



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE

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SUMMARY RECORD OF THE 2464th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 16 July 2007, at 3 p.m.

Chairperson: Mr. RIVAS POSADA

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* No summary records were issued for the 2456th and 2457th meetings.

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS UNDER ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of the Czech Republic (CCPR/C/CZE/2; CCPR/C/CZE/Q/2; CCPR/C/CZE/Q/2/Add.1 (in English only); observations of the Government on the implementation of the Views of the Human Rights Committee (document without a symbol, in French only))

1. At the invitation of the Chairperson, Mr. Vít A. Schorm, Mr. Petr Konůpek, Mr. Radim Bureš, Mr. Pavel Pokorný, Mr. Artuš Rejent, Mr. Petr Hnátík, Mr. Pavel Hrnčíř, Mr. Tomas Husak, Ms. Zuzana Kaprová and Ms. Lucie Otáhalová (Czech Republic) took places at the Committee table.
2. Mr. SCHORM (Czech Republic) said he was pleased that the Czech Republic had been given the opportunity to continue the open and constructive dialogue which it had embarked upon with the Committee during the consideration of its initial report and to report to the Committee on its ongoing efforts to comply with its international obligations in the area of the protection of civil and political rights. A year having elapsed since the second periodic report had been forwarded to the Committee, he would elaborate on measures taken by the Government since that time as well as on future measures.
3. Questions concerning civil and political rights, which were the pillars of all free and democratic societies, were regulated not only by the Constitution, but also pursuant to international treaties, and in particular those concluded in the framework of the United Nations and the Council of Europe. Those instruments were applied jointly in a supplementary manner in order to ensure protection of civil and political rights and related mechanisms.
4. Even before it had been amended in 2002, the Constitution had already specified that international treaties ratified by the Czech Republic had a higher status than national legislation, a primacy which all international treaties approved by the Parliament had acquired as of 2002. The Constitutional Court, whose powers had also been extended, was now competent to review the compatibility of international treaties with Czech constitutional law prior to their ratification, thereby enhancing respect for the law.
5. The Czech Republic attached great importance to meeting its international commitments and to strengthening its participation in international and regional mechanisms for the protection of human rights. In the course of the year since the submission of its second periodic report to the Committee in 2006, it had ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Charter for Regional or Minority Languages.
6. In the Czech Republic, the protection of civil and political rights was primarily ensured by the courts. The Government's consultative bodies, including the Council for Human Rights, the Interministerial Commission on Questions relating to the Roma Community and the Council of National Minorities, also took action to protect the rights set out in the Covenant at a general and theoretical level. Appointed by the Government, the Commissioner for Human Rights was

responsible for coordinating assessments of the national situation from the point of view of human rights protection. He also submitted an annual report to the Government on human rights in the country, as well as reports on compliance with the obligations under the international human rights conventions to which the Czech Republic was a party, and recommended measures to improve the protection of human rights.

7. An ombudsman had been in office since 2001, with a mandate to protect citizens against any act committed by the authorities which violated the law or departed from the principles of the primacy of law or good governance characteristic of democracy. Every year, he received some 6,000 complaints, relating mostly to the protection of the rights of the child, minors and the family, as guaranteed under the Covenant. Since 2006, the ombudsman had conducted regular preventive visits to all premises where persons were deprived of their liberty. He could request the opening of an investigation, either following a complaint or on his own initiative, and he was competent to submit proposals relating to the passage, amendment or abrogation of laws. Since its creation, the institution of the ombudsman had produced very good results and had been used not only by the population but also by the authorities, which usually took its recommendations into account.

8. The proper functioning of the State apparatus was a vital factor in the free exercise of individual rights and freedoms and the implementation of the articles of the Covenant which protected them. The current Government had put into place a programme to make the administration more effective and to improve access to public services by strengthening openness, transparency and impartiality and combating corruption. The Government was also of the view that it was essential for the population to be as broadly involved as possible in the decision-making process. Popular consultations were now organized in the context of the elaboration of legislation, a practice which was to be generalized in the future.

9. The protection of civil and political rights concerned all persons under the jurisdiction of the Czech Republic, whether they belonged to the majority population or to a national or ethnic minority or were foreigners, refugees or homeless, except with regard to certain political rights which only Czech citizens enjoyed. The Government was, however, aware that some minorities were more exposed to discrimination than others and thus might not be able to fully enjoy the rights guaranteed in the Covenant for lack of adequate protection. Accordingly, it was working, both de jure and de facto, to step up the fight against discrimination and to strengthen the protection of national minorities.

10. Protection against torture and cruel, inhuman or degrading treatment or punishment was the subject of constant monitoring. The Czech Republic regularly submitted reports to the United Nations Committee against Torture, with which it had a regular dialogue. It also cooperated with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, whose most recent visit to the country had taken place in 2006.

11. In 2006, the Czech Republic had passed a Domestic Violence Act which strengthened the preventive role of the police. Pursuant to the Act, the police were authorized to remove a violent person from the home for a period of ten days without the consent of the threatened person. The Act also provided for special assistance to the victim and to the aggressor. The results obtained since the entry into force of the Act had been very encouraging.

