

**THE THIRD AND FOURTH PERIODIC REPORT ON FULFILMENT OF THE
OBLIGATIONS ARISING FROM THE CONVENTION ON THE RIGHTS OF THE
CHILD
AND
INFORMATION OF THE CZECH REPUBLIC ON FULFILMENT OF THE
OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

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THE THIRD AND FOURTH PERIODIC REPORT ON FULFILMENT OF THE OBLIGATIONS ARISING FROM THE CONVENTION ON THE RIGHTS OF THE CHILD

I. GENERAL MEASURES OF IMPLEMENTATION (articles 4, 42 and 44, paragraph 6 of the Convention)

1. The Third and Fourth Periodic Report on Fulfilment of the Obligations Arising from the Convention on the Rights of the Child (hereinafter referred to as „the Report“), including information on measures aimed at implementation of the concluding observations¹, is submitted by the Czech Republic in accordance with article 44 of the Convention on the Rights of the Child (hereinafter referred to as „the Convention“) and in accordance with the the concluding observations of the Committee on the Rights of the Child (hereinafter referred to as „the Committee“) as the supervisory body of the Convention, that have arisen from consideration of the Second Periodic Report of the Czech Republic² at the 862nd meeting of the Committee on 31 January 2003, where the Committee adopted its concluding observations.³

2. The Third and Fourth Periodic Report has been prepared in line with the Committee’s general guidelines on the preparation of periodic reports and covers the period from 1 January 2000 to 31 December 2006. Consequently, the Czech Republic focuses in its report on changes associated with the protection of rights guaranteed by the Convention and on response to the above concluding observations from the Committee. The report describes the adopted legal, administrative and other measures that indicate progress achieved on fulfilment of the obligations arising from the Convention. Tables with statistical data are provided in particular in the Annex to this report. Throughout the report, legislation is quoted fully in footnotes.

Independent supervisory bodies

3. Information on independent supervisory bodies overseeing the implementation of the Convention has been given already in the Second Periodic Report.⁴ It is supplemented below by additional information on changes that were made in this area in the period under review.

¹ The Czech Government by its Resolution No. 898 of 10 September 2003 on the concluding observations from the Committee on the Rights of the Child - the supervisory body of the Convention on the Rights of the Child noted the Committee’s concluding observations and charged individual ministers with the task to secure implementation of the concluding observations.

² CRC/C/83/Add.4

³ CRC/C/15/Add.201

⁴ CRC/C/83/Add.4, paragraph 9 – 13

4. For a period from establishing the institute of the Public Defender of Rights (hereinafter referred to as „the Ombudsman“) to this date, the Act on the Public Defender of Rights⁵ has been amended several times. The crucial amendment was implemented by Act No. 381/2005 Coll., which came into effect on 1 January 2006, whereby the Ombudsman became the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The scope of the Ombudsman’s obligations has been extended through the quoted amendment by the task to carry out systematic inspection visits to all places (facilities) where people restricted in their liberty are placed or may be placed⁶, whether the liberty of these people has been restricted by a ruling or order of a public authority body or as a result of actual situation they find themselves in. The Ombudsman’s endeavours should result in the institution and subsequent promotion of certain standards for the treatment of persons that individual types of facilities should comply with. In order to achieve the highest possible professional level of the outcomes of the Ombudsman’s work, also practising experts are invited to participate in inspection visits.

5. The Ombudsman and staff of the Office of the Public Defender of Rights are entitled (even without prior notice) to visit facilities (state-owned or private), in which people restricted in their liberty are placed, to speak alone to the people they choose, to examine any premises in the facility, study files and other written materials, ask questions, evaluate or criticize. Having carried out the visit the Ombudsman will produce a report on his findings with observations for taking specific remedial measures which he will send to the facility (or, where appropriate, to its founder), for comment and gradually endeavour to compel the facility to pursue the activities improving the current status. To this effect, reports on inspection visits are made public, as appropriate. In the event of disagreement with the Ombudsman’s conclusions, the Ombudsman may inform about this fact the superior authority or make his view public. Making the reports public also serves to the institution of standards for treatment of people restricted in their liberty.

⁵ Act No. 349/1999 Coll., on the Public Defender of Rights, as amended.

⁶ Hence, also e.g. asylum facilities of the Ministry of the Interior, (reception, accommodation and integration asylum centres), social services facilities, (in particular homes for people with disabilities and older people’s homes), medical facilities, (in particular treatment institutes), facilities for social and legal protection of children, (facilities for children needing immediate assistance) and school facilities for the execution of institutional and protective upbringing (children’s homes, reformatories for delinquent children, psychiatric reformatories for delinquent juveniles)

6. The Concept of care of children at risk and children separated from their own family⁷ defines the following task: „Raise the awareness of the public about the Ombudsman’s activities in the field of protection of rights of children and promote the protection of rights of children.“

Establishing higher territorial self-governing units (regions)

7. In 2000, higher territorial self-governing units (regions) were established. In the Czech Republic, there are 14 regions; including the Capital City of Prague which has the status of a region. The Act on regions⁸ governs fundamental issues concerning their status, competence, organization and powers. At the same time with effect from 1 January 2003, the existing local state administration bodies – District Authorities were abolished. Substantial part of their powers was conferred on municipalities with extended powers, some agendas were conferred on Regional Authorities and other administrative bodies.

8. Regions, similarly as municipalities, exercise self-government and execute state administration under delegated powers. Self-government in general includes matters associated with the development of a particular territorial unit and its functionality. State administration under delegated powers is subsidized by the state and includes measures that are usually associated with mandatory expenditure of the state budget.

Reservations and declarations

9. The Committee recommended to the State party to review its position on article 7 of the Convention (right of the child to know his or her biological parents).

10. The Czech Republic has not withdrawn its reservation to article 7 of the Convention, in particular due to the institute of irreversible adoption.⁹ By the adoption mutual rights and obligations between the adopted child and the original family are extinguished. Whether the adoptive parents inform the adoptive child about his or her biological parents or not will be decided by the adoptive parents themselves. In the course of preparation of people applying for adoption for receiving a child into the family, this issue is being discussed and adoptive parents are recommended to inform the adopted child in the appropriate manner and at the appropriate time (pre-school age) about these facts. The adoptive parents are also guided to make available to the adopted child information on his or her biological parents or other relatives, if the child so requires.

⁷ The Government approved the Concept of care of children at risk and children separated from their own family by its Resolution No. 1180 of 18 October 2006..

⁸ Act No. 129/200 Coll., on regions (regional system), as amended.

11. Currently, work is under way on re-enactment of the Civil Code that should include, inter alia, also new legislative regulation of irreversible adoption. As regards the Committee's observation, in particular reduction in the current extent of anonymity of adoption is anticipated with a view to meeting the requirement of article 7 of the Convention and articles 23 and 24 of the International Covenant on Civil and Political Rights. The new provision stipulates that with regard to the right of each child to know his or her biological parents and the right of each child to preserve his or her identity, the adoptive parents are obliged to inform the adoptive child about his or her biological parents, as soon as they deem it appropriate, however, when the child reaches the age of 12 at the latest. The adoption of this provision will enable the Czech Republic to withdraw the reservation to article 7 paragraph 1 of the Convention.

Legal rules and their implementation

12. Based on article 4 of the Convention which requires that States parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention, rights of the child defined in individual articles of the Convention are governed in the Czech legal order in particular in the Family Act (Act No. 94/1963 Coll.)¹⁰, the Act on social and legal protection of children (Act No. 359/1999 Coll.)¹¹, the Education Act (Act No. 561/2004 Coll.)¹², the Act on the execution of institutional upbringing or protective upbringing in school facilities and on preventive upbringing care in school facilities (Act No. 109/2002 Coll.)¹³, the Criminal Code (Act No. 140/1961 Coll.)¹⁴, the Criminal Procedure Code (Act No. 141/1961 Coll.)¹⁵, the Civil Code (Act No. 40/1964 Coll.)¹⁶, the Civil Procedure Code (Act No. 99/1963 Coll.)¹⁷, the Labour Code (Act No. 262/2006 Coll.)¹⁸, Act on liability of juveniles for illegal acts and on juvenile justice (Act No. 218/2003 Coll.)¹⁹, Act on asylum (Act No. 325/1999 Coll.)²⁰, Act on the

⁹ Irreversible adoption is governed by the provision of Section 74 of the Family Act.

¹⁰ Act No. 94/1963 Coll., on family, as amended (the Family Act).

¹¹ Act No. 359/1999 Coll., on social and legal protection of children, as amended.

¹² Act No. 561/2004 Coll., on pre-school, primary, secondary, further and other education (the Education Act).

¹³ Act No. 109/2002 Coll., on the execution of institutional upbringing or protective upbringing in school facilities and on preventive upbringing care in school facilities and on amendment to certain other Acts.

¹⁴ Act No. 140/1961 Coll., the Criminal Code, as amended.

¹⁵ Act No. 141/1961 Coll., the Criminal Procedure Code, as amended.

¹⁶ Act No. 40/1964 Coll., the Civil Code, as amended.

¹⁷ Act No. 99/1963 Coll., the Civil Procedure Code, as amended.

¹⁸ Act No. 262/2006 Coll., the Labour Code, as amended.

¹⁹ Act No. 218/2003 Coll., on liability of juveniles for illegal acts and on juvenile justice and on amendment to certain other Acts (hereinafter referred to as „the Juvenile Justice Act“).

²⁰ Act No. 325/1999 Coll., on asylum and on amendment to Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended, (the Asylum Act), as amended, and certain other Acts

residence of foreign nationals in territory of the Czech Republic (Act No. 326/1999 Coll.)²¹ and Act on state social support (Act No. 117/1995 Coll.)²².

13. The amendment to the Act on social and legal protection of children²³ regulates in detail social and legal protection²⁴ of specific groups of children at risk – ill-treated, abused and neglected children, children who are separated from their own family, etc. The amendment, inter alia, extends the scope of activities of facilities for children needing immediate assistance,²⁵ extends the scope of foster care by a temporary foster care and significantly extends the scope of assistance provided to families by the authority for social and legal protection of children.

14. In the area of criminal law the merits of the crime of trafficking in human beings have been introduced,²⁶ which have significantly changed the previous merits of the crime of trafficking in human beings for the purpose of sexual intercourse.

15. Furthermore, a sanction for serious endangering of a child in the sexual area was introduced into the Criminal Code²⁷ (crime of solicitation to sexual intercourse), punishability of the possession of child pornography for own needs introduced and criminal sanctions for such conduct have been made significantly more severe.²⁸ This change has been incorporated into the provisions of the Criminal Code called the dissemination of pornography²⁹ (previously qualified as corrupting morals) and furthermore into the new provisions called receiving child pornography³⁰ and abuse of a child for the production of pornography.³¹ Last but not least, the merits of the crime of dissemination of pornography include also profit from pornographic work depicting children. Increased protection will be then afforded to persons

²¹ Act No. 326/1999 Coll., on residence of foreign nationals in the Czech Republic in the territory of the Czech Republic and on amendment to certain other Acts, as amended

²² Act No. 117/1995 Coll., on state social support, as amended

²³ Amendment No. 134/2006 Coll., that came into effect on 1 January 2006.

²⁴ Social and legal protection of children (hereinafter referred to as "social and legal protection") means in particular protection of the right of the child to positive development and proper upbringing, protection of justified interests of the child, including the protection of his or her assets, efforts aimed at restoring the impaired functions of the family. Social and legal protection is secured by authorities for social and legal protection, represented by regional authorities, municipal authorities of municipalities with extended powers, municipal authorities, the Ministry of Labour and Social Affairs, the Office for International Law Protection of Children. Furthermore, social and legal protection is secured by municipalities under separate powers, regions under separate powers, commissions for social and legal protection of children, other legal entities and natural persons, if they have been authorized to execute social and legal protection.

²⁵ See below.

²⁶ Provision of Section 232a of the Criminal Code, for more information see paragraph 232.

²⁷ With effect from 1 January 2004, as a new feature, provision of Section 217a of the Criminal Code has been introduced..

²⁸ By amendment to the Criminal Code No. 271/2007 Coll., with effect from 1 December 2007.

²⁹ Provision of Section 205 of the Criminal Code.

³⁰ Provision of Section 205a of the Criminal Code

³¹ Provision of Section 205b of the Criminal Code.

under the age of eighteen against abuse for the production of a pornographic work, because production itself need not necessarily always entail abuse of such person, since the production is also, for instance, duplication of pornographic photographs or editing and other processing of such films, production of pornographic videocassettes or DVDs from the already completed original material, etc. These merits of the crime also included profit from the child's participation in such pornographic work.

