming the care system for vulnerable children in order to ensure respect for all rights of children placed in institutions,
7. the need to create a 'Child Friendly Justice' concept.

Some recommendations of our Committee have not been fundamentally fulfilled by the state for the past 10 years (No. 1, 2, 5 and 6), others were only partially fulfilled, rather in the form of one-time educational projects without a more permanent response in society (No. 3 and 4)."

**Recommendation:**

*The Committee could ask the government for detailed information on whether and what proposed measures the State implemented at all, what the real impact and the results of these activities were and whether sustainable financing of these activities in the future from the state budget is ensured (some activities were funded by EU funds only).*

## **Changes to laws and practices to ensure compliance with the Convention and Optional Protocols**

**C 11 (2011). The Committee recommends that the State party undertake a comprehensive review of all its legislation and take all necessary measures to ensure the full applicability of the Convention in its domestic legal system.**

There has been no comprehensive review of legislation or full application of the Convention in the legal system.

In the area of care for vulnerable children, a number of measures have been adopted to improve the quality of care for vulnerable children in the period under review. Amendment (Act No. 401/2012 Coll.) Of the Act on Social and Legal Protection of Children (Act No. 359/1999 Coll.) with effect from 1 January 2013 and also Amendment of the Civil Code (Act No. 89/2012 Coll.) valid since 1 January 2014, it has helped the development of foster care, has opened the way for the transformation of institutional care and, in particular, has anchored family care as a preferred option. Institutional care is now being considered as a last option for solving a child's situation after all other possibilities have been exhausted. Despite these positive changes, the deinstitutionalization of care for vulnerable children (including children with disabilities) has not been successfully completed, and the law on age limits restricting the placement of the youngest children into institutional care has not been adopted yet. Another area requiring new legislation is the absence of social housing, especially for families with children, young adults leaving alternative care and young adults with disabilities. Although the bill on social housing was submitted to the government, it was not approved. The new proposal has not been submitted yet.

During the reporting period, there was improvement in the situation of the right to be heard. Child participation in matters concerning him or her has increased. Courts are obliged to hear the opinion of a child over 12 years of age, and the opinion of younger children should be ascertained by the court if it is justified to assume that the child will understand and comment on the situation sufficiently. It cannot be verified to what extent courts truly find out the opinion of a child, as there are no statistical data on the percentage of children whose opinion was inquired in court proceedings.

With respect to the rights of the child given by the Convention, the legal representation of the child in court proceedings, which fundamentally affects his or her rights, is insufficiently solved. The Government Council for Human Rights newly declares the improvement of this situation as a priority for the solution for 2019-2023 (see its Resolution of 27 May 2019).

The Council text states that the length of so-called guardianship proceedings is disproportionately long. Special, so-called custodial judges, devote to the rights of the child

in court proceedings, or rather the management of court care of minors, at district and regional courts. The custodial judiciary has long been regarded as an inferior judicial area. Often, there have been cases in which this agenda has been entrusted to newly appointed judges or, conversely, to judges who have not proved their ability in other agendas. There were frequent delays and wrong decisions, e.g. in matters of child care in the break-up of a family or care for a child outside the family, which burdened families in already complicated situations. The opinions and attitudes of children and their best interest have also not been sufficiently taken into account. All these phenomena were pointed out many times by the Constitutional Court.

In recent years, some improvements have been observed, such as reduced decision-making time, increased use of substitute family care, strengthened education, and somewhere specializing in guardianship judges. However, the situation in different courts varies. It is therefore necessary to unify decision-making practice and to fulfill the rights of children and other persons involved in each procedure. Furthermore, it is necessary to strengthen the training of judges and their training in child-friendly approaches and to give children the opportunity to express their views. Last but not least, the unification of case-law on matters relating to the care of minors by the Supreme Court should be strengthened, which is now often the case of the Constitutional Court. (*Cited from the Priorities of the Government Council for Human Rights for 2019-2023.*)

These conclusions and suggestions for improvement can certainly be endorsed.

Moreover, it is necessary to better set up and comprehensively review the whole legal regulation from the point of view of fulfillment of obligations under the Convention in relation to the procedural representation of children in court proceedings, not only in civil matters, but also in criminal proceedings (including the position and protection of the rights and interests of the child as damaged persons), especially in administrative proceedings (registry proceedings, granting of citizenship, applications for social housing, etc.), in proceedings concerning cases of unequal treatment under the Anti-discrimination Act, etc.

There is still a situation where the interest of the child and the child himself or herself is not always represented in a number of administrative and judicial proceedings by an independent and legally competent expert who impartially advocates and promotes the interest of the child and advocates the fulfillment of the procedural rights of the child (including the right of appeal, the filing of a complaint to The Constitutional Court, etc.) This situation is negatively reflected in a number of legal proceedings in the court, where the child is not an independent subject whose rights and interests are primarily, but is in the role of a passive object in the decision-making of a state administration body or in a dispute and mutual conflict and often inequality between parents, where, for example, one parent has a legal representation and the other does not because of lack of property, which fundamentally affects the outcome of the proceedings (most often in care and

contact proceedings). Even in cases, where a child is represented by a so-called collision guardian (in most cases only a social worker representing a childcare institution), situations, where the child's interest is represented and defended by the institution that initiated the proceedings aimed at the removal of the child and the placement of the child in substitute education, are not excluded. Similarly, the legal status of a child in proceedings is weakened if the socially weak parents seek to return the child to their care, and the child is represented in the proceedings only by the state authority which was at the beginning of the child's removal from the parents and at the same time not sufficiently proactive in supporting the parents, to be able to fulfill the conditions for raising a child (permanent job and suitable housing). Czech courts still rarely appoint a lawyer ex officio to a child, even if one of the parents has a lawyer and the other does not, and the inequality of the parties in the exercise of the rights and interests is obvious from the beginning.

Improvements have also been made to the right of the child to know his or her biological family. The adoptive parent is newly obliged to communicate to the adopted child that he or she has been adopted, at the latest when the child starts school. Obligations of foster parents include the obligation to strengthen the child's belonging to biological parents and loved ones, and to allow parents to interact with the child.

#### **Recommendations:**

*The Committee could ask the State Party whether and when:*

*(a) ensure that custodial judges have sufficient capacity and expertise to make prompt and fair decisions in children's proceedings;*

*(b) ensure the impartial and professional representation of children in court proceedings and ensure the representation of the child by a lawyer paid by the State as regards interference with the fundamental rights of the child guaranteed by the Convention;*

*(c) ensure universal support for the child throughout the trial, including the active participation of children and young people in the courts;*

*(d) ensure that child-friendly justice rules are applied, including the creation of an appropriate environment for the hearing and finding out the opinion of the child, and the adoption of measures to enable the child to understand the court's decision;*

*e) ensure that family mediation is used as a means of preventing disputes in parents' disputes about contact with children.*

*The overnment should build on the legislative changes made and propose follow-up laws:*

- *for the transformation of institutional facilities and social housing.*
- *Legislation regulating substitute family care should also be revised based on the experience gained after the amendment to the Civil Code and Act No. 359/1999 Coll. on social and legal protection of children with regard to sociodemographic development of the society. The revision is also required by Act No. 108/2006 Coll. on social services.*

### **State authority responsible for coordinating the implementation of the Convention**

C 11 (1997). The Committee noted with satisfaction the existence of governmental bodies dealing with the respect of children's rights at national and local level, but believes that coordination between these authorities should be improved in order to establish a uniform procedure for putting the Convention into practice.

C 13 (2003). The Committee recommends that the State party establish or appoint a single permanent body, which is adequately mandated and resourced, to coordinate implementation of the Convention at the national level, including by effectively coordinating activities between central and local authorities and cooperating with non-governmental organizations (NGOs) and other sectors of civil society.

**C 13 (2011). The Committee calls upon the State party to ensure that it undertakes measures to establish an effective mechanism or substantially strengthen its existing mechanism, under the Ministry of Labour and Social Affairs, for coordinating the implementation of child rights policy amongst all the relevant bodies and institutions and at all levels. In doing so, the State party is urged to ensure that it is provided with the necessary human, technical and financial resources to implement child rights policy that is comprehensive, coherent and consistent at national, regional and municipal levels.**

Already from the Recommendation No. 11 of the Committee of 1997, which was a government-settled Committee for Children, Youth and Family, later abolished by the government before discussing its Second Periodic Report, it is clear that this is a persistent problem: the Committee's recommendations in same issue still haven't been respected in full range, resulting in the fragmentation of the whole child care and protection system, inability of mutual co-operation of ministries and the absence of an interdisciplinary approach.

Although the Ministry of Labour and Social Affairs has been mandated by the Government to ensure coordination of the implementation of the Convention, coordination between the

various ministries, trade unions and children's rights institutions at national and local level remains insufficient. Individual ministries are reluctant to give up some of their powers, which are also linked to the money flow into the budget. Although an interdepartmental commission (G 5) was created, it does not fulfil its function, does not meet sufficiently, does not have the necessary powers and does not submit any outputs.

In December 2015, the VPD issued a recommendation that the system of care for vulnerable children should be unified under one department and co-ordinated and developed to suit the needs of individual groups of children at risk. Subsequently, in November 2016, the Government of the Czech Republic ordered the Minister of Labour and Social Affairs, in cooperation with the Minister of Education, Youth and Sports and the Minister of Health, to submit a proposal for legal regulation of unification of services for vulnerable children and their families under one resort to the Government by the end of June 2017. However, this proposal was dropped in August 2017 and care for vulnerable children is still fragmented between the Ministry of Labour and Social Affairs (MPSV), the Ministry of Education, Youth and Sports (MSMT) and the Ministry of Health (MZd) in the Czech Republic. The Ministry of Justice (MŠP), which is responsible for juvenile justice, is also involved.