12. The Czech Republic was very vigilant with regard to the mistreatment of children. In 2000, the Ministry of the Interior had put into place a national plan to combat the sexual exploitation of children for commercial purposes. A proposed amendment to the Criminal Code making it a criminal offence to possess pornographic material depicting children had been approved by the Chamber of Deputies of the Parliament in June 2007. An amended version of the Criminal Code had been drafted and submitted for comments to other ministries, experts and the public at large. The Government also worked to protect children involved in criminal proceedings, whether as witnesses or as victims, by ensuring that they remained anonymous. A system of free assistance services (psychological, legal and social) was being elaborated to accompany children throughout such proceedings and to acquaint them with the means available to them of exercising their rights. In 2007, the Ministry of the Interior had set up a project to promote the gradual introduction of special rooms for the questioning of traumatized persons (in particular women and children). In order to further improve the protection of children, the Government recommended the establishment of a body responsible for all questions relating to children at risk.

13. Procedures for the protection of the rights of victims of criminal offences had been incorporated into the national strategy to combat trafficking in persons. The programme to assist the victims of trafficking aimed to encourage them to cooperate with the law enforcement authorities when criminal prosecution was instituted to punish perpetrators. It also made provision for emergency health care and psychosocial assistance for the victims and for their placement in centres, where they received counselling to help them return to a normal life. Victims who were of a foreign nationality and wished to remain in the Czech Republic could request a change of status; those who so wished could return to their country of origin under the auspices of the International Organization for Migration.

14. As indicated earlier, the Czech Republic had ratified the European Charter for Regional or Minority Languages in 2000, which had entered into force on 1 March 2007. Pursuant to the Charter, the Slovak, Polish, German and Roma languages were the minority languages of the Czech Republic, which meant that their practice must be encouraged. It should be noted that US\$ 1.4 million was allocated every year for the dissemination of information concerning national minority languages, primarily in the form of periodicals, but also for the production of radio and television programmes in the languages of national minorities or dealing with questions concerning them.

15. Like other countries in Europe, the Czech Republic had been taking in more and more immigrants. That phenomenon, which was new for the Czech Republic, was not without difficulties. The major efforts undertaken to improve the integration of foreigners should be furthered by the amendment to the Act on the Residence of Aliens of 2006. In accordance with the amendment, the duration of stay required to apply for a permanent residence permit had been reduced from ten years to five.

16. Once a year, the Government reviewed the implementation of the plan to promote the integration of foreigners launched in 1999. In 2004, responsibility for the coordination of the integration of foreigners had been shifted from the Ministry of the Interior to the Ministry of Labour and Social Affairs, a sign that the question was no longer envisaged from the sole point of view of security and immigration but also from a social perspective. In 2005, legislative measures and practices had been incorporated into a plan to redefine the integration of foreigners

as a process of mutual adaptation based on friendly relations between immigrants and the rest of the population. Organizations of civil society could play a decisive role in that regard, and the Government subsidized a variety of projects in the area for more than one million US dollars annually. For example, seminars on multicultural teaching were held in primary and secondary schools and in universities to familiarize pupils with the culture of foreigners in their midst and thus strengthen mutual understanding between the various communities and combat intolerant and xenophobic behaviour among young people.

17. In accordance with an amendment to the Foreigners Act, living conditions in holding centres for foreigners had been improved and were now comparable with those in refugee centres, thus testifying to the efforts made by the Czech Republic to comply with article 9 of the Covenant.

18. The Government was fully aware that education was indispensable to the construction of a civil society and social cohesion and was making every effort to implement the Convention on the Rights of the Child and other international instruments. The School Act, which had entered into force on 1 January 2005, had been conceived in such a way as to create an environment which guaranteed that everyone had access to education as a function of their capacities, needs and requirements and was free to take the schooling of their choice and to change their goals as needed. Measures existed for providing assistance to disadvantaged pupils. The law also ensured the right of children – and their legal guardians – to express their opinions on all decisions affecting them.

19. With regard to deprivation of liberty and related rights, it should be noted that the number of persons placed in detention, either awaiting trial or serving a sentence, had declined regularly since 2000. The Government made every effort to guarantee that persons deprived of liberty were treated with dignity. For example, the use of cage-beds and net-beds had been abolished in socio-medical centres. Means of restraint were not usually used except as a last resort, and the Government had been gradually phasing out the practice.

20. With the advent of the information society and the growing use in public life of information technologies and systems of registration, the Government considered it important to protect the right to privacy. With that in mind, in 2000 it had set up the Office for Personal Data Protection, which not only provided assistance to individuals but also published notices containing recommendations to be put into effect, for example on the utilization of cameras in public places. Greater transparency had been achieved in the medical domain by amending the Health Care Act; patients were now allowed to consult their medical file and to make copies of it.

21. The Czech Government was fully aware of the seriousness of crimes motivated by racial or ethnic enmity. The Minister of the Interior was closely following the situation in that area and submitted an annual report on extremism to the Government. The statistics showed that the rate of racist crimes in the Czech Republic was relatively stable or even declining slightly. In 2006, 248 crimes of an extremist nature had been reported, the lowest figure in the past eight years.