16. Besides the Convention on the Rights of the Child, also the following international treaties, to which the Czech Republic is a party, are relevant to the rights of the child:

- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,³²
- Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations,³³
- International Labour Organization (ILO) Convention No. 77 concerning Medical Examination for Fitness for Employment in Industry of Children and Young Persons,³⁴
- International Labour Organization (ILO) Convention No. 78 concerning Medical Examination of Children and Young Persons in Non-Industrial Occupations,³⁵
- Hague Convention on the Civil Aspects of International Child Abduction,³⁶
- European Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children,³⁷
- European Convention on the Adoption of Children,³⁸
- European Convention on the Exercise of Children's Rights,³⁹
- Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children,⁴⁰
- European Convention on the Legal Status of Children born out of Wedlock,⁴¹
- Convention on Contact Concerning Children,⁴²
- Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption,⁴³

³² Communication of the Ministry of Foreign Affairs No. 45/2003, Journal of International Treaties

³³ Decree of the Ministry of Foreign Affairs No. 14/1974 Coll.

³⁴ Decree of the Ministry of Foreign Affairs No. 23/1981 Coll.

³⁵ Decree of the Ministry of Foreign Affairs No. 24/1981 Coll.

³⁶ Communication of the Ministry of Foreign Affairs No. 34/1998 Coll.

³⁷ Communication of the Ministry of Foreign Affairs No. 66/2000, Journal of International Treaties

³⁸ Communication of the Ministry of Foreign Affairs No. 132/2000, Journal of International Treaties

³⁹ Communication of the Ministry of Foreign Affairs No.54/2001, Journal of International Treaties

⁴⁰ Communication of the Ministry of Foreign Affairs No.141/2001, Journal of International Treaties

⁴¹ Communication of the Ministry of Foreign Affairs No. 47/2001, Journal of International Treaties

⁴² Communication of the Ministry of Foreign Affairs No. 91/2005, Journal of International Treaties

- Convention on the Recovery Abroad of Maintenance.⁴⁴

Possibility to use remedial measures by children in cases of infringement of their rights guaranteed by the Convention and coordination and monitoring of the implementation of the Convention

17. Under the Act on social and legal protection of children a child is entitled to ask the authorities for social and legal protection, the state authorities that are also in charge of protection of rights and justified interests of the child, authorized persons, schools, school facilities and medical facilities for assistance in protection of their life and their other rights. These authorities, legal entities, natural persons and authorized persons are obliged to provide the appropriate assistance to the child. A child is entitled to ask for assistance even without his or her parents or other persons responsible for the child's upbringing being aware of it.

18. The Government of the Czech Republic prepared on the basis of the concluding observation No. 13 the Analysis of the current status of institutional securing of implementation of the Convention.⁴⁵ In connection with the results of the Analysis, the Government⁴⁶ charged the Ministry of Labour and Social Affairs with the task of coordinating national agenda relating to the implementation of the Convention. Furthermore, a working group on coordination of the implementation of the Convention has been set up that endeavours to analyze the reasons for shortcomings in respect of the implementation of the provisions of the Convention and seek a common conceptual solution.

19. In 2007, the Ministry of Labour and Social Affairs prepared the Analysis of the current status of institutional securing of the care of children.⁴⁷ The analysis aims at securing the care of children in the family environment which is preferred to institutional care and at the same time bringing the agenda of children at risk into the remit of one coordinating authority. The analysis focuses on seeking common areas and defining a common framework of priorities that might be binding upon all responsible government departments in order to create a stable basis for transformation of the current unsatisfactory fragmented structure of the care of children. The Government noted the analysis⁴⁸ and at the same time charged the Minister of Labour and Social Affairs with the task of setting up an inter-ministerial coordination group

⁴³ Communication of the Ministry of Foreign Affairs No. 43/2000, Journal of International Treaties

⁴⁴ Decree of the Minister of Foreign Affairs No. 33/1959 Coll.

⁴⁵ The analysis has been prepared on the basis of the Czech Government Resolution No. 898 of 10 September 2003.

⁴⁶ Czech Government Resolution No. 530 of 4 May 2005 on the Analysis of the current institutional securing of the implementation of the Convention on the Rights of the Child.

⁴⁷ The analysis has been prepared on the basis of a task assigned by the Government Resolution No. 1151 of 15 October 2007 on the Evaluation of the system of care of children at risk.

with the aim of preparing a draft plan of action on transforming and merging the system of the care of children at risk, with specific proposals to be submitted to the Government for approval by 31 December 2008. All the prepared transformation measures will be aimed at eliminating the shortcomings arising from the existing cross-sectoral fragmentation of the care of children at risk and final reduction in the number of children in institutional care and improving the quality of assistance to and support for families with children at risk. In line with the draft plan of action approved by the Government also the appropriate legislative changes will be prepared.

20. The Ministry of Labour and Social Affairs currently performs the highest share of activities associated with the issues of the care of children at risk. This concerns in particular legal, methodological and supervisory activity in the area of social and legal protection of children, including the review of decisions of regional authorities in appellate and review proceedings; methodological, consulting and conceptual activity in the area of social work, including authorization of non-governmental entities to execute social and legal protection of children; analytical and statistical activities within the framework of social and legal protection of children; cooperation at the international level and monitoring in the area of the rights of the child; coordination of the implementation of the Convention; securing funding for the payment of state contribution for founders of facilities for children needing immediate assistance; alternative family care agenda, i.e. maintaining the register of children and applicants, execution of administrative proceedings, decision-making on inclusion of applicants in the register or exclusion of applicants from the register, the arrangement of alternative family care; professional assessment of children and applicants, maintaining file documentation, management and coordination of the advisory board for the arrangement of alternative family care attached to the Ministry of Labour and Social Affairs, consulting, methodological and supervisory activity with respect to the arrangement of adoption and foster care; statistical monitoring, processing of statistics and forecasts, analytical and instructional activity in the area of alternative family care; etc.

21. The agenda of the social and legal protection of children with respect to foreign countries falls within the remits of the Office for International Legal Protection of Children. The role of the Office as the central authority consists in representation of the Czech Republic in external relations with respect to international conventions. Specifically, the Office's activity entails recovery of maintenance for parties in the Czech Republic and abroad, securing the activities associated with intercountry adoption and civil law aspects of

⁴⁸ Czech Government Resolution No. 293 of 6 March 2007..

international abductions of children. The agenda of the Office is closely related to the activities of the Ministry of Labour and Social Affairs and other authorities for social and legal protection of children. In the area of intercountry adoption, the Ministry of Labour and Social Affairs refers to the Office files of children and applicants suitable for international arrangement of adoption. As regards international abductions of children, in some cases the authority for social and legal protection of children at the level of the municipal authority of the municipality with extended powers is appointed the child's guardian.

22. In terms of health care, the Ministry of Health is in charge of the issues of children at risk. The Ministry deals in particular with the issues of practitioners for children and adolescents and social pediatrics; infant's institutions and children's homes for children under the age of 3; creches; the prevention of violence against children, CAN syndrome (ill-treated, abused and neglected child), commercial and sexual abuse of children; solution to risk behaviour of juveniles, cooperation on solution to the issue of use of habit-forming substances by children and youth and the concept of drug control policy; solution to the prevention of child and juvenile delinquency; solution to the issue of domestic violence and combating trafficking in human beings; coordination of programmes of the World Health Organization; solution to the issue of healthy environment for children; participation in the issue of elimination of the worst forms of child labour; support for families with children with disabilities (rehabilitation stays, education activities of e.g. diabetic children and their family members, etc.).

23. Children's homes,⁴⁹ children's homes with a school,⁵⁰ psychiatric reformatories for delinquent juveniles (diagnostic institutes)⁵¹ and reformatories for delinquent children⁵² fall

⁴⁹ The children's homes provide care to children subject to their individual needs. The purpose of the children's home is to provide care to children who have been ordered institutional upbringing and do not have serious behavioral disorders. These children are educated in schools that are not part of the children's home. Usually, children from the age of 3 to a maximum of 18 years can be placed into children's homes. Also minor mothers together with their children are placed into children's homes.

⁵⁰ The purpose of the children's home with a school is to provide care to children who have been ordered institutional upbringing, if they have serious behavioral disorders or who due to a temporary or permanent mental disease need upbringing and treatment care or for children who have been ordered protective upbringing or for minor mothers together with their children. Children's homes with a school can be established separately for children or family groups are established therein separately for children. Usually, children from the age of 6 to the completion of the compulsory school attendance can be placed into the children's home with a school. If in the course of the compulsory school attendance the reasons for placing the child into the school attached to the children's home have ceased to exist, the child is upon request of the director of the children's home placed to the school that is not part of the children's home with a school.

⁵¹ The psychiatric reformatory for delinquent juveniles is the facility which places children on the basis of results of their comprehensive examination, health condition and free capacity of individual facilities to children's homes, children's homes with a school or reformatories for delinquent children, except for children who joined the psychiatric reformatory for delinquent juveniles upon request of their legal representatives on the grounds of behavioral disorders of children.

within the remit of the Ministry of Education, Youth and Sports that participates in the preparation of legal rules and methodological materials for alternative care; centres for upbringing care as facilities for the provision of preventive upbringing care preceding ordering of the institutional care also fall within the remit of the Ministry of Education, Youth and Sports. The Ministry of Education, Youth and Sports performs regular checks examining respect for rights of children placed in the facilities. Individual school facilities provide assistance to children in facilities before their release and prepare them for starting their new life and in collaboration with authorities for social and legal protection of children and providers of social services participate in the arrangement of accommodation and employment for them.

24. In connection with the prevention of socially pathological phenomena among young people and in the family, also the Ministry of the Interior participates in the care of children at risk. The execution of social and legal protection of children is secured under delegated powers by municipal and regional authorities, whose staff are part of the public administration of the Czech Republic.

25. The Ministry of Justice is in charge of the agenda of the family legislation and activities of courts, in particular in the field of guardianship proceedings and juvenile justice and also in charge of the legislation applicable to criminal law protection of children and young people.

National Plan of Action

26. In response to the concluding observation No. 15 whereby the Committee recommended that the Czech Republic develop a comprehensive national plan of action, the Government approved⁵³ the Concept of state policy on children and youth until 2007 which builds on the Concept of state policy on young generation in the Czech Republic until 2002.⁵⁴ The concept is based on the following criteria:

- support for upbringing and education outside the formal school system,

⁵² The reformatory for delinquent children provides care to children over 15 with serious behavioral disorders who have been ordered institutional upbringing or protective upbringing. With respect to the children placed therein it performs in particular upbringing, educational and social tasks.

⁵³ Czech Government Resolution No. 343 of 7 April 2003

⁵⁴ The substance of the concept is based on proposals of interested central bodies of the state administration of the Czech Republic, findings of surveys and supporting documents of the National Institute for Children and Youth of the Ministry of Education, the data of the Czech Statistical Office and non-governmental nonprofit organizations. The concept builds on priorities and tenets of the White Paper on Youth of the European Commission that was adopted in November 2001 and develops them in the context of the Czech Republic's conditions. The Concept of the state policy on children and youth is also based on the material of the European Youth Forum that specifies the criteria for a modern European concept of the state policy in this area..

- support for development of education of multipliers in the area of work with children and young people in the non-profit sector,
- putting in place the legislation in the area of work with children and youth – in order to facilitate participation in and securing of public administration administrative duties in the area of work with children and youth,
- securing budget allocated to the support for development of initiatives of youth and children and youth organizations, including a grant for administrative duties of organizations and grants for their projects,
- information strategy for children and youth,
- multi-level governance of the concept – i.e. its implementation at all levels of public administration,
- support for participation – involvement of young people in the decision-making on the life of the society and children and youth organizations within the co-management process in the area of children and youth,
- cooperation between the ministries – the so-called cross-sectoral approach,
- support for innovation and creativity,
- securing consultations and partnership of children and youth organizations and public administration at all levels through joint consulting bodies.

27. The Government approved the Concept of care of children at risk and children separated from their own family,⁵⁵ whose priority is support for care of children in the family. The concept is aimed in particular at merging the issue of social and legal protection of children into a single document that would be mapping the current trends in the area of social and legal protection of children, setting the priorities for addressing the current crucial problems and outlining the desirable development in this field. The concept in its first part focuses on children at risk (children at risk in their own family, ill-treated, abused and neglected children, children with educational problems, etc.), in its second part all forms of alternative care of children are described, from institutional upbringing to adoption and foster care. In terms of the system of care of children at risk, as a matter of principle, the child's biological family is a top priority and all forms of alternative care are considered to be only temporary.

