

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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Item 6 of the provisional agenda

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 16
OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPLIES BY THE GOVERNMENT OF THE CZECH REPUBLIC

TO

the list of issues(E/C.12/CZE/1) to be taken up in connection with the
consideration of the initial report of THE CZECH REPUBLIC concerning the
rights

referred to in articles 1-15 of the International Covenant on
Economic, Social and Cultural Rights (E/1990/5/Add.47)

HR/CESCR/NONE/2001/10

I. GENERAL INFORMATION
A. INFORMATION OF A GENERAL CHARACTER

1. Please explain whether the division of the country into self-governing districts and municipalities has had an impact on the implementation of the Covenant throughout the country.

The division of the country into units of territorial self-government (municipalities, regions) does not place any restrictions on the implementation of the Covenant. The territorial self-governing units perform self-government in the scope specified by law and in accordance with the requirements of the law. When implementing independent competence, the territorial self-governing units are bound by the law when it comes to promulgating generally binding regulations, and in other cases they are bound by legal regulations issued in accordance with the law. When performing transferred competence, territorial self-governing units are bound by laws and legal regulations issued on the basis of the law as regards the promulgation of orders or decisions on the rights and duties of natural and legal persons, and in other cases by government resolutions or the directives of central administrative institutions. It ensues, then, that territorial self-governing units are bound by the Covenant, because in accordance with Section 10 of Constitutional Act No. 1/1993 Sb, the Constitution of the Czech Republic, ratified and promulgated international agreements on human rights and basic freedoms by which the Czech Republic is bound are immediately binding and carry priority over the law. An example of the implementation of Article 15.I.a) of the Covenant at municipal or regional level is the establishment of authority committees for ethnic minorities under the terms and conditions set down by the law.

B. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

2. Please cite case law on how the Constitutional Court applies the Covenant by virtue of Article 10 of the Constitution.

Application of the Covenant on the basis of Article 10 of the Constitution is illustrated by the following overview of case law relating to the implementation of the Covenant. The findings (resolutions, opinions) are listed in chronological order. With regard to the fact that most of them have been published in the Collection of Laws and Collection of Constitutional Court Findings

and Resolutions, the list refers also to these publications.

Content of finding	No.	
	Coll. of Laws	Coll. of Constitutional Court Findings and Resolutions
1) Pl. ÚS 35/93 – right to free primary and secondary education		49/1994 Vol. 1 – Finding 7
2) Pl. ÚS 89/94 – right of an ex officio counsel to a fee		- Vol. 2 – Finding 58
3) Pl. ÚS 19/93 – legality and legitimacy in		14/1994 Vol. 1 – Finding 1

respect of the concept of the statute of limitations
in criminal law

- | | | |
|---|----------|------------------------|
| 4) Pl. ÚS 14/94 – legality a legitimacy of the decrees of the President of the Republic concerning confiscation of property | 55/1995 | Vol. 3 – Finding 14 |
| 5) Pl. ÚS 36/93 – right to education
characterization of the work of university teaching staff | 132/1994 | Vol. 1 – Finding 24 |
| 6) Pl. ÚS 12/94 – principle of solidarity and equivalence in social security | 92/1995 | Vol. 3 – Finding 20 |
| 7) Pl. ÚS 25/94 – content of the right to free education at primary and secondary schools | 165/1995 | Vol. 3 – Finding 31 |
| 8) Pl. ÚS 27/95 – status of higher technical schools | 13/1996 | Vol. 4 – Finding 84 |
| 9) Pl. ÚS 1/96 – opinion on counsel’s fees
471 | 1/1996 | Vol. 9 – Opinion |
| 10) III. ÚS 226/95 – procedures for determining the rights of natural persons in the field of public administration | - | - |
| 11) Pl. ÚS 32/95 – university study
26
right to education | 112/1996 | Vol. 5 – Finding |
| 12) Pl. ÚS 35/95 – free health care and
64
medical aids | 206/96 | Vol. 5 – Finding |
| 13) II. ÚS 229/95 – university admission procedures | - | Vol. 7 – Finding 5 |
| 14) Pl. ÚS 46/95 - restitution of property rights | 24/1997 | Vol. . 6 – Finding 134 |
| 15) IV. ÚS 93/98 - exhaustion of remedies
36
available for the protection of a right | - | Vol. 10 – Resolution |
| 16) II. ÚS 321/98 - compensation for damages which cannot be exactly assessed | | Vol. 14 – Finding 6 |
| 17) Pl. ÚS 3/2000 - rent for the use of a flat | 231/2000 | Vol. 18 – Finding 93 |
| 18) Pl. ÚS 16/2000 - cancellation of additional salary payable to representatives of the State power | 321/2000 | Vol. 19 – Finding 105 |

19) IV. ÚS 511/98 - substitution of dwelling

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The Constitutional Court of the Czech Republic considered the implementation of the ICESCR for example in its decision Pl. ÚS 35/93 – concerning right to free primary and secondary education. The proposal of 45 members of the Chamber of Deputies of the Parliament of the Czech Republic to abolish Art. 1 of the Act No. 190/1993 Coll., amending the Act No. 29/1984 Coll., on the System of Primary and Secondary Schools, was a subject of the court's decision. In Art. 1 of the Act No. 190/1993 Coll., the sentence of Art. 4 para. 1 of the Act No. 29/1984 Coll., „*Training and education is free*“ was replaced by sentence „*Citizens are provided with free education at schools in the system of primary and secondary schools, unless otherwise provided*“. Part of the later sentence reading „unless otherwise provided“ was abolished because of violation, *inter alia*, Art. 10 of the Constitution of the Czech Republic, Art. 33 para. 1 of the Charter and the provisions under Art. 5 para. 2 and Art. 13 para. 2 a), b) and c) of the ICESCR.

3. Given that most but not all the rights and obligations arising from the Covenant are part of the Charter of Fundamental Rights and Freedoms (Charter), please illustrate where the Charter differs from the Covenant.

The Charter of Fundamental Rights and Freedoms, part of the constitutional legislation devoted to basic definition of human rights, covers all human rights including, but not limited to, economic, social and cultural rights. As a result, it has a different structure, uses a more general language and envisages detailed regulation of individual rights by special laws. Owing to the above-mentioned status of the Charter in Czech legislation, some definitions are not so detailed as in the corresponding articles of the Covenant and there are some different formulations, which, however, do not amount to divergences between the content of the Charter and the Covenant. The purpose of these formulations is to facilitate consistency between the Charter and the relevant special laws. In this sense, there exist differences between the language of the Charter and the Covenant that may, at first sight, give the impression that the Charter incorporates only parts of the Covenant.

Detailed comments on the measures adopted and progress achieved in promoting the rights enshrined in the Covenant in the Czech Republic during the period under review, with references to the corresponding provisions of the Charter and explanation of the special laws, are

provided in the Initial Report on measures adopted to implement the commitments arising from the International Covenant on Economic, Social and Cultural Rights for the period 1 January 1993 – 31 December 1999 (Initial Report) . The Special Part of the Initial Report is structured according to the Covenant. Full text of the Charter is annexed to the Initial Report.

The following section lists clauses where the language of the Charter differs from the

Covenant, with references to the relevant paragraphs of the Initial Report.

The differences are the following:

1) Article 6, para 1 of the Covenant concerns the “right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts ...”. According to para 2, the steps taken to achieve full realization of this right should lead to “full and productive employment”. Article 26 of the Charter does not include the objective of “full and productive employment”.

Article 26, para 2 of the Charter envisages detailed regulation by special laws (see paras 184 – 253 of the Initial Report). A programme of concrete measures to meet the objectives of the national employment policy – the National Employment Plan - was adopted by Government Resolution No. 418 of 5 May 1999 and updated by Government Resolution No. 165 of 19 February 2001 concerning the 2001 National Employment Plan. The policy will be revised as necessary.

Beside that, Article 26, para 3 of the Charter says that citizens who are unable, through no fault of their own, to exercise this right, are eligible for reasonable material welfare provided by the State, subject to conditions defined by law.

2) Article 7 of the Covenant concerns the right to the “enjoyment of just and favourable conditions of work”. Para a) covers fair wages. Article 26, para 3 of the Charter speaks of the “right to acquire the means of livelihood by work”. Article 28 of the Charter safeguards the right to “fair remuneration for work” and to “satisfactory conditions for work”, subject to detailed special laws. For additional comments, see paras 254 – 311 of the Initial Report, national laws and regulations are listed in para 257.

Article 7, para b) says that just and favourable conditions of work include “safe and healthy working conditions”. As stated above, the language of the Charter is more general – Article 28 speaks of “satisfactory conditions of work”. For additional comments, including the list of applicable laws, see paras 285 – 293 of the Initial Report.

Article 7, para c) of the Covenant says that everyone has the right to equal opportunity to be promoted in his employment, subject to no considerations other than those of seniority and competence, i.e. it safeguards non-discrimination. Article 3, para 1 of the Charter guarantees non-discrimination in the general sense, i.e. the enjoyment of fundamental rights and freedoms without discrimination as to sex, race, colour, language, faith and religion, political or other opinion, national or social origin, membership of a national or ethnic minority, property, birth or other status. Non-discrimination is also included in some special laws. The Labour Code was amended in 2000 (Act No. 155/2000 to amend Act No. 65/1965, Labour Code, as amended). The

primary objective of the amendment was to align Czech labour legislation with the *acquis*. The crucial provisions include the principle that men and women should be treated equally as regards conditions of work, including remuneration, training and promotion opportunities (Section 1, para

2), the ban on direct and indirect gender-related discrimination at work, including sexual harassment (Section 7, para 2), as well as the types of individual employee claims against a violating employer, including a ban on the employer's retaliatory measures against such claimants. The general ban on discrimination is spelled out in Section 1, paras 3 and 4.

Act No. 1/1992 to regulate wages, remuneration for work standby and average wages as amended, and Act No. 143/1992 to regulate salaries and remuneration for work standby in budgetary and certain other organizations and bodies were amended by Act No. 271/2000 which took effect on 1 January 2001. This amendment regulates equal remuneration in accordance with the *acquis*, namely Directive 75/117/EEC and ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (C100 Equal Remuneration Convention, 1951). It reflects the above-mentioned amendment to the Labour Code (in particular Section 1, paras 3 and 4, and Section 7 of the Code), expressly requiring equal treatment of all employees with emphasis on equal remuneration irrespective of sex. The modified rules should preclude wage-related discrimination and reinforce the protection of employees against differentiation based on criteria that cannot be regarded as fair. The wages and salaries laws state that employees are entitled to equal wages (salaries) for equal work or for work of equal value. The terms "equal work" and "work of equal value" are defined by law.

In connection with the amendments to wages and salaries legislation, an analytical method has been developed for the purposes of job evaluation and calculation of base salaries. The method is designed to categorize public service posts, but can also be applied in the private sector. It guarantees impartiality and non-discrimination in the setting of base salaries. A similar analytical method for assessing equality in remuneration, intended for practical use by the courts and audit authorities, should be finalized by the end of 2001. For additional comments, see paras 294-298 of the Initial Report.

Article 7, para d) of the Covenant is devoted to the right to rest, leisure, reasonable limitation of working hours and periodic holidays with pay. The Charter includes these rights under the general term "satisfactory working conditions" (Article 28), with detailed rules to be set by law. For additional comments, see paras 299-311 of the Initial Report.