This fragmentation of the care system results in inconsistent procedures in helping vulnerable children, different approaches to the needs of the child, a different definition of objectives in terms of child protection and evaluation, other priorities, different legislative regulations for each area, inconsistent use of terms, different funding methods, different control rules and inconsistencies in reported child data. In practice, this non-conception manifests itself mainly by the non-coordination of care between the different services provided to one family, the services do not follow and do not coordinate their actions. At the regional level, fragmentation leads to non-conceptual scope and volume planning. Overall, the system is inflexible, communication and cooperation between ministries is lengthy and insufficient.

**Resolution of the Committee on the Rights of the Child on the Quality of Educational Activities in Institutions for Institutional or Protective Education (Report of 4 May 2017, ref. ČŠIG-1423/17-G2:**

"The VPD notes very strong concern about the content of the thematic report of the Czech School Inspectorate - Quality of Educational Activities in Institutional or Protective Education Facilities of May 4, 2017, Ref. No. ČŠIG-1423/17-G2, both for the apparent illegitimacy of many of its conclusions, which completely disregard not only the human

rights and freedoms of the child, as they are embedded in the constitutional and international standards, especially in the Convention on the Rights of the Child (No. 104/1991 Coll.), but also in the legal regulation of the implementation of institutional education and the exercise of protective upbringing, as well as the obvious political colouring of that content. The Committee considers the subject-thematic report of the Czech School Inspectorate, with regard to its content, to be just another proof of the necessity of unifying the system of care for vulnerable children, to which the Government has committed itself in the National Strategy for the Protection of Children's Rights, approved by Government Resolution No. 4 of 4 January 2012, as well as in its Resolution No. 1033 of 23 November 2016, which approved the initiative of the Government Council for Human Rights on the issue, approved on 15 December 2015. ”

### **Recommendations:**

*To unify the area of care for vulnerable children under one ministry, preferably by delimiting agendas under the ministry for children, youth, women, seniors and family.*

*The Committee might wish to ask the government when it intends to establish an interdepartmental or supra-departmental body properly equipped with staff and competences to co-ordinate all relevant institutions as necessary for the implementation of the Convention. Also, the Committee could explain to the Government how important could be co-operation with elements of civil society, particularly with participatory structures of children and youth.*

### **National Action Plan**

C 27 (1997). The Committee notes that a National Action Plan has been proposed to encourage the State to take all necessary steps to put the Convention into practice. The Committee also recommends the State to strengthen coordination between the various governmental mechanisms dealing with children's rights at national and local level with a view to establishing a coherent policy approach to the child issue and ensuring effective assessment of the implementation of the Convention in the State. The Committee encourages the state to continue increasing efforts to establish close relations with NGOs.

C 15 (2003). The Committee encourages the State party to develop a coherent and comprehensive rights-based national plan of action with shared responsibilities, clear priorities, timetable and preliminary estimates of the resources required to implement the Convention at the central, regional and local levels, in cooperation with civil society.

**C 15 (2011). The Committee recommends that the State party develop a comprehensive National Plan of Action for the implementation of children's rights**

**and allocate specific human, technical and financial resources for its full implementation. In doing so, the Committee recommends that the State party ensure that its National Plan of Action for Children:**

**(a) Is based on children's rights and constitutes an integral component of development planning;**

**(b) Is implemented and operationalised by, inter alia, appropriate by-laws;**

**(c) Defines specific goals, targets, indicators and timetables and includes a monitoring mechanism for assessing implementation progress and identifying possible deficiencies;**

**(d) Facilitates greater involvement of all partners concerned, including civil society and children themselves;**

**(e) Facilitates a coherent and consistent approach to the Convention amongst all of the State party's bodies and institutions;**

**(f) Takes into account the principles and provisions of the Convention, its Optional Protocols as well as the Plan of Action "A world fit for children" of 2002 and the "World fit for children + 5" review declaration of 2007.**

The Government (G 3, G 4) considers the National Strategy for the Protection of Children's Rights (Government Resolution of November 2011, hereinafter "Strategy") as National Action Plan. However, this does not cover the full scope of the Convention and is not based on any of the points in Recommendation C 15.

Contrary to the recommendations C 15 d), 42 and 70 of the Committee on cooperation with non-governmental organizations, the state understands this cooperation almost exclusively as "buying their services" to help them fulfill or even substitute their tasks under the Convention. The participation of children and youth in the life of society is neither in legislation nor practice.

Unfortunately, the documents mentioned in C 15 f) remained outside the attention and interest of the state authorities and did not become the basis for the creation of the national action plan of the Czech Republic. As a result, an overall concept or policy of the state, that sets out how the child's rights are to be ensured, has not been developed. The main cause is the lack of general political will.

The follow-up National Action Plan for 2012-2015 was completely insufficient, did not include adequate financial budget to improve the protection of children's rights and, as a result, neither the basic objectives of the plan were implemented (such as legislative adjustments, unification of care, etc.), nor there was any adoption of a National Action Plan for 2016 to 2018 foreseen by the Strategy. The draft of the new Strategy for 2018 to 2025 (G 4) has not been published or consulted with the professional community and civil society yet.

**Recommendation:**

*The Committee could ask the government to answer the question "Whether and when a comprehensive National Plan for the Implementation of the Convention on the Rights of the Child will be drawn up". The Committee could propose that the Government implements national programs focusing on individual areas of children's rights, both care and protection, and participation in family life, school, community and society. The Committee could ask the government how it intends to anchor the Convention in its entirety in the Czech Republic's legislation, including implementing regulations.*

**Non-governmental organizations and independent monitoring**

C 12 (1997). The Committee is concerned about inadequate coordination and communication mechanisms between the government and NGOs dealing with child issues.

C 13 (2003). The Committee recommends that the State party establish or appoint a single permanent body, which is adequately mandated and resourced, to coordinate implementation of the Convention at the national level, including by effectively coordinating activities between central and local authorities and cooperating with non-governmental organizations (NGOs) and other sectors of civil society.

C 25 (2003). The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention, including with respect to civil rights and freedoms, and welcomes closer cooperation with NGOs. The Committee, in particular, urges the State party to involve more systematically and to support NGOs, especially rights-based ones, and other sectors of civil society working with and for children, at all stages of the implementation of the Convention.

C 17 (2011) 17. **The Committee reiterates its previous recommendation (CRC/C/15/Add.201 para 17) for the State party to take into full account the Committee's General Comment No. 2 on the role of national human rights institutions, and establish an independent body to monitor the implementation of**

**the Convention, including the investigation of individual complaints by children in a child-sensitive manner. The Committee also urges the State party to ensure that the Public Defender for Human Rights is provided with all the necessary financial, technical and human resources to effectively address complaints it receives from children.**

Although analyses of the protection of the rights of the child and the care of vulnerable children, which originated both in the Strategy (“Right to Childhood”) and in other projects, recommend the establishment of an independent Ombudsman for Children and Youth, such an independent body defending the rights of children and youth, has not been established in the Czech Republic yet. The Ombudswoman, who has set up a separate department for this agenda, continues to be involved in the protection of children's rights. However, experts, representatives of children, the non-profit sector and social-legal protection workers have repeatedly leaned towards a separate body to protect the rights of the child. This would be a symbol of the fact that children may go somewhere and ask for their rights to be protected.

**Recommendation:**

*Establish an independent body to monitor the implementation of the Convention on the Rights of the Child.*

**Allocation of resources**

**C 19 (2003) The Committee recommends that the State party implement article 4 of the Convention in the light of articles 3 and 6 in such a way that the proportions of the State budget that are allocated for the implementation of all rights, and to the maximum extent of all resources available for the economic, social and cultural rights of children, are easily identifiable and presented in a transparent way. The Committee further encourages the State party to clearly state on a yearly basis its priorities with respect to child rights issues and to identify the amount and proportion of the budget spent on children, and especially on marginalized groups, at the national and local levels in order to make possible an evaluation of the impact of expenditures on children and their effective utilization.**

**C 19 (2011). The Committee urges the State party to consider amending its State Budget Act to implement article 4 of the Convention in the light of articles 3 and 6 in order to ensure that the proportions of the State budget that are allocated for the implementation of all rights, and to the maximum extent of all resources available for the economic, social and cultural rights of children, are easily identifiable and presented in a transparent way. The Committee further encourages the State party**

**to clearly state on a yearly basis its priorities with respect to child rights issues and to identify the amount and proportion of the budget spent on children, and especially on marginalized groups, at the national and local levels in order to make possible an evaluation of the impact of expenditures on children and their effective utilization. In doing so, the State party should take into account the Committee's recommendations of the Day of General Discussion of 21 September 2007 devoted to "Resources for the rights of the child - responsibility of States".**

This recommendation has not been fully implemented. The state budget is still constructed in a way that funds for the exercise of children's rights are included in the budgets of individual ministries according to their competence. They are part of care and service items in general, so it is not possible to distinguish what volume is intended to protect children's rights. It is therefore difficult to quantify clearly the amount of money spent on child protection.