28. Furthermore, the Government adopted the National Plan to Combat Commercial Sexual Abuse of Children for the period 2006-2008⁵⁶ and the National Plan of Action on Child Injury

⁵⁵The concept was approved by Government Resolution No. 1180 of 18 October 2006

⁵⁶ See paragraph 168 and following paragraphs.

Prevention for the period 2007-2017.⁵⁷ One of the tasks arising from these plans is the need for developing the National Strategy on Prevention of Violence against Children. The aim of this strategy is eradication of violence against children, minimizing risk factors and support for protective factors.

Promotion/professional training

29. The Committee in its concluding observation No. 23 noted that the Czech Republic should provide systematic training and education on the rights and the principles and provisions of the Convention. Knowledge relating to the rights and the principles and provisions of the Convention are incorporated into basic pedagogical documents. Professional training focuses on the development of key competencies necessary for teachers' standard performance. Professional training reflects the Government's requirements formulated for the educational field, e.g. seminars on human rights, etc.

30. System of training of pedagogical staff employed by the Police of the Czech Republic is based on the Concept of obligatory life-long education of staff of the Police of the Czech Republic and the Ministry of the Interior.

31. The system of training of policemen includes basic professional training courses, specialization courses, courses on innovation and language courses. Instruction in basic professional training courses for staff joining the Police focuses in particular on raising the legal awareness, orientation in legislation applicable to fundamental freedoms, rights and obligations of citizens, ethical aspects of the police work, special emphasis is placed on social elements and impacts of the police work.

32. The Convention is also an integral part of pregraduate education of physicians, its principles are reflected in social pediatrics instruction, as part of pediatrics at all faculties of medicine, or social or preventive medicine instruction. Within the postgraduate education, is reflected in various courses organized by the Czech Medical Chamber and Czech Medical Association of Jan Evangelista Purkyně as part of continuous education or as part of specialization courses.

33. The Ministry of Labour and Social Affairs secures methodological guidance for staff in the area of social and legal protection of children. It organizes on a regular basis (at 2 – 3 month intervals), consultations on social and legal child protection and alternative family care with participation of regional authorities. Staff of municipal and regional authorities executing

⁵⁷ See paragraph 66.

social and legal protection of children are required under the Act on officials of territorial self-governing units (Act No. 312/2002 Coll.)⁵⁸ to complete special training courses on professional competence that is subsequently checked by test. Even if special professional competence for execution of the agenda of social and legal protection of children is proved, staff of municipal and regional authorities are obliged to extend their education on an ongoing basis in line with the determined education plan.

34. Training of judicial trainees and legal trainees, judges, public prosecutors and other professional staff is secured within the Academy of Justice programme. In the period under review, seminars on Family Law were organized - decisions on child maintenance, delinquency of youth and against youth, seminar on juvenile justice, specialized seminar on issues of legal contact with foreign countries, seminar for judges in charge of guardianship cases and others.

Report circulation

35. The texts of the Second Periodic Report and concluding observations of the Committee are available to the public at the web site of the Office of the Government of the Czech Republic in Czech and in English versions (www.vlada.cz) – in section Government Council for Human Rights and in section Government Resolutions.

36. Every year, the Association of Children’s Rights Advocates – a Czech section of the Defence for Children International organizes seminars on the implementation of the Convention in the Czech Republic. Outcomes from the seminars serve also as the basis for preparation of the report.

Cooperation with non-governmental organizations

37. The Committee on the Rights of the Child in its concluding observation No. 25 urges the Czech Republic to develop closer cooperation with non-governmental non-profit organizations (hereinafter referred to as „NGO“). Since 2002, powers in respect of decision-making on granting authorizations to NGOs for the execution of social and legal protection of children were delegated from the Ministry of Labour and Social Affairs to regional authorities.⁵⁹ This does not mean only an administrative act associated with the activities of the administrative body, but also establishing closer cooperation with the non-profit sector, methodological assistance and support from the authority concerned.

⁵⁸ Provision of Section 21 of Act No. 312/2002 Coll., on officials of territorial self-governing units, as amended.

⁵⁹ Amendment No. 272/2001 Coll. that came into effect on 1 January 2002.

38. Cooperation and communication of entities involved in care of children at risk is one of the priorities of the Concept of care of children at risk and children separated from their own family. This entails not only cooperation among governmental and non-governmental entities, but also cooperation among individual state administration sectors and among state administration and self-governing entities, among entities directly involved in social and legal protection of children and the public, media and foreign experts.

Allocation of funds

39. Funds are drawn down from the state budget to the extent stipulated by the Act on state budget for the relevant financial year. Additional funds are similarly drawn down from territorial budgets. The Czech Republic does not have expenditure on economic, social and cultural rights of the child as a monitored indicator.

40. The process of amendments to the legislation applicable to children includes a plan of expenditure from the state budget determined in advance. Following the reform of the state administration, financing in the area of protection of rights of the child has been rendered more transparent by delegating the powers from the Ministry of Labour and Social Affairs to municipalities and regions. The expenses incurred in connection with the execution of social and legal protection of children shall be borne by the state.⁶⁰ Since 2007, municipalities with extended powers receive from the state budget a special-purpose grant (subsidy) to meet all operational, personnel and material expenses of municipalities associated with securing the agenda of social and legal protection of children.⁶¹ The state participates in the expenses of regions associated with the execution of social and legal protection of children in the form of a contribution to the execution of state administration.

Statistical data

41. Social and legal protection of children is assessed annually by the Ministry of Labour and Social Affairs. Based on information obtained, it processes time series for the monitoring of trends in the area of social and legal protection and these data are used as the basis for the conceptual and legislative activity.

42. The statistics monitored in connection with domestic violence cases have been adjusted since 1 January 2007 in such a manner to allow also reporting of a particular type of victim

⁶⁰ Under provision of Section 58 paragraph 1 of the Act on social and legal protection of children.

⁶¹ In 2007, municipalities with extended powers received grants (subsidies) in the aggregate amount of CZK 697 million.

(children, women, men, older people) and the relationship between the victim and the offender.

43. In the area of the educational system, data on children, pupils and students are included in statistical statements for various types of schools. These data include numbers of pupils attending schools, including children, pupils and students with disabilities (hereinafter referred to as „pupils“), their numbers, assignment to schools intended separately for these pupils, individual integration into normal schools and numbers of foreigners. These data are used for allocation of funds to schools which include also, for instance, extra allowances for pupils with disabilities. The newly adopted legislation reflects the numbers of pupils with disabilities and foreigners. The Education Act provides the procedure applicable to the collection of data and their submission to the Ministry of Education or the organization established by it.⁶²

44. Annex to this report contains statistical data that were monitored in the Czech Republic in the period under review.

II. DEFINITION OF THE TERM CHILD

(article 1)

45. The term child has been defined in the initial report. In the period under review this definition has not been changed.

The Committee in its concluding observation No. 27 urged the Czech Republic to retain the present age of criminal responsibility of 15 years. The age of criminal responsibility of 15 years has been retained. A person is not responsible for criminal conduct if at the time of such conduct he or she has not reached fifteen years of age.⁶³

III. GENERAL PRINCIPLES

(articles 2, 3, 6 and 12)

Prohibition of discrimination

46. In connection with the Czech Republic's accession to the European Union (hereinafter referred to as „the EU“), the Government has drafted a Bill on equal treatment and on legal measures of protection from discrimination and on amendment to certain Acts (the so-called

⁶² Provision of Section 28 paragraph 5.

⁶³ Under provision of Section 11 of the Criminal Code.

Anti-Discrimination Act)⁶⁴, that should unify the legislation applicable to the protection from discrimination and ensure harmonization of the Czech legal order with EU Directives. The Anti-Discrimination Bill regulates the right to equal treatment and protection from discrimination based on racial or ethnic origin, nationality, sex, sexual orientation, age, disability, religion or belief, or world view. The obligation to ensure equal treatment and protection from discrimination will apply to equal treatment in the area of the right to employment and access to employment, access to a profession, entrepreneurship and other self-employment, in labour matters and other employment affairs, including remuneration, membership of and activities within trade unions, employee councils or employer organizations, membership of and activities within professional bodies, including the benefits granted by these organizations to their members, social security and social benefits, health care, education and access to goods and services available to the public, including housing, and the provision thereof. The Anti-Discrimination Bill defines terms such as direct and indirect discrimination, harassment, sexual harassment, victimization, etc. Also an instruction to discriminate is deemed to be discrimination.

47. The agenda associated with equal treatment and protection from discrimination will be executed by the Ombudsman. The Ombudsman should contribute to the enforcement of equal treatment of all individuals and to this effect, provide methodological guidance to victims of discrimination when filing motions for commencing proceedings on the grounds of discrimination, issue observations and opinions, conduct research/surveys and provide information to the public.

48. The Education Act contains provisions on the rights of pupils and on protection of children from all forms of discrimination, respecting the right to the child's dignity and respecting equality of sexes (boys and girls). The Education Act provides that education is based on principles of access to education of each national of the Czech Republic or another Member State of the European Union without any discrimination based on race, colour, sex, language, religion and belief, nationality, ethnic or social origin, property, birth and health condition or other status.

49. The principle of the prohibition of discrimination is explicitly expressed also in the Juvenile Justice Act, under which political, national, social or religious beliefs of a juvenile or a child under the age of fifteen, his or her family or a family he or she lives in, or the manner

⁶⁴ The Parliament of the Czech Republic considered the Anti-Discrimination Bill as Parliamentary Print No. 253 and passed it on 23 April 2008. The President of the Czech Republic vetoed the Bill on 16 May 2008.

of education of a juvenile or a children under the age of fifteen cannot be the grounds for imposition of the measures under this Act.⁶⁵

50. In connection with the Committee's observation No. 30, the Czech Republic started to prepare in 2003 draft National Plan of Action to Combat Racism. The UN states are urged to develop such a plan in final documents of the European and World Conference against Racism. In 2006, the analysis of possibilities of implementation of the Plan of Action to Combat Racism was performed. The adoption of this plan has been abandoned since the assumptions and objectives contained therein to a certain extent overlap with the already existing concepts adopted by the Czech Republic for the area of human rights and protection from racism. The conclusions of the World Conference against Racism are reflected in these concepts.

51. Between 24 and 26 September 2003 the Ministry of Foreign Affairs hosted a regional seminar organized by the Office of the UN High Commissioner for Human Rights that focused on the implementation of conclusions of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. It was intended for the group of East and South European states (according to the UN's regional classification). The seminar was broken down to three thematic blocks: 1. Rights of members of nationality, ethnic, religious and language minorities, 2. Roma community: problems and prospects on the road to equality, 3. Xenophobia. Racism and extremism issues have been more or less reflected in all parts of the seminar.

52. In connection with the concluding observation No. 30 The Ministry of Education, Youth and Sports announces the Programme of support for education in languages of national minorities and multicultural education. Under this programme⁶⁶, educational programmes and instructional materials in the area of national minority education are being developed that are geared towards learning of history and culture of other nations, education for democratic citizenship, mutual tolerance, combating racial and ethnic intolerance, xenophobia and antisemitism.

53. The Ministry of Education, Youth and Sports announces every year the grant programme Support for Roma Community Integration. The programme focuses on the pre-school preparation of Roma children, primary school education of pupils from Roma

⁶⁵ Provision 3 paragraph 3 of the Juvenile Justice Act.

⁶⁶ The programme is announced in accordance with Government Order No. 98/2002 Coll. laying down the conditions and establishing procedures of providing grants from the state budget for activities of members of national minorities and promoting integration of the Roma community, as amended by Government Order No. 262/2005 Coll.

communities – support for schools with significant share of pupils from Roma communities that implement the all-day programme, methodological support for teachers, implementation of leisure-time and special-interest activities for Roma children and youth in connection with their educational needs. Schools and school facilities develop, update and evaluate every year Minimum preventive programmes which also address the issue of socially pathological phenomena, including discrimination, the expression of racism and xenophobia in accordance with Methodological Guidance Notes of the Ministry of Education, Youth and Sports on education against the expressions of racism, xenophobia and intolerance.

54. The Ministry of the Interior in collaboration with municipalities implements the State integration programme for asylum-seekers in the area of the provision of housing, creating prerequisites for acquiring the knowledge of Czech language and labour market entry assistance.

55. The Educational and Psychological Counselling Institute as the organization directly managed by the Ministry of Education, Youth and Sports implements the project called the European Social Fund: Centres of Minorities Integration. The project focuses on the development of counselling, training and support services for socially disadvantaged pupils at primary schools. The length of the project is 2 years (2006 – 2008). The main target group are children from ethnic minorities, children of immigrants, asylum-seekers and Roma children and their families. Under this project, Centres of Minorities Integration were created in the individual regions concerned.⁶⁷

Best interests of the child

56. The principle of the best interests of the child is the fundamental principle for the execution of social and legal protection of children.⁶⁸ Social and legal protection means the child's right to proper family care, protection of his or her healthy development and the right to the protection of his or her other justified interests, while it also includes the prevention. The authorities for social and legal protection of children are aware that in their care of children and the provision of social and legal protection they should follow the principle of best interests of the child which is also stipulated by the Family Act.