22. To ensure social cohesion and improve relations between minorities and the majority population, minorities must be represented in certain professions, such as the police. In 2006, a campaign had been launched to encourage members of minorities to join the police, and a public

initiative against racism had also been started. It should be pointed out that, for the purposes of recruitment, persons belonging to minorities were subject to the same selection process as other candidates.

23. The Government was adopting measures to establish a mechanism for independent inspections in the police force. In its general policy statement, it had clearly indicated its intention of making the police inspectorate independent of the Ministry of the Interior. The measure would be part of an overall reform of the police, the principles of which, notably with regard to the status of the police inspectorate, were currently being discussed by the Commission of Defence and Security of the Chamber of Deputies.

24. Alive to the importance of combating racist attitudes and ideologies, the Czech Government had organized many human rights training programmes for police officers, members of the armed forces, teachers, judicial staff and social workers.

25. The prohibition of discrimination was embodied in the Czech Charter of Fundamental Rights and Freedoms, which had the status of a constitutional text. The Government was aware, however, that protection against discrimination was not ensured in full by the law. Although many texts prohibited discrimination and offered means of recourse to its victims, the Government believed that a comprehensive law against discrimination needed to be passed. To that end, it had approved a bill currently under consideration in the Parliament. The ombudsman was to be mandated with ensuring respect for the principle of equal treatment.

26. The Czech Republic's human rights policy was based on its international commitments and on its Constitution, which meant that it did not have to be changed radically with each new Government. However, as in every democracy, the situation was the subject of critical assessments, and other solutions were envisaged to address existing problems. One measure taken by the current Government had been to appoint one of its members to deal directly with questions relating to the protection of human rights and the rights of minorities, thereby guaranteeing that the protection of civil and political rights was taken into account in all its deliberations. The Government was planning to amend a number of legislative provisions to define more clearly the obligation of State bodies to examine the compatibility of new bills with the Czech Republic's international commitments in the area of human rights protection.

27. The promotion of human rights was a difficult task which necessitated taking on ever new challenges. Thus far, the Czech Republic had done so successfully, and it intended to continue on that path.

28. The CHAIRPERSON thanked Mr. Schorm for his introduction and invited him to reply to questions 1 to 14 on the list of issues.

29. Mr. SCHORM (Czech Republic) requested a break of several minutes in order to decide which members of the delegation would reply to each of the questions.

The meeting was suspended at 3.35 p.m. and resumed at 3.45 p.m.

30. Mr. SCHORM (Czech Republic), replying to the question concerning the action taken to give effect to the Committee's Views with regard to communications from a number of individuals (question 1 – see document without a symbol, in French only), said that the Ministry

of Justice regularly submitted reports to the Government to keep it informed of the issues involved in the communications examined by the Committee as well as of the Committee's Views. The Government had taken note of the 11 Views in which the Committee had concluded that there had been a violation of the Covenant, including six which had concerned the condition of nationality provided for by the Act on the Restitution of Property, which the Committee had considered to be discriminatory. In May 2002, responding to the concluding observations formulated by the Committee after consideration of the initial report (CCPR/CO/72/CZE), the Government had examined the condition of nationality in the light of the Committee's Views on the subject. The process of restitution had begun in the early 1990s soon after the collapse of the communist regime, in accordance with the conditions defined at the time, including the condition of nationality contested by the Committee. If the conditions governing the right to restitution were to be amended and the condition of nationality abolished, which implementation of the Committee's Views would require, the restitution proceedings would have to be reopened, and the legally acquired rights of many persons might be called into question. Such a reform was thus difficult to imagine and was all the more undesirable given that, apart from a few cases still pending in the courts, property claims had, on the whole, stabilized.

31. Some cases considered by the Committee were still pending. For example, proceedings were continuing in the Des Fours Walderode case (communication No. 747/1997), for which it should, however, be pointed out that the complainant's successor in title had obtained, pursuant to a decision by the Constitutional Court, that the condition of nationality, which the Committee had deemed to be in violation of the Covenant, was no longer applied retroactively. In the Pezoldova case (communication No. 757/1997), the procedure had been reopened following the submission by the complainant of new documents, but the complaint had eventually been rejected. The Brok family (communication No. 774/1997) had received compensation from the Foundation for Holocaust Victims, as had Ms. Fábryová (communication No. 765/1997), who had also been granted the right to start new restitution proceedings. In the Czernin case (communication No. 823/1998), the Administrative Supreme Court had rejected the complaint, a decision against which the complainant could still enter an appeal. In the L.P. case (communication No. 946/2000), the complainant had lodged a number of complaints in the national courts before appealing to the European Court of Human Rights, which had rendered a decision in April 2007 concluding that there had been no violation of the right to respect for private and family life.

32. Although the Czech Republic had not automatically given effect to the Committee's Views relating to communications from individuals, for example in the case concerning the condition of nationality, it took the Views duly into consideration and was applying in good faith the provisions of the Optional Protocol to the Covenant, which did not specify that the Committee's Views had the status of a judicial decision.

33. Mr. KONÚPEK (Czech Republic), replying to the question on judicial reform (question 2), said that major efforts had been made to improve the functioning of the judiciary and to speed up the processing of cases. The statistics contained in the State party's written replies (CCPR/C/CZE/Q/2/Add.1, in English only) showed that the duration of proceedings had declined continuously since 2002. Moreover, it was now possible to request that a deadline be imposed on the court for completion of a case and to obtain compensation for unreasonably long proceedings.

