



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/CZE/CO/7
11 April 2007

Original: ENGLISH

**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**
Seventieth session
19 February - 9 March 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

CZECH REPUBLIC

1. The Committee considered the sixth and seventh periodic reports of the Czech Republic, submitted as one document (CERD/CZE/7), at its 1804th and 1805th meetings (CERD/C/SR.1804 and 1805), held on 1 and 2 March 2007. At its 1814th and 1815th meetings (CERD/C/SR.1814 and 1815), held on 8 and 9 March 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the report, which included statistical data and responses to the concerns raised in the Committee's previous concluding observations (CERD/C/63/CO/4). The Committee also expresses appreciation for the frank dialogue held with the delegation and for the comprehensive and thorough answers provided, including in writing, to the list of issues and the wide range of questions raised by members of the Committee.

B. Positive aspects

3. The Committee welcomes the entry into force on 1 January 2007 of the Services Act, setting out the principle of equal treatment for all State employees with regard to conditions of performance of service, remuneration and other financial payments, education and promotion.

4. The Committee welcomes the adoption of the new Employment Act of 2004, which prohibits direct and indirect discrimination in the enjoyment of the right to work, in particular on the grounds of race or ethnic origin, nationality, citizenship, descent, language and religion or belief.

5. The Committee welcomes the assurances provided by the delegation that, under the new Education Act of 2004, basic education will be provided to all regardless of citizenship and legality of residence. The State party should provide more detailed information on this issue, in particular on any remaining distinctions between citizens and non-citizens in accessing primary and secondary education, as well as in participating in regular activities organized in schools.

6. The Committee notes with satisfaction that the State party ratified the European Convention on Nationality and the Convention Relating to the Status of Stateless Persons in 2004, as well as the European Charter for Regional or Minority Languages in 2006, bearing in mind the relevance of these conventions for the implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

C. Concerns and recommendations

7. The Committee appreciates that data collected by the State party on the ethnic composition of its population are based upon self-identification by the individual concerned, in compliance with the Committee's general recommendation VIII (1990) on identification with a particular racial or ethnic group (art.1, par.1 & 4). It also welcomes the efforts made by the State party to provide a qualitative assessment of the numbers of the Roma who consider themselves part of this community. It notes, however, the significant discrepancies between statistical data and qualitative estimates, suggesting the limitations of purely statistical data to assess the economic and social situation of groups, in particular the Roma.

The State party should enhance its efforts to qualitatively assess the situation of minority groups within the meaning of article 1 of the Convention, in particular the situation of persons who consider themselves part of the Roma community. It should also review its methods of data collection so as to more fully reflect the principle of self-identification. Any such steps should be taken in consultation with the Roma community.

8. The Committee reiterates its concern that, despite efforts to that end, the State party has still not adopted a general anti-discrimination law guaranteeing the right to equal treatment and protection against discrimination. (articles 1, 2 and 5)

The Committee recommends again that the State party adopt legislation providing for the prohibition of discrimination based on colour, race, descent, national or ethnic origin, as defined in article 1 of the Convention, as a general principle applicable in the political, economic, social and cultural spheres or any other field of public life.

9. The Committee notes that, when explaining the grounds of application of Sections 260, 261 and 261 (a) of the Criminal code, the State party refers to “Nazi or Communist genocide” (CERD/C/CZE/7, para. 47, note 45), and explains it by mixing up the ideas of hate crimes, racist propaganda and genocide with that of class struggle. Such confusion not only weakens the objective of fighting racial discrimination, but also politicizes a phenomenon like genocide, which is abhorrent in itself.

The Committee urges the State party to ensure that such confusion of questions of different nature is not made in the application of the Criminal code.

10. The Committee notes the decrease in the number of neo-Nazi concerts known to the Police since 2004, as well as efforts undertaken by the State party to establish guidelines for the police to prevent their organization. It remains deeply concerned however by information according to which action taken by the public authorities to prevent and prosecute the organization of, and participation in, such concerts is neither systematic nor sufficient. (article 4)

The Committee urges the State party to ensure that the organization of, and participation in, racist concerts are prevented, prosecuted, and punished accordingly. The authorities of the State party, in particular the police, should adopt a proactive and vigorous policy to ensure that such concerts do not take place, and impede the distribution of related propaganda.