3) The issue of trade union activities and membership covered by Article 8 of the Covenant is regulated by Article 27 of the Charter. The guiding principle is the right of association enshrined in Article 20, para 1 of the Charter. Act No. 83/1990 to regulate associations of citizens as amended prescribes the formal procedures necessary for the establishment and operations of trade unions on the basis of the

so-called “registration principle”, but does not otherwise affect their activities. For additional comments, see paras 312 – 325 of the Initial Report.

4) Article 9 of the Covenant concerning the right to social security is reflected in Article 30 of the Charter. For additional comments, see paras 326 – 368 of the Initial Report.

5) Article 10, para 1 of the Covenant says that “marriage must be entered into with the free consent of the intending spouses”. Article 32 of the Charter covers issues relating to family and

parenthood, with detailed rules to be set by a special law. The law concerned is Act No. 94/1963 on the family as amended. For additional comments, see paras 369 – 383 of the Initial Report. The fact that the choice of a partner is a person’s private affair and that marriage can be concluded only with the free consent of both spouses is also mentioned e.g. in para 371 of the Initial Report.

Article 10, para 2 of the Covenant concerning the protection of mothers requires e.g. that mothers should have the right to paid leave or adequate social security benefits. The Charter defines these rights in Article 32, para 2. For additional comments, see paras 384 – 395 of the Initial Report.

Article 10, para 3 of the Covenant devoted to the protection of children and young persons from economic and social exploitation requires that each State should set an age limit below which employment of child labour should be prohibited and punishable by law. Article 29 of the Charter addresses the issue in general terms, with detailed rules to be set by law. The primary law in this respect is Act 65/1965, Labour Code as amended. For additional comments, see paras 396 – 413 of the Initial Report.

6) Article 11, para 1 of the Covenant concerning the right to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions, is reflected in Article 26, para 2, Article 30 paras 1 and 2, Articles 31 and 35 of the Charter. For additional comments, see paras 414 – 475 of the Initial Report.

The provisions of Article 11, para 2 of the Covenant are partly reflected in Act No. 110/1997 to regulate foodstuffs and tobacco products. For additional comments, see paras 476 – 479 of the Initial Report.

7) Article 12, para 2 of the Covenant requires that each State should take measures to achieve the full realization of the right to the enjoyment of the highest

attainable standard of physical and mental health, inter alia, by assuring to all medical service and medical attention in the event of sickness. For comments on health and health care, see paras 480 – 570 of the Initial Report, for additional particulars concerning para 2(d) see paras 561 – 570 of the Initial Report.

8) Article 13, par 2 (e) of the Covenant requires, inter alia, that a fellowship system should be established at schools at all levels. This requirement is reflected, in rather more general terms, in Article 33, para 4 of the Charter which refers to a special law setting “the conditions under which citizens have the right to assistance from the state during their studies”. For additional comments, see paras 639 – 647 of the Initial Report, for comments on scholarships available to secondary school students see para 644. The special law mentioned in the Charter is Act No. 29/1984 to regulate the system of primary schools, secondary schools and higher technical schools (Schools Act) as amended. At the university level, these issues are regulated by Act No. 111/1998 to regulate universities and to amend certain other laws, and by social security legislation. The Covenant also requires that the material conditions of teaching staff should be continuously improved. Implementation of this clause is based on Article 28 of the Charter that safeguards, inter alia, the right to fair remuneration for work, with detailed rules to be set by law. The law concerned is Act No. 143/1992 on salaries and remuneration for work standby in budgetary and certain other organizations and bodies as amended. For additional comments, see paras 645 – 647 of the Initial Report.

9) Article 15 of the Covenant enshrines, in para 1 (a), the right to take part in cultural life and, in para 1 (b), the right to enjoy the benefits of scientific progress. The relevant provisions in the Charter include Article 15 - freedom of thought, conscience and religion (para 1) and freedom of research and art (para 2), Article 17 – freedom of expression, right to information and ban on censorship, Article 25 – the right of persons belonging to national and ethnic minorities to develop their own culture and use their own language, and Article 34 – protection of intellectual property and the right of access to cultural wealth. For additional comments, including the list of special laws, see paras 656 – 730 of the Initial Report.

4. Please explain how the function of the Office of the Public Prosecutor, created in 1999, has impacted upon the implementation of the Covenant.

The competence of the ombudsman is defined in Section 1, Subsection 21 of Act No. 349/1999 Sb, the Ombudsman Act. The activities of public authorities are in his competence if they directly make decisions or perform supervisory activity with respect to other entities.

In connection with the Covenant, his activities concern, for example, the following:

- a) Job Centres, which ensure the exercise of the right to work in accordance with Article 6 of the Covenant and supervise respect for the principles under Article 7 of the Covenant;
- b) also in the competence of the ombudsman are social security administration bodies (Article 9 of the Covenant); specifically in his competence are those proceedings and decisions that are subject to judicial review under separate regulations;
- c) the competence of the ombudsman with respect to the protection of children and young people as set forth in Article 10, Paragraph 3 of the Covenant is given in relation to state administration bodies - child welfare authorities. These bodies, in the scope of their competence, also produce documentation and implement the results of judicial proceedings. This, however, is not in the competence of the ombudsman;
- d) in relation to Article 12 of the Covenant, the ombudsman's competence embraces public health insurance companies.

**C. INFORMATION AND PUBLICITY CONCERNING THE RIGHTS COVERED BY
THE COVENANT**

5. Please provide additional information on the measures taken by the State Party to inform the public at large, and civil servants, in particular judges, lawyers, administrators, and those associated with economic policies, of the provisions of the Covenant.

The Collection of Laws and the Collection of Constitutional Court Findings and Resolutions (see question 2) are widely distributed to judges, lawyers, civil servants and officials responsible for the implementation of economic policies, as well as the general public. Both publications include information on the rights enshrined in the Covenant and the relevant case law of the Constitutional Court.

6. Please give additional information on the participation of the NGOs in the preparation of the State Party's report.

The introductory report of the Czech Republic was discussed repeatedly at meetings of the Section for Economic, Social, and Cultural Rights of the Czech Government Council for Human Rights. Besides representatives of central state institutions the Section's members also come from the ranks of non-governmental organizations. As such, members of non-governmental organizations have been given the opportunity of having a say in the scope of the production of

documentation they are providing for the Report.

**II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT
(arts. 1-5)**

Article 2 (2)- Non-discrimination

7. Please explain why the amendment to the Employment Act, forbidding discrimination on the basis of race, colour, sex, sexual orientation, language, faith or religion, and political and other conviction, refers only to citizens and not to all residents including lawful refugees and immigrants. How does this provision conform to article 2(2) of the Covenant?

For the purposes of the Employment Act, aliens enjoy the same status as Czech citizens (cf. Section 2, para 2 of the Employment Act – “Citizens, as parties to legal relations under this Act, shall include citizens of the Czech Republic. The same status shall be enjoyed by aliens and stateless persons“). Accordingly, non-discrimination in access to employment (Section 1, para 1 of the Employment Act) applies to everybody, including foreigners. Citizens and non-citizens are thus able to assert their right to employment without discriminatory restrictions, subject to the conditions set by law. This right can be asserted in court or through Employment Centres.

8. Article 25 of the Charter restricts the rights of minorities to develop their own culture, receive information in their native language, associate in national associations, study in their own language and use their own language in official contacts with citizens. How does this restriction conform to the Covenant?

Article 1 of the Charter declares that all people are free and equal in their dignity and rights. Article 3, para 1 of the Charter guarantees fundamental rights and freedoms for everyone without discrimination, inter alia, on grounds of membership of a national or ethnic minority. The right to freely choose one’s nationality is enshrined in Article 3, para 2 of the Charter.

Chapter Three of the Charter governs the rights of national and ethnic minorities. Article 24 says that membership of any national or ethnic group must not adversely affect a person's status, and Article 25 defines the rights of persons belonging to national minorities in individual fields. Article 25 of the Charter is devoted to special rights of citizens who form a national or ethnic minority, with detailed rules to be set by law. The law concerned is Act No. 273/2001 to

regulate the rights of persons belonging to national minorities (National Minorities Act), in conjunction with other special legislation to which it refers.

The National Minorities Act aims to draw together the existing rules applicable to persons belonging to national minorities and to fill the remaining gaps (e.g. subsidies for minority cultures, distribution and reception of information in minority languages, establishment of a special minority self-governing body at the national level on the basis of law).

The Act defines "national minority" as a "community of citizens of the Czech Republic residing in the territory of the present Czech Republic, who differ from other citizens, as a rule, due to their common ethnic origin, language, culture and traditions, form a numerical minority of population and demonstrate their will to be regarded as a national minority for the purpose of joint efforts to preserve and develop their own national identity, language and culture and for the purpose of expressing and protecting the interests of their community which formed in the course of history.

A person belonging to a national minority is a citizen of the Czech Republic who claims a nationality other than Czech and expresses the wish to be regarded as a person belonging to a national minority together with others who claim the same nationality."

As regards measures against discrimination, the National Minorities Act, inter alia, amends Act No. 200/1990 concerning minor offences as amended. It introduces a new minor offence – a person who "restricts or prevents a person belonging to a national minority in the exercise of the rights of persons belonging to national minorities, causes other person harm on the grounds of his membership of a national minority or ethnic origin, race, colour, sex, sexual orientation, language, faith or religion, political or other opinion, membership of or activity in political parties or political movements, trade unions or similar associations, social origin, property, birth, health condition or marital status" is liable to a fine (Section 14).

The amendment partly implements Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons

irrespective of racial or ethnic origin. The rights of persons belonging to national minorities are tied to citizenship; however, in view of the objectiveness and adequacy of this approach, aimed to prevent the misuse of government support programmes to the national identity of these persons, the regulation cannot be regarded as discriminatory. With regard to the Covenant, the Czech Republic operates a foreigners integration programme based on the Concept of Integration of Aliens in the Territory of the Czech Republic (Government Resolution No. 1226 of 11 December 2000). The Concept defines the support available to foreigner communities in all spheres of life.

9. Former citizens of the Czech and Slovak Federal Republic who became citizens of the Slovak Republic as of 1 January 1993 can now apply for citizenship of the Czech Republic but the process for application for citizenship is very demanding financially and cumbersome administratively, in particular for vulnerable groups. How does the State Party envisage rectifying this form of discrimination?

Under Act No. 194/1999 Coll., implementing the latest amendment to Act No. 40/1993 Coll., on the Acquisition and Forfeiture of State Citizenship of the Czech Republic, in the wording of later regulations (this Act entered into effect on 2 September 1999), Slovak nationals who have permanent residence in the Czech Republic or who have lived here permanently since at least 31 December 1992 (when the federation was split into two separate states) can gain Czech citizenship in a simplified manner. Under Section 18a of the cited Act, these persons can make a declaration on the acquisition of Czech citizenship at their local authority. They acquire state citizenship on the date of issue of a 'certificate of acquisition of state citizenship of the Czech Republic'. Neither statements from the crime register or documentation on the forfeiture of hitherto citizenship are required. These persons have dual citizenship - Czech and Slovak. No administrative fee is charged for issuing a certificate on the acquisition of Czech citizenship. In this respect, we state that, since 2 September 1999, 13,303 Slovak nationals have used the above-mentioned manner to acquire citizenship of the Czech Republic. This legislation was adopted in order to eliminate the impacts on citizenship caused by the division of the Czech and Slovak Federative Republic.