⁶⁷ The network of Centres of Minority Integration is a pilot project implemented since 2006 which is aimed at putting in place and testing the system of support for care of children and juveniles from the socially disadvantaged and culturally different environment. Its primary purpose is to contribute to the improvement of the conditions for integration of these children and juveniles within the educational system and within the society.

⁶⁸ This principle is explicitly set out in provision of Section 5 of the Act on social and legal protection of children.

57. The principles of best interests of the child and the right to express his or her views freely are also reflected in the basic legislation applicable to the legal proceedings. In the proceedings, to which a minor child, who is capable of forming his or her own view, is a party, the court proceeds in such a manner to ascertain his or her views on the matter. In legal proceedings a child is represented, subject to the nature and content of the proceedings, by his or her legal representative or an appointed guardian, whereby, not only the protection of his or her rights and interests protected by law, but also the exercise of the right to appeal or use of other ordinary or extraordinary remedial measures and other procedural rights are guaranteed.

Right to life, the survival and development of the child

58. The Committee in its concluding observation No. 34 noted that the Czech Republic should strengthen efforts to raise awareness about, and undertake public information campaigns in relation to, accident prevention. Furthermore, the Committee recommended that the Czech Republic study the possible causes of suicide among youths, and the characteristics of those who appear to be most at risk, and take steps to put in place additional support and interventional programmes which would reduce this tragic phenomenon.

59. In the Czech Republic, accidents are the most frequent cause of death of children and young adults. With a view to eliminating this phenomenon, the National Plan of Action on Child Injury Prevention for the period 2007-2017 has been developed.⁶⁹ This plan maps the existing activities in the area of child injury prevention, assesses these activities in terms of their strengths and weaknesses, taking advantage of the opportunities and averting the threats. The objective of the National Plan of Action is to reduce to a minimum child mortality in the Czech Republic caused by accidents and stop the rising rates of child injuries, in particular the serious ones with permanent consequences.

60. The Ministry of Education, Youth and Sports monitors on an ongoing basis specific conditions and situations at schools and school facilities in terms of the risk of incidence of socially pathological phenomena and the application of various forms and methods allowing the timely identification of children and juveniles at risk. Furthermore, the Ministry of Education, Youth and Sports secures systematic training of school methodologists for prevention and other pedagogical staff in preventive educational methodologies and in innovative techniques of pedagogical preventive work with children and youth and announces every year programmes of prevention of socially pathological phenomena.

⁶⁹ The National Plan of Action on Child Injury Prevention for the period 2007-2017 was approved by Government Resolution No. 926 of 22 August 2007.

61. Awareness-raising focused on the prevention of accidents is reflected in the Framework education programme for primary education in the educational area called Man and his world. The thematic area Place we live in, puts emphasis on transport education; in the educational area Man and his health, pupils are guided to be responsible for their health and safety.

62. In connection with the National Strategy for Improving Road Traffic Safety, on 13 December 2006, the opening ceremony for the operations of the Traffic Prevention Centre of the Ministry of the Interior and of the Police of the Czech Republic was held. The centre offers comprehensive road accident prevention programmes or seminars focused on prevention issues intended specifically for children.

63. The Annex contains statistical data on the number of children killed in consequence of road accidents (Table No. 1).

64. The number of completed child suicides has declined steadily since 1995. The number of deaths from intentional self-inflicted injury in the 5-19 age bracket in the Czech Republic in the period under review is shown in the following table:

Year	Number of deaths							
	In absolute terms							per 100,000 people
	Age group			Total	Age group			Total
	5 - 9	10 – 14	15 - 19	5 - 19	5 – 9	10- 14	15 - 19	5 – 19
1995	1	10	91	102	0,2	1,4	10,5	4,6
1997	-	6	66	72	-	0,9	8,3	3,4
1998	-	8	52	60	-	1,2	6,9	2,9
2006	-	3	42	45	-	0,5	6,4	3,7

Respect for the views of the child

65. The child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, even in the absence of parents or other persons responsible for the child's upbringing.⁷⁰ The views of the child shall be given due weight in discussing all matters affecting the child in accordance with the age and maturity of the child. In the course of its activities, the authority for social and legal protection takes into consideration wishes and feelings of the child in accordance with his or her age and maturity,

⁷⁰ Provision of Section 8 of the Act No. 359/1999 Coll., on social and legal protection of children, as amended.

in order to prevent endangering or impairing the child's emotional and mental development. The procedure how the child's view should be ascertained in the course of the legal proceedings is specified in more detail by the Civil Procedure Code.⁷¹ The Civil Procedure Code allows to ascertain the child's view through his or her legal representative, the authority for social and legal protection of children or directly through the child's interrogation that can be conducted even in the absence of persons responsible for his or her education. At the same time the Civil Procedure Code stipulates the court's obligation to give due weight to the views of the child in accordance with his or her age and maturity.

66. The Education Act and the Act on execution of institutional or protective upbringing regulates the right of children to be present at discussing the matters directly affecting them. The Education Act provides that pupils and students have, inter alia, the right to elect and be elected into the school board, if they reach legal age, establish at schools self-governing bodies of pupils and students, elect and be elected into such bodies, work in those bodies and through them contact the headmaster, while the headmaster is obliged to consider the opinions and statements of these self-governing bodies.⁷² Furthermore, pupils and students have the right to express their views on any decisions on significant matters relating to their education, while the views of pupils and students shall be given due weight in accordance with their age and maturity.

67. The Act on execution of institutional or protective upbringing provides that a child who has been ordered institutional upbringing or protective upbringing, has, inter alia, the right to express his or her view on the intended and carried out measures that affect him or her; the views of the child shall be given due weight in accordance with the age and maturity of the child.⁷³

68. Health care is provided with consent from legal representatives of child patients and with regard to the view of child patients. The Ministry of Health as part of the crime prevention grant programme supported in 2006 and 2007 the project „Promotion of mental health of children through changing and developing their mental and hygiene habits“. The project widely promotes rights of the child and the exercise of these rights in practice.

⁷¹ Provision of Section 100 paragraph 3 of the Civil Procedure Code.

⁷² Provision of Section 21 of the Education Act.

⁷³ Provision of Section 20 of the Act on execution of institutional or protective upbringing.

IV. CIVIL RIGHTS AND FREEDOMS **(articles 7, 8, 13-17 and article 37, letter a))**

Name and citizenship

69. The legislation in force applicable to the citizenship of the Czech Republic is governed by the Act on acquisition and loss of state citizenship (Act No. 40/1993 Coll.).⁷⁴ The Act stipulates a maximum 90-day time limit for issuing a decision on granting citizenship of the Czech Republic. In most cases, if the supporting documents, required by the Act are produced, the applications are disposed of in a shorter than the statutory time limit.

70. Decision-making on the acquisition of citizenship of the Czech Republic in the simplified procedure, i.e. on the basis of an affidavit, rests with regional authorities. Time limits stipulated by the Rules of Administrative Procedure (Act No. 500/2004 Coll.)⁷⁵ apply to these simplified procedures, i.e. a maximum 30-day or 60-day time limit. However, regional authorities in most of these cases decide in shorter time limits. Compliance with the time limits applicable to the process of decision-making on the acquisition of citizenship of the Czech Republic in a simplified procedure is carefully monitored and checked by the Ministry of the Interior.

71. Social and legal protection is also afforded to a child⁷⁶ who has been granted a permanent residence permit in the Czech Republic under a special legal regulation governing the residence of foreign nationals in the Czech Republic⁷⁷, who has been registered for residence in the territory of the Czech Republic for a period of at least 90 days, filed an application for granting an asylum in the territory of the Czech Republic, is entitled to reside permanently in the Czech Republic, resides with a parent who has filed an application for granting a residence permit for the purpose of affording a temporary protection in the Czech Republic, resides in the Czech Republic on the basis of the granted residence permit for the purpose of temporary protection under a special legal regulation.⁷⁸ To the extent necessary, social and legal protection is afforded also to a child who does not have permanent residence in the Czech Republic and does not meet the above conditions, either, in particular in a

⁷⁴ Act No. 40/1993 Coll., on acquisition and loss of state citizenship of the Czech Republic, as amended

⁷⁵ Act No. 500/2004 Coll., the Rules of Administrative Procedure, as amended by Act No. 413/2005 Coll.

⁷⁶ Provision of Section 2 of the Act No. 359/1999 Coll., on social and legal protection of children.

⁷⁷ Act No. 326/1999 Coll., on residence of foreign nationals in the territory of the Czech Republic and on amendment to certain other Acts.

⁷⁸ Act No. 221/2003 Coll., on temporary protection of foreign nationals, as amended.

situation where such child finds itself without any care or if his or her life or positive development are seriously endangered or impaired.⁷⁹

72. The Czech Republic acceded to the Convention relating to the Status of Stateless Persons of 1954. The Convention entered into force for the Czech Republic on 17 October 2004.⁸⁰

73. Information concerning the freedom of expression, freedom of thought, conscience and religion, freedom of association and peaceful assembly has been provided in the Second Periodic Report.

Protection of privacy

74. The Act on social and legal protection of children⁸¹ entitles staff of the authorities for social and legal protection of children and staff of a municipality with extended powers assigned to the municipal authority to visit in connection with the carrying out of the tasks under this Act a child and a family he or she lives in and examine at the place of the child's domicile, at school and at the school facility, medical facility, at work or in another environment the child lives in, how parents or other persons responsible for his or her upbringing care for the child, what social conditions the child lives in and what is his or her behaviour like. Furthermore, the Act on social and legal protection of children allows this staff to take pictures and make video or audio recordings of the child and the environment he or she lives in. At the same time, however, members of this staff are required by law to keep confidential any facts they have learned in the carrying out of social and legal protection of children or in direct connection with these duties, unless the Act expressly provides otherwise or unless they are released from the confidentiality obligation by the party in whose interest confidentiality obligation has been determined.⁸²

75. The Juvenile Justice Act governs the prohibition of disclosure of information, with no one being allowed to disclose any information giving the first name, or, where appropriate, the first names and family names of a juvenile person or a child under the age of 15 who has committed an act otherwise criminal, or is not allowed to disclose in any manner information that would enable to identify such juvenile person or child under the age of 15.

⁷⁹ Provision of Section 37 of the Act on social and legal protection of children.

⁸⁰ Communication of the Ministry of Foreign Affairs No. 108/2004, Journal of International Treaties , on the Convention relating to the Status of Stateless Persons..

⁸¹ Provision of Section 52 of the Act on social and legal protection of children.

⁸² Provision of Section 57 paragraph 1 of the Act on social and legal protection of children.

Access to appropriate information

76. The Act on radio and television broadcasting (Act No. 231/2001 Coll.),⁸³ stipulates as one of fundamental obligations of operators of radio and television broadcasting and operators of programmes taken over from other operators (hereinafter referred to as „broadcasting operators“) not to include into their broadcasting any programmes that might seriously impair physical, mental or moral development of children and juveniles, in particular due to the fact that they contain pornography and rough violence being an end in itself. Broadcasting operators are obliged not to include into their broadcasting between 06.00 a.m. and 10 p.m. programmes and trailers that might endanger physical, mental or moral development of children and juveniles and are obliged to ensure, that radio and television broadcasting of programmes to which the above restriction on broadcasting applies, is immediately preceded by a verbal or visual warning that it is unsuitable for children and juveniles and that the programme that might endanger physical, mental or moral development of children is marked by visual symbol in the case of television broadcasting by a visual symbol indicating that the programme concerned is unsuitable for children and juveniles throughout the entire period of broadcasting.

77. Furthermore, broadcasting operators are required not to include into broadcasting commercials and teleshopping targeted on children or in which children appear, if they support behaviour which endangers their physical, mental or moral development. Furthermore, broadcasting operators are not allowed to directly encourage children and juveniles during the broadcasting to buy certain product or service taking advantage of their inexperience and trustfulness or directly encourage children and juveniles to persuade their parents or someone else to purchase the offered goods or services or take advantage of special trust placed by children and juveniles in their parents or other persons or gratuitously show children and juveniles in dangerous situations. Also teleshopping must be compliant with these requirements and must not encourage children and juveniles to conclude contracts for sale or lease/hire of goods and services.