34. The work of the courts had been reorganized. The post of judicial assistant had been created to relieve judges of administrative tasks, and the Probation and Mediation Service increasingly assumed responsibility for the enforcement of sentences. The number of judicial officials had been increased, and chief justices had greater powers, notably in the area of staff management. Measures had been taken to promote the use of technology and put into place a system of “electronic justice”. The sum total devoted to improvements to the judicial system (buildings, equipment, information technologies etc.) amounted to US\$ 350 million.

35. With regard to access to judicial aid for victims of discrimination (question 12), the Committee would find all necessary information in the written replies.

36. Mr. POKORNÝ (Czech Republic) said that nothing prevented women from participating in political activities or taking part in the decision-making process (question 4). There were no official quotas yet, but several political parties had adopted internal guidelines to ensure gender equality on their lists. The Government was working to heighten awareness. For example, it was financing a triennial project entitled “Balancing the chances for women and men in decision-making positions and in politics”, which had been set up by non-governmental organizations (NGOs). As from the 2006 elections, 31 of the 200 members of the Chamber of Deputies, 6 of the 27 senators and 3 of the 17 ministers were women.

37. Ms. OTÁHALOVÁ (Czech Republic), replying to the question on forced sterilization (question 5), said that the problem had arisen because of the generally insensitive attitude of physicians towards their patients; that concerned not only sterilization but all medical treatment and procedures. The Ministry of Health was working to improve the situation.

38. A consultative body had been entrusted with investigating cases of forced sterilization which had been reported to the ombudsman. It had concluded that mistakes had been made but that on no account had it been a national phenomenon. Of the 76 women concerned, 12 had not been sterilized, 14 had been in conformity with the directives on sterilization of the Ministry of Health and 41 had been in violation of those directives. In eight other cases, the authenticity of the signature of the act of consent had been questionable. Five other cases had been examined since the entry into force of the European Convention on Human Rights and Biomedicine; three sterilizations had been in conformity with the directives, but two others had not.

39. The consultative body had proposed eight measures, based on the following three principles: publication of a model act of consent in the journal of the Ministry of Health, public information through brochures and web sites, and training of medical personnel on the rights of patients and in particular the conditions for informed consent.

40. The Government recognized that there had been gaps in the procedure for obtaining the consent of sterilized women, but strongly denied that those errors had been motivated by racist considerations. The question of compensation for the victims was currently under discussion in the Government, in consultation with the Government Council for Human Rights and the Council for Roma Affairs. It was also planned to make public apologies. However, it was difficult to evaluate the compensation to be granted, because the files were often incomplete, a problem which was to be addressed by Decree No. 385/2006 on health care documentation (as amended), which established the list of information needed for any medical act, including sterilization.

41. The use of cage-beds and net-beds (question 11) had been the subject of a long debate. The beds were used only in psychiatric facilities, when the patient's own security so required, and solely as a last resort. Further details on the subject were set out in the written replies. Since January 2007, the use of such beds was also prohibited in social assistance centres, where the ombudsman could now conduct inspection visits, his mandate having been enlarged by Act No. 381 of 2005.

42. Mr. BUREŠ (Czech Republic), turning to question 3, said that the Czech Republic did not have any specific law on terrorism and did not plan to pass any, but it was actively involved in international efforts to combat it. Its legislation enabled it to punish all activities of a terrorist nature. The definition of the acts punished, and the penalties imposed in such cases, were in conformity with international norms. Provisions also addressed the protection of victims and the assistance and compensation to which they were entitled.

43. Act No. 91/2004, in introducing the concept of "cruelty towards a person living in a shared dwelling", had facilitated the punishment of domestic violence (question 6). In 2006, 225 persons had been found guilty of that crime. Act No. 135/2006 had given the police the power to require a violent person to leave the family for a period of ten days. The procedure was described in detail in the written replies. Considerable doubts had been voiced as to whether the policy would be able to implement the Act in practice, but those fears had been unfounded, and 482 removal orders had been issued in the first half of 2007. That success was primarily the result of the extensive training which police officers had received. A handbook on ways of dealing with family violence had also been elaborated for them.

44. The Government had undertaken to guarantee the independence of investigations of allegations of police misconduct (question 7). The Commission for Defence and National Security of the lower chamber of the Parliament was currently examining draft principles that proposed three options for setting up a new investigation mechanism: establishment of a new body under Government supervision; placement of the current police inspectorate under the authority of the Ministry of Justice; maintaining the police inspectorate under the authority of the Ministry of the Interior, but placing it under strict parliamentary control.

45. The new guidelines on police detention cells (question 8) would enter into force on 1 August 2007 and would be distributed in all police officers. They contained a document in the annex entitled "Advice to detained persons", which would be available at all police stations in several languages and would explain how to lodge a complaint against a police officer. It should also be pointed out that since 2005, the ombudsman could visit all premises in which persons were deprived of their liberty. Most of the recommendations which he had formulated following visits to police stations in the first half of 2006 had been used for the elaboration of the new guidelines.