Citizens of the Slovak Republic who were living at the decisive time in the Slovak Republic and moved to the Czech Republic at some stage after the division of the Czech and Slovak Federative Republic can become Czech citizens by conferment under Section 7, Subsection 1 of Act No. 40/1993 Coll., in the wording of later regulations. Unlike other aliens, they do not need to prove proficiency in Czech; under Section 11, Subsection 1 of the said Act the legal condition of at least five years' permanent residence in the Czech Republic may be waived if they were previously citizens of the Czech and Slovak Federative Republic. The administrative fee for the conferment of citizenship of the Czech Republic to a Slovak citizen is CZK 500. This charge, which is very low, is paid for the conferment certificate, not the number of persons specified in it. In practice, this means that if citizenship of the Czech Republic is awarded to a married couple who included minors aged up to 15 in their application, they only pay CZK 500 in total for the conferment of Czech citizenship.

In the case of acquisition of Czech citizenship by Slovak citizens, this is not discrimination. In the case of forfeiture of Slovak citizenship (forfeiture of hitherto citizenship is one of the conditions for the conferment of Czech citizenship) high administrative fees are charged, which applicants are obliged to pay in order to acquire documentation that they have forfeited their Slovak citizenship. The appointment of the administrative fee is, however, fully in the competence of the Slovak Republic. The Act on the Acquisition and Forfeiture of State Citizenship of the Czech Republic is therefore fully in accordance with the European Convention of the Council of Europe on State Citizenship from 1997, which the Czech Republic subscribed to in 1999. It is also in accordance with the Constitution of the Czech Republic and the Charter of Basic Rights and Freedoms.

Article 3 - Equality between men and women

10. Please explain what measures have been taken by the State Party to ensure the enjoyment of the right to education by girls, in view of the State Party's restriction on access to education for girls in certain technical fields.

The current legislation of the Czech Republic, in particular the Constitution of the Czech Republic and the Charter of Fundamental Rights and Freedoms, guarantees equal access to education for girls. Everyone has a right to education. School attendance is compulsory for nine years. All citizens have the right to free education at primary and secondary schools in accordance with the ability of the citizen and the opportunity of studying at universities. The terms and conditions of state financial assistance for citizens during their studies are stipulated by law. Women and girls have equal status with men in the education system. This also applies to remuneration and compensation for work. Women and girls currently have the opportunity of studying all subjects on offer under secondary education.

In previous years some subjects were designated for boys only because of their physical demands or working environment. Now all subjects under secondary education are available for students regardless of their sex. Teaching documents no longer state that a subject is designated for a certain sex only. **Instruction of the Minister of Education, Youth, and Physical Training to Ensure the Equality of Men and Women in the Education Process in Schools and Educational Establishments of 9 February 2000** has been published on this issue, for example. Through the Institute of Pedagogical Psychological Counselling, the Czech Republic also contributes to the international project **Interventions**, in the scope of the **Leonardo** programme. The aim is to create and implement a training module for education advisers in order to improve the access girl and women have to untraditional and prospective subjects of education and to remove stereotypes when making career choices. Nevertheless, the problem of inequality because of sex must also be viewed from the aspect of individual approaches. In accordance with Government Resolution No. 452 of 10 May 1999, a methodic instruction was issued to include the subject 'Introduction to the World of Work' in the curricula of secondary schools. The main aim of this subject is to mediate for students the most important knowledge and skills connected with their future career, i.e. with their preparation for an occupation in subjects that are considered untypical or untraditional from the aspect of a student's sex. The promotion of equality

between men and women is monitored in the form of thematic inspections; statistics reveal that girls are starting to assert themselves in untraditional areas.

11. The State Party is endeavouring to give effect to the principle of equal pay for work of equal value regardless of gender. Please explain the status of these efforts in law and practice against the backdrop of continuing differences in pay for women and men.

Act No. 143/1992 Coll., to regulate salaries and remuneration for work standby in budgetary and certain other organizations and bodies as amended covers cases where the employer is the Czech Republic, an organization receiving contributions from the State, a State-owned fund or a local government unit (region or municipality). Act No. 1/1992 Coll., to regulate wages, remuneration for work standby and average earnings as amended applies to other employees and members of cooperatives who work for the cooperative, but are not employed by it.

There are also separate laws concerning earners with special employment status (e.g. judges, Czech Republic Police, Czech Army regulars, priests). General wage-related provisions are also contained in the Labour Code (Sections 111, 119 – 121).

Most earners are covered by Act No. 1/1992 Coll., to regulate wages, remuneration for work standby and average wages as amended. The Act expressly underlines that employees are entitled to equal wages for equal work or work of equal value, and that the wages payable to men and women must be set on equal terms (cf. Section 4a, para 1 of the Act). Both principles apply also to earners covered by other laws and regulations.

The above facts show that the national legislation is guided by the principle of equal wages for equal work or work of equal value, irrespective of sex. It does not contain any provisions that could be invoked to justify differentiation between men and women who carry out equal work or work of equal value.

In lawsuits resulting from employment, the burden of proving direct or indirect discrimination on the grounds of sex does not lie on the employee. According to Section 133a of the Code of Civil Procedure, the facts stated by the employee are deemed to be proved, unless the employer proves otherwise. To prove that his wage-setting practices do not discriminate between employees on the grounds of sex, the employer must furnish evidence that he pays equal wages for equal work or work of equal value.

The Supreme Court (authority competent to decide on second appeals against final decisions of appellate courts) has not to date registered any case of employees or workers covered by the above legislation claiming to be victims of wage-related discrimination on the grounds of gender. The Supreme Court case law does not include any opinions on this issue.

III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT

Article 6 - The right to work

12. The right to work as spelled out in the Employment Act, Section 1, para 3 is restricted to citizens. How does this provision conform to Article 2(2) of the Covenant?

Section 1, para 3 of the Employment Act guarantees all citizens the right to employment. In application of the Employment Act, foreigners enjoy the same status as Czech citizens (cf. Section 2, para 2 of the Employment Act – “Citizens, as parties to legal relations under this Act, include citizens of the Czech Republic. Foreigners and stateless persons shall enjoy the same status”). Every citizen and foreigner is entitled to receive information about opportunities for employment, training and retraining from any Employment Centre in the Czech Republic. However, only Czech citizens and permanent residents are entitled to placement assistance, retraining services and unemployment benefits; these services are provided by their local Employment Centre.

13. What is the rate of unemployment in the country and how is it related to the new economic policies of privatisation?

Jobseekers (31 December 2000)

Year	1996	1997	1998	1999	2000
Jobseekers	186,339	268,902	386,918	465,965	457,369

As of 31 July 2001, the Employment Centres registered a total of 439,759 jobseekers, which represented 8.5% registered unemployment rate. The Ministry of Labour and Social Affairs does not undertake studies or collect statistical data on the relation between privatization and unemployment rates and is not aware of any surveys on the subject.

14. The amendment to the Employment Act that took effect in October 1999 made the conditions for employment of foreigners more restrictive in terms of duration. If a foreigner has been employed for three years, a new permit can be issued only after 12 months have elapsed. Please explain why the State party is increasing rather than decreasing restrictions on foreign workers.

The cited provision of the Employment Act establishing different rules for foreign employees who have previously worked in the Czech Republic for a period exceeding three years was repealed with effect from 1 January 2001.

15. Members of the Roma minority have great problems in the labour market and suffer from extremely high unemployment. Is the State Party taking effective measures to combat this discrimination and what are the results of actions already taken, if any?

The different social and cultural background of the Roma minority often affects their approach to work and education. The Employment Centres register many severely disadvantaged Roma jobseekers - unskilled workers, with a long history of unemployment and other handicaps (health condition, social situation, age).

In accordance with Government Resolution No. 640 of 23 June 1999 concerning measures to encourage the employment of disadvantaged jobseekers (with respect to persons belonging to the Roma community), the Active Employment Policy programmes operated by each Employment Centre include extensive rehabilitation and retraining schemes (ŠANCE). The programmes are reviewed on an annual basis.

Under the Active Employment Policy, the Employment Centres also provide partial wage subsidies to employers who take on disadvantaged jobseekers, namely in relation to procurement contracts.

These goals are also included in the 2001 National Action Plan on Employment (Government Resolution No. 165 of 19 February 2001 on the National Action Plan on Employment).

Instruction No. 11/2001 of the Minister of Labour and Social Affairs created the Minister's Commission on Employment of Disadvantaged Jobseekers, with regard to the Roma Community. The Commission is chaired by the Minister's Roma Advisor, and comprises experts from the Ministry of Labour and Social Affairs – Social Security Administration, Ministry of the Interior, Ministry of Education, Youth and Sports and representatives of Roma firms and associations. The objective is to encourage integration of persons belonging to the Roma community through retraining and increased employment.

*The Ministry of Labour and Social Affairs also develops projects focused, inter alia, on support for Romas from PHARE funds. A package of projects entitled **Social Inclusion and Equal Opportunities** is included in the 2000 National PHARE programme (CZ00-10-02 – Investments in Region NUTS II Northwest/ Human Resources Development Fund; and CZ00-10-03 – Investment in Region NUTS II Ostravsko/ Human Resources Development Fund in 2001.*

The measures contained in these projects focus on the integration of specific groups and increased employment of people prone to social exclusion, integration and partnership in support of social inclusion. They are oriented towards the development of specific programmes, job creation, motivation, rehabilitation, retraining and job placement of people with a history of long unemployment, in particular the Roma population. They also include consultation and motivation programmes encouraging self-employment, and the development of social services.

The Ministry of Labour and Social Affairs also runs projects under the SWIF fund, intended to decentralize the distribution of social services. The objective is to encourage social services provided by non-governmental entities, in consultation with district and local authorities, and examine the potential of the non-governmental sector as regards new types of social services and new working methods. Despite the relatively broad sphere covered by the SWIF fund, some of the proposed projects target disadvantaged ethnic groups. These projects have received grants from the SWIF fund.

Projects presented by the Ministry of Labour and Social Affairs for the 2002 PHARE National Programme build on the achievements of the above-mentioned schemes. In addition, there is a project focused on social inclusion and preparation of the National Plan of Action on Social Inclusion. Another project intended for the 2002 PHARE National Programme concerns the EQUAL initiative. The Czech Republic is seeking to officially participate in this initiative which focuses, inter alia, on action against racism and xenophobia in the labour market.

16. Unemployment among persons with disabilities is increasing in the State Party despite the requirements of the new Employment Act which obliges employers to employ a certain percentage of persons with disabilities. What is the State Party doing to assist this vulnerable group in finding employment?

According to the Employment Act (Act No. 1/1991 Coll.), employers with more than 20 employees must take on a certain percentage of persons with disabilities. The percentage is defined in Government Directive No. 228/2000 as 5% of the total number of employees. Employers can choose any of the following three options or their combination:

- To take on disabled employees on the basis of a regular employment contract;
- To purchase products from employers whose staff includes more than 55% of disabled employees, or to contract out their production programmes to such employers;
- To pay extra tax.

Reports presented by the Employment Centres show that this obligation applied to more than 22,000 businesses, and 18,155 businesses complied – this figure is not final, because

businesses keep updating their reports. The overall result was 5.75% (3.48% - employment contracts, 0.26% - contracting out or purchase of products, and 2.01% - taxation), i.e. above the percentage set by the Government.

Although the above figures should dispel any concerns about compliance with this mandatory obligation, the fact is that the Employment Centres report a rising number of unemployed persons with disabilities. This unfavourable development is attributable to an overall decline in job vacancies. New technologies and schemes to increase productivity have led to downsizing and limited job creation.