According to the MPSV analysis (Miloslav Macela: Analysis of the Financing of the Childcare System in the Czech Republic, 2018), public budget expenditures in 2016 exceeded 10.8 billion CZK. They were distributed mainly between the state budget chapters of the Ministry of Labour and Social Affairs, the Ministry of Education, the Ministry of Health, the General Treasury Administration, some other state administration bodies, and the budgets of regions and municipalities. The decisive part of public budget expenditures goes to the area of substitute care for children, e.g. 42 % to institutional education and 36 % to substitute family care. Only 8 % of the total budget is channelled into prevention from the national resource.

**Query Suggestion:**

*How is the co-operation of state authorities at all levels of public administration with NGOs reflected in the legislation of the Czech Republic in the area of the exercise of children's rights?*

*What are the opportunities for NGOs dealing with children's rights to cooperate with state authorities responsible for social protection, employment, housing, culture, crime prevention, racism, AIDS and drugs?*

*The Committee could ask the Member State to supplement the quantitative and qualitative data and the development of cooperation with NGOs and the effectiveness of their support from the state, regions and municipalities. There is also a lack of evaluation of the contribution of non-state sector entities to the implementation of the Convention.*

**Recommendations:**

*The Committee could recommend that the government:*

- (a) earmark funds to protect the rights of the child already at the state budget level,*
- (b) ensure the linking of means to protect the rights of the child between departments at lower levels of management,*
- (c) ensure reporting of expenditure on the implementation of individual articles of the Convention while the participation of young people would be one of the criteria of long-term governmental subsidy programs.*

#### **Data collection**

**C 21 (2011). The Committee reiterates its previous recommendation (CRC/C/15/Add.201 para 21) and urges the State party to:**

**(a) strengthen and centralize its mechanism for integrating and analyzing systematically disaggregated data on all children under 18 yrs for all areas covered by the Convention, with special emphasis on persons in situations of vulnerability, including children belonging to ethnic minorities; children of economically disadvantaged households; children living in rural areas; children in alternative care; children with disabilities and children in need of special protection, e.g. working children; children who have been sexually exploited and trafficked children; and**

**(b) use these indicators and data effectively in formulating and evaluating legislation, policies and programmes for the implementation, resource allocation and monitoring of the Convention.**

**Furthermore, the Committee urges the State party to establish a clear method for identifying the Roma minority in its data collection to facilitate the clarity and effectiveness of policy-making; and in doing so, ensure that such a definition is complemented by adequate support and protection mechanisms to prevent the discriminatory abuse of such data.**

The Committee's recommendation was not implemented.

There is still no uniform consolidation of data on children at risk. The Ministries' databases are not compatible, while the Ministry of Education, Youth and Sports reports the period of the school year, the MPSV and the MZd use the period of the calendar year. In addition to

various reporting periods, another problem is the inconsistent terminology and methodology of reports that contribute to the inability to consolidate data. The statistics of individual ministries still do not follow the recommended parameters of systematic data breakdown by the Committee. Instead of statistical data, the government and the professional community are forced to work with expert estimates only.

**Recommendation:**

*Since most government systems have a personal identification number as a key identifier, this can be used as a basis for data consolidation. However, ministries need to unify reporting methodologies and key identifiers. It is also essential that a body directly responsible for consolidation would be established at government level or one of the existing institutions would be entrusted with consolidation (each ministry has its own data processing institution).*

**Disseminating information about the Convention and raising awareness**

**C 23 (2003). The Committee recommends that the State party strengthen its awareness-raising efforts and encourages the State party to provide systematic training and education on the rights and the principles and provisions of the Convention to, inter alia, professionals working with and for children and vocational schools.**

**C 23 (2011). The Committee urges the State party to take measures to raise public awareness of the Convention, including by, inter alia, the mass media and incorporating teaching on the Convention as a specific subject in school curricula.**

According to G18 to G20, even according to the experience of non-governmental organizations, this recommendation has not been met.

**Training**

**C 25 (2011). The Committee recommends that the State party develop systematic and ongoing training programmes on human rights, including children's rights, for all professionals working for and with children.**

There are requirements for such a training for governmental employees (according to the new Act on Governmental Service) but such requirements are not included in the university education of teachers (as well as in the accreditation proceedings for schools), information is provided by different civic associations in the further education of teachers.

According to the experience of non-governmental organizations, this recommendation has not been met, as can be seen from the text of the justification and the new two cross-cutting priorities of the Governmental Council for Human Rights (hereinafter "RVLP") for 2019-2023:

1. Human rights education and raising public awareness
2. Monitoring the fulfillment of international human rights obligations of the Czech Republic

At the same time it is necessary to draw the Committee's attention to the fact that the government is increasingly and primarily using and drawing funds for educational activities of state institutions, not from the state budget, but from EU funds or the Norwegian Funds, including the activities they should be provided and financed within the scope of its competence by the MPSV, MSp, Office of the Public Defender of Rights, etc.

The practice is that besides a few permanent officers more short-time external workers are hired, they work on projects and are fired after the project. This practice should go on, see Minutes of the RVLP: "Under the new human rights program within EHP/Norwegian Funds, which dedicates to human rights, integration of Roma and the fight against domestic and gender-based violence, the program will support four pre-defined projects: the Ombudsman to strengthen human rights activities, MSp to raise awareness of international human rights obligations, the Judicial Academy to educate judges on the protection of the rights of vulnerable groups and the Campaign against Racism of the Office of the Government. In addition, there will be a grant program for small human rights projects of academic and educational institutions. The program was to be launched at the inaugural conference on 13 March, projects should start in the second half of 2019 and early 2020.

Financing of any activity of non-governmental organizations in relation to awareness and fulfilment of obligations under the Convention (including its monitoring) is almost zero in recent years by the state authorities. None of them has a suitable subsidy program that would target the implementation of the Convention and allow NGO's to finance the necessary activities to support the implementation of the Convention, including awareness-raising and the possibility of active cooperation with state institutions in the area of preparation of measures, data collection, creation of necessary analyses, inquiring children's opinion, etc.

It is increasingly common practice for state institutions that they draw a considerable amount of funds intended for the non-profit sector to pay the wages of new state officials to replace the under-capacity of the agenda regarding the Convention. Financing the activities of state institutions to implement the Convention in this way is both unsustainable in the long term and in addition is contrary to the state's commitment to allocate its own resources to it.

## Cooperation with civil society

C 27 (2011). **The Committee calls upon the State party to strengthen its cooperation with civil society and establish a transparent system, allowing for and taking into account dialogue with civil society, for the allocation of grants and subsidies for civil society organizations that assist in the implementation of the Convention and participate in the formulation of policies on children's rights. In doing so, the Committee draws the State party's attention to its General Comment No. 5 (CRC/GC/2003/5 paras 56 to 59) on General measures of CRC implementation.**

The government does not comment on this recommendation at all.

The existence of the Concept of Youth Support (G 22) in non-formal education is commendable, but the system is not complex - it is not tied to lower levels of public administration; at the governmental level, the events of associations operating, for example, in a single village, are also subsidized, as there is no law on children and youth, which would impose such an obligation on municipal and/or regional authorities.

As a result, it is impossible to check the impact of the money spent on children in terms of content: Feedback and efficiency evaluation have been missing since 1991. This is also true of the lack of support for participatory structures of children and youth; the focus of the program is the fulfilment of leisure time for children and youth.

Also, the prevention of xenophobia and racism is not financially advantageous in grant programs compared to traditional leisure activities, such as outdoor activities, not to mention the lack of support for membership of, for example, ethnic minority children (Roma, immigrants) or disabled in traditional children's associations, as it has been operating since 1991, for example, in the Swiss state subsidy system.

In social services, the society is dependent on the provision of services by NGO's. These organizations face big financial uncertainties in the current funding system, based on grant calls and projects. This instability does not allow organizations a long-term planning and service development and is one of the causes of the lack of family support services.

### **Recommendations:**

*The Committee could ask the government whether it intends to improve the legal basis of the education reform in the Education Act by complementing the definition of the participants in education and their relationships in the education process: educated*

*children should become its active subjects, including improving their participation in decision-making processes.*

*The Committee could recommend to the Government to supplement the system of state grants and subsidies to support non-state organizations dealing primarily with child rights and other human rights, in particular the prevention of xenophobia and racism. Also, the government could change the system of financing social services so that organizations can plan and develop their services in the long term.*

### **International cooperation**

**C 29 (2011) The Committee encourages the State party to meet the internationally agreed ODA target of 0.7 per cent of GNI. It also encourages the State party to ensure that the realization of child rights becomes a priority in international cooperation agreements established with developing countries, in its bilateral cooperation. In this regard, the Committee urges the State party to pay particular attention to the concluding observations and recommendations made by the Committee in respect of the State party's partner countries. The Committee invites the State party to take into account its recommendations arising from the day of general discussion held in 2007 on "Resources for the rights of the child – responsibility of States".**

This recommendation and challenges have not been fulfilled; the rights of the child have not become a priority. ODA is only 0.33% of GNI.