78. The Act on Czech Television (Act No. 483/1991 Coll.)⁸⁴ and the Act on Czech Radio (Act No. 484/1991 Coll.)⁸⁵ then extends the scope of the above obligation for Czech Television and Czech Radio by the task to provide a balanced offer of programmes for all

⁸³ Act No. 231/2001 Coll., on radio and television broadcasting and on amendment to certain other Acts, as amended.

⁸⁴ Act No. 483/1991 Coll., on Czech Television, as amended.

⁸⁵ Act No. 484/1991 Coll., on Czech Radio, as amended.

groups of the population taking account, inter alia, of the age, and produce, inter alia, also programmes for children and youth.

79. Under the Act on certain conditions of production, dissemination and storage of audiovisual works (Act No. 273/1993 Coll.)⁸⁶ the producer of a Czech audiovisual work or a distributor of other than a Czech audiovisual work is required within 10 days prior to the release of this work in the Czech Republic send to the Ministry of Culture a registration form for the audiovisual work which must contain, inter alia, an accessibility age limit for the audiovisual work, including brief explanation of reasons for restricted accessibility.

80. The distributor is required to ensure that the casings or accompanying documents of duplicated audiovisual works specify the accessibility limit as determined by the producer or distributor, including brief explanation of reasons for restricted accessibility.⁸⁷ Audiovisual works whose content could endanger physical, mental or moral development of children, must be prior to their release marked with an accessibility limit set at the age of 15 or 18. The accessibility limit for a Czech audiovisual work, including the justification of its restricted accessibility needs to be determined by its producer, or co-producer. If he fails to meet this obligation, he commits an administrative delict that needs to be considered by the regional authority. The operator of an audiovisual performance is then required to make public the accessibility limit determined in this way in connection with the announcement of the holding of the audiovisual performance and during the performance eliminate attendance of persons to whom possible restriction on accessibility of the audiovisual work applies.

81. The operator of a shop offering audiovisual works or an audiovisual work rental must not sell or hire the duplicated audiovisual work with restricted accessibility to persons younger than the accessibility limit for the audiovisual work concerned permits. The supervision of compliance with these obligations is performed by the municipal authority. Infringement of the obligation by the operator of an audiovisual performance or by the operator of a shop offering audiovisual works or an audiovisual work rental is considered by the municipal authority as an administrative delict.

82. However, the Act on certain conditions of production, dissemination and storage of audiovisual works only applies to works intended for audiovisual performances, not to works

⁸⁶ Act No. 273/1993 Coll., on certain conditions of production, dissemination and storage of audiovisual works and on amendment to certain Acts and certain other regulations (hereinafter referred to as „the Act on certain conditions of production, dissemination and storage of audiovisual works“).

⁸⁷ Provision of Section 3 paragraph 3 of the Act on certain conditions of production, dissemination and storage of audiovisual works.

intended for release through television broadcasting or through the information network Internet.⁸⁸

83. The Act on social and legal protection of children provides the obligations of authorities for social and legal protection applicable to the disclosure of information pertaining to minor children and their family. Specifically, particular cases are determined to whom and to what extent, the authority for social and legal protection can provide information on the child or his or her family and who is obliged to provide the required information upon request from the authority for social and legal protection. A child who is capable, in view of his or her age and maturity assess the consequences and significance of decisions arising from legal or administrative proceedings to which he or she is a party, or if this is another decision relating to his or her person, will receive from the authority for social and legal protection information on all serious matters relating to his or her person.⁸⁹

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

84. The Act on social and legal protection of children in provision of Section 10 provides that municipalities, state authorities, authorized persons, schools, school and medical facilities, or, where appropriate, other facilities intended for children are required, inter alia, to report to the municipal authority of a municipality with extended powers any facts that indicate that a particular child is at risk, including the suspicion that a child is at risk of being a victim of criminal offence (abused, neglected, etc.). In connection with this provision in 2005 in the Bulletin of the Ministry of Health a methodological measure the Procedure to be taken by primary care physicians in the case of suspected ill-treated, abused and neglected child syndrome was published.⁹⁰

⁸⁸ In connection with accessibility of audiovisual works to children and juveniles it is necessary to refer to Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (The Media Services Directive). The Directive will be transposed into the Czech legislation by December 2009; in contrast with the current status, the legislation will apply also to television broadcasting via the Internet, and as a new feature also to on-demand audiovisual media services.

⁸⁹ Provision of Section 8 paragraph 3 of the Act on social and legal protection of children.

⁹⁰ This methodological measure Procedure to be taken by primary care physicians in the case of suspected ill-treated, abused and neglected child syndrome published in the Bulletin of the Ministry of Health in 2005 was replaced by the methodological measure Procedure to be taken by primary care physicians in the case of suspected ill-treated, abused and neglected child syndrome published in the Bulletin of the Ministry of Health in May 2008.

V. FAMILY AND ALTERNATIVE CARE

(articles 5, 9-11, 18 paragraph 1 and 2; 19 – 21, 25, 27 paragraph 4 and article 39)

Family

85. Article 32 of the Charter of Fundamental Rights and Basic Freedoms of the Czech Republic provides that parenthood and the family are under the protection of the law and special protection is guaranteed to children and adolescents. Furthermore, it provides that it is the parents' right to care for and raise their children and children have the right to upbringing and care from their parents. Parental rights may be limited and minor children may be removed from their parents' custody against the latter's will only by decision of a court on the basis of the law.

86. Since April 2000, the concept of public protection of the family, in particular of children, has been changed. The Act on social and legal protection of children governs the activities of authorities for social and legal protection of children in cases where children are placed in care of other natural persons than their parents, the arrangement of adoption and foster care, institutional upbringing, care of children needing special assistance and social and legal protection of children with respect to foreign countries.

87. By the amendment to the Act on social and legal protection of children, which came into effect on 1 June 2006, the obligation of authorities for social and legal protection of children to provide assistance to the family in cases, where a child has been placed into care outside the family, has been further extended. These authorities are required to assist in arranging family circumstances and life and social situation with the aim of returning the child to the family. The authority for social and legal protection of children is required to visit a child placed in the institutional upbringing and his or her family at least once in three months.

88. In 2005, the Government adopted the document „the National Concept of Family Policy“⁹¹. This concept defines complex objectives and measures for implementation of policy tools in the area of families with children. The concept seeks to strengthen the position of the family in the Czech society, create generally more favourable social climate and conditions for the family and enable to parents to reconcile career and parental responsibilities. Currently, its updating is being prepared.

⁹¹ Government Resolution No. 1305 of 12 October 2005. The concept was developed on the basis of information obtained by the overall review of the legislation, procedures and administrative decisions applicable to families with children

89. As regards the Hague Convention No. 24 on the Law Applicable to Maintenance Obligation of 1973, the Czech Republic has not yet adopted it. Currently, the new Hague Convention has been considered which addresses the whole issue of applicable law, recognition and enforcement of decisions on maintenance obligation. The Czech Republic is now preparing for the approval and ratification of this Convention.

Alternative care of children

90. Since 2002, most activities in the area of the arrangement of alternative care have been delegated from the Ministry of Labour and Social Affairs to regional authorities. The Family Act provides that when choosing a suitable person the court generally gives priority to the child's relatives. In cases where such care cannot be secured for a child, a foster family is sought for him or her.

91. The municipal authority of a municipality with extended powers can impose on parents the obligation to take advantage of the assistance provided by a specialized counselling facility, if parents have not secured for the child specialized counselling assistance (despite the fact that the child necessarily needs such assistance) and the municipal authority of a municipality with extended powers had previously recommended such assistance.⁹² The authority may impose such obligation also in cases where parents are unable to address the problems associated with the child's upbringing, in particular in disputes concerning the regulation of the child's upbringing or visitation rights. The authority is required to provide assistance to a parent in placing a child into the facility for institutional upbringing⁹³, or into the facility for children needing immediate assistance.⁹⁴ This assistance focuses in particular on the arrangement of family circumstances that would enable the child's returning to the family, it is offered for the solution to life and social situations, including the family's financial situation and furthermore, focuses on collaboration with social security authorities, Labour Offices and additional state and other authorities (for this purpose, it serves to arrange for parents assistance of the counselling facility). These measures should help the family to

⁹² Provision of Section 12 of the Act on social and legal protection of children.

⁹³ The purpose of school facilities for institutional or protective upbringing is to provide to a minor person, usually aged between 3 and 18 years, or, where appropriate, adults up to the age of 19 years, based on a court ruling on institutional upbringing or protective upbringing or on a preliminary injunction, alternative upbringing care in the interest of his or her healthy development, proper upbringing and education.

⁹⁴ Facilities for children needing immediate assistance provide protection and assistance to a child who finds itself without any care or whose life or positive development are seriously endangered or if a child finds itself without care appropriate to his or her age or if this is a child physically or mentally ill-treated or abused or a child who finds itself in the environment or the situation where his or her fundamental rights are seriously endangered. Protection and assistance provided to such child consist in meeting the basic necessities of life, including accommodation, securing health care by medical facilities and psychological or similar necessary care.

arrange its family circumstances and restore the family's function to an extent that would allow the child's returning to the family.

Foster care for a temporary period

92. For the above reasons, a new form of foster care for a temporary period has been introduced.⁹⁵ The aim of the new legal institute is to secure care of children who for a certain period need care of especially trained foster parents. Foster care for a temporary period should serve, in particular, to secure care of children, for whom their parents cannot temporarily care, i.e. as an alternative to institutional upbringing or care in facilities for children needing immediate assistance. At the same time this form of alternative family care gives sufficient room to work with the child's family in order that the child might return back to the family.

93. New legislation⁹⁶ applicable to placing the child in foster care under the preliminary injunction has been enacted. The court places a child into foster care under a preliminary injunction in cases where a child is to be placed in foster care for a temporary period after the elapse of which a parent can give consent to the adoption or for a period till the court decides that the parent's consent to the adoption is not required. After the elapse of 3 months from the date of enforceability of the preliminary injunction its duration can be extended in cases where the court does not have sufficient basis for adjudication on the merits of the case. If prior to the elapse of this period the proceedings on the merits of the case have been commenced, the court may extend the preliminary injunction repeatedly by one month, however the total duration of the preliminary injunction must not exceed six months. Afterward, the duration of the preliminary injunction can be exceptionally extended only in cases where for serious and objective reasons it was not possible to complete taking of evidence on the merits of the case within this time limit.

Foster care

94. The amendment to the Act on social and legal protection of children⁹⁷ has significantly increased foster parent allowance. Foster parent allowance has been increased to double the amount of the previous sum paid.⁹⁸ At the same time foster parent allowance in special cases has been increased to more than double the amount of the previous sum for a foster parent

⁹⁵ Introduced by the amendment to Act No. 359/1999 Coll., on social and legal protection of children, effective as of 1 June 2006.

⁹⁶ Provision of Section 76a of the Civil Procedure Code.

⁹⁷ The amendment to Act No. 112/2006 Coll., on social and legal protection of children, as amended.

⁹⁸ Specifically, the allowance was increased from CZK 1,200 per month to CZK 2400 per month for each child placed in foster care.

who cares for at least 3 children, or for at least one child with serious disability.⁹⁹ In the case of foster parents who provide foster care in foster care facilities,¹⁰⁰ since 1 June 2006 foster parent allowance has been increased to more than three times of the previous sum.¹⁰¹

95. The overview of increases in foster parent allowances is provided in Tables No. 2 and 3 in the Annex to this report.

96. If a child who is to be placed in foster care, is at the age when he or she is capable of assessing his or her situation, the child should be given a chance to express freely his or her view. The child's view should be taken into consideration in line with the Family Act.¹⁰²

Placing the child in custody of other natural persons than parents

97. If the best interests of the child so require, the court may place the child into care of other natural person than a parent, provided that such person guarantees his or her proper upbringing and agrees to take the child in foster care. When choosing a suitable person, the court generally gives priority to the child's relatives. Authorities for social and legal protection of children monitor the child's development and visit him or her in the family on a regular basis.

Facility for children needing immediate assistance

98. Facilities for children needing immediate assistance provide protection and assistance to a child who finds itself without any care or whose life or positive development are seriously endangered or if a child finds itself without care appropriate to his or her age or if this is a child physically or mentally ill-treated or abused or a child who finds itself in the environment or the situation where his or her fundamental rights are seriously endangered. Protection and assistance provided to such child consists in meeting the basic necessities of life, including accommodation, securing health care by medical facilities and psychological or similar care. A child is placed in the facility for children needing immediate assistance:

- based on a court decision,
- upon request of the municipality with extended powers,
- upon request of the child's legal representative, or

⁹⁹ Hence, the basic amount of foster parent allowance in special cases has been increased from CZK 7,200,- per month to CZK 15,600,- per month.