Faced with tougher competition, the disabled jobseeker's chances are directly proportional to his skills. Accordingly, the new Employment Bill emphasizes vocational rehabilitation.

The Bill defines vocational rehabilitation as a tool of national employment policy aimed at the equalization of opportunities for disabled workers. It is part of a large package of measures and activities aimed at full integration of persons with disabilities. The scheme will involve individual plans enabling effective and comprehensive treatment of each jobseeker. Beside advisory services, training, placement services and financial incentives for employers, the scheme includes personal assistance to severely disabled people (job-hunting, integration in the workplace). The new vocational rehabilitation scheme is consistent with the **UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities**.

The new Employment Bill also includes a new definition of the term "disabled citizen", broader definition of the term "protected employment", definition of "employers employing predominantly persons with disabilities" and financial incentives to encourage employment of persons with disabilities. All these changes are designed to help persons with disabilities in seeking jobs.

Article 7 - The right to just and favourable conditions of work

17. Please explain how the minimum wage is determined.

The principle that wages must not be lower than the minimum wage level is enshrined in the Labour Code. The minimum wage levels, and the related conditions, are defined by Government Directives. A provision of the Labour Code effective since 1 January 2001 says that the minimum wage level should as a rule be set with effect from the beginning of the calendar year, taking into account the consumers price index.

The minimum wage level was first set by the Government in 1991, with effect from February 1991, and was mandatory for the business as well as non-business sectors. The guiding principle was that the lowest price of work should cover the employee's replacement costs. There is a standard base rate and special lower rates for disabled and young employees (90% of base rate for employees between 18 and 21 years of age for the period of six months after entering first employment, 80% for employees under 18 years of age, 75% for employees receiving partial

disability pensions and 50% for employees receiving total disability pensions and for totally disabled minor employees who do not receive disability pensions). The

level can be raised in the business sector as a result of collective bargaining.

Since 1991, the minimum wage level has been adversely affected, inter alia, by linkage to the sickness insurance of persons whose insurance contributions are paid by the State. This linkage which directly impacted on the State budget was terminated on 1 July 1998. As a result of irregular and inadequate valorizations in that period, the real level of minimum wages dropped in January 1998 to 61.6% of the original value. Increasingly unfavourable minimum wage/average wage and minimum wage/subsistence level ratios accompanied this decline. This development strongly discouraged workers, mainly in the unskilled/lowest income category, from seeking jobs.

The 1998 Government Programme Statement, as well as the National Employment Plan, include the commitment to remove this disproportion. This goal has required more frequent (biannual) upward adjustments of the minimum wage level, by amounts which exceed the mandatory subsistence level valorizations (see table below).

Base minimum wage rates

Minimum wage effective from	Feb. 1991	Jan. 1992	Jan. 1996	Jan. 1998	Jan. 1999	July 1999	Jan. 2000	July 2000	Jan. 2001
CZK/hour	10.80	12.00	13.60	14.80	18.00	20.00	22.30	25.00	30.00
CZK/mont.	2,000	2,200	2,500	2,650	3,250	3,600	4,000	4,500	5,000

Article 8 - Trade union rights

18. Article 27 of the Charter provides for the right to associate in trade unions and to exercise the right to strike. Please provide information on whether the Collective Bargaining Act restricts the right to strike and on how labour disputes are resolved.

Article 27, para 4 of the Charter guarantees the right to strike under conditions set by law. Judges, public attorneys, members of the armed forces and security corps are excluded from this right. According to Article 41, para 1 of the Charter, the right to strike can be asserted within limits set by the laws which implement Article 27, para 4 of the Charter.

Today, the only ordinary law implementing Article 27, para 4 of the Charter is Act No. 2/1991 Coll., to regulate collective bargaining as amended by Act No. 519/1991 Coll., Act No. 118/1995 Coll., Act No. 155/1995 Coll., and Act No. 220/2000 Coll., (Collective Bargaining Act). According to this Act, strike may be called only on connection with a dispute between an employer and a trade union concerning a collective agreement, or as a solidarity strike in support of employees striking in connection with a dispute concerning a collective agreement. The Act also specifies the conditions under which a strike concerning a collective agreement, or a solidarity strike, are deemed lawful. A strike is recognized as lawful if all possibilities for the conclusion of a collective agreement, including mediation, have been exhausted, the parties have

not initiated arbitration proceedings and at least one half of the employees concerned agree that a strike should be called. Other conditions are set forth in Section 17 of the Collective Bargaining Act.

The conditions contained in the Collective Bargaining Act are based on Article 27 and Article 41, para 1 of the Charter, and thus cannot be regarded as an illegitimate restriction of the right to strike. Czech legislation does not otherwise restrict the right to strike in connection with collective agreements.

On the other hand, Czech legislation lacks rules governing the exercise of the right to strike in cases not related to collective bargaining (e.g. strikes demanding the recall of management, protesting against layoffs).

Lawsuits concerning the legality of strikes are very rare. In 1996 the Supreme Court decided on the merits of one case concerning the interpretation of Section 17 of the Collective Bargaining Act (decision R 21/2000).

Article 10 – Protection of the family, mothers and children

19. Are marriages of religious minorities, concluded in their own place of worship, recognized under the Family Act?

According to Section 3, para 1 of Act No. 94/1963 Coll., concerning the family as amended (Family Act), marriage is contracted by a consenting declaration of a man and a woman that they intend to be joined in wedlock. The declaration is made before a registry or an authority performing registry functions, or before an authority of a church or a religious society authorized under a special regulation. According to Sections 4a and 4b of the Family Act, the intending spouses should make the declaration before a person empowered by a church or a religious society authorized under a special law. The law concerned is Act No. 308/1991 to regulate religious freedom and the status of churches and religious societies which also governs the registration of churches. 21 churches are currently authorized to solemnize marriages. Marriage is solemnized in places designed for religious ceremonies or religious acts under the regulations of the church or religious society.

Church marriages must comply with the conditions for contracting marriage laid down in the Family Act. Before contracting marriage, the intending spouses must present to the solemnizing officer a registry certificate proving that they meet all legal requirements for valid marriage. The certificate should not be older than three months.

The church authority which solemnized the marriage must present a report to the local registry not later than three working days from the marriage ceremony. The report must contain particulars required by a special law (Act No. 301/2000 Coll., to regulate registries, first names and surnames and to amend certain other Acts). The registry will enter the marriage into the

marriage register and issue a marriage certificate. Marriages contracted abroad are governed by Sections 19 and 20 of Act No. 97/1963 Coll., which provide that the capacity to enter into marriage, and the validity of marriage, are subject to the laws of the spouses' state of citizenship

and the solemnization of marriage is subject to the laws of the country where the marriage is solemnized.

20. What is the extent of the incidence of violence against women inside and outside of the home? What legal protection exists in this regard? Please provide information on the measures taken by the State party to assist women victims of violence, in particular with regard to provision of temporary shelters and the prosecution of perpetrators of violence.

Incidence of violence inside the home

With respect to the legal protection of women against violence by means of criminal law, from the point of view of the question the most relevant provisions are contained in Chapter V of the Penal Code, on the crime of procurement as set forth in Section 204 of the Penal Code, which deems circumstances conditioning the application of a higher penalty *inter alia* to be use of violence or the threat of violence or threat of other serious injury with the objective of engaging, persuading, or luring a victim to carry on prostitution; the penalty rises considerably if the victim is younger than eighteen years old (from two to eight years' imprisonment) or fifteen years old (from five to fifteen years' imprisonment). Protection is also provided under Section 197a - Violence Against a Group of Inhabitants and an Individual – in addition to the women their children are also victims, Section 202 - Breach of the Peace, Section 213 - Neglect of Compulsory Alimentation, Section 215 - Cruelty to a Ward, Section 216 - Abduction, Section 225 - Fighting, and Section 242 - Sexual Abuse.

Also applicable here are general provisions protecting persons, regardless of their sex, from violence; these are the provisions of Chapter VII of the Penal Code, on crimes against life and health, specifically Section 219 – Murder, Section 221 – Intentional Battery, Section 222 – Severe Intentional Bodily Injury, and the provisions of the same Chapter regarding unlawful abortion – Section 227 and Section 228, Subsection 3. It could also be said that some of the points under Chapter VIII of the Penal Code offer protection to women against violence, although these

provisions do not differentiate victims by their sex. These are crimes of limitation of personal freedom under Section 231, deprivation of personal freedom under Section 232, and blackmail under Section 235.

The crime of rape under Section 241 only provided protection to women until the most recent amendment; the amendment made on 1 May 2001 extended this protection to both sexes. This provision has been reformulated so that a) it does not only cover violent intercourse, but the body of the crime is committed even if the perpetrator forces another person into intercourse or other sexual act by violence or threat of immediate violence, or if the perpetrator exploits the defencelessness of the victim; and b) since the amendment the victim need not be a woman only. Increased protection, manifested as a fundamental increase in the penalty of imprisonment, is provided under this provision to persons younger than 18 or 15 years old.

The provision of the Penal Code that protects women (including against the use of violence that is meant to force them into prostitution) is Section 246 of the Penal Code, on trafficking in women – an amendment is being prepared that will relate to both sexes. Naturally, increased protection is provided to women younger than eighteen years old.

The above-mentioned is an enumeration of the provisions of the Penal Code, the aim of which is mainly, or in part, to protect women against violence. **The Czech Penal Code does not acknowledge any special provisions protecting women against domestic violence.** A shortcoming in the legislation of the Czech Republic is that it does not contain the possibility of effectively protecting women in cases where they become the victim of domestic violence. This includes the opportunity of prohibiting the perpetrator from lingering in the immediate vicinity of the assaulted woman, or the opportunity for the women (and her children) to resort, at least for a temporary period, to a social welfare facility that would protect her from the perpetrator. Police statistics do not keep records of the domestic environment as a place of incidence, which causes difficulties when gathering reliable data on the extent of this phenomenon.

Non-governmental organizations providing assistance to women victims of violence have more precise figures available, but these only relate to persons who have sought their help and do not cover all cases. **The most comprehensive information in this respect is held by White Ring of Safety (*Bily kruh bezpeci*), which collects data on victims at its branches in Prague, Olomouc, Ostrava, Brno, Plzen, and Pardubice. For example, in 1999, victims of domestic violence accounted for 36% of the total number of clients who visited the organization's advice centres. Over the first three quarters of 2000, the figure was 35%. Based on these data and experience of domestic violence in European countries with a similar economic and social situation as the Czech Republic, it is estimated that 10%-35% of relationships are afflicted by domestic violence.**

In May this year, **STEM and White Ring of Safety published a survey on citizens' awareness of domestic violence. Of the 1,724 respondents, 26% said they had had direct experience of domestic violence.** Of these, 66% had suffered repeated or long-term violent conduct from their partner. Another result of the survey was that **the public would welcome more information on this issue** (59% of respondents).

Since 1998, greater attention has focused on violence against women. **The government resolution on Government Priorities and Procedure in Upholding Equality of Men and Women**, which is updated every year (in 2001 under Resolution Ref. No. 456 of 9 May), sets measures for the competent authorities aimed at eliminating violence to women and runs checks on their implementation. One of these measures is **a public information campaign concentrating primarily on domestic violence.** The Ministry of the Interior is participating in this campaign in association with the Ministry of Labour and Social Affairs, the human rights representative, and non-profit organizations (see Public Information Campaign – website).

Incidence of violence outside the home

The following table lists numbers of victims in 2000. The victims are divided into two age categories: 0-18 and 19 and older.