46. With regard to the new provisions applicable to foreigners (question 9), attention should be drawn to an important amendment: since 1 January 2007, detention centres for foreigners had been placed under civil control; responsibility for the detention centres had been shifted from the police to the body within the Ministry of the Interior in charge of asylum applications. Foreigners could be placed in detention at the request of the police when they were the subject of an expulsion order. Article 135 of the Foreigners Act defined the conditions in which such

persons might be subject to stricter supervision (aggressiveness, repeated failure to obey the rules etc.). Details were provided in the written replies.

47. As explained in the written replies, the bill on the regulation of prostitution (question 13) had been incompatible with the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and its passage had thus been halted. For the moment, no such measure was planned.

48. The Czech Government gave close attention to combating the sexual exploitation of children (question 14). Although many children were victims of sexual violence, their sexual exploitation for commercial purposes (trafficking, prostitution, child pornography) was still marginal: 55 cases had been counted in 2004, and 67 in 2005. More than half had led to prosecution under article 217 (a) of the Criminal Code (“Seduction of a minor with a view to obtaining a sexual service”). In accordance with the Convention on the Rights of the Child, in such cases a child was defined as every human being below the age of 18 years. Sexual violence for other than commercial reasons, for example in the family, was much more common: 790 cases had been reported in 2004, and 860 in 2005. That increase did not necessarily reflect a spread of sexual violence but rather a growing social awareness: people were more likely to report such offences. Measures had been taken to improve the manner in which investigations of sexual crimes targeting children were conducted. For example, special rooms would be set aside to hear witnesses or victims in conditions in keeping with their young age, and provisions would also be taken to avoid an unnecessary repetition of questioning. Efforts were also being made to mobilize society and encourage the early detection of the sexual exploitation of children, but that remained difficult in the case of marginalized communities.

49. A number of laws provided that all children who had been victims of sexual violence were entitled to medical and psychological assistance. A programme for the support and protection of victims of human trafficking had been put into place in 2004. Funded by the national budget and European Union subsidies, it had been implemented by NGOs in conjunction with the police and the Ministry of the Interior. Some 56 victims of trafficking had already benefited from the services offered under the programme: housing, financial aid, medical care, psychological assistance and a residence permit in exchange for cooperating with the authorities. Campaigns had been launched to publicize the programme and to heighten the awareness of clients of prostitutes and encourage them to report any situation which might be trafficking-related. The fight against trafficking in human beings was far from over, but the Government was convinced that the requisite mechanisms were now in place.

50. The CHAIRPERSON thanked the delegation for that information and invited the members of the Committee who so wished to ask additional questions.

51. Mr. O’FLAHERTY (Country Rapporteur) welcomed the second periodic report of the Czech Republic, in which the State party had provided very detailed information and had not hesitated to identify its own shortcomings. The references to earlier Committee recommendations and the manner in which they had been implemented were particularly useful. The delegation’s oral replies, which had expanded upon the written replies, were also welcome. However, a number of questions required more precise answers.

52. On the action taken to give effect to the Committee's Views with regard to communications, as referred to in question 1 on the list of issues (CCPR/C/CZE/Q/2), in February 2003 the State party had forwarded to the Committee detailed and very useful information on the procedure applied in that regard. The delegation had also noted the areas of disagreement with the Committee concerning both the latter's conclusions and the interpretation of the provisions of the Covenant, and it had hoped that a dialogue could begin with the Committee on the subject. He pointed out that, although the Committee's Views were not binding, they were more than mere recommendations. Moreover, the Covenant was a binding instrument for States which were parties to it, and the Human Rights Committee was the body empowered to interpret its provisions. At the very least, the Committee's conclusions were thus an indication of what constituted the State party's obligations under the Covenant.

53. As to the Committee's Views with regard to communications No. 857/1999 (Blazek et al.), No. 945/2000 (Marik), No. 1054/2002 (Kříž), No. 516/1992 (Simunek et al.) and No. 586/1994 (Adam), he had noted that the Czech Parliament did not intend to amend legislation in a manner recommended by the Committee in its Views. However, the Parliament's position in no way abrogated the obligations of the State party under the Covenant, and it would be useful to know what the Czech authorities planned to do to start a parliamentary debate aimed at overcoming opposition to the Czech Republic's complying fully with its obligations. For each of the above-mentioned communications, the Committee had asked the State party to make provisions for paying compensation to the victims, and he would like to know why that had not been possible.

54. In respect of communication No. 747/1997 (Des Fours Walderode), the State party had indicated that the situation was particularly complex and it was thus unable to grant compensation to the author's spouse. He disagreed: the procedure for compensating the author's spouse should not have posed any particular problems.

55. Concerning communication No. 765/1997 (Fábryová) and communication No. 774/1997 (Brok et al.), the State party had informed the Committee that it planned to pay compensation as part of the Government programme for victims of the Holocaust. It would be useful to learn, however, whether Ms. Fábryová and Mr. Brok's widow had accepted that solution or whether the question of their compensation was still pending.

56. As for communication No. 757/1997 (Pezoldová), the Committee had contradictory information: the State party had indicated that it had contacted the author of the communication for the purpose of paying compensation, something which the author contested.

57. With regard to communication No. 823/1998 (Czernin), the State party had once again referred to the great complexity of the case to justify the failure to pay compensation. The Committee was of the view that the payment of compensation to the victim should not pose a problem.