¹⁰⁰ Foster care can be provided in foster care facilities (hereinafter referred to as "facilities"). Such facilities are usually established in a separate building or in rooms that the founder has furnished as a flat for a family with higher number of children. The founder of the facility concludes with the foster parent an agreement in writing on the provision of foster care in the facility.

¹⁰¹ From CZK 5,760,- per month to CZK 15,600,- per month in the basic amount (in the case of care for 1 to 3 children), the amount was increased to CZK 17 193,- per month with effect as of January 2007 (see the Table).

¹⁰² Provision of Section 47 paragraph 2 of the Family Act.

- if the child so requires.

99. If a child is placed in a facility for children needing immediate assistance based on a court decision, an employee of the municipality with extended powers is required to visit the child as necessary, however, at least once in 3 months. Such a child may be allowed to stay outside this facility with parents or other natural persons only with the previous written consent by the municipal authority of the municipality with extended powers.

Adoption

100. Municipal authorities of municipalities with extended powers search for children suitable for adoption and for natural persons suitable for becoming adoptive parents. Each application for adoption is carefully considered by specialized staff in line with the Act on social and legal protection of children. Regional authorities keep for the purposes of arranging adoptions the register of children suitable for adoption and the register of applicants suitable for becoming adoptive parents. For each region, the region's commissioner sets up for the purposes of arranging adoptions an advisory board as a special regional body. The advisory board is comprised of experts specializing in social and legal protection. These are in particular experts specializing in pediatrics, psychology, pedagogy, representatives of school, medical or social facilities for institutional upbringing, staff of the regional authority and the municipal authority of municipalities with extended powers assigned to the department of social and legal protection.

101. If the regional authority does not arrange adoption within 3 calendar months after a child is entered in the register of children suitable for adoption or within 3 years after a decision on entering an applicant in the register of applicants comes into force, it will forward a copy of the data from these registers to the Ministry of Labour and Social Affairs¹⁰³, and if the Ministry of Labour and Social Affairs does not arrange adoption within 3 calendar months after a child is entered in the register of children suitable for adoption kept by the Ministry, or within 6 calendar months after entering an applicant in the register of applicants kept by the Ministry, it will forward a copy of the data from these registers to the Office for International Legal Protection of Children in order to be entered in the register for arranging adoption abroad. Previous consent from the legal representative of the adopted child is required for the child's adoption¹⁰⁴. A child can be adopted without consent from his or her parents only based on a court decision, in a situation that his or her parents do not show true interest in the

¹⁰³ Provision of Section 22 paragraph 8 of the Act on social and legal protection of children.

¹⁰⁴ Provision of Section 67 of the Family Act.

child¹⁰⁵. The child's adoption, his or her placing in foster care, placing in care of another natural person or in necessary cases placing in suitable child care facility is always decided by the court having a local jurisdiction according to the child's domicile.

Illicit transfer and non-return

102. Abductions are governed by the Criminal Code¹⁰⁶, under which these acts are punishable by imprisonment of up to three years.

Office for International Legal Protection of Children

103. The Office for International Legal Protection of children is an administrative body having the nationwide powers which executes social and legal protection of children with respect to foreign countries.¹⁰⁷ The Office's main agenda is recovery abroad of maintenance for the eligible persons in the Czech Republic and from the obligated persons in the Czech Republic for the eligible persons abroad. The cases of recovery of maintenance account for 80 % of the Office's agenda. The recovery of maintenance is enabled by bilateral agreements on legal assistance with certain states and multilateral Conventions to which the Czech Republic is a party. Furthermore, the Office pursues activities in the area of arranging intercountry adoption under the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. The Office also deals with cases where parents have differing views about identifying the place of residence of their children. Parental disputes sometimes result in a situation where one of the parents withdraws a child from the care of the other parent, leaves the common place of residence which he or she has so far shared with the other parent and the child and without consent from the other parent transfers the child into another state or retains the child in another state. In such a case the Office discharges the duties of the Central Authority under Article 7 of the Hague Convention on Civil Aspects of International Child Abductions.¹⁰⁸

104. The Annex contains Table No. 4 showing statistical data on alternative family care.

Protective upbringing

105. Protective upbringing is a protective measure¹⁰⁹ under the Juvenile Justice Act. A juvenile court can order protective upbringing to a juvenile, if the juvenile does not receive

¹⁰⁵ Provision of Section 68 of the Family Act.

¹⁰⁶ Provision of Section 216 of the Criminal Code.

¹⁰⁷ Provision of Section 35 of the Act on social and legal protection of children.

¹⁰⁸ Communication of the Ministry of Foreign Affairs No. 34/1998 Coll.

¹⁰⁹ Protective measures are protective in-patient treatment, seizure of a thing or another asset and protective upbringing. Their purpose is to have positive effect on mental, moral and social development of a juvenile and protect society from the commission of wrongful acts by juveniles.

proper upbringing and the absence of proper upbringing cannot be eliminated in his or her own family or in the family he or she lives in, the so far upbringing of the juvenile has been neglected, or if the environment the juvenile lives in does not guarantee his or her proper upbringing and the imposed upbringing measures are insufficient¹¹⁰.

106. Protective upbringing will continue as long as its purpose requires, however, not longer than until the juvenile reaches the age of eighteen. If the best interests of the juvenile so require, a juvenile court can extend protective upbringing until the juvenile reaches the age of nineteen. In terms of the protective upbringing function, basically, three groups of persons who are ordered protective upbringing can be defined:

- First of all, these are juveniles (i.e. persons who have reached the age of 15 at the time of the commission of the crime and are younger than 18). These persons are responsible for criminal activities, although in order to be subject to criminal responsibility, in the case of juveniles the law requires that elements of a crime (the degree of danger the crime presents for the society) be higher than small, whereas in the case of adults it is sufficient if it is higher than negligible. Protective upbringing in the case of juveniles is an alternative measure, a departure from imposition of criminal sanctions, where a judge at his or her sole discretion may release the perpetrator from having criminal sanctions being imposed on him or her and only orders a protective measure.
- The second group consists of children (i.e. persons under the age of 15 who are not subject to criminal responsibility under any circumstances) who have committed an otherwise criminal act for which the Criminal Code allows to impose an exceptional sentence and who at the time of the commission of this wrongful act have reached the age of 12 years. In the case of perpetrators of acts defined in this way, the courts are required to impose a protective measure in the form of protective upbringing. Protective upbringing in the case of these perpetrators serves not only as a means of individual prevention, but also, because it is impossible to impose a sentence of imprisonment, it must also perform the function of general prevention (the protection of the society).

¹¹⁰ Upbringing measures can be ordered to a juvenile if he or she has been discharged from having criminal sanctions being imposed on him or her or if he or she has been conditionally discharged from having criminal sanctions being imposed on him or her. Upbringing measures are the supervision of a probation officer, probation programme, upbringing obligations, upbringing restrictions, admonition with a warning.

- The third group consists of children (i.e. persons under the age of 15) who have committed an otherwise criminal act and the nature of the act committed and the necessity to secure their proper upbringing necessarily requires to order protective upbringing. In the case of these children it is up to the court to consider whether the act they have committed and their personal circumstances do not offer another solution than ordering protective upbringing, while in this case, similarly, as in the case of the previous group, the judge must consider the aspect of general prevention of the measure ordered.

107. Based on a court decision, ordered institutional upbringing can be changed to protective upbringing and ordered protective upbringing can be changed to institutional upbringing; the director of the facility in which institutional or protective upbringing is executed can be one of the parties initiating proceedings to this effect.

Institutional upbringing

108. If the child's upbringing is seriously endangered or seriously impaired and other upbringing measures have not remedied the situation, or if, for other serious reasons, the parents are unable to secure the child's upbringing, the court can order institutional upbringing or placing the child into the facility for children needing immediate assistance. Before ordering institutional upbringing, the court is required to examine whether the child's upbringing cannot be secured through alternative family care or through family care in facilities for children needing immediate assistance which takes precedence before institutional upbringing. Consequently, only court can decide on placing the children in institutional care. The court is required to examine at least once in six months whether there are still reasons for ordering institutional upbringing or placing the child into the facility for children needing immediate assistance.

109. To strengthen the protection of children living in institutional upbringing the Act on social and legal protection of children provides more details on monitoring these children's development and compliance with the conditions of execution of institutional and protective upbringing. Originally, authorities for social and legal protection were required to visit a child who has been ordered institutional upbringing once in 6 months. Since 1 June 2006, an employee of the municipality with extended powers is required to visit at least once in 3 months a child who has been ordered institutional upbringing or protective upbringing and visit also his or her parents at the same interval.

110. Municipal authorities of municipalities with extended powers monitor respect for the rights of the child in institutional upbringing and protective upbringing institutions; they monitor in particular the development of the child's mental and physical abilities, evaluate whether there are still reasons for the child's stay in institutional upbringing, examine how the relationships between children and their parents are developing and seek to ensure that siblings are placed in institutional upbringing facilities together.¹¹¹ Supervision over adherence to the legislation in the execution of institutional and protective upbringing in the above facilities is performed by the public prosecutor's office.

111. Conditions in these facilities are also being improved on an ongoing basis by further education of pedagogical staff in the form of seminars and courses, by conducting psychological examinations of pedagogical staff, securing sufficiently spacious rooms in line with the applicable implementing regulations and participation of children in activities of facilities by joint governance of the facility.

112. Within the system of after-care for persons who leave the institutional upbringing facilities, the Ministry of Labour and Social Affairs implements the grant programme for NGOs that focus on accompanying of children placed in institutional and foster care. The analysis of the results of grant proceedings also enables to examine in detail the activities of the relevant organizations in individual regions of the Czech Republic.

113. The status of the rights of the child in institutional and protective upbringing facilities was analyzed by the Public Defender of Rights in his 2007 Report on inspection visits to institutional and protective upbringing facilities.¹¹² In this report, the Ombudsman, inter alia, noted that the Act on execution of institutional or protective upbringing places emphasis on establishing separate facilities for children with ordered institutional upbringing and for children with ordered protective upbringing, nevertheless this requirement has not been implemented in practical policy of the Ministry of Education and finally, the rights of children who have been ordered institutional upbringing can be infringed. The Ombudsman furthermore, deems it desirable that only children with the ordered protective upbringing and with diagnosed extreme behavioral disorder be placed in specialized departments¹¹³.

¹¹¹ Provision of Section 29 paragraph 1 of the Act on social and legal protection of children.

¹¹² <http://www.ochrance.cz/dokumenty/dokument.php?back=/cinnost/ochrana.php&doc=599>

¹¹³ Under Decree No. 438/2006 Coll. of 30 August 2006, regulating details of execution of institutional upbringing and protective upbringing at school facilities, children with serious behavioral disorders and with extreme behavioral disorders are placed in facilities whose activity or the activity of whose departments specializes in upbringing and medical treatment care. Especially children whose development is seriously endangered due to their mental problems, children with attention and concentration disorders accompanied by hyperactivity who cannot be handled by standard upbringing procedures and methods, children experimenting with habit-forming substances or drug-addicted children can be placed by the psychiatric reformatory for

114. The following table shows information on children placed in protective or institutional upbringing institutions:

School year	Total	Pre-school age				Compulsory school attendance				After the completion of compulsory school attendance			
		Total	Thereof: girls	Including:		Total	Thereof: girls	Including		Total	Including girls	Including	
				Under the age of 3	3 years and over			Under the age of 15	Over 15			Between 15 and 18	Over 18
2001/02	7222	440		9	431	4028	1617	3378	650	2754	1049	2499	255
2002/03	7270	403		9	394	3964	1630	3314	650	2903	1117	2610	293
2003/04	7205	388	171	9	379	3973	1616	3327	646	2844	1097	2520	324
2004/05	7590	406	169	47	359	4273	1710	3485	788	2911	1138	2507	404
2005/06	7621	415	170	46	369	4152	1687	3369	783	3054	1181	2645	409
2006/07	7459	411	182	58	353	4108	1636	3242	866	2940	1162	2512	428

115. In the period under review in the area of health services the process of transformation of infant institutes and children's homes under the age of 3 in family type facilities was started. In connection with these changes, the Act on infant institutes and on children's homes for children under the age of 3 is being drafted. A preliminary deadline for the submission of the Bill has been set for 31 December 2008.

Family reunification

116. Under the Asylum Act¹¹⁴, asylum for the purposes of family reunification will be granted in cases worthy of special attention to a family member who has already obtained asylum, even if in the proceedings on granting international protection¹¹⁵ the reason for granting asylum to him or her is not found. A family member for the purposes of family reunification means a spouse of the asylum-holder, a single-child of the asylum-holder under

delinquent juveniles in its department specializing in upbringing and medical treatment care for children with serious behavioral disorders.