	Victims aged 0-18	Victims aged 19+	Total

Murder	15	54	59
Intentional battery	143	2180	2323
Rape	128	370	498
Trafficking in women	5	6 (of which 5 groups)	+

+ Central police statistics record a whole group of women as the victim in some cases, and as such it is difficult to determine the total number of victims.

Public information campaign – page on the website of the Ministry of the Interior of the Czech Republic

This page contains an introduction to the problem of domestic violence, what affected persons should do, where they should seek help (contact details for non-governmental organizations, advice centres, shelters), what legal provisions may be applied in prosecuting domestic violence, a specimen of a complaint, and specialist studies and articles on this theme. The page was created in cooperation with the Crime Prevention Department and the Press and Public Relations Department. Other activities that have taken place in 2001 or that are being prepared in the scope of the information campaign are:

- a press conference held by the Minister of the Interior on domestic violence (12 July 2001);
- regular cooperation with the press, television stations, and radio stations (a press service run by the Crime Prevention Department, regular information and output on the issue of domestic violence, competition questions on the theme of domestic violence for Radio Impuls);
- cooperation with non-profit organizations (financing of postcards carrying contact details of organizations that give assistance to victims);
- the editorship of Police magazine is preparing a bulletin on the theme of domestic violence in association with the Crime Prevention Department and specialists from non-profit organizations.

Support of specific projects to help victims

In the scope of its grant policy, in 2000 the Ministry of Labour and Social Affairs provided CZK 15,580,500 out of its budgetary chapter for the activities of 28 shelters (homes and flats) for women and children in need. The term ‘in need’ can mean a victim of domestic violence, single mothers and their children, or other women in a similar difficult social situation. Social services are generally provided at shelters. The provision of social services is laid down in the draft of the General Principle for **the Social Services Act**, which also categorizes the individual social services. The granting of shelter to victims of domestic violence is undoubtedly an urgent service, where there are no barriers between an application for and the provision of the service. As far as the opportunities of gathering information are concerned, the central government budget provides funding to support civil advice centres that serve for this kind of purpose – the provision of relevant information or assistance in arranging or mediating a service. This information, of course, can be given and the service mediated by Social Affairs sections, or other offices, and many social service providers publish informative materials.

Other social prevention projects, the aim of which is to preserve and reinforce the integrity of persons who have found themselves without a roof over their heads, who have no family to fall back on, who are victims of anonymous criminal activity, or who **are victims of domestic violence**, are supported in the scope of the activities of the National Committee for Crime

Prevention. **In the framework of the Crime Prevention Programme at a local level, 305 crisis and advice facility projects have been supported between 1996 and 2001 with a total sum of CZK 46,237,000.** Of this number, 23 projects were granted a total of CZK 3,891,000 to assist crime victims directly. In the overwhelming majority of cases, non-governmental non-profit

organizations (17 projects) work with the victims of crime and domestic violence, followed by charities (4 projects), local government (1 project), and state administration (1 project).

- During 2000, the Crime Prevention Department, whose human rights worker represents the Czech Ministry of the Interior in the working section of equal opportunities for men and women of the Human Rights Council, supported the initiatives of women's organizations (especially Rosa, ProFem, Gender Studies, Electra, and La Strada loosely associated as a coordination group against violence to women) aimed at improving legislation. At issue here is the draft of an amendment to Section 215 of the Penal Code – Cruelty to a Ward, in order to exploit the stress this Section places (in Subsection b) on a significant characteristic of domestic violence, i.e. long-term repetition (other sections of the Penal Code relating to violent crimes that can be applied to domestic violence are conceived for single acts of violence and do not allow the incriminating factor of repeated violent attacks to be taken into account). In the framework of the above-mentioned legislative initiative, expanding the current wording of Section 215 has been proposed, whereby it would include not only dependents but also close persons, in order to achieve more adequate protection for victims of domestic violence living with a violent person in marriage, as a common-law husband and wife, or simply in a shared household.
- In 1999, the Crime Prevention Department gave the same support to the initiative of non-governmental non-profit organizations aimed at amending Section 163a of the Penal Code so that victims of domestic violence retain the right to halt prosecution in cases of agreement with their partner or other close person who used violence on them repeatedly in a domestic situation, but their consent is not required to institute prosecution. Therefore the obligated bodies active in criminal proceedings would have to institute prosecution by law.
- The Crime Prevention Department regularly cooperates with the above-mentioned women's non-governmental non-profit organizations in exchanging information on their activities, spreading awareness of their activities via internal printed material, etc.

System of police training

The main aim of the project is to create a system to prepare police specialists and (subsequently) all law enforcement officers for work with crime victims, and to provide them with instructional material aids. The team working on this project is in close contact with non-governmental organizations occupied with assistance for the victims of crime and domestic violence (e.g. BKB etc.).

Publishing activities

A pocket directory for law enforcement officers – who the police should contact when they encounter a person in a difficult situation. Law enforcement officers very often encounter

people who, for various reasons, find themselves in difficult situations in life. Therefore the Crime Prevention Department, in cooperation with the Interior Ministry's Secondary Police School and the Municipal Social Services and Prevention Centre, has published a pocket directory for law enforcement officers containing contact details for what are primarily non-governmental organizations offering assistance to these persons. The directory contains updated contacts for institutions and experts who can provide persons in crisis situations with professional care. This booklet is available for law enforcement officers from the City of Prague Administration.

21. Please provide information on the measures taken by the State party to prevent trafficking of women and to combat organized prostitution and sexual exploitation of women and children.

The legislation of the Czech Republic includes legislative instruments prosecuting perpetrators of procurement, trafficking of women and children, and perpetrators of the sexual exploitation of women and children. Under the Penal Code, it is possible to prosecute the following conduct:

Section 204 - Procurement

'He who engages, forces, or lures another into prostitution or he who profits from prostitution performed by another shall be punished with imprisonment for up to three years.' A perpetrator who commits this crime 'using violence, the threat of violence, or threat of other serious injury, or exploits the distress or dependence of another' be imprisoned for 1-5 years. An even higher penalty (2-8 years) may be given to a perpetrator who commits this crime on a person younger than eighteen years old, while those who commit this crime on a person younger than 15 face imprisonment of 5-12 years.

Section 246 - Trafficking of women

In Subsection 2, the Penal Code provides protection to women younger than 18 if the perpetrator 'lures, hires, or transports [them] abroad with the intention that they be used there for sexual intercourse with another or for prostitution...' with a penalty of 3 to 8 years' imprisonment.

Section 216a) - Trafficking of children

Subparagraph 1 states that 'Anyone who delivers their child into the power of another in exchange for a consideration for the purpose of adoption, use for labour child, or for another purpose, he shall be imprisoned for up to three years or be given a monetary penalty.' Section 216b), in accordance with the Convention on the Rights of a Child, states that 'A child is a person younger than eighteen years old, unless they become of age earlier...'

Section 235 - Blackmail

This crime is usually committed in a situation where victims do not want to prostitute themselves or want to stop prostituting themselves. It rests in mental maltreatment, or threat of bodily harm or death. A common phenomenon is forcing victims to perform various favours and acts. Procurers and traders in persons prostituting themselves commit this crime.

Section 233 - Displacement to another country

This act entails luring, hiring, or transporting a women abroad. It is not necessary for this act to be performed with the resistance of the women, as she is often tempted with the vision of easy earnings and a comfortable life.

Section 205 - Threat to morals

This provision relates to anyone who puts into circulation, disseminates, makes publicly available, produces, or imports written pornographic works, audio or visual carriers, depictions, or other items posing a threat to morals in which disrespect to a human and violence appear, or which depict sexual intercourse with a child, an animal, or other sexually pathological practices. Also anyone who offers, hires out, or makes possible to a person younger than eighteen years old

written pornographic works, audio or visual carriers, or depictions, or who is in a place that is accessible by persons younger than eighteen years old, or who displays or otherwise makes such works accessible.

Section 217 - Threat to the moral upbringing of young people

With respect to prostitution, this is conduct where persons under the age of 18 are abused in such manner that they prostitute themselves voluntarily or under force.

The problem of prostitution as a socially pathological phenomenon with which a number of social, health, and safety risks is connected is not covered comprehensively by Czech legislation. To a certain extent only some of the most patent problems connected with prostitution are regulated under the law; the very profession of prostitution itself is insufficiently regulated. Therefore, the following measures (among others) are being adopted to improve the situation regarding prostitution and the trafficking of people.

- **Analysis of the problems connected with prostitution and a specification of the terms and conditions for their systematic solution** (material approved by Government resolution No. 331/1999). Under this resolution the government decided to regulate prostitution by law. The draft of the General Principle of the Prostitution Bill was presented to the Czech government in October 1999, but the government's Legislative Council Republic did not recommend that the government accept this draft and it was subsequently withdrawn from government discussion;
- **Draft of a measure to handle problems connected with prostitution** (material approved by Government Resolution No. 1145/2000). An analysis was run of the effectiveness of legislation in force on finding solutions to the most visible problems connected with prostitution. The current legal system and its application in practice do not allow for effective proceedings against prostitution. The cause of this situation is the lack of a legal regulation defining prostitution in any manner;
- In the second half of 2001 work was again launched on **comprehensive legislative regulation of prostitution**;
- **The government's proposed amendment to the Penal Code**, which was at the first reading stage in the Chamber of Deputies in mid-2001. The amendment to the Penal Code is a response to new practices in crime and adjusts *inter alia* Section 205 Threat to Morals (introducing the culpability of harbouring and new forms of disseminating pornographic materials) **and Section 246 Trafficking of Persons**, which will also relate to men and will carry the name **Trafficking of Persons** (penalties for trafficking in people will also become more stringent);
- **The plan of the National Struggle against Commercial Sexual Abuse of Children (persons aged 0-18).**

In addition, the Czech Republic has subscribed, for example, to **the Convention of the Organization of United Nations Against International Organized Crime**. Part of the Convention is the accompanying **Protocol on the Prevention, Suppression, and Penalization**

of Trafficking in Persons, especially Women and Children; the Czech Republic has not yet signed this Protocol, but the process of comparing legislation in force with the requirements of the Protocol is under way, and once completed subscription to and ratification of the Protocol is expected. Also being implemented is **the project of the UN and the governments of the Czech Republic and Poland** on drugs control and crime prevention called **Prevention, Suppression,**

and Penalization of Trafficking in Persons, especially Women and Children. Within the Police Force of the Czech Republic, a specialized unit - the Section for the Detection of Organized Crime (Criminal Investigation Police Service) - deals in detecting organized crime involving the trafficking of people and organized prostitution.

Most recent and accompanying initiatives

- the Ministry of the Interior was one of the partners in **the campaign against the trafficking of women, run by the International Organization for Migration in 2000;**
- the constituent meeting of the **ROUND TABLE** was held in June 2000, **on the problem of trafficking in women and the commercial sexual abuse of children;** this is an advisory body of the Minister of the Interior;
- the Czech Republic initiated a proposal to establish a trilateral working group composed of representatives from Germany, Poland, and the Czech Republic to handle problems of border prostitution, sexual tourism, and the trafficking of people;
- the Czech government designates fair sums of money to assist non-governmental non-profit organizations supporting the victims of trafficking in people.

Article 12 - Right to an adequate standard of living

22. The right to housing is not explicitly defined or guaranteed in the State party's legal system, including the Charter. The State party views the right to housing as a mere declaratory non-entitlement right and does not entail the guarantee of everyone to adequate housing. Please explain how this is in accordance with Article 11 of the Covenant and the Committee's General Comment No. 4.