## **II. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Article 2 - Equal treatment and non-discrimination**

**C 29 (2003). The Committee recommends that the State party continue and strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) into all relevant legislation concerning children and to ensure that this right is effectively applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children and children belonging to minority groups, such as the Roma. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes.**

C 31 (2011). **The Committee urges the State party to expeditiously take all measures necessary to ensure the effective elimination of any and all forms of segregating children of Roma origin, especially the discriminatory practices against them in the education system and the provision of essential services and housing in accordance with its commitments under the Strasbourg Declaration on Roma (2010) and in pursuance of the Council of Europe Committee of Ministers' Recommendation on policies for Roma and/or Travellers in Europe. The Committee further urges the State party to effectively adopt a comprehensive national action plan on the prevention of racism, racial discrimination, xenophobia and intolerance, taking into full account all the relevant provisions of the Durban Declaration and Plan of Action, with particular emphasis on Article 2 of the Convention.**

Government-led inclusive education measures are slowly improving access to education for Roma children and other children with specific educational needs (G 136 - G 144), but they are still opposed by politicians and the public. Given that the racist attitudes of the majority public, mainstream media and politicians have been further strengthened after the 2015 migration events (which have not touched the Czech Republic at all), we consider a major shortcoming that the authorities have not attempted to adopt a national action plan to prevent racism, racial discrimination, xenophobia and intolerance since 2003. Extremism, which is being fought by the Government under G 31, is only a political label, is neither defined internationally nor in the Czech Republic's law.

There is neither any fulfilment of the objective 5.1 d) The Strategy of Roma Integration ("*The state will push for the reduction of the number of children of Roma origin in the system of institutional and protective education.*").

The segregation of Roma families in housing has even intensified; the MPSV reports an increase of up to 606 excluded localities, with 115,000 people (2015) predominantly of Roma origin. It is about twice as many as in 2006.

**Recommendations:**

*Adopt and implement the National Action Plan for the Prevention of Racism, Racial Discrimination, Xenophobia and Intolerance.*

*The Committee could ask the government whether it should implement a set of measures to prevent and counteract these negative phenomena among the majority society, which can be implemented by the responsible authorities as soon as possible:*

*(a) a society-wide media campaign aimed at changing the prejudicial attitudes of the majority public towards the Roma minority (key segregation factors include the pro-segregation pressure of parents from the majority society and the discriminatory prejudice of teachers);*

*(b) to repeat the research by the Institute for Information in Education (2012) and to demonstrate a positive change since then;*

*(c) introduction of a specific grant program for organizations dealing with human rights, primarily children rights in the Czech Republic.*

### **Article 3 - The best interest of the child**

C 32 (2003). The Committee, in line with its previous recommendations recommends that the principle of the "best interests of the child" in article 3 be appropriately analysed with regard to various situations (such as separation from parents, review of placement) of the child, groups of children (e.g. minorities) and integrated into all revisions to legislation concerning children and legal procedures in courts, as well as into judicial and administrative decisions and into projects, programmes and services which have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children be reinforced and that Art.3 of the Convention is fully understood and that this principle is effectively implemented.

**C 33 (2011). The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programmes and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.**

Practice shows that the "best interest of the child" is often conceived considerably subjectively, sometimes purposefully. Neither this concept nor its principle is uniformly defined in the Czech Republic. G 32 and 33 refer to the principle of the (best) interest of the child only in their social and legal protection and in court proceedings, but not, for example, in matters of housing, health or education. The best interest of the child is not taken into account even during parliamentary discussions, i.e. in the legislation, or in the decision-making of the Government: as well in the explanatory reports as in the subsequent media debates, it is almost always about parents or families.

Examples: not yet adopted law on substitute maintenance paid by the state to a child for a compulsory parent; tax rebate **only for working parents** of minors instead of increasing

child allowances; preference to parents' rights in adopting children and placing them in foster care.

Although the CRIA principle has been enshrined in the new version of the Act on the Collection of Laws, it is usually provided with the sentence "The proposed amendment does not affect the rights of the child", without the direct and indirect impacts being seriously analysed.

**Recommendation:**

*The Committee could ask the government whether and when it intends to propose a legislative anchoring of the principle of the best interests of the child, in the optimum case that it applies across the whole Czech legal order, including a binding methodology for assessing the fulfilment of children's rights in all legislative ("children mainstreaming"), executive and budgeting ("children budgeting") proposals of all levels of government.*

**Article 6 - The right to life, survival and development**

**C 34 (2003). 34. The Committee recommends that the State party:**

**(b) Study the possible causes of suicide among youths and the characteristics of those who appear to be most at risk, and take steps to put into place additional support and interventional programmes which would reduce this tragic phenomenon.**

**The Committee's recommendation is not met.**

The table (annexed to the government report) on the number of deaths from deliberate self-harm says nothing about the causes of suicide and steps to reduce this. The suicide rate of children stagnates at around 4 children aged 9 to 19 per 100,000 inhabitants.

**The use of tobacco products, alcohol and illicit drugs by children** can be seen as even more risky than traffic accidents and suicides, albeit not directly leading to the deaths of children, but to their lifelong dependence and health damage, respectively to premature death in adulthood. The proposal for a statutory provision, according to which every public catering establishment would have to offer at least one cheaper soft drink than beer, was rejected.

**Recommendation:**

*The Committee might want to ask the government whether and when it intends to submit legislation to ban smoking and tobacco advertising and alcoholic beverages, including beer, in all public places.*

#### **Article 12 - Respect for the views of the child**

**C 36 (2011). The Committee reiterates its recommendation (CRC/C/15/Add.201) for the State party to introduce a comprehensive legal provision establishing the right of the child to be heard that would be applicable to courts, administrative bodies, institutions, schools, childcare institutions and families in matters affecting children, and guarantee the right to appeal against the decisions, in accordance with article 12 of the Convention. Furthermore, awareness-raising and educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights. The Committee also recommends that the State party take measures to allow for the direct hearing of the views of the child in all proceedings involving children, and in doing so provide adequate safeguards and mechanisms for ensuring that such participation can be carried out effectively and free of manipulation or intimidation. The Committee further encourages the establishment of systems for including the views of the child in political discussions and decisions affecting them. In doing so, the Committee draws the attention of the State party to its General Comment No. 12 (CRC/C/GC/12) on the right of the child to be heard.**

The UN Children's Rights Committee rightly points out the need to change the traditional understanding of children as objects rather than rights subjects. The situation in children's participation in society has not improved substantially since 2011. Section 21 (d) and (e) of the Education Act, the rights of pupils and students to participate are laid down; in § 22, the duties of pupils, in § 30 the school rules and in § 31 are educational measures and other valuations and disciplinary measures.

Participatory components also appear in practice as higher structures bringing together school parliaments, i.e. municipal, regional and National Parliament of Children and Youth. However, they do not have legal support and their support depends entirely on the individual people in the municipalities and regions. The lack of perception of these participatory structures also proves the absence of any reference in the 5th and 6th Periodic Reports of the Czech Republic, the authors may not know about them at all. The Czech Republic does not regard this situation in the participation of children as a lack, nor does it understand participation as a contribution to society.

The Act on (children and) youth has not been adopted yet, although its paragraphed version of 2003 approached the Czech Government's resolution on state policy towards the young generation of January 1999, which imposed upon the Ministry of Education to elaborate a concept for the development of youth participation in the life of municipalities, regions and the state. The proposal envisaged that regions and municipalities, in cooperation with children and young people, not only develop and implement policies towards children and young people, but also ensure the participation of children and young people in discussions and decisions on matters of common and public interest, which will contribute to their education for democracy and citizenship. In 2004, the bill was withdrawn and no longer considered.

**Recommendations:**

*The Committee could ask the government whether it intends to legislate the right of children to individual and collective participation in deciding on all issues affecting them (not only in the judiciary and education), for example in terms of environment, health, safety and spatial planning.*

*Then the Committee could recommend to improve the current legislation regarding pupils' and students' parliaments in order to prevent the establishment of shadow structures ruled and operated by adults (tokenism).*

**III. Violence against children (Articles 19, 24.3, 28.2, 34, 37a and 39 of the Convention)**

**Torture, degrading treatment and corporal punishment**

C40 (2011). **The Committee urges the State party to address the widespread tolerance of corporal punishment by, inter alia, conducting awareness-raising and public education programmes with a view to encouraging the use of alternative disciplinary measures in accordance with the inherent dignity of the child, and in doing so, ensure that corporal punishment is prohibited in all settings including the family.**

C42 (2011) **To further strengthen the State party's current initiatives, the Committee encourages the State party to continue to:**

**(a) Prioritize the elimination of all forms of violence against children and ensure the implementation of the recommendations of the United Nations study on violence against children (A/61/299), taking into account the outcome and recommendations**

of the regional consultation for Europe and Central Asia, held in Ljubljana from 5 to 7 July 2005, paying particular attention to gender;

(b) Provide information concerning the implementation by the State party of the recommendations of the above-mentioned study in its next periodic report, particularly those highlighted by the Special Representative of the Secretary-General on violence against children, namely:

(i) The development in each State of a national comprehensive strategy to prevent and address all forms of violence against children;

(ii) The introduction of an explicit national legal ban on all forms of violence against children in all settings; and

(iii) The consolidation of a national system of data collection, analysis and dissemination, and a research agenda on violence against children.

(c) Cooperate with the Special Representative of the Secretary-General on violence against children and seek technical assistance, inter alia, from UNICEF, the Office of the High Commissioner for Human Rights (OHCHR), World Health Organization (WHO), International Labour Office (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

Fulfilment of these recommendations, with the exception of C 42 b (iii), has not been recorded, the situation has not improved since 2009, when after the negative media campaign the government withdrew a proposal to ban corporal punishment of children and tried instead to implement a positive parenting campaign. In 2018, as a result of a negative campaign in social networks, a number of leading politicians opposed the ratification of the Council of Europe Convention for the Prevention and Combat of Violence against Women and Domestic Violence (G 57) by the State Party.