¹¹⁴ Act No. 325/1999 Coll., on asylum and on amendment to Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended, (the Asylum Act).

¹¹⁵ International protection takes two forms, namely asylum and subsidiary protection. Subsidiary protection is granted in cases where a foreigner in the case of his or her returning to the country of origin would be at real risk of serious harm (i.e. imposition or execution of death penalty, torture or inhuman or degrading treatment or punishment, serious threat to life or human dignity due to malicious violence in situations of international or national armed conflict, or in cases where the foreigner's leaving the country is contrary to international obligations of the Czech Republic). If a applicant for international protection in the proceedings meets the statutory conditions for granting both forms of international protection, he will be granted an asylum as the higher form of protection.

the age of 18, a parent of the asylum-holder under the age of 18, or an adult responsible for an unaccompanied minor.¹¹⁶

- In the period under review, the institute of a long-term residence permit for the purpose of the family reunification was introduced. A foreigner is entitled to file an application for a long-term residence permit for the purpose of the family reunification in cases defined by law.
- In the course of stay in the territory under the long stay (over 90 days) visa or under the long-term residence permit issued for another purpose, a foreigner may file an application for a long-term residence permit for the purpose of the family reunification with the Police. A long-term residence permit for the purpose of the family reunification will be granted to a foreigner, inter alia, in cases where a minor foreigner, who should be enabled to live together with the family, was granted an asylum.
- Furthermore, the Act on residence of foreigners governs the possibility of granting a permanent residence permit to an applicant without the condition of previous continuous stay in the territory. This permit will be granted to a foreigner who applies for this permit for humanitarian reasons, in particular, if he or she is a minor child of an asylum-holder or a child which is dependent on the asylum-holder's care, unless he or she applies for granting an asylum, or
- who applies for granting this permit as a minor or adult unprovided for child of a foreigner who stays in the territory under the permanent residence permit, if the reason for the application is living together of these foreigners.

117. After the Czech Republic's accession of the EU, conditions for granting a permanent residence permit to a family member of an EU national have been modified.¹¹⁷ A permanent residence permit will be granted to a family member of an EU national after 5 years of his or her continuous stay in the territory or if he or she is a family member of a national of the Czech Republic who holds a permanent residence permit in the territory or is a family

¹¹⁶ Unaccompanied minor under the Asylum Act means a person under the age of 18 who arrives in the territory (of the Member States) unaccompanied by an adult responsible for him or her by law applicable in the territory of the state whose citizenship the person under the age of 18 holds or in cases where such person is stateless in the territory of the state of such person's most recent domicile, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory (of the Member States).

¹¹⁷ A family member of an EU national means his or her

- spouse,
- parent, if this is an EU national under the age of 21,
- child under the age of 21 or such child of a spouse of an EU national,
- unprovided for direct relative in the direct ascending or descending line or a relative of an EU national.

member of a national of another EU Member State who was granted a permanent residence permit in the territory.

118. Furthermore, the amended legislative regulation of the Act on residence of foreigners provides that an EU national can stay in the Czech Republic for an unlimited period and only if for any reason he needs an official certificate of his or her residence in the Czech Republic (he or she may need it for another authority, for his or her eligibility for social benefits or for his or her employer) and intends to stay here for a period longer than 3 months, he may apply for and is entitled to the so-called certificate of temporary residence.

119. Family members of an EU national who themselves are not EU nationals and intend to stay in the territory temporarily for a period longer than 3 months together with an EU national are required to apply to the Police for a temporary residence permit.

Recovery of maintenance for the child

120. The Chamber of Deputies approved on 7 May 2008 a Bill amending Act No. 99/1963 Coll., The Civil Procedure Code, and other Acts associated with recovery of delinquent maintenance.¹¹⁸ The purpose of the Bill is to make easier the procedural position of the beneficiary in the proceedings on recovery of maintenance and make the debtor's position more difficult. The scope of precedence of maintenance over other claims has been extended even to the execution of judgment by the sale of a business. Furthermore, a limitation period for cases of recovery of maintenance has been extended from three to ten years and exemption from the obligation to pay advances for the costs of forced collection proceedings on recovery maintenance has been introduced. At the same time the Bill also stipulates the obligation of the authority for social and legal protection of children to provide assistance in claiming the child's rights to maintenance and in the recovery of the delinquent maintenance, including assistance in filing motions with the court in the case of the obligated party's failure to pay maintenance.

121. Recodification of the Criminal Code that is being considered by the Chamber of Deputies,¹¹⁹ imposes stricter sanctions on the crime of failure to support and maintain the child, since the number of years of imprisonment for this type of crime has been increased. Furthermore, new element of crime has been added in the form of an especially aggravating circumstance stipulating that „a perpetrator will be imprisoned for between one and five years, if he has been sentenced or punished for such crime in the past three years.“

¹¹⁸ The Bill is being considered as Parliamentary Print No. 325.

¹¹⁹ Parliamentary Print No. 410.

Abuse and neglect, including physical and psychological recovery, including social reintegration

122. The amendment to the Criminal Code has introduced with effect from 1 June 2004 new merits of case of the crime of maltreatment a person living together in a common flat or house.¹²⁰ Such merits of case apply to domestic violence in general, not only to women. Its victim can be any person, a close person or another who lives with the perpetrator in a common dwelling or house. Detection and prosecution of domestic violence is monitored and evaluated by the Ministry of Justice.¹²¹ (Table No. 5-6 in the Annex to this report provides the overview of sentences relating to the detection and prosecution of domestic violence). Specific and latest results in the area of domestic violence issues are discussed by members of the monitoring group coordinated by the Ministry of the Interior.

123. The Czech Republic enacted in 2006 a separate legislation on domestic violence. On 1 January 2007 the Act amending certain Acts in the area of protection from domestic violence came into effect (Act No. 135/2006 Coll.)¹²². The purpose of this new legislative regulation is an effective preventive protection of persons at risk of domestic violence. The scope of the Police rights has been extended by the possibility of banishing a violent person who commits domestic violence from a common dwelling for a period of ten days. This means that if a policeman identifies a domestic violence case and at the same time there are reasonable grounds for believing that an assault against life, health or especially serious attack against human dignity might occur, the policeman will banish the violent person from a common dwelling for a period of ten days, while this time limit cannot be reduced. At the same time the policeman will enable to the banished person to take his or her personal effects, valuables and documents that he or she needs when leaving the dwelling and within 24 hours after banishing the banished person is enabled to collect other personal effects from a common dwelling with the Police assistance. The Police will provide necessary assistance to the banished person, i.e. will inform such person about possibilities of nearby accommodation, or, where appropriate, will enable such person to arrange for accommodation from the Police Department office by telephone.

124. A person at risk is informed about subsequent development, about the possibility of filing a motion with a civil court for preliminary injunction and possibilities of other assistance. The Police then informs the relevant intervention centre which contacts the person

¹²⁰ Provision of Section 215a of the Criminal Code.

¹²¹ This procedure is based on Czech Government Resolution No. 794 of 25 August 2004.

¹²² Act No. 135/2006 Coll. amending certain Acts in the area of protection from domestic violence.

at risk and provides psychological and social assistance on an inpatient or asylum basis and legal counselling to such person. The assistance provided also includes cooperation and mutual exchange of information between authorities for social and legal protection of children, municipalities, bodies of the Police of the Czech Republic and municipal police, non-governmental organizations and charity organizations. Intervention centres are social services facilities that provide assistance in social and legal, psychological and organizational matters to persons at risk. Intervention centres coordinate the institutions involved in assistance to persons at risk of violent behaviour and evaluate mutual cooperation. In the event that a minor lives in a common dwelling, to which the decision on banishing applies, the policeman will deliver a copy of the decision on banishing together with a copy of the official report within 24 hours after its issue also to the competent authority for social and legal protection of children.

125. Within the time limit of three days after the issue of a decision on banishing, the Police is required to conduct an inspection in a common dwelling in order to examine whether the banished person complies with the decision on banishing. In the case of non-compliance with the decision, the violent person faces the liability for the delict or crime of obstructing the execution of an official decision.¹²³

126. The new legislative regulation, as has been already noted above, introduces also another option for the person at risk, namely to file in civil proceedings a motion for preliminary injunction,¹²⁴ whereby the court will order the violent person to leave the common dwelling or to refrain from entering it and refrain from meeting the person at risk and making contacts with him or her. Such a court decision is issued for a period of one month, with the proviso that if the proceedings on merits of case had been commenced¹²⁵ this judicial order can be extended for a period of up to one year.

127. In order to secure this newly introduced right of the Police, the Binding Instruction of the Police President No. 179/2006 laying down the procedure to be taken by the Police of the Czech Republic in cases of domestic violence was issued. Since October 2006 a series of training courses for policemen has been launched. The training was focused on the identification of elements of domestic violence, principles of communication with a person at risk and a violent person, learning the work based on the so-called „SARA DN“ method (*Czech version of Spousal Assault Risk Assessment*) that will be used by policemen for

¹²³ Provision of Section 171 paragraph 1 letter e) of the Criminal Code.

¹²⁴ Provision of Section 76b of the Civil Procedure Code.

assessment of additional assaults by the violent person on the person at risk, while the courses included also training of model situations.

128. In this context, also the Act on social and legal protection of children was amended¹²⁶, since the scope of children on whom social and legal protection directly focuses, now, as a new feature, also includes children who are at risk due to violence between their parents and other natural persons.¹²⁷ Under the Act on social and legal protection of children, preventive programmes for the protection of ill-treated, abused and neglected children shall be assessed and proposed by the commission for social and legal protection of children established by the mayor of the municipality concerned.¹²⁸ This commission, inter alia, considers individual cases of such children in order to propose measures aimed at providing effective assistance to those children and families.

129. Tables No. 7-8 in the Annex to this report show statistical data on the crimes of maltreatment of a person placed in one's care, sexual abuse, trafficking in children and abductions.

130. With respect to the concluding observation of the Committee No. 41 letter b) we may note that under the Act on Police¹²⁹ the Inspection of the Minister of the Interior which is the Ministry's department in charge of inspection work, performs the task of detecting crimes committed by policemen and detecting offenders.

131. Investigations of non-criminal matters fall within the remits of the Department of Control and Complaints of the Police Presidium of the Police of the Czech Republic.

132. A significant step towards ensuring higher objectivity of investigation of crime committed by the Police has been made by delegating this task from the Inspection of the Ministry of the Interior to public prosecutor's offices that report to the Ministry of Justice. Investigation of complaints about delicts of policemen that are less serious and cannot be qualified as crime, continues to be performed by supervisory bodies of the Police of the Czech Republic that are part of its structure.

¹²⁵ This includes e.g. proceedings on divorce of spouses, on the regulation of visitation rights, settlement of common property of the spouses, etc.

¹²⁶ The amendment was performed by Act No. 134/2006 Coll., amending Act No. 359/1999 Coll., on social and legal protection of children, as amended, Act No. 94/1963 Coll., on family, as amended (the Family Act), Act No. 99/1963 Coll., the Civil Procedure Code, as amended, Act No. 117/1995 Coll., on state social support, as amended, and Act No. 200/1990 Coll., on offences, as amended.

¹²⁷ Provision of Section 6 of Act on social and legal protection of children.

¹²⁸ Provision of Section 38 paragraph 2 letter b) of Act on social and legal protection of children.

¹²⁹ Act No. 283/1991 on the Police of the Czech Republic, as amended.

133. The Committee, furthermore, in its Observation No. 41 expressed concern that there is no enacted legislation prohibiting the use of corporal punishment and that corporal punishment is used in the family, in schools and in other public institutions, even in the alternative care regime. The existing wording of the Family Act¹³⁰ unequivocally implies the prohibition of the use of inadequate upbringing means that humiliate the child's dignity or anyhow endanger his or her health and physical, emotional, rational and moral development, including the use of inadequate punishments in any form. In connection with these provisions then the Act on social and legal protection provides that a natural person commits a delict if he or she uses an inappropriate measure against a child with the aim of demeaning the child's human dignity. A penalty of up to CZK 50,000,- can be imposed for this delict.¹³¹

134. At schools in the territory of the Czech Republic corporal punishments have been abolished as early as in 1870 and have never been resumed. All applicable school legislation has been issued after 1989 and is based entirely on the principles of democracy, mutual esteem, respect, a tolerance of opinion and dignity of all participants in the upbringing and educational process.¹³² Neither the Education Act, nor the Act on execution of institutional upbringing or protective upbringing at school facilities and on preventive upbringing care at school facilities use the term punishment or punishing. Neither the Acts quoted above, nor related Decrees allow any forms of corporal or other punishments. In connection with undesirable forms of behaviour in the interest of the child's (pupil's, students's) healthy development explicitly defined upbringing¹³³ or disciplinary measures have been enacted in legislation.¹³⁴ Corporal punishment of a child (pupil, student) by a pedagogical employee can be qualified under the Act on social and legal protection of children as a delict (see paragraph 133).