Although the right to housing is grasped as a declaratory right, the Czech government is striving to improve the situation on the housing market via its housing policy, and is trying to reach a state where everyone will be able to acquire adequate housing. The aim is to create a functioning housing market where every household will be able to acquire adequate housing of the corresponding standards within the bounds of its financial opportunities. Naturally, this is a protracted and costly process.

In order to achieve this objective, a fairly wide range of state housing support exists in the Czech Republic - for construction, purchase, repair, modernization, and reconstruction of flats and houses. This support comes in the form of subsidized building society savings schemes, subsidized mortgages, interest-

free loans, direct grants, and tax allowances. These schemes are coordinated by the State Fund of Housing Development.

The key legal standards regulating the above-mentioned forms of housing support include:

- Act No. 96/1993 Coll., on Building Society Savings Schemes;
- Government Regulation No. 244/1995 Coll., setting the terms and conditions for government financial support of mortgages for the construction of housing;
- Government Regulation No. 148/1997 Coll., on the provision of interest-free loans for housing construction;
- Government Regulation No. 149/1997 Coll., setting the terms and conditions for the provision of further financial support of mortgages for the construction of housing.

The support and protection of low-income families in the sphere of housing is secured via two specific social benefits:

- Housing benefit under Act No. 117/1995 Coll., on State Social Support
- Social welfare benefits under Act No. 482/1991 Coll., on Social Necessity

Another major factor in helping and protecting households is support for the construction of buildings with community care services, which covers special social system homes designed primarily for elderly and disabled citizens. A future instrument that could help citizens and their families (in this case mainly families from middle-income brackets) in finding a solution to the housing situation should be public benefit housing cooperatives, the main task of which will be to ensure the construction of residential buildings and provide rented housing based on the principle of benefit to the public, with state subsidization. The corresponding bill has already been approved by the government and forwarded to the Chairman of the Chamber of Deputies for further discussion.

23. According to non-governmental organizations, there are about 100,000 homeless persons in the Czech Republic who depend on charity. Please indicate whether official intervention to ameliorate their situation is envisaged.

A separate law on homeless persons and asylum facilities has not been enacted. Individual laws only touch on certain areas of this problem marginally:

- Act No. 100/1998 Coll., on Social Security, in the wording of alter regulations, sets the scope of social welfare, including care for citizens who need special assistance and persons socially maladjusted;
- Act No. 114/1988 Coll., on the Competence of Bodies of the

Czech Republic in Social Security, in the wording of later regulations, stipulates the state authorities (Ministry of Labour and Social Affairs, district authorities, and municipalities) who provide social security, and specifies their competence as regards social welfare for citizens who require special assistance and persons socially maladjusted;

- Regulation No. 182/1991 Coll., implementing the above-mentioned laws, in the wording of later regulations;
- Act No. 482/1991 Coll., on Social Necessity, in the wording of later regulations, stipulates the terms and conditions for placing a citizen in the category of socially needy, which is a condition for the granting of social benefits;
- Act No. 463/1991 Coll., on the Subsistence Level, in the wording of later regulations, stipulates the subsistence level as the socially acknowledged minimum level of income for a citizen, under which he is in a position of material need;
- a new bill is being prepared on state social support, the aim of which is to secure the basic living necessities for citizens who find themselves in a difficult social situation.

The issue of housing for the homeless is covered by means of the organization Association of Asylum Centres (SAD), which groups together state, non-state, municipal, and Church asylum centres from the whole of the Czech Republic. The SAD coordinates the activities

of the individual asylum facilities, secures training for asylum facility staff, and takes part in the amendment procedure for the new State Social Support Bill. The organization currently has 54 members with approximately 2,000 beds (of which 26 are centres for men, 16 for mothers with children, and 12 are combined facilities). All the asylum centres within this organization must offer a re-socialization programme. In addition to SAD asylum facilities, there are other social support establishments. According to statistics held by the Ministry of Labour and Social Affairs, there are currently 2.5 beds per 10,000 inhabitants; in practice an adequate situation is considered to be for an average district (130,000 inhabitants) to have 50 beds in an asylum centre and 50 beds in a hostel, plus approximately 50 beds for mothers with children.

The government concept is not designed to solve the problems of homeless persons, but to offer a general improvement in the situation on the housing market. The Czech government report on the state of Czech society, published on 5 March 1999, states that the main reasons for the unsatisfactory situation in housing construction are economic in nature. The government's objective,

then, is to create an effectively functioning housing market. The state wants to do its utmost to secure accessible, reasonable housing for all citizens. New legislative amendments should establish fairly the rights and duties of lessors and lessees, and the rights and duties of sublessees. The amendment to the Housing Benefit Act, currently under preparation, will respect actual costs, but will also retain the motivating function to seek out adequate housing. It is expected that municipalities will assume greater co-responsibility for housing policy. Only the State Social Support Bill that is being prepared and the concept of protected housing, which should link up to this law, concern homeless persons directly.

24. Please explain what measures have been taken by the State party to provide adequate housing in view of the information that 6% of the population live in housing lacking basic amenities.

In the past ten years the population's amenities via the housing fund have improved. In 1991 there were 392 flats fit for permanent occupation per 1,000 inhabitants; in 2001 the figure was 418. During the 1990s, the average area within the housing stock improved (average living floor space per flat in 1991 was 45.9 m²; 53.7 m² in 2001) and the standard of amenities (bathroom, lavatory) is satisfactory. According to a spot survey by the Czech Statistical office, in 1999 97.4% of the total number of permanently occupied flats had their own bathroom and 97% their own lavatory. These figures cannot be added together because most frequently these shortcomings occur "both at the same time" - older flats lacking basic amenities.

The government is providing support to improve the quality of housing as follows:

- programme to grant state loans for repairs, modernization, and expansion of the housing stock;
- programme to support repairs to the housing stock;
- coverage of part of the interest on loans provided by banks to legal and natural persons for the repair, modernization, or regeneration of panel (prefabricated) buildings;
- grants from the central government budget to support the regeneration of prefabricated; housing estates;
- support of building society savings schemes;
- support for owners to insulate buildings;

- programmes of state support for municipalities affected by natural disasters;
- indirect forms of support.

25. Please provide additional information on the efforts taken by the State party to provide housing to asylum-seekers.

Since 1994, the issue of accommodating asylum-seekers in the Czech Republic has been handled under government resolutions within the scope of the state integration programme. Every year the government passes a resolution releasing funding to ensure the integration of asylum-seekers. The regulation of assistance in providing housing for asylum-seekers is currently contained in Sections 68 and 70 of Act No. 325/1999 Sb, the Asylum Act. This assistance is implemented by the district authorities, through which municipalities present the Ministry of the Interior during the calendar year with information on offers from house or flat owners willing to conclude leases with an asylum-seeker for first and second category flats. The Ministry of the Interior screens these offers, and in cases where the standpoint is positive it works with the municipality on agreeing on a specific asylum-seeker for each offer. The Ministry of the Interior concludes an agreement with the municipality on the provision of a special-purpose non-investment grant for the integration of asylum-seekers. In this way it obtains the right to use the flat in question for ten years for the integration of asylum-seekers. The amount of the grant for the provision of housing is CZK 150,000 per asylum-seeker (tenant) and CZK 50,000 for each further person who has been granted asylum and will be living with the asylum-seeker (tenant) in a shared household. The municipality then receives CZK 100,000 per asylum-seeker (tenant) for the development of its infrastructure.

The Ministry of the Interior also cooperates, in the integration of asylum-seekers, with selected non-governmental organizations pursuant to tenders under Act No. 199/1994 Sb, the Public Procurement Act, as amended. Mainly at issue here is state supported and financed participation by a non-governmental organization assisting in support of the adaptation of asylum-seekers to their new environment, and in negotiations with the authorities. In addition to securing housing, the integration programme also covers issues of Czech lessons. By the end of 2000, 564 persons had been integrated, with almost CZK 20 million spent on securing housing for them.

In 1999, the government of the Czech Republic started dealing intensively in finding solutions to the problems of integrating aliens. At the end of 2000, the government discussed and adopted its Concept of Integrating Aliens in the Czech Republic. The target group under this Concept is long-term, legally settled foreigners living in the Czech Republic for at least one year.

In this respect, asylum-seekers are also included in the target group. In 2001, the Czech government has released CZK 20 million to support the implementation of projects in individual areas of the integration of non-citizens (employment, housing, culture, social security, health, education, naturalization, citizenship, etc.).

26. Please provide additional information on forced evictions, citing numbers and situations when it is applied.

The legislation of the Czech Republic does not admit forced evictions without further solution. Evictions in the form of official execution by a state body is possible based on a court ruling only. In most of the cases that are discussed a solution is also sought as regards replacement housing.

The regulation of replacement housing in Czech law is included directly in the Civil Code, Under Section 712, Subsection 1, considered replacement housing are a replacement flat and “replacement accommodation”, which, under Subsection 4 of the same Section means a flat with one room or a room in a hostel, or a sublease in the furnished or unfurnished part of another tenant’s flat. A shelter is not replacement housing in its true sense; under Section 5 of the same Section this is a makeshift solution until the tenant finds proper accommodation and premises to store his furniture and other domestic items and items of personal use.

A tenant has a right to replacement housing (a replacement flat or replacement accommodation) in principle only if a court, at the request of the lessor, consents to the termination of a lease for one of the reasons enumerated under the law. However, this is not an unconditional right. The quantity and quality of the replacement housing (e.g. the size and furnishing of the replacement flat) depends on the reason for lease termination admitted by the court for the lessor to terminate the lease. If the reason is that the lessor requires the flat for himself, his spouse, children, grandchildren, son-in-law or daughter-in-law, parents, or siblings (Section 711, Subsection 1, Subparagraph a), or that the tenant has stopped performing work for the lessor and the lessor needs the staff flat for another tenant who is going to work for him (Subparagraph b) of the said provision), or that, in the public interest, the flat or building must be handled in such manner that it cannot be used or if the flat or building requires repairs that, when being carried out, make it impossible for the flat or building to be used longer term (Subparagraph e) of the said provision); or that a flat is at issue that is connected structurally with premises designated for the operation of trade or other business activity and the lessee or owner of such non-residential premises wants to use this flat (Subparagraph f) of the said provision), or that it is a flat of special designation or a flat in a building of special designation and the tenant is not a disabled person (Subparagraph i) of the said provision), as a rule the tenant has the right to replacement housing that by quantity and quality is comparable to the hitherto flat (‘adequate replacement flat’). In contrast, if the reason for notice is gross breach of morality in the building by the tenant, or by those who live with him, in spite of written warning (Section 117, Subsection 1, Subparagraph c), or gross breach of the duties issuing from the lease of the flat by the tenant (Subparagraph d) of the said provision), or if the reason is that the tenant has two or more flats, except in cases where

he cannot reasonably be expected to use just one flat (Subparagraph g) of the said provision), or in a case where, without good reason, a tenant is not using a flat or is using it, without good reason, only occasionally (Subparagraph h) of the said provision), it is possible to grant shelter only, or one of the forms of replacement housing, but of a lower value in terms of quantity and quality (e.g. a replacement flat, although not corresponding to the previous flat, but smaller, less well furnished, in a worse position, etc.). Here the law leaves a fairly broad opportunity for the judge's discretion, so that the specific circumstances of the case can be taken into consideration as each is to all intents and purposes unique. However, the law does not (following amendments) set the point of departure for judicial contemplation (whether the priority is a shelter only, and for reasons worthy of special consideration a replacement flat of lower quality and quantity, or replacement accommodation, or whether the opposite procedure should be applied in the judicial reasoning).