#### **IV. Family Environment and Alternative Care**

**(Articles 5; 18.1,2; 9 - 11; 19 - 21; 25; 27.4 and 39)**

**Articles 5 and 18 – Family**

**Assistance provided to parents, childcare and family care facilities and services**

C 42 (2003). The Committee welcomes the information on the Policy Statement on measures to be taken relating to child and family welfare and on the preparation of a national programme of support to families with children. The Committee is concerned at the insufficient assistance and guidance given to parents in their child-rearing responsibilities for the upbringing and development of the child (art. 18), resulting in numerous cases of custody procedures or in alternative care in institutions. The Committee is further concerned that preventive efforts and family counselling are inadequate and that placement in an institution may be a solution to social problems and crisis situations in the family.

**C 44 (2011). The Committee recommends that the State party undertake measures to ensure that families in vulnerable socio-economic situations are provided with the financial resources and social support necessary so that all parents may realise their primary responsibility for their children in order for all children to enjoy the fulfilment of their rights to the greatest extent possible. The Committee further recommends that the State party provides the necessary services for parents and young children, especially those in deprived circumstances, to avoid developmental delays in children in situations of vulnerability.**

**In doing so, the Committee draws the attention of the State party to the Communication from the European Commission on Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow (COM (2011) 66).**

In general, there is a lack of preventive services in the Czech Republic, especially field and outpatient services, so that children can, if possible, stay in their original families. Even less available are support services for families whose children have been taken away and which would help to return the child to their family soon (social activation services). Early detection services for families at risk are missing at all.

This area has been underfunded for a long time, only 8% of the total volume of funds for the care of vulnerable children is spent on preventive services (Miloslav Macela: Analysis of the Financing of the Endangered Children System in the Czech Republic, 2018). According to a report by Lumos Czech Republic, approximately 2,684 million CZK is spent each year on the operation of former infant homes and children's homes in which approx. 5,000 children live. The same resources could be used to support a field social work with the family for more than 100,000 children living in the community (Lumos: Investing in Children, 2018).

While the numbers of social protection authorities have increased since 2012, they are still insufficient over the long term. Under the current number of employees, employees can ensure the performance of social and legal protection only to the minimum legal extent, leaving the field work to non-profit sector employees. They do not have enough time to work systematically with endangered families and to preventive activities. Most family services are thus effectively provided by NGOs. Although the number of them is growing, it is not enough to cover the need for these services to a sufficient extent. At the same time, the experience of non-profit family support organizations shows the meaningfulness and effectiveness of such services. In the current funding system, non-profit organizations face considerable uncertainty about financial resources. It happens that an organization has to cease service because it has not received financial resources, despite the need for service in the location.

The amendment (Act No. 401/2012 Coll.) Of the Act on Social and Legal Protection of Children (Act No. 359/1999 Coll.) with effect from 1 January 2013 introduced a partial positive change in the concept of planning care for vulnerable children. It introduced the obligation of municipal authorities to draw up an individual child protection plan and to organize case conferences on the child's situation. Multidisciplinary cooperation of subjects around the family (OSPOD, social activation service, doctor, school, etc.) and the involvement of the child have increased. However, the situation differs considerably from region to region, depending primarily on setting the region's goals and policies, on the methods and priorities of individual OSPOD and other entities.

Unfortunately, the measure set out in G 44 (children's groups) is only help for parents, but it does not fulfil children's right to high-quality pre-school education.

The measures in the G 68 do not help the most needy children, such as socially excluded single-parent families, and mostly only parents - middle-class members - achieve them.

### **Recommendations:**

*The Committee could recommend to the government:*

*(a) to support the emergence and operation of preventive services to help develop parental competencies that enhance financial literacy, define childcare problem situations that need to be prevented in a timely manner, and services to address them in a timely manner;*

*(b) to establish a state-guaranteed minimum network of field, outpatient social and social health services to support vulnerable families that help keep children in a family environment*

*(c) to increase the financial resources earmarked for these services, thereby increasing their availability and capacity, especially what concerns the complex field services for families in need - this can reduce demands on more expensive and less efficient institutional care,*

*(d) to ensure a systemic long-term financing of social services,*

*(e) to favour the development of community-based services so that children and families have access to the support they need within the community,*

*(f) to significantly increase child allowances and enact them as the inalienable income of the child, not his or her guardian.*

#### **Children Removed from Parents (Alternative Family and Institutional Care for Children)**

**C 46 (2011). Drawing attention to the Guidelines for the Alternative Care of Children contained in General Assembly resolution 64/142 adopted on 20 November 2009, the Committee calls upon the State party to urgently formulate a coherent national policy on de-institutionalisation, and in particular :**

**(a) Develop comprehensive assessments of the family situation, preventive services, admission criteria and strategies to reduce the number of children living in care institutions and ensure that placement of children in institutions is only used as a last resort and regularly monitored and reviewed in instances of it being applied;**

**(b) Develop community based family type services and foster care to avoid institutionalisation of children.**

**(c) Make the necessary amendments to the Orphanage Ordinance expeditiously so as to enforce a mandatory registration requirement for childcare institutions and criminalize running an institution without a license, and establish a uniform set of standards for public and private institutions and voluntary homes and a system to monitor them regularly;**

**(d) Urgently improve the facilities within institutions for children and allocate the necessary resources for the effective functioning and monitoring of child care institutions; and, take measures to increase the number of social workers available while establishing criteria for the selection of child-care workers and also ensure that they are adequately trained; and**

**(e) Ensure the timely development of individual child care plans from the time the child enters the institution and strengthen inclusive education policies and practices, and in doing so facilitate the child's return to a family-type environment expeditiously;**

**(f) Promote and facilitate contact between the child in institutional care and his/her family, as well as implement mechanisms to expand and stimulate the reintegration of children with their families, and;**

**(g) Ensure that the proposed improvements to the system of institutional care are guided by a clear timeline with concrete benchmarks for implementation that are effectively monitored at regular intervals.**

Positive changes in the area of alternative care for children were introduced by the amendment (Act No. 401/2012 Coll.) Of the Act on Social and Legal Protection of Children (Act No. 359/1999 Coll.) with effect from 1 January 2013. It implemented the priority of alternative family care in cases where children cannot grow up in their own family, before institutional care. It introduced the obligation of municipal authorities to draw up an individual child protection plan and to organize case conferences on the child's situation. The amendment also significantly supported foster care. Foster remuneration was adjusted and also the way of preparing and evaluating those interested in foster care. Rights and obligations in foster care have been established. Foster parents were entitled to help in fulfilling these rights and obligations. The aforementioned entitlement of foster families is provided by service providers such as public authorities (municipal authorities and regional authorities) or persons entrusted with the exercise of socio-legal protection (often referred to as "accompanying organizations"). Services are provided on the basis of the Foster Care Agreement and are materially provided by a state contribution to foster care. Among other things, foster parents have the duty to continuously educate themselves, the duty to maintain, develop and deepen the belonging of a child with biological parents and close persons and to enable parents to contact children. The amendment fixed a new institute of "foster care for a transitional period" (up to 1 year) as an alternative to institutional care for as long as the family itself organizes their situation so that the child can return or find another long-term solution (such as care relatives, adoption or long-term foster care).

In spite of all these positive measures, however, in the practice of some regions we still encounter the fact that children are placed in institutional care, although other alternatives can be used. The number of children placed in institutional care facilities per population is still very high in the Czech Republic. Although the number of children in foster care has increased significantly, the number of children in institutional care has hardly changed. In real terms, the number of children taken out of their families is increasing. A summary of

partial statistics of the Ministry of Education, Youth and Sports, the Ministry of Labour and Social Affairs and the Ministry of Health will reach to the number of about 8,000 children and young people who lived in various institutions of various types in the Czech Republic at the end of 2017 (about 600 children in children homes for children under 3 years of age, about 4,200 children in orphanages, about 2000 children in other educational institutions with institutional and protective education, about 400 children in homes for people with disabilities and about 700 children in facilities for children in need of immediate help). The socio-economic aspects, especially poor housing conditions and the loss of housing, continue to be the reason for the removal of children from the family, although the amendment to the Act on the Social and Legal Protection of Children stipulates that the reason for the removal of a child must not be the insufficient housing or property situation of the carer.

A very worrying problem is that pre-school children continue to be placed in institutional care. In December 2015, the Committee on the Rights of the Child of the Government Council of the Czech Republic for Human Rights recommended that the possibility of placing children under 7 years of age would be substantially reduced. Subsequently, in November 2016, the Government of the Czech Republic ordered the Minister of Labour and Social Affairs, in cooperation with the Minister of Education, Youth and Sports and the Minister of Health, to submit to the Government a proposal for amendments to the relevant laws by the end of June 2017. The proposal was presented in August 2017 but was not accepted.

The Public Defender of Rights (Ombudswoman) has in 2019 disclosed a systemic error in placing children to facilities for children in crisis. There are 60 such facilities in the Czech Republic with ca. 700 children, 40% of whom have been placed there just because of social crisis of their families. The Ombudswoman proved that the current situation denies the original aim of the facilities for children in crisis - many children had been living there for more than one year long, in one case 23 workers took care for one child at different times. Some centres were trying to restrict contacts of children with their families.

Another current problem is the length of stay of children in institutional facilities. While the authority for social and legal protection of children, as well as the court, is obliged to assess at regular intervals (once every 3, respectively 6 months) whether the reasons for placing a child in institutional education persist, unfortunately the assessment is often limited to stating that they persist, without taking effective steps to help the family and the child. Social work with family is not sufficient. Social activation services do not have clear rules, there are no criteria for their provision and termination, there is no time frame in which work with the family with the intention of returning the child to the family should take place so that it is still in the interests of the child and the child does not get too late in foster care. Unlike foster parents, institutional facilities are not obliged to support and facilitate contact between a child in institutional care and his/her family.