58. The question of the compensation to be paid to the author of communication No. 946/2000 (L.P.) might be somewhat more complex, since a minor was involved. He suggested that the State party consider the best way of proceeding with the Special Rapporteur for follow-up on Views. It would be useful if the Czech delegation could comment on all the above-mentioned cases.

59. As for anti-terrorism legislation, he pointed out that the Rapporteur of the Council of Europe's Parliamentary Assembly, Mr. Dick Marty, had implied in a report that the airport of Prague might have been used as a transit for the illegal transfer of detainees. He would like to hear the Czech delegation on that matter. Had illegally transferred detainees transited the territory of the Czech Republic? He also sought information on flights that might have been involved in those transfers, including cases in which the aircraft was empty. The replies of the delegation should focus on both military and civilian flights, since, according to Mr. Marty and other experts, both had been used during those operations. It would also be interesting to hear how the State party reconciled its point of view regarding the transfers and compliance with its obligations under the Covenant, in particular the application of the principle of non-refoulement.

60. He noted that initial measures to punish police misconduct had been taken in 2001 but that the process of reforming the Police Force Act had not yet been completed. It was difficult to have a precise idea of where matters stood with the reform; a clarification would be welcome. In May 2006 the Government Commission for Human Rights had formulated a number of proposals which needed to be put into place in connection with the police monitoring mechanism. He asked what impact those proposals had had on the assessment of the situation by the Czech authorities and whether the proposals were reflected in the three options which the Parliament would have to choose from.

61. Returning to the question on cage-beds and net-beds used in psychiatric hospitals, he said that the distinction drawn between the two by the State party was irrelevant for most observers, including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which considered that means of restraint, whether applied with the help of fabric or metal, were basically identical. The European Committee had strongly denounced the use of such beds in psychiatric hospitals of the State party, the practice having been more or less unanimously condemned. He cited the example of one expert among many, the President of the Royal College of Psychiatrists of the United Kingdom, Mr. Mike Shooter, who had stressed that, regardless of the justification invoked, the use of cage-beds and net-beds had the effect of dehumanizing both the patient and the staff, reducing their relationship to that of one between a prisoner and his guards, and that such means of restraint had no place in modern psychiatry. Why did the State party persist in employing that unacceptable practice?

62. In that connection, it would be interesting to learn how far the investigation had progressed into the death of Ms. Vera Musilova, who had been found dead in her excrement in such a bed several years previously. According to a number of sources, cage-beds continued to be used as a means of immobilizing patients in the psychiatric institutions of some regions of the Czech Republic, which suggested that the supervision of those institutions was insufficient. The regulatory framework for the application of such restraining measures appeared to be inadequate, thus opening the way to wrongful practices. All in all, the supervision of psychiatric institutions did not appear to be in keeping with what was expected in the 21st century, given that there were better practices available. In any case, the State party should set up a system ensuring regular visits to psychiatric institutions. He thanked the delegation in advance for any comments it might wish to formulate on all his observations.

63. Provisions authorizing the placement of mentally ill persons in detention against their will posed questions of compliance with the Covenant. According to some information, the monitoring of such detention was insufficient, and persons might thus be deprived of their liberty

merely because they were said to exhibit “signs of mental illness”, a very vague criterion which might lead to unwarranted decisions. Moreover, it was not clear who was responsible for demonstrating the existence of such signs. He would like to hear the delegation’s view on that subject.

64. Ms. PALM was pleased to note the major efforts made to speed up civil and criminal procedures and ensure the coherence of the administration of justice. The statistics contained in the written replies to the list of issues provided interesting information, but they also showed that progress continued to be slow. In particular, she wondered why the procedures in northern Bohemia were noticeably longer than in other regions. She also enquired whether the delays affected the processing of cases by the Supreme Court and the Administrative Supreme Court and whether the delegation could explain the procedure for treating criminal cases out of court and the mechanism which would allow the Ministry of Justice to dismiss court officials.

65. With regard to the representation of women in senior Government positions and in the Parliament, she noted that, notwithstanding the efforts made by the authorities following the 2006 elections, the number of women in the Chamber of Deputies had continued to decline, from 34 to 31. Only 15.5 per cent of the members of the Chamber of Deputies were women, less than the international average, only 11 per cent of senators were women, and no woman held the office of regional governor. It would be useful if the delegation could comment on the subject and could indicate what measures were planned to improve the situation. A project had apparently been launched to increase the participation of women in political life, and the Electoral Code had been amended to introduce quotas for women in all elections. She asked whether the amended version of the Electoral Code had entered into force. Information on the quotas would also be welcome. Had the authorities of the State party consulted with the political parties to encourage them to put forward female candidates for election? The underrepresentation of women in political life was an important problem which did not only concern the Czech Republic, and it was sometimes necessary to take measures to motivate political parties to present female candidates for posts for which they had a real chance of being elected.