In cases where consent to the termination of a lease is not at issue, but eviction (because the user has no legal reason - e.g. the right of lease - or the user had a legal reason but this has ceased to exist - e.g. the period for which the lease was agreed has ended), the user essentially has no right to replacement housing, but only to shelter. However, in these cases the courts may accede exceptionally (for social and other reasons) to an analogy of the law and provide a replacement.

According to data provided by Ministry of Justice there are only numbers of court proceedings concerning the termination of a lease of flat (10914 cases) and concerning the eviction (5860 cases) available.

27. Cardiovascular disease is the primary cause of death in the State party and responsible for 56% of all deaths. Cancer is the second biggest killer responsible for 25% of all deaths. Despite all efforts the incidence of these principal causes of death is increasing by roughly 2% annually. Please indicate what steps the State party is taking to reverse this trend.

A positive feature of the state of health of the Czech population is that the mortality rate in practically all age groups is falling substantially. In 2000, the Czech Republic's infant mortality value (4.1) came to the level of the most developed West European countries. The mean length of life in long-term developments is rising, but is still four or five years lower than the highest values in Western Europe. Keeping to the current specific mortality rate, males born in 2000 theoretically have the chance to live to the age of 71.6 and women to the age of 78.3. The death rate due to circulatory diseases has recorded extraordinarily positive developments since 1990 (the death rate from cardiovascular disease in 1990 was 698 per 100,000, and by 2000 had fallen to 567). The programmatic implementation of modern technology has been reflected substantially in this positive trend. For example, intervention solutions to acute myocardial infarction were used in 919 cases in 1993, and in 9,240 cases in 2000; in 1990 there were 1,354 open heart operations,

compared with 5,593 in 2000. The state of health of the Czech population is characterized on the one hand by a falling mortality rate, but on the other by a rise in chronic disease.

Tumours are the second most frequent cause of death in the Czech Republic. Every year the number of people living with a malignant neoplasm is rising, and we do not expect to see a major change in this trend in the near term. A positive feature is that a number of these diseases can be diagnosed and successfully treated. However, we must also bank on the rising financial cost of diagnosing treatment and providing subsequent quality care.

28. Please indicate what effective measures, if any, are being introduced to combat the increasing phenomenon of smoking and alcohol consumption in the State party.

Smoking and other tobacco use are among the most widespread drug addictions. The mechanism of the effect of the psychoactive drug, i.e. nicotine, on the nerve tissue is similar to that of heroin and cocaine. The pharmacological type of dependence arises at the same speed for nicotine, heroin, and cocaine and after exposure to similar doses. Underestimating the danger of tobacco, especially smoking cigarettes, and general tolerance by society make tobacco a drug

universally accepted. The most critical period for the emergence and advancement of smoking habits and the onset of addiction is between the ages of 11 and 15. A rise in the incidence of regular smoking is evident in adolescents in their last year at primary school (from 13.9% to 19.9%) and in particular in the conversion to secondary school. In 1995, 22.6% of students from the first and second grades of secondary school said they smoked every day; in 1999 this figure was 30.3%. Legislative changes in the protection of health are proceeding at a much more cumbersome pace.

Smoking among children and adolescents is at the centre of attention for many reasons, the obvious being the consequences of smoking and the difficulty in breaking the habit when they become addicted; but another just as serious problem here is that those who smoke daily are more likely to consume excessive amounts of alcohol.

Again, very negative long-term trends among children and adolescents are evident here. Among fifteen-year-olds (in an HBSC study of pupils from the ninth grade of primary school), there are now hardly any teetotalers. The incidence of regular drinking rises, of course, with age for all types of alcoholic beverages and for both sexes. Of alcoholic drinks, understandably the favourite is beer, for both sexes. Practically a third of fifteen-year-old boys are regular beer-drinkers. Forms of drinking that are not healthy are widespread among boys and are becoming increasingly common among girls. The incidence in this sense of defined drinking is estimated at 18%-24% of boys and 8%-10% of girls aged 16. The tolerance displayed by adults towards alcohol makes a major contribution to these cheerless figures, especially as adults help form the attitudes of children and young people.

29. Please indicate what effective measures are being introduced to combat drug addiction, especially among persons between 15 and 19 years.

I. In the scope of its competence, the Ministry of the Interior runs activities focusing on the prevention of drug addiction in particular via its 'Comprehensive Programmes of Crime Prevention in Towns' (Comprehensive Programme). In the scope of the Comprehensive Programme, activities (social prevention projects) are supported that have a target group of young people at risk of socially negative phenomena, including drug addiction. The interdepartmental and interdivisional approach in this area is provided via an interdepartmental advisory body - the National Committee for Crime prevention, the executive body of which is the Crime prevention Department at the Ministry of the Interior. In the field of drug prevention (with respect to the priorities of the National Committee for Crime prevention), projects of non-specific primary prevention are given particular backing.

II. Preventing addiction and other negative phenomena among young people is also part of the work of the Police Force of the Czech Republic. The key activity of the police in this area is educational talks given by police officers at primary and secondary schools. Police officers are given special training for this activity. Crime prevention is part of the specialist preparation of law enforcement officers in the scope of their police schooling.

III. Activities involving secondary and tertiary prevention, treatment, re-socialization, and harm reduction are directed and coordinated by the Interdepartmental Anti-Drug Committee, the Ministry of Health, the Ministry of Labour and Social Affairs, and, in part, the Ministry of Justice.

The extent to which all types of drugs are used in the Czech Republic has risen in the past few years. The most affected age group remains 15-19, of which there were 1,887 registered users in 2000, i.e. 45.5% of all users (Health Station of the City of Prague: Epidemiology of Drugs and Drug Users, Czech Republic - 2000). The most serious form of damage to health arising from drugs is, just as in the countries of the European Union, recorded among drug users who inject. These patients and carriers of viruses, especially hepatitis C and B, are an increasingly dangerous threat to the normal population, in families, in schools, and in public. The most frequently represented drug group, specified as a basic drug, remains pervitin and other stimulants. Users of heroin and other opiates are in second place among registered users. They are followed by users of cannabinoids, to all intents and purposes marijuana, and users of solvents (Health Station of the City of Prague: Epidemiology of Drugs and Drug Users, Czech Republic - 2000).

The Ministry of Health is developing new measures to reduce demand for drugs. These measures are based on the long-term experiences of European countries. Based on proved methods and procedures, the EU Action Plan to Combat Drugs 200-2004 was drawn up, and this is used as the basis for the National Strategy of Anti-Drug Policy of the Czech Republic 2001-2004, and therefore the Health Ministry's Programme of Anti-Drugs Policy. This programme is used to provide funding every year for programmes and facilities providing services to problem users and drug addicts. A substantial portion of anti-drugs policy is wrapped up in the completion of the legislative process and the adoption of the Act on Protection from Damage Caused by Tobacco Products, Alcohol, and Other Addictive Substances.

The Ministry of Health wants to create effective instruments to protect society, and in particular children in pre- and post-natal life, and during adolescence, against damage caused by

tobacco products, alcohol, and other addictive substances.

Article 13 - Right to education

30. Please explain what assistance is given to non-citizens who do not enjoy the right to free elementary and secondary education.

Under Government Resolution No. 1266 from 2000, the **Concept of the Integration of Aliens in the Czech Republic** was adopted. The target group of this Concept is aliens who have been granted residence; aliens who have been granted asylum; or aliens who have been granted a visa for the purpose of family consolidation. Minors are a special category. The legislation of the Czech Republic gives non-citizens access to the education system, and therefore they have the right to an education at primary and secondary schools under the same conditions as Czech citizens. Under Article 33, Paragraph 1 of the Charter, all aliens have the right to education. This right enjoyed by non-citizens is exercised *inter alia* in accordance with the Covenant, the Convention on the Rights of a Child, or Supplementary Protocol No. 2 to the Convention of the Protection of Human Rights and Basic Freedoms.

Act No. 111/1998 Coll., on Universities and Colleges, enables non-citizens to study at public universities under the same conditions as Czech citizens, irrespective of their residence status. A public university only charges foreigners tuition at its own discretion and without restriction if they are on study programmes designed for foreigners and conducted in a language other than Czech.

For the further education of aliens, the Ministry of Education, Youth, and Physical Training has published **Guidelines to ensure compulsory school attendance for the children of asylum-seekers from asylum facilities; Guideline of the Ministry of Education, Youth, and Physical Training to ensure instruction in the Czech language for asylum-seekers; Guideline on the education of aliens in primary schools, secondary schools, and vocational schools, including special schools**, etc. In accordance with new methods, the monitoring of the education of aliens is a subject of operation in the competence of the Czech Schools Inspectorate, which also contributes to the activities of the working group of the Ministry of Education, Youth, and Physical training and the Institute of Pedagogical Psychological Counselling to coordinate the education of aliens.

Another step designed for the integration of aliens is the announcement of **projects to promote the multicultural education of children and young people, projects too promote the teaching of Czech as a foreign language and to educate migrating aliens**. Overall nine projects have been supported with a sum of CZK 2,500,000, the implementation of which will help remove communication barriers and will help teachers acquire the skills they need for multicultural teaching. Another sub-step to educate aliens in the scope of the **Concept of the Integration of Aliens** is to teach Czech as a foreign language, the undergraduate and postgraduate training of teachers in the integration of aliens, and the shaping of conditions for their education.

31. Children of parents belonging to ethnic minorities who are citizens of the State party are guaranteed education in their native languages up to the level of secondary education. Which minorities are entitled to have their children study in their own native languages and why is this right extended only to children whose parents are citizens?

Under Section 3, Subsection 2 of the Schools Act, pupils who are persons belonging to national minorities are guaranteed the right to education in their native language in a scope adequate to the interests of their ethnic development. Under Section 12, Subsection 3 of Act No. 564/1990 Coll., on State Administration and Self-Government in the Education System, in the wording of later regulations, the Ministry of Education, Youth, and Physical Training sets up educational establishments with a teaching language other than Czech unless the municipality sees to the establishment of such facilities.

A network of schools with Polish as the language of instruction in the Districts of Karvina and Frydek Mistek meets the needs of the Polish national minority concentrated in North Moravia; this network includes nursery schools, elementary schools, a grammar school, and classes with instruction in Polish at secondary vocational colleges.

In 2000, of the 4,212 elementary schools with 45,731 classes in the Czech Republic, there were 29 elementary schools teaching in Polish (63 classes in Karvina, 89 classes in Frydek

Mistek; a total of 152 classes with 2,642 pupils). As far as secondary schools are concerned, there was one grammar school in Cesky Tesin (12 classes), one secondary commercial school in Cesky Tesin (3 classes), one secondary mechanical-engineering vocational college in Karvina (3 classes), one secondary nursing school in Karvina (3 classes), a secondary agricultural college in Cesky Tesin (one group within in a class - 16 pupils). Total: 21 classes; 584 students.