Little progress has been made in deinstitutionalising alternative care. The government still lacks a comprehensive national policy on deinstitutionalizing childcare. Each region develops its strategy of transforming care for vulnerable children and families. The situation thus varies considerably according to regions. In practice, we find examples of good practice where small family-type residential services are created, but care is rather provided in institutions with a large bed capacity, which is unsatisfactory for children. Laws determine the maximum number of children in a facility for children in need of immediate assistance and in school facilities, but these limits for the total number of children are too high to be family-type. There is no limit for the number of children placed in one facility for children's homes for children up to 3 years of age, so we can still meet facilities with almost 100 pre-school children.

There is very little treatment for children leaving care. Children receive a single financial benefit from the state. However, no specific social services exist for this target group.

Although the amendment to the Act on Social Legal Protection resulted in a significant development of foster care, there was no specialization of foster parents. The legislation distinguishes only two types: foster care and foster care for transitional periods. The specifics of family (non-mediated) foster care are not adequately treated. Although the number of foster parents, especially long-term and specialized on children with disabilities and children with special needs, is not sufficient, there is no nationwide foster parent state recruitment campaign. Campaigns are implemented only by those regions, and only by those, which have a positive attitude to foster care. Some campaigns are also organized by NGOs.

In the area of fulfilling the right to personal contact of a child with a parent, the NGO representatives find the situation unsatisfactory especially for children with a parent who is serving a custodial sentence.

According to many cases found, it is quite common for children who are placed in foster care but also by foster parents, that they do not meet personally the parent or only rarely (twice a year) during the period of imprisonment (even if the parent properly cared for the child before). This leads to a serious break in family ties and violations of the rights of the child.

Prisons in Czechia are insufficiently prepared (materially and personally) for the reception of child visitors. There is a common situation where one social worker is for 100 prisoners in one prison. Visitors' premises, including internal rules, hardly count on by child visitors (especially small visitors). A convicted man/woman may have a visit of a maximum of 4 people at the same time and a visit of close persons (including children) is allowed by law for a maximum of three hours per month. It is almost impossible to have a visit of three

children and more, including the necessary attendance of a carer. If a parent in a prison runs out of a visit of a loved one, the children placed away from the family in that month can no longer come to the parent. In addition, the Ministry of Justice refuses to increase the current 3 hours per month only for children visitors for capacity reasons in prisons.

**Recommendations:**

*The Committee could recommend to the Government:*

*(a) to provide comprehensive information on the readiness of Czech prisons for child visitors, the number of children with parents in prison, and draft measures for more frequent contact,*

*(b) to improve conditions in prisons for visits of children to their parents who are serving a sentence, by building enough dignified visitor space within all prisons in the Czech Republic,*

*(c) to provide adequate facilities for children's visits, furniture, gaming and snack vending machines, with regard to age and children's needs and length of visit,*

*(d) to take systemic measures (e.g. change of legislation and policy on the treatment of prisoners who are parents of minors) to help maintain and strengthen links between children and sentenced parents, in particular by increasing the number and length of extra visits for children of the sentenced person within one month of the current three hours per month, which are intended for all kinds of visits by loved ones,*

*(e) to collect data on the needs of children with parents in prison (numbers and age structure, frequency of contact with parents, reasons for placement in alternative parental care, etc.).*

*The Committee could also recommend to the State Party:*

*(f) to develop a family support system and a network of field, outpatient, respite and other services that would provide the best possible care for children in a family environment. The government should prioritize the development of community-based services so that children and families have access to the support they need within the community;*

*(g) to adopt the Social Housing Act and establish a social housing system to ensure that inadequate housing ceases to be one of the main reasons for the division of families;*

*(h) to develop and ensure adequate alternatives to institutional care, including foster care, adoption and small residential services for children. Foster parents need to be actively sought and the foster parents' specialization developed, especially for disabled children and children with special needs;*

*(i) to develop and implement a plan for the transformation of institutional facilities. Equipment transformation plans must address the use and redirection of personnel and material capacities and financial resources in alternative and community support services;*

*(j) to create a financial mechanism to support the implementation of evidence-based childcare models in transformed childcare facilities;*

*(k) to enact a lower age limit (7 years) for placing children in institutions;*

*(l) to improve the methodological management of the facilities for children in crisis;*

*(m) to adjust the material provision of young people leaving alternative care and develop services at local level to support them in entering independent life.*

## **Adoption**

C 47 (2011) While noting the State party's Act of social and legal protection of children, the Committee is concerned about the absence of a clear, consistent and objectively determined set of criteria for assessing a child's suitability for adoption.

**C 48 (2011). The Committee recommends that the State party develop and implement a set of guidelines, prepared in consultation with professionals and civil society involved in child-care, for the consistent and objective assessment of the suitability of children for adoption throughout its territory.**

Significant changes in adoption were brought by the New Civil Code and the amendment to the Act on Social and Legal Protection of Children, valid from January 1, 2013, which significantly approximated the process of mediating adoption of the process of mediating foster care; compulsory preparation and assessment of candidates have been introduced, which we consider positive. However, current practice points to some shortcomings in the process of adoption. The process of preparing, assessing and approving applicants varies from region to region, applicants and children for adoption are not registered at national level, interregional cooperation is lengthy, sometimes neglected. There is a lack of clear rules, standards and deadlines that would structure, clarify and make the predictable for the whole family in order to ensure a sustainable family environment for the child.

From 1 January 2014, the new Civil Code changed the status of adoption into a form of parenting without the support of social-legal bodies. In legal terms, the adopted child becomes a member of the ordinary family. Adoptive families thus disappear from the scope of social and legal protection of children after the adoption decision, social workers do not register and monitor them. Families are not eligible for support services, although

adoptive families often have similar needs as foster families. It is not defined what the adoption serves and what place it has in the social and legal protection of children.

The most criticized fact is that the amendment has prolonged the entire adoption process, which is against the child's interest in finding a lasting and stable environment as quickly as possible. This is mainly due to changes in the adoption process. It must be officially brought to court by a parent, which in practice proves to be a barrier, complicating the transfer of a child to a new family. There is a 3-month period for the withdrawal of consent, which extends the entire process. Thus, the preference of biological parents over the interests of the child is preferred. Newly, the length of pre-adoption care has also been extended. The process is further slowed down by unstable case law and the overloading of custody courts.

The length and unpredictability of the system motivates those interested to circumvent social and legal protection. They use some elements of the system for this purpose, especially the so-called direct consent. In such a case, the adopters do not go through the preparatory course, approval and mediation. By doing so, the state loses control of the process and cannot fully guarantee the protection of the interests of the child. In several extreme cases, the system is circumvented by falsely declaring the adoption candidate to be the biological father of the child and agreeing with the mother to surrender the child. Adoption in this way falls out of the social and legal protection of children and gets into the grey zone, uncontrolled by the state and social policy, happening primarily for the sake of the adoptive parents, in some cases it may also involve child trafficking. According to the Civil Code, the adoption of a minor must be "in accordance with his or her interests" (Act No. 89/2012 Coll., Section 795).

#### **Recommendations:**

*The government should establish a clear adoption policy and define the meaning of adoption primarily as meeting the child's interests and needs. It should unify the system under one ministry and further unify legislation where adoption would be governed by one law. Measures must be taken to avoid circumventing the social and legal protection of adopted children and to ensure that adoptions are in the interests of children. To prevent circumvention of the system, it is necessary to streamline the process and make it more predictable. Above all, it is necessary to shorten the time limits of legal proceedings before adoption and adoption proceedings, to enact the possibility of consenting to adoption also at an OSPOD, at a register or notary, to unify case law, to incorporate direct adoptions into the system of adoption and socio-legal protection as well as legislative to regulate surrogate motherhood. Furthermore, it is necessary to introduce a binding "Standard of quality of preparation and assessment and approval of applicants for adoption", where the umbrella body (MPSV) methodically leads psychologists and social workers in the field of*

*adoption and guarantees the quality of the whole process, and establish a central register of applicants and adopted children accessible from individual regions.*

*Last but not least, it is necessary to provide post-adoption services for the adoptive families.*

*In working with the original family, there must be intense social work, where authorized workers look for ways to keep the child in their parents. At the same time, it is necessary to set deadlines for the provision of social activation services to the family with the intention of returning the child to the family, so that it is still in the child's interest and the child does not get too late in foster care.*

### **Babyboxes**

**C 50 (2011) The Committee strongly urges the State party to undertake all measures necessary to end the “Baby Box” programme as soon as possible and expeditiously strengthen and promote alternatives, taking into full account the duty to fully comply with all provisions of the Convention. Furthermore, the Committee urges the State party to increase its efforts to address the root causes which lead to the abandonment of infants, including the provision of family planning as well as adequate counseling and social support for unplanned pregnancies and the prevention of risk pregnancies.**

The long-standing problem, the government (G 113) does not mention any measures in this regard. The number of children found in babyboxes and the number of newborns and infants killed is almost stable.