¹³⁰ Provision of Section 31 paragraph 2.

¹³¹ Provision of Section 59 paragraph 1 letter h).

¹³² This may be exemplified by provision of Section 2 of the Education Act.

¹³³ Upbringing measures are specified in the Act on execution of institutional upbringing or protective upbringing at school facilities and on preventive upbringing care at school facilities in provision of Section 21. For the proved breach of obligations defined by this Act, the child may lose benefits (the child's pocket money is reduced, the child is not allowed to attend a cultural event and others), in the case of children who have been ordered institutional upbringing, spending leisure time outside the facility can be restricted or prohibited to the extent stipulated by internal rules, the child may not be allowed to participate in activities or events organized by the facility beyond the scope of the facility's internal rules, may not be allowed to participate in an attractive activity or event, may not be allowed visits, except for persons responsible for his or her upbringing, close persons and authorized staff of the authorities for social and legal protection of children, for a period of a maximum of 30 days in the period of the following 3 months.

¹³⁴ Disciplinary measures under provision of Section 31 of the Education Act are conditional expulsion of a pupil or a student from a school or a school facility, and other disciplinary measures that do not have any legal implications for a pupil or a student.

135. However, the Government of the Czech Republic is currently considering to enact legislation expressly prohibiting corporal punishments.

136. The Committee has, furthermore, recommended to the Czech Republic to take action to address ill-treatment and abuse committed against children in the family, in schools, in the streets, in institutions and in places of detention through, inter alia, enacting legislation to adequately protect minorities from racially motivated attacks. In connection with this observation No. 41 we may note that the Education Act regulates the prohibition of discrimination. In order to ensure more effective prevention of racism, in schools and school facilities favourable atmosphere promoting mutual respect and partnership is created, the adequate pedagogical measures are taken against any expression of intolerance, xenophobia or racism. When preparing strategic materials for history, emphasis is put on the 20th century history, in line with Recommendation of the Council of Europe on teaching history in the 21st century Europe. In terms of school history classes, the 20th century history is indispensable to understanding the present age and current relationships in society. Prevention of racist, xenophobic and extremist attitudes, education for tolerance and respect for human rights and education for respect for natural and cultural environment and protection of art and cultural values.

137. The adopted measures aimed at physical and mental recovery and social reintegration of victims of rape, abuse, neglect, maltreatment and violence are incorporated into the current legislation applicable (inter alia) to the protection of children. In 2006 the Act on social and legal protection of children was amended¹³⁵ and the scope of the obligation of the authority for social and legal protection of children was extended by the duty to provide counselling to parents and children in cases where the family's functioning is at risk and the obligation to work with the child and the family in cases where the child is placed outside his or her own family was introduced. The authority for social and legal protection of children is not required to provide therapeutic assistance, but to arrange such assistance. As a new feature, the authority for social and legal protection, is entitled to order parents in administrative proceedings the obligation to visit a specialized counselling facility with a child or, where appropriate, order parents themselves to visit the counselling facility. Another change is regulated by the Act on Social Services¹³⁶ which explicitly defines the conditions of providing counselling services.

Commercial sexual abuse of children

¹³⁵ Amendment to Act No. 134/2006 Coll.

138. Commercial sexual abuse of children in the Czech Republic means – in accordance with the internationally accepted definition adopted at the so-called Stockholm Congress of 1996 - „the use of a child for sexual purposes in exchange for cash or in-kind favours between the customer, intermediary or agent and others who profit from the trafficking in children for these purposes“. Commercial sexual abuse of children according to this definition means child prostitution, child pornography and trafficking in children for the purposes of sexual abuse.

139. In terms of timely identification of cases of commercial sexual abuse of children and their prevention, the amendment to the Act on care for health of the population¹³⁷ is important because it provides the physician’s obligation to report suspected cases of maltreatment and abuse of children, including sanctions for non-compliance with this obligation and furthermore, the amendment to the Act on social and legal protection of children,¹³⁸ which extends the scope of reporting obligations of selected entities with respect to authorities for social and legal protection of children, including the possibility of imposing a sanction for non-compliance with the duty to report circumstances indicating the fact that a particular child is at risk.

140. A new crime of „soliciting to sexual intercourse“¹³⁹ was introduced into the Criminal Code. This crime is committed by anyone who offers, promises or provides to a child payment or another favour or benefit in exchange for sexual intercourse, sexual masturbation, indecent exposure or another similar behaviour for the purpose of gratification of sexual needs. Thereby punishability was introduced of commercial sexual abuse of persons in particular those aged between 15 and 18 that was not previously enacted. The Act came into effect on 1 January 2004.

141. The main strategic document in the area of commercial sexual abuse is the National Plan to Combat Commercial Sexual Abuse of Children that is being developed for a two-year period. The main impetus for the preparation of this document was the Plan of Action against Commercial Sexual Abuse of Children whereby the Stockholm World Congress held in 1996 imposed on the State parties the obligation to develop National Plans of Action against Commercial Sexual Abuse of Children until 2000. The first National Plan was prepared in 2000¹⁴⁰. The Czech Republic through this plan in particular has put in place the institutional

¹³⁶ Act No. 108/2006 Coll., on social services, as amended.

¹³⁷ Amendment to Act No. 267/2006 Coll., on care for health of the population, as amended.

¹³⁸ Amendment to Act No. 134/2006 Coll., on social and legal protection of children, as amended.

¹³⁹ Provision of Section 217a of the Criminal Code.

¹⁴⁰ Approved by Government Resolution No. 698 of 12 July 2000.

and conceptual framework for addressing the given issues and for coordinated procedure of the state administration against this phenomenon, complied with its international obligations in the given area and last, but not least, has turned the attention of the state administration and self-administration, including professional and lay public to these issues.

National Plan to Combat Commercial Sexual Abuse of Children (for the period 2000 – 2002)

142. The National Plan introduced into the issue of sexual abuse of children several partial new aspects. The criminal law legislation fully covers all areas of commercial sexual abuse of children whose punishability arises from international legal documents. The newly adopted legislation¹⁴¹ creates better prerequisites for more effective prosecution of offenders.

143. Awareness of issues of commercial sexual abuse of children has been significantly raised among representatives of state, professional and non-governmental sector. A number of steps have been taken in the area of prevention of this phenomenon. A number of steps have been carried out with a view to improving communication between individual state administration bodies, the Police and non-governmental organizations involved in solution of the identified cases. Despite significant efforts of policemen, social welfare personnel and non-governmental organizations in searching for cases of commercial sexual abuse of children, in the period since the previous report no increase in these cases has not been noted. The above crimes only occur rarely. The documented cases do not allow to make any significant generalizations. Various types of a dysfunctional or missing family, however, appear to be a common cause of all the above cases. Although higher latency of the incidence of commercial abuse of children cannot be ruled out, information about its widespread incidence as reported by some foreign media has not been confirmed.

National Plan to Combat Commercial Sexual Abuse of Children (for the period 2002 – 2004)

144. In the years 2002 to 2004 the tasks of the National Plan focused on the area of legislation, prevention and education, detection and prosecution of crimes related to commercial sexual abuse of children including coordination of activities of all interested parties and protection and care of victims and witnesses of such crimes. The measures proposed focused in particular on further specification of tasks of the previous period, their more effective impact on target groups, development of cooperation and coordination of the

¹⁴¹ The so-called Euro-amendment to the Criminal Code No. 134/2002 Coll.

relevant state administration and self-governing bodies at the central and local level and initiation of additional forms of activities in the area of education on and prevention of commercial sexual abuse of children.

145. The incidence of child prostitution in the Czech Republic is neither on a mass scale, nor has it the nature of organized crime.¹⁴² No case of trafficking in children for the purpose of sexual abuse (exploitation) has been reported in the Czech Republic in the period 2002 – 2004.¹⁴³ Also cases of occurrence of persons under the age of 18 in erotic clubs are very rare.¹⁴⁴

146. In 2002, the Trilateral Czech-German-Polish working group addressing issues relating to border area crime has been established. The working group, besides other issues, deals with trafficking in human beings, in particular women and children, sexual abuse of women and children and sexual tourism.¹⁴⁵ This year also the agreement between the Czech Republic and the Federal Republic of Germany on cooperation between police bodies and authorities in charge of border protection in border areas came into force.¹⁴⁶ The agreement allows exchange of information between the Police Force of the two states, while the established contact departments mediate information from the German Police.

National Plan to Combat Commercial Sexual Abuse of Children (for the period 2004 – 2006)

147. The issue of commercial sexual abuse of children has been updated in the area of education and professional training of staff of bodies in charge of criminal proceedings, social welfare, educational and medical personnel. Also several surveys were conducted that were used for planning the activities for the period 2006 – 2008. The criminal statistics for this period show a significant increase in detected cases of commercial sexual abuse of children. This does not mean that the situation is getting worse, but rather indicates gradual reduction in

¹⁴² The sole exception is the case of 2003 when the organized group forced to work a 17-year-old Vietnamese girl in an erotic club.

¹⁴³ The Police of the Czech Republic registered for the last 3 years 2 cases of trafficking in children pursuant to Section 216a of the Criminal Code, in both cases this was offering a child for paid adoption.

¹⁴⁴ This fact has been proved also by experience and results of security action with the cover name „FANTINE“ (carried out between 10 and 11 October 2003). As part of this action, inspection was conducted in several hundreds of night clubs throughout the whole territory of the Czech Republic and in none of them a person under the age of eighteen has been found.

¹⁴⁵ The content of activity is in particular securing mutual awareness, creation of a stable channel for rapid and reliable transmission of operative police intelligence between interested parties, organization of joint police actions, development of preventive programmes, active cooperation with the media, training of policemen and other interested experts.

¹⁴⁶ For instance, as at 1 July 2002, a group for contact with the Police of the Federal Republic of Germany and the Polish Republic has been established. The department is in charge of discharging tasks in the area of planning, coordination, analysis and recording foreign professional contacts of policemen and staff of administration and district directorates. Since 1 January 2003 a separate department of the above group, which

latency of these cases and increasing success of the measures taken that lead to more effective detection of cases.

National Plan to Combat Commercial Sexual Abuse of Children (for the period 2006 – 2008)

148. The National Plan to Combat Commercial Sexual Abuse of Children for the period 2006 – 2008¹⁴⁷ sets as its priorities more effective legislative protection of children from abuse, for instance through the regulation of conditions for work with children and youth.

149. The current National Plan also intends to create prerequisites for putting in place the system of provision of free assistance services to children who act as witnesses or victims in criminal proceedings. This will include social services, psychological services and legal counselling. The majority of these services are currently already being provided by both authorities for social and legal protection of children and NGOs. Currently, the availability of these services in individual regions of the Czech Republic is being mapped. Assistance services should make it easier for child victims and witnesses to come to terms with the requirements placed on them in the course of the criminal proceedings, to come to terms with this experience while preventing emotional trauma escalation in the future, including the child's subsequent rehabilitation and, if the need arises, also rehabilitation of the environment the child lives in.

150. Based on the National Plan to Combat Commercial Sexual Abuse of Children for the period 2006 – 2008 in 2007 the programme of Building Special Interrogation Rooms for Child Victims and Witnesses has been developed by the Police of the Czech Republic. The programme is aimed at minimizing the trauma caused to children – victims and witnesses of criminal activity – in the course of conducting and repeating interrogation during the criminal proceedings and create such conditions that the interrogation might be properly documented or directly monitored by bodies in charge of criminal proceedings.¹⁴⁸

151. Since 2008, the replacement of the National Plan to Combat Commercial Sexual Abuse of Children by the National Strategy on Prevention of Violence against Children in the Czech Republic for the period 2008-2018 that will address all forms of violence committed against children, i.e. sexual abuse of children without commercial aspect and maltreatment and other abuse of children. In connection with this plan a feasibility study has been prepared by the

secures contacts with the Saxony police and Polish police in particular for districts of Liberec, Jablonec nad Nisou and Česká Lípa, has been established.

¹⁴⁷ Approved by Czech Government Resolution No. 949 of 16 August 2006.

¹⁴⁸ The Ministry of the Interior in 2007 provided financial support for building or modernization of these rooms in the aggregate amount of about CZK 2,400,000,- from the funds allocated to crime prevention.

Centre for Missing and Exploited Children that should contribute to higher child