11. The Committee, while noting the responses provided by the delegation that in 2006 no crimes by police officers with racist undertones were registered by the Inspectorate of the Ministry of Interior, reiterates its concern about information according to which Roma, in particular children, are subject to ill-treatment by police officers and are placed in detention and coerced into confessing minor crimes. While welcoming the ongoing discussion undertaken by the State party towards the establishment of a new system, independent of the Ministry of Interior, to investigate unlawful conduct by the police the Committee regrets that this has not yet been done. (article 4)

The Committee strongly recommends that the State party, in accordance with its general recommendations XXXI (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice

system, and XXVII (2000) on discrimination against Roma, ensure that allegations of police ill-treatment and misconduct towards persons belonging to minority groups, in particular the Roma, are promptly and impartially investigated and prosecuted. The State party should ensure the rapid establishment of a new system or body independent of the police and the Ministry of interior. The Committee also wishes to receive detailed information and statistical data on the ethnic composition of the prison population, indicating in particular the proportion of Roma and non-citizens.

12. The Committee notes with concern that efforts undertaken by the State party to improve the relationship and mutual understanding between the Roma and the police and to encourage recruitment of members of Roma communities into the police have not enjoyed great success. (articles 4 and 7)

The State party should significantly enhance its efforts to improve the relationship and mutual understanding between the Roma and the police, and to ensure recruitment of members of Roma into the police and other law enforcement agencies. The Committee also urges the State party to ensure that hate speech against the Roma, by public officials or other persons, does not enjoy impunity.

13. The Committee is deeply concerned by the prevailing negative sentiments and stereotypes concerning the Roma among the Czech population. (articles 4 and 7)

The State party should strive to improve the relations between Roma communities and non-Roma communities, in particular at the local level, with a view to promoting tolerance and ensuring that all persons fully enjoy their human rights and freedoms.

14. The Committee notes with concern that women, a high proportion of which being Roma women, have been subjected to coerced sterilization. It welcomes the inquiries undertaken by the Public Defender of Rights on this matter, but remains concerned that to date, the State party has not taken sufficient and prompt action to establish responsibilities and provide reparation to the victims. While noting that a distinction should be drawn between sterilizations that have occurred before and after 1991, when an official policy encouraging such violations was ended, the Committee is deeply concerned that the State party has not taken sufficient action to abide by its positive obligation to impede their illegal performance by doctors after 1991, and that sterilizations without the prior informed consent of women are reported to have been carried out as late as 2004. (articles 2, 5 (b) and (e) (iv), and 6)

The State party should take strong action, without further delay, to acknowledge the harm done to the victims, whether committed before or after 1991, and recognize the particular situation of Roma women in this regard. It should take all necessary steps to facilitate victims' access to justice and

reparation, including through the establishment of criminal responsibilities and the creation of a fund to assist victims in bringing their claims. The Committee urges the State party to establish clear and compulsory criteria for the informed consent of women prior to sterilization and ensure that criteria and procedures to be followed are well known to practitioners and the public.

15. The Committee is concerned that, despite the adoption of the new Employment Act of 2004 and programmes undertaken by the State party, unemployment among Roma continues to be particularly high and that Roma face persistent discrimination in recruitment. (articles 2 and 5 (e) (i))

The State party should adopt more effective strategies to promote the employment of Roma in the public administration and institutions, as well as in private companies, and to ensure that they are not discriminated against in the enjoyment of their right to work.

16. The Committee reiterates its concern about information according to which Roma people are particularly vulnerable to evictions and segregation in housing, and regrets that the State party has not taken sufficient action to tackle this issue. While noting the undertaking of the State party to support the construction of subsidized flats by municipalities, the Committee is concerned that the autonomy of municipalities under domestic law is described by the State party as an obstacle to the fulfilment of its obligations to ensure the enjoyment of the right to housing by all without discrimination, in particular at the local level. It is further concerned that domestic regulations do not clearly prohibit racial discrimination in the enjoyment of the right to housing. (articles 2, 3 and 5 (e) (iii))

The Committee reminds the State party that it may not invoke the provisions of its internal law as a justification for its failure to implement the Convention, and urges the State party to adopt all steps necessary to ensure the right to housing to all without discrimination, whether direct or indirect, based on race, colour, descent or national or ethnic origin, including in particular at the local level. The State party should ensure that domestic legislation clearly prohibits racial discrimination in the enjoyment of the right to housing, and protects vulnerable persons, including Roma, from evictions. In particular, such legislation should include measures providing the greatest possible security for tenants and strictly enumerate the circumstances under which evictions may be carried out.