## **V. Basic Health and Welfare (Articles 6; 18.3; 23; 24; 26; 27.1-3)**

### **Article 23 - Children with disabilities**

**C 52 (2011) The Committee recommends that the State party:**

**(a) Ensure the provision of adequate financial, technical and human resources for schools to effectively provide mainstream education for children with disabilities;**

**and amend its legislation to prohibit schools from refusing children on the basis of insufficient material resources;**

**(b) Provide socio-economic support to children with disabilities regardless of their age;**

**(c) Promote and facilitate care for children with disabilities in a family environment by providing adequate support to their parents or guardians;**

**(d) Adopt a social model approach which is in accordance with the Convention on the Rights of Persons with Disabilities, addressing attitudinal and environmental barriers that hinder the full and effective participation of children with disabilities in society on an equal basis, and train all professionals working with or for children with disabilities accordingly;**

**(e) Establish mechanisms for the collection of comprehensive and disaggregated data on children with disabilities and provide the human, technical and financial resources necessary for using such data to guide State party policy and programming for inclusive education.**

**In the implementation of the above recommendations, the Committee highlights to the State party articles 23 and 29 of the Convention, its General Comment No. 9 (CRC/C/GC/9) on the rights of children with disabilities, as well as article 24 of the Convention of the Rights of Persons with Disabilities.**

Since 2010, the number of children with disabilities growing up in institutional care has been significantly reduced. In homes for people with disabilities (DOZP), where the majority of children with disabilities grow within institutional care, their number decreased by almost half from 2010 to 2017 (by 46%). According to a report by the international organization Lumos, 98 out of 100 children with disabilities grow up in the Czech Republic in their or their substitute family. This was mainly due to the immense commitment of their parents, the introduction of a care allowance (amendment of the Social Services Act with effect from 1 January 2007) and health and social services such as early care for children under 7 years.

Although the government report (G 115) states that families with children with disabilities can benefit from a wide range of social services, we know from practice that health and social care and support for families of children with disabilities is not sufficient and it is very difficult to handle for parents to care for their children with disadvantages. Services are not available locally (there are large differences between regions within the country, similarly between towns and countryside) or are not available to the extent and capacity needed.

As far as social services are concerned, in particular, home nursing care, home assistance services, respite care and day care centres are missing. Early care is an important help for families, based on the assessment of the child's health and parents' abilities, mediating family counselling, developing parental competencies, lending aids, providing social therapeutic services and helping the family to integrate into society. However, its capacity is still insufficient and availability varies locally and by type of disability. It is intended only for children under 7 years, there is no follow-up service for children with disabilities later in life.

Paediatricians specializing in children with disabilities are missing in health services. Paediatricians do not have the necessary space for informing ("teaching") parents of children with disabilities in proper child care and directing to follow-up services due to the high load. We have an alarming lack of child psychiatrists. There is a lack of relief services for children with very serious, combined or rare disabilities, where social services (such as occupational health and safety) are unable to provide health services to the extent needed.

Due to the fragmentation of care for vulnerable children, social services, health care and social and legal protection are neither interconnected nor coordinated (with or without each other). The system cannot transfer the child between social and health services. They are not systemically anchored in social health facilities. Facilities that provide services on this border face a number of problems.

As far as financial security is concerned, families who care for children with disabilities are supported by the state with a "care allowance" in 4 different levels depending on the degree of dependence, but assessing the degree of dependence and, consequently, receiving a care allowance takes a long time; there is a lack of assessment doctors. In addition, care allowance cannot be reached up to 1 year of age, although in some cases care may already be extremely demanding in the first year.

If a family does not want or cannot take care of a disabled child, it is usually placed in institutional care. There are not enough foster parents specializing in children with disabilities. New-borns and young children are placed in orphanages for children under the age of 3 (medical facility). They are then moved either to children's school facilities or most to OSP. It is a social facility that is intended for both adults and children, and as a rule, there are only a few children among dozens of adult clients whose needs and interests are very different. The problem is with children with very serious, combined or rare disabilities, where social services are not able to provide health services to the required extent. Such children usually find themselves in hospitals that are not suitable or intended for this stay.

The transformation of institutional care for children with disabilities has not progressed much. There are considerable differences between regions. While there are examples of

good practice where children live in small residential establishments in the common community, most children with disabilities in institutional care are still growing up in large untransformed establishments, preventing individual care for their age and needs. Devices are often located in small towns or on the outskirts of towns, which significantly reduces the chances of children being integrated into the general population. Half of the children living in occupational health and safety are still educated in the facility without the possibility of socializing with their peers who do not grow up in the institution.

We also perceive as a problem that a part of children with disabilities living in an institution resides here only on the basis of a facility contract with a parent. This is done in a social service regime, not social-legal protection. The state authorities in these cases are not obliged to offer the family an alternative or try for a child to find a replacement family. Although the child is at risk of not being able to grow up in a stable family environment, he or she remains to some extent out of the socio-legal protection as well as outside the court's decision-making powers, since entering a social service is voluntary.

Specialization of foster care for children with disabilities is not supported. There is no active search for such foster parents; training does not include practical management of care for these children, as well as continuous education. The low number of foster parents is also related to the general lack of services for families with children with disabilities.

### **Recommendations:**

*The Committee could recommend to the government:*

*(a) to significantly increase the availability of services for children with disabilities, such as early care, home nursing and relief services. There is a need to create a minimum network of field and outpatient social health services to help keep children with disabilities in the family;*

*(b) to develop a de-institutionalization plan for children placed in institutional care, to separate child clients from adults, to promote the transformation of large-scale residential establishments into small residential services in detached houses or apartments in the community, thus integrating children to society as much as possible;*

*(c) to organize campaigns to foster carers for children with disabilities and promote the foster care specialization for these children.*

### **Article 24 - Health and health services**

C54 (2011). **The Committee urges the State party to undertake the necessary measures and legislative amendments to ensure that the children of foreign nationals are provided with the same quality and level of health care as nationals of the State party.**

The government has improved the situation of foreigners in this direction.

### **Care for mental health of children in the Czech Republic**

On August 24, 2015, VPD adopted a resolution on the current situation of child and adolescent psychiatry in the Czech Republic. This is due to the overall dissatisfaction of this situation, which results in unavailability of adequate care, such as long waiting times and insufficient acute care capacities. Its wording and recommendations are still relevant and it is appropriate to appeal to the Government of the Czech Republic, in the context of psychiatric reform and the forthcoming Mental Health Action Plan (to be submitted to the Government in autumn 2019), to strive for a fundamental improvement of care conditions in children's psychiatric hospitals, in which paediatric patients do not always have adequate and safe treatment facilities, and at the same time, the government provides accessible, community-based and personalized services in relation to children.

Therefore, VPD appeals to extend the psychiatric care reform to activities that will lead to the development of a community service network (health and social) for children and adolescents, and recommends the establishment of a special committee to deal with the issue of child and adolescent psychiatry reform.

In 2018, the Ministry of Health underwent an assessment of the quality of care and patient rights in all psychiatric hospitals managed by the Ministry of Health, including 3 EU-funded paediatric hospitals. The conclusions and findings with regard to children and respect for their fundamental rights, including the right to achieve the highest possible level of health and ensure the protection of human dignity, are extremely alarming.

The report was published in general in April 2019, and a number of articles of the Convention on Rights of Persons with Disabilities (CRPD) were not met.

### **Recommendation:**

*The Committee could request a report from children's hospitals, along with information on what measures have been taken and will be taken to fulfil the obligations of both Conventions.*

### **State social support and assistance in material need**

C 60 (2011). **The Committee recommends that the State party consider the development and establishment of a system for the provision of adequate housing for persons in financially and/or socially disadvantaged situations, with a view to ensuring that, inter alia, children are provided with access to adequate living conditions in a family environment.**

In October 2015, the Government of the Czech Republic approved the Concept of Social Housing in the Czech Republic, which contained conceptual and strategic bases, specific goals and tasks to address the growing number of people who are in need or are in direct danger. One of these goals was the preparation of the Social Housing Act. It was submitted in 2017 but was not accepted.

According to a report on exclusion from housing in 2019 (author: Platform for Social Housing and Lumos), at least 54,000 households are in severe housing poverty in the Czech Republic. About 9,500 are families with children. Overall, the report states that there are over 20,000 children in severe housing distress.

As a part of this report, it turned out that municipalities generally do not have an overview of the number of families with children in housing need living in their territory. They do not collect and evaluate the necessary data on a regular basis and do not take the necessary measures. If they offer a service which they call social housing, it is set so that on average only up to 15% of these apartments are provided to families in severe housing distress. Moreover, municipalities often do not have the necessary housing stock. In particular, municipalities with a high concentration of people in need nowadays usually reach restrictive steps, such as the announcement of a no-pay zone (the amendment to the Act on Material Need of 2017 gave municipalities the power to declare areas with an increased incidence of socially undesirable phenomena in their territories and in those socially excluded not to pay housing supplements to new applicants). However, free-of-charge zones do not lead to a reduction in housing poverty, merely contribute to the forced migration of these people, to the loss of social background, and there is a risk that they will not get the necessary housing allowances for the most vulnerable.

As late as in 2019, some municipalities declared waiver of all children's debts (these have grown astronomically up by adding fees for teams of solicitors and private executors). The Government submitted a bill to the Parliament, under which it will no longer be possible for debts to be registered for children, as guardians will be responsible for those debts.