66. As to the difficult question of forced sterilizations, she had taken note of the information communicated by the delegation according to which the ombudsman had reported 86 cases of women who had been forcibly sterilized. She had also noted that the consultative body in the Ministry of Health set up to deal with complaints concerning the practice had asserted that on no account had the practice been a policy of the public authorities, any more than it had been based on racial or ethnic considerations. The ombudsman had apparently taken the view that all complaints received had been justified, but the consultative body of the Ministry of Health had asserted that only a few of them had been well-founded. She asked the delegation to comment on those differing interpretations. The 2005 report of the ombudsman had concluded that the practice of forced sterilization persisted in the Czech Republic and that the authorities must put an end to it. She enquired whether the authorities had conducted impartial and effective investigations into the cases registered and whether physicians who had performed forced sterilizations had been prosecuted. The delegation had indicated that the victims could sue for payment of damages and that the ombudsman had recommended the establishment of a compensation mechanism. Did the authorities of the State party intend to follow up that recommendation, or did they consider that it was up to the victims to demand compensation?

67. Although today forced sterilization was prohibited by law, the practice might persist in some regions of the country. She asked what measures the State party had taken to put an end to it and to prevent its recurrence. She gathered that a programme had been launched to heighten the awareness of medical personnel and enquired whether the ombudsman was empowered to inspect health care facilities to make sure that forced sterilizations were not being performed. As for Roma women, some of whom had given their consent to be sterilized without understanding what was taking place, she wondered what assistance the State party planned to give other Roma women so that they could refuse to be forcibly sterilized or, for those who had already been subjected to the practice, demand compensation in the courts. In particular, would Decree No. 385/2006 on health care documentation, as amended by Decree No. 479/2007, be disseminated among Roma women?

68. She welcomed the considerable progress made in recent years in combating domestic violence, 225 persons having been convicted in 2006. The new procedure, under which the perpetrator was removed from the domestic setting which he shared with the victim or victims, was still too recent to permit an assessment of the results, but it was to be hoped that it would help reduce such violence. She asked whether the authorities had put into place or planned to set up a mechanism to monitor the application of new legislative provisions in that area and whether the new procedure introduced to protect children who had been the victims of criminal offences would also apply to children who had witnessed domestic violence.

69. Mr. IWASAWA welcomed the adoption of the Police President's new Binding Guideline No. 42/2007 on police cells, which was to enter into force on 1 August 2007. He noted that, according to the written replies, a document annexed to the Guideline contained advice to persons detained in a cell and was to be made available at police stations in several languages. He would like to know what languages the document would be published in and asked the delegation to forward to the Committee a copy of the document in each of those languages. He also asked what the procedure was for informing foreigners detained by the police of their rights and how complaints were formulated.

70. He observed in that connection that detention facilities for foreigners (question 9) had been placed under the responsibility of the Ministry of the Interior, whereas in the past they had been under the supervision of the police, a fundamental change which he welcomed. In paragraph 232 of the written replies, it was stated that foreigners detained in administrative expulsion facilities were deprived of their freedom of movement. What was the maximum legal duration of placement in detention pending expulsion? According to the statistics on incidents resulting in the placement of asylum-seekers in strict regime, 38 of the 70 cases registered in 2006 had taken place in Poštorná. He would like to know why so many of the persons concerned were at that one facility.

71. With regard to reducing overcrowding in prisons (question 10), he recalled that, in its concluding observations on the Czech Republic's initial report, the Committee had recommended that measures should be taken to address the problem. The written replies indicated that the level of prison overcrowding was low (1.37 per cent), but paragraph 179 of the second periodic report stated that the number of persons in prison had increased significantly since the middle of 2003 and that that had frequently led to the accommodation capacities of prisons being exceeded. In the first example, the comparison concerned figures for 2007 and 2003, and in the second, for 2007 and 2001. The information appeared to be contradictory, and it

would be useful if the delegation could explain what the current situation was in Czech prisons and whether the decline in the level of overcrowding was due to a change in detention rules or to other factors.

72. As to difficulties faced by victims of discrimination in obtaining legal aid (question 12), he asked the delegation to indicate, in its replies to question 12 or question 15, exactly what measures had been taken to put an end to such discrimination, because neither the report nor the written replies contained any information in that regard.

73. Ms. MOTOC welcomed the Czech delegation and commended it on the quality of the report and the maturity of Czech democracy. Noting that the bill on the regulation of prostitution (question 13) had been rejected by the Parliament, she asked how far debate on the text had proceeded and what the consequences were of its rejection in practice and from the point of view of trafficking in human beings, which led to contemporary forms of slavery or servitude. As the bill had not been passed, it was not possible to distinguish consensual prostitution from non-consensual prostitution, which the 1951 Convention, to which the Czech Republic was a party, deemed to be a contemporary form of slavery, the general view being that consent was in any case very tenuous. It would be useful for the delegation to indicate whether the bill had given rise to debates in Czech society, where the debates had taken place and why the Chamber of Deputies had rejected the bill. Noting that the written replies only concerned foreign women, she enquired whether measures had also been taken to protect Czech women from prostitution.

74. With regard to children (question 14), she would like to know exactly what measures had already been taken under the 2006-2008 national plan and what their impact had been, because the written replies referred to many planned or future activities, but not to any that had actually been carried out. She reminded the delegation that the Committee only considered legislation that had been passed and measures that had been taken, and not promises of future commitments. She also sought information on the rehabilitation and reintegration of children who had been the victims of sexual violence and trafficking, because the figures provided were not disaggregated by category. The State party had indicated in its written replies that the sharing of responsibilities between a number of ministries had undermined the effective protection of children; she asked whether it planned to take any measures to address the problem.