17. The Committee is deeply concerned by consistent information according to which the Roma suffer racial segregation on the State party's territory in the field of education, a situation that the State party does not seem to fully acknowledge. It notes with particular concern that a disproportionately large number of Roma children attend "special schools". While noting the views of the State party that this results from the vulnerable situation of the Roma and the need to adopt special measures to respond to their needs, and having

taken note of the new Education Act, the Committee remains concerned that this situation also seems to result from discriminatory practices and lack of sensitivity on the part of the authorities to the cultural identity and specific difficulties faced by the Roma. Special measures for the advancement of certain groups are legitimate provided that they do not lead, in purpose or in practice, to the segregation of communities. The Committee is also deeply concerned that a disproportionately large number of Roma children are being removed from their families and placed in State institutions or foster care. (articles 2, 3 and 5 (e) (iii) and (v))

The State party should increase its efforts to assess the situation of the Roma in the field of education. It should develop effective programmes specifically aimed at putting an end to the segregation of Roma in this area, and ensure that Roma children are not deprived of their right to family life and to education of any type or any level. The Committee, in particular, recommends that the State party review the methodological tools used to determine the cases in which children are to be enrolled in special schools so as to avoid indirect discrimination against Roma children on the basis of their cultural identity.

18. The Committee notes that several distinctions made under domestic law between the rights of citizens and non-citizens may not be fully justified. It notes in particular that European Union non-citizens, although they are entitled to vote and be elected at local elections, may not belong to a political party. The Committee also notes with concern that a condition under the Act on Registered Partnerships between Persons of the Same Sex, currently under debate in Parliament, may be that at least one of the persons be a Czech citizen. (article 5)

The Committee draws the attention of the State party to its general recommendation XXX (2004) on non-citizens, and recalls that differential treatment based on citizenship constitutes discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.

19. The Committee notes that the Office of the Ombudsman, which is authorized to deal with complaints against State institutions and administrations listed in the Act on the Public Defender of Rights, has received very few complaints of racial discrimination. It is concerned that, because of delays in the adoption of general anti-discrimination legislation, no specific institution has been mandated to safeguard the right to equal treatment, assist victims in bringing their claims, or receive complaints of racial discrimination in the private sector. The Committee is further concerned that difficulties in obtaining legal aid continue to be an important barrier preventing victims of racial discrimination from bringing cases before the courts. (article 6)

The Committee reminds the State party that a low number of complaints by victims of racial discrimination could result from the inadequate character of

relevant specific legislation, from the victims' ignorance of their individual rights and of the availability of legal remedies, and from their lack of confidence in the justice system. The State party should assess the extent to which such possible obstacles impede victims from bringing their claims and take appropriate action to overcome them where necessary. The Committee also recommends that the State party ensure that a specific institution be mandated to promote and monitor the right to equal treatment, to assist victims in bringing their claims including through legal aid, and to receive complaints of racial discrimination in both the public and the private sectors.

20. The Committee, bearing in mind that under the Constitution, the Convention takes precedence over domestic law, notes the absence of instances where the Convention has been invoked before national courts and has prevailed over domestic legislation. (articles 2 and 7)

The State party should increase its efforts to train judges and lawyers on the content of the Convention and its status under domestic law.

21. The Committee regrets that it has not received sufficient information on the extent to which school curricula provide for intercultural as well as multicultural education, and on action taken to ensure the right of persons belonging to minorities to participate in cultural life. (articles 5 (e) (vii) and 7)

The Committee recommends that the State party include in textbooks, at all appropriate levels, chapters about the history and culture of minorities, including the Roma, and encourage and support the publication and distribution of books and other printed materials as well as the broadcasting of television and radio programmes, as appropriate, about their history and culture, including in languages spoken by them. The Committee also recommends that the State party ensure the participation of minorities in the elaboration of such materials and programmes. It also wishes to receive more information about the extent to which minority languages, including the Roma languages, are taught in schools and used as languages of instruction.

22. The Committee encourages the State party to envisage ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

23. The Committee recommends that the State party take into account the relevant provisions of the Durban Declaration and Programme of Action when implementing the Convention in its domestic legal order, particularly as regards articles 2 to 7 of the Convention. The Committee also urges that the State party include in its next periodic report information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

24. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized.

25. The Committee recommends that the State party enhance its efforts to consult widely with organizations of civil society working in the area of combating racial discrimination, in connection with the preparation of the next periodic report.

26. The Committee invites the State party to update its core document in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting, recently approved by the international human rights treaty -bodies (HRI/MC/2006/3 and Corr.1).

27. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 8, 14, 17 and 19 above, pursuant to paragraph 1 of rule 65 of the Committee's rules of procedure.

28. The Committee recommends that the State party submit its eighth and ninth periodic reports in a single document, due on 1 January 2010, and that the report be an update document and address all points raised in the present concluding observations.

- - - - -