**Recommendation:**

*The Committee could recommend to the State party to adopt a law on social housing, to create a system of crisis and social housing and to ensure stable funding for a wide range*

*of tools to prevent and address housing poverty. Furthermore, a review of social benefits is needed based on an evaluation of their effectiveness and efficiency.*

## **VI. Education, Leisure-Time and Cultural Activities (Articles 28, 29 a 31)**

**C 62 (2011). The Committee recommends that the State party ensure:**

**(a) The full and effective integration of children of Roma origin in the school system, and in doing so apply practical measures that facilitate diversity and inclusion in all schools for all children, regardless of their ethnic or socio-cultural background;**

**(b) That the content and conduct of tests for determining a child's academic/intellectual abilities are culturally sensitive and applied consistently and universally;**

**(c) That all mainstream schools use an educational syllabus that is standardised, consistent and applied throughout the State party's territory;**

**(d) The provision of adequate financial support for children from socially or financially disadvantaged situations, so as to rectify systemic tendencies for schools to intentionally place children without disabilities in special education in order to obtain additional financial resources;**

**(e) That a comprehensive policy of childhood care is developed, taking into consideration (i) the Communication from the European Commission on Early Childhood Education and Care: Providing all our children with the best start for the world of tomorrow (COM(2011) 66 ), (ii) the Decision of the Council of Europe Committee of Ministers (CM/Del/Dec(2011)1115), and (iii) the Committee's General Comment No. 7 (CRC/C/GC/7/Rev.1) on implementing children's rights in early childhood.**

**(f) that the Ministry of Education and other relevant authorities, including school authorities interacting directly with parents, take all measures to ensure that (i) the information, materials and process relating to the placement of a child in special education is written in language that is comprehensible and fully explains the implications of such placement, (ii) the decision for such placement be properly**

**documented in written form, (iii) channels for contesting such placement decisions be made readily and practicably accessible to parents, and (iv) regular review by an independent body be undertaken to ensure that continued placement in special education is in the best interests of the child.**

**In doing so, the Committee urges the State party to establish a detailed timeline with defined benchmarks in order to expeditiously implement the above recommendations and regularly monitor the State party's progress in doing so.**

The government has adopted measures for joint education of children with specific educational needs, including school financial support (G 136 to G 144), but there has been no national curriculum or comprehensive childcare policy. The child's right to be placed in a pre-school facility as early as two years old (G 136) was abolished in 2019 before it became effective.

## **VII. Special Protection Measures (Articles 22, 32 až 36, 37b až d, 38, 39, 40)**

### **Asylum-seeking and refugee children**

**C 64 (2011). The Committee reiterates its previous recommendation (CRC/C/15/Add.201) to the State party to avoid any form of detention of asylum-seekers under 18 years of age. The Committee further recommends that the State party consider all possible alternatives, including unconditional release, prior to detention and emphasizes that this should not be limited to unaccompanied or separated minors, but extended to all cases involving children. In doing so, the Committee draws attention to UNHCR's Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers (26 February 1999).**

In 2014, minors (accompanied or unaccompanied) were interned in a specially guarded refugee centre in Bělá-Jezová under conditions that the Ombudswoman had to intervene. After the bars in the windows and one of the barbed wire fences were removed, police riots were withdrawn and a playground was set up, there was only one child in the facility. The Minister of the Interior justified the detention of children by saying that it is better from the view of the best interests of the children not to separate them from their parents, who were interned for illegal crossing the border of the Czech Republic (sic!).

### **Article 34 - Sexual Exploitation and Child Abuse**

C 62a (2003). The Committee recommends that the State party to increase protection provided to victims of sexual exploitation and trafficking, including prevention, social reintegration, access to health care and psychological assistance in a coordinated manner, including by enhancing cooperation with NGOs;

C 68 (2011). **The Committee recommends that the State party:**

**(a) develop and implement a standardised system of data collection on children who have been sexually exploited and/or abused with a view to allowing the effective cross-comparison, analysis and application of such data by relevant sectors of the State party for addressing this issue;**

**(b) undertake comprehensive studies on this issue, taking into account, inter alia, the prevalence of sexual exploitation and abuse, its causes, victim and perpetrator typology, latency rates, and the efficacy of measures adopted;**

**(c) establish a coordinated system of cooperation and information exchange among agencies, institutions, organisations and professionals addressing this issue;**

**(d) strengthen the provision of holistic and long-term psychosocial support to child victims of sexual abuse in its updated Plan of Action;**

**(e) improve the accessibility to and awareness of the National Action Plan on this issue for the general public, especially children and parents;**

**(f) ensure, through adequate legal provisions, procedures, and regulations, that all child victims and and/or witnesses of crimes, including children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking, have effective access to justice and are provided with the protection required by the Convention, fully taking into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).**

The protection of children against sexual abuse is insufficient concerning risks of abuse over the Internet. It is apparent from the absence of the issue in the government report.

The situation is also unfavourable in the context of physical and mental abuse. Here again, it is confirmed every year that it also concerns the children of the youngest age groups, including new-borns, infants and toddlers, the age when the child cannot "misbehave" in a targeted and conscious manner, and is therefore clearly a failure of adults - abusing - person, most often as a parent (father and mother; biological and step). There is still a high share of the other parent in physical abuse in the form of passive participation and failure to ensure the protection of a vulnerable child. Czech education is still very

punishing and based mainly on the use of negative educational resources (punishments including physical, sanctions, prohibitions, ridicule) at the expense of positive and developing means (reward, praise, recognition).

There is still a situation where it is still difficult to ensure adequate protection of children at risk. The rights of the child are in many cases overshadowed beyond the rights of adults, respectively directly parents, they are still children who must eventually leave at least temporarily from the family to avoid contact with the aggressor or the abuser, and thus, contrary to their needs, get among others to diagnostic institutions and institutional care facilities. This is negatively influenced by the low level of multidisciplinary cooperation, the fragmentation of care for the dysfunctional family, the absence of a coordinator in dealing with the child's unfavourable situation. Case conferences have not become an obvious part of the process of solving the situation of a particular child.

#### **Recommendations:**

*The Committee could ask the government what measures it is planning to bridge the systemic shortcomings described in the prevention and repression of child sexual abuse.*

*The Committee could also recommend to the government to propose legislative and executive measures to protect children from sexual abuse via the Internet.*

#### **Article 40 - Juvenile justice**

C 70 (2011). **The Committee urges the State party to continue reforming its juvenile justice system in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No. 10 (2007) on the rights of the child in juvenile justice (CRC/C/GC/10). In particular, the Committee urges the State party to:**

**(a) Take the necessary steps to ensure that juvenile judges and other persons working with children in the justice system receive appropriate training on the administration of juvenile justice (CRC/C/GC/10, 2007); and**

**(b) Undertake the legislative amendments necessary for ensuring that children under the age of 15 years have, at minimum, the same level of legal guarantees connected to a standard criminal proceeding;**

**(c) Take all necessary measures to ensure that children aged between 15 and 18 years are held in detention only as a last resort, for very serious offences and for as short a time as possible, and refrain from the placement of children suspected of having committed an offence in institutional care, and give due consideration to other measures which do not entail the deprivation of a child's liberty;**

**(d) Take all necessary measures to ensure that when arrest or pre-trial detention is carried out, it is done in compliance with the law and respects the rights of the child under the Convention, and that children are detained for as short a time as possible and separately from adults;**

**In implementing the above recommendations, the Committee encourages the State party to make use of the technical assistance tools developed by the United Nations Interagency Panel on Juvenile Justice and its members, which include UNODC, UNICEF, OHCHR and NGOs and seek technical assistance in the area of juvenile justice from members of the Panel.**

The numbers of juveniles in custody and prison persists (the share of 1.3% and 0.3% respectively, of persons in custody or prison), but thanks to prevention, violent juvenile delinquency falls. The number of probation programs for youth in the regions is decreasing.

Court proceedings are often protracted; the courts do not respect other perceptions of time in a child than in an adult, processes are unbearably prolonged regardless of the child's interest.

#### **Dissemination of information**

**C 74 (2011). The Committee further recommends that the cumulative third and fourth periodic report and written replies submitted by the State party and the related recommendations (concluding observations) it adopted be made widely available in the languages of the country, including (but not exclusively) through the Internet to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.**

**Recommendation:**

*The Committee could ask the government whether and how it distributed a wide range of reports on the implementation of the Convention to the general public, whether it sparked a debate on the Convention and its implementation and monitoring at all levels, and what were the outcomes of such a debate. If the government considers this debate or its outcomes to be inadequate, it could tell the Committee what improvements it plans on this subject after the adoption of the Committee's resolution on the Fifth and Sixth Periodic Report.*

*The Committee could recommend to the Member State to cooperate with the organizations of public administration bodies of the lower levels in the preparation of further periodic reports.*

*The repeated recommendation of the Committee (to the introductory and all periodic reports on the implementation of the Convention) to cooperate with NGO's of adults and children in the Czech Republic should continue to apply to the full extent.*

**VIII. General Remarks**

It follows from the composition of the entire government report that, in the absence of the coordination and monitoring body for the implementation of the Convention in the Czech Republic, the report was not prepared in terms of the systemic approach, rather it is a compilation of reports by individual central state administration bodies. The role of self-government at different levels is not covered, although this, especially in municipalities, affects the practical fulfilment of the rights of the whole child population very significantly.

Unfortunately, we have not noticed the government's interest in finding out the situation in the municipalities in this respect - the majority of them do not know the Revised Charter for the Participation of Children and Youth in Municipalities and Regions (Council of Europe).

Also, because of this departmental approach, the government report mentions the measures taken to comply with the Committee's recommendations 21, 25, 29, 33, 46, 52,

54, 56, 58, 62, 68, 70 and 71 but responding partially or not at all to the recommendations  
9, 11, 13, 15, 19, 23, 27, 31, 36, 38, 40, 42, 44, 48, 50, 60, 64, 66, 72, 74.