The Slovak minority lives scattered throughout the Czech Republic. The Community of Slovaks in the Czech Republic is a voluntary association of citizens of Slovak nationality and friends of Slovakia and Slovak culture active in the Czech Republic. Its main activity is to cultivate the Slovak identity and solidarity between Czechs and Slovaks. There is no language barrier between Czechs and Slovaks, so there are numerous cultural and academic relations and cooperation in the sphere of education. Under Act No. 111/1998 Coll., the Universities and Colleges Act, foreigners in study programmes at universities conducted in Czech may study in the Czech Republic under the same terms and conditions as Czech citizens. In the 2000/01 academic year, approximately 2,000 citizens of the Slovak Republic were accepted into the first year of public universities. Of these, most were admitted to Charles University in Prague (approximately 630), followed by Masaryk University in Brno (approximately 450), and the University of Economics, Prague (around 300). According to the latest figures of the Information Study Centre at Masaryk University in Brno. As at 1 January 2001 the total number of Slovak students studying at public universities in the Czech Republic under the same conditions as Czech students was 3,542. On the initiative of the representatives of the Slovak national minority, the Ministry of Education, Youth, and Physical Training opened the M. R. Stefanik Slovak Grammar School in Praha 4 in February 1994. However, teaching did not commence here because of the lack of

interest.

According to the 2001 census, 48,556 people claimed German nationality. The German minority is scattered around the country; elderly people make up a large proportion of this group. The German minority in the Czech Republic is protected not only by the Constitution of the Czech Republic and the Charter of Basic Rights and Freedoms, but also by the provisions of a Czechoslovak-German pact from 1992, and receives considerable backing from the Federal Republic of Germany. The demand of the German ethnic minority for education in its native language has been formulated most boldly in the recommendations of the Proposal of the Sudeten German Education System, adopted by the Sudeten German Cultural Council and the representatives of the Union of Germans in Bohemia, Moravia, and Silesia. Given the current situation of this minority in the Czech Republic, especially with respect to its thin dispersal throughout the land, the German minority itself acknowledges that single-language German schools are not a realistic concept. In 1997, the Bernard Bolzan Primary School started operations; this was the first Czech-German school in the country, with 60 pupils. The school is financed 60% from the central government budget and then from the donations of Czech and German sponsors.

Other national minorities do not have their own national education system and as yet have not expressed any such interest. The Ministry of Education, Youth, and Physical Training has met requests from the representatives of other national minorities and supported and secured teaching for children of Greek and Hungarian nationality in their native language; this teaching is

organized in the form of an optional subject under the leadership of qualified teachers at elementary schools in Prague and Brno.

The Ministry of Education, Youth, and Physical Training has also approved a Strategy to Improve the General Situation of Education for Roma Children with an Action Plan, The basic (and already implemented) steps include:

- preparatory classes at nursery schools and primary schools
- the creation of test batches for advisory services
- Roma assistants at primary schools and educational establishments
- modification of the programme Elementary School for Roma children
- transfers of pupils from special school to primary school
- opportunity of entering secondary school without completing primary education
- programme of financial support for Roma students
- Roma advisers and assistants at district authorities
- awareness, publication and distribution of publications
- support for the activities of Roma civic societies focusing on work with children and young people

A major shift in respect for the rights of Roma children occurred in the access of schools to the use of the Roma language to communicate with Roma children, in access to information on the Roma culture, on their history and language. See the reply to Question No. 8.

32. Please explain why the number of Roma students is high in special schools for lower than average students. What is the nature of the psychological examination that they are being subjected to when they are transferred to these special schools?

A special characteristic of education for the children of persons belonging to the Roma minority is based on identifying some of the moments that carry basic significance when searching for processes and forms of educational work with these children. The main aspect here is the linguistic handicap when they start elementary school, which is one of the serious barriers in the way of their future education, but by no means the only one. Besides the language barrier there is the different momentum in the development of the personality, the different hierarchy of values and socio-cultural sentiment of Roma families, which is reflected in their general relationship to education.

A much criticized problem of the education system is that most Roma so far have been given their education in a special school. It should be remembered, however, that the education of pupils in special schools was more acceptable for a number of Roma children as the teaching entailed a smaller number of pupils and the teaching material was covered at a slower pace. However, the costs of this education are higher than in elementary schools. They are essentially schools of superior type especially for children with specific learning requirements. Pupils from special schools are accepted for two-year apprenticeship courses and practical schools. A criticized shortcoming of attending this type of school was students' poorer ability to assert themselves on the job market and, before the amendment to the Schools Act, No. 19/2000 Coll., lesser access to secondary education. In accordance with legislation in force - Act No. 29/1984

Coll., on the System of Primary and Secondary Schools, in the wording of later regulations, and the implementing Regulation No. 127/1997 Coll., on Special Schools and Special Nursery Schools - **children are now reassigned to these schools at the proposal of the school or parents, but always with their express written consent.** A condition is a due examination at a pedagogical psychological counselling centre with objective tests (the tests have been re-codified in order to make the position of children coming to schools from a different cultural and social environment easier). The main factor, however, is that the government's new Schools Bill revokes the institution of "special school". This is not a formal change. The Government Bill on Preschool, Elementary, Secondary, Higher Vocational and Other Education and on an Amendment to Related Legislation (the Schools Bill) stipulates the conditions of special educational programmes, forms and methods that correspond to the needs of children and pupils with a health or social disadvantage, creating the conditions they need to make this education possible. The Czech Parliament is expected to discuss the Schools Bill in autumn 2001.

The problem does not lie in the actual existence of special schools, but in the fact that many Roma children, for objective reasons, are not up to the demands required by normal primary

schools. Roma pupils are handicapped by their socio-cultural environment, they do not have the right conditions to prepare for school, their parents do not usually help them with their learning at home. These schools ensured that Roma got at least the education provided by these schools. Placing Roma pupils into primary schools without further assistance will not resolve the problem of their educational backwardness.

After holding discussions with Roma representatives, the Ministry of Education adopted the following measures:

- **“Alternative special school education programme for Roma pupils”;**
- To ensure the smooth transfer of able students from a special school to an elementary school, **a letter** was sent to all education authorities in the Czech Republic (**ref. No. 10 433/99-24**) in which it **was recommended** that schools, when placing new six-year-old pupils from the Roma minority in special schools, proceed carefully, with a stress on the special characteristics regarding tests of readiness for school. It was recommended that only those children from the Roma community with a professionally evidenced mental handicap be placed in special schools, and that the parents of exceptionally successful Roma pupils in special schools with distinction (i.e. an average grade of 1-1.5) have the opportunity of applying for their children to be re-diagnosed and transferred to primary school, conditioned by the taking of differential exams as set forth in Section 13, Subsection 1, Subparagraph a) of Regulation of the Ministry of Education No. 127/1997 Sb, on Special Schools and Special Nursery Schools;
- In addition to this, a Methodic Guideline has been published for the transfer of successful pupils from special schools to primary schools (Re. No. 28 498/99-24).

Under the amended Schools Act, No. 29/1984 Coll., Section 19, Subsection 1, on the System of Primary Schools, Secondary Schools, and Higher Vocational Colleges, not only pupils and other applicants who have successfully completed primary school and achieved a primary education, but also pupils and other candidates (e.g. those who attended special schools) may apply for admission to secondary schools provided they have met the requirement of compulsory school attendance even if they failed to complete their primary education. Under this amendment, pupils who successfully complete the ninth grade of special school should be given priority in the

admissions procedure to apprenticeship colleges and to practical schools offering one- and two-year preparation.

In the interests of preventing children from a disadvantaged socio-cultural environment from failing at school (especially Roma children), under Section 58, Subparagraph a) of the Schools Act **preparatory classes** have been opened as an experiment at primary schools and special schools. The aim of the preparatory classes is to prepare children systematically for their problem-free integration into the education process in the first grade of elementary school. Activities in these preparatory classes focus primarily on overcoming the language handicap suffered by Roma children and are adapted to their individual requirements. This project is meant to remove the handicap suffered by children who have not been sufficiently prepared in their family to start the first grade and are not successful at primary school, and are sometimes placed in special schools. **The preparatory classes remain a priority in the education system, especially in localities with a dense Roma population.** As at 1 April 2000, 114 preparatory classes were in operation with 1,425 children. **Roma teaching assistants** participate in the socialization and language preparation of the children. At present 214 such assistants work in

schools (nursery, primary, and special).

As the nature of the psychological examination, children are subjected to before they are transferred to special schools, is concerned, it is necessary to point out the following: results of an intelligence test are just one of the factors on its basis the psychologists comment on the educational inclination of the child. It means, that the child can not be transferred to such school as a result of just one test. Several tests used to identify educational inclination focus on intellectual inclination (general knowledge, social understanding, numerical notion, quality of intellectual operations), child's personality (general streaming, level of working compound, scope of nerve lability) and skills responding to age and individual characters of child (with respect to his socio-cultural development....). Further to it, it is considered what measures and with what results have been undertaken with respect to child's education. Finally, it is necessary to mention, that the consent of parents (legal guardians) is unavoidable condition for a transfer of child to a special school.

Article 15 - Right to take part in cultural life

33. Please discuss the State party's policy for minority groups in relation to their enjoyment of the right to take part in cultural life.

The development, preservation, and presentation of the culture of persons belonging to national minorities is not bound up simply with the constitutional and other legal obligations of the Czech Republic to its citizens. The government identifies with the conviction of modern European states that the culture of every national minority living in a specific state can enrich the common cultural heritage of their civil society as a whole.

Since 1993, the Czech Ministry of Culture has been advertising an annual competition for projects to promote the cultural activities of persons belonging to national minorities who live in the Czech Republic. Through this competition, grants can be made out of the central government budget for a project focusing on the cultural activities of any national minority in the Czech

Republic. Grants are awarded not only to members of the Polish, German, Roma, Slovak, Hungarian, Ukrainian, or Greek minority, but also to the members of the Croatian, Ruthenian, Bulgarian, Jewish, Russian, and other minorities. In 1999, in the scope of this competition the Ministry of Culture awarded grants out of the central government budget to civic associations of persons belonging to national minorities for their cultural activities amounting to a total sum of CZK 9,000,000; in 2000 the sum was more than CZK 9.6 million; and the total sum earmarked in the central government budget in 2001 is the same as the 1999 amount. Other government grants, of approximately CZK 8 million, are provided, for example, for projects or festivals via the Council of the State Fund of the Czech Republic for the Promotion and Development of Film and individual departments at the Ministry of Culture.

Further to the passed Act on the Rights of Persons Belonging to National Minorities (Section 12 - Right to Develop Culture and Section 13 - Right to Accept and Disseminate Information by Persons belonging to National Minorities), a government regulation is now being prepared on the provision of grants from the central government budget for programmes focusing in particular on theatres, museums, galleries, libraries, documentation operations and other activities of persons belonging to national minorities, i.e. the members of small national minorities who have not been represented in the Council for Nationalities so far.

The Ministry of Education, Youth, and Physical Training is paying enhanced attention to the issue of providing education on the history, culture, and traditions of national minorities; in order to reinforce the positive attitude towards minorities and persons of different nationalities, religions, and cultures, the Ministry issued its 'Methodical Guideline for Educating against Manifestations of racism, Xenophobia, and Intolerance'. This guideline set the task of drawing up and including in the National Programme of Educational Development in the Czech Republic the issues of all ethnic minorities that have lived or live in Czech territory and the issues of respecting human rights for elementary and secondary schools by 31 December 2000. In addition to this, the Education Ministry also decided to incorporate this into the content of school-leaving examinations. Multicultural education is institutionally secured through the Ministerial Advisory Group for Ethnic Education. In addition to the organization of seminars, this multicultural education is also implemented through the publication of instructional texts focusing, for example, on historic phenomena and on the problems of contemporary society. The Ministry of Education, Youth, and Physical Training has set apart CZK 15 million for programmes to educate persons belonging to national minorities.