75. Ms. CHANET joined other members of the Committee in commending the State party on the quality and openness of the report and the written and oral replies. She was pleased that as of August 2008, arrested or detained persons would be provided with assistance in drafting communications and addressing them to the Czech authorities and international bodies. In which languages would such assistance be forthcoming? As to custody and pre-trial detention, which had given rise to a number of comments in the Committee's previous concluding observations, she noted that since the passage of a new law in January 2002, detainees must be informed of their rights. She also asked about the right to see a physician, which did not appear in the list enumerated in paragraph 143 of the second report. She was baffled by the second sentence in paragraph 147 ("The Constitutional Court stated that the approach of the ordinary courts, which does not give space for the accused to be heard during proceedings on remaining in custody, is isolated because it does not respect the principle of giving precedence to international treaties...") and wondered whether it was a translation problem or whether it meant that persons were not heard when they were brought before a court to decide on their remaining in custody, in other words whether the procedure took place without the persons concerned being informed. If

that was the case, she would like to know what action had been taken on the Constitutional Court's statement. In the same paragraph, it was indicated that the Constitutional Court had found that the public prosecutor was not an impartial and independent authority for reviewing decisions on deprivation of liberty. As she did not have any information on the impact of the Constitutional Court's decisions, she enquired whether they were automatically applied or whether it was necessary to amend the law.

76. Referring to paragraph 155 of the report, she asked the State party to explain what was meant by the phrase "in the case of attendance at the police, limitation of an aggressive person's freedom and detention, no inspection exists for the material substantiation of the police approach", and in particular the words "aggressive person", because quite apart from the fact that being aggressive did not seem to her to constitute an offence, such assertions might well pose problems of compliance with article 5 of the European Convention on Human Rights.

77. She agreed with Mr. O'Flaherty with regard to replacing cage-beds by net-beds. As she understood it, the latter were preferable to the former because they avoided the danger of physical fractures; however, at issue was not only a physical violation of human integrity but also and above all a dehumanization of the patient.

78. Mr. AMOR commended the delegation on the quality of the report and the replies and invited it to take part in a debate on the legal value of the Committee's Views. The head of the delegation, in elaborating on his thoughts, had stated that the Views did not have the status of a judicial decision. That was correct, technically speaking. However, the Committee was responsible for examining individual communications, which was not an academic exercise. The examination took place in accordance with a procedure of a judicial nature, leading not to a judicial decision but to Views. In a judicial decision, the judge issued a finding, whereas the Committee based its Views on what it considered to be firmly established facts. With the help of its monitoring procedure, it came to a conclusion on whether or not a State complied with the Covenant, in other words whether it was meeting the commitments which it had freely entered into. Needless to say, the principle which governed the implementation of treaties was one of good will: consequently, when a treaty body concluded that a State was in non-compliance, that failure to comply was an act of a legal nature. Given the consequences stemming from the treaty and the Committee's role in the area of individual communications, the Views were not of a moral or ethical nature, but in fact of a legal nature. It should be borne in mind that, under Czech law, international treaties took precedence over domestic law; that was guaranteed by the Constitutional Court.

79. From the perspective of a legal analysis, he therefore had difficulty seeing why Views should constitute texts of lesser value than domestic decisions. Admittedly, decisions having authority of res judicata were different from non-binding decisions. What was lacking in the Views was the writ of execution by means of which the addressees, and above all the public authorities, such as the police, were mobilized to give effect to the decision. Accordingly, he wondered whether, after due consideration, it might not be possible to set up a mechanism which, based on procedures to be defined, could provide the Views with a writ of execution. Of course, that went beyond the debate with the State party, but it would be interesting to have the delegation's opinion on that point.

80. Mr. BHAGWATI welcomed the delegation and the detailed and exhaustive replies that it had provided and commended it on its openness. He sought clarification on a point already raised by Mr. O'Flaherty on the procedure sometimes used for treating criminal cases out of court. In particular, he would like to know for what type of cases it was authorized or encouraged by the courts, what rules applied and whether there was special legislation or whether it was simply a practice which the courts had adopted. He also asked about the Mediation Service referred to in the written replies, its make-up, the type of cases submitted to it and the nature of its mandate. Did legislation already exist in that regard, or were debates still taking place? As he saw it, the mediation procedure was particularly important, since it helped avoid recourse to the courts.

81. He also wondered whether the decisions of the Administrative Supreme Court could be reviewed by the Constitutional Court when they concerned constitutional questions and whether such a case had ever arisen. He would like to have additional information on the procedure for appointing judges to the highest court and enquired in particular whether the President decided alone or whether there was an authority in place for that purpose and, if so, what its composition was, whether the Parliament had a role to play, and whether it was subject to supervision and by whom.

82. Lastly, he asked whether the Supreme Court was the final body to which all appeals were referred, what percentage of cases were submitted to it, how long it took to consider a case, whether there were delays in dealing with cases before the Supreme Court and the lower courts and, if so, what measures had been taken to address the problem.

The meeting rose at 5 p.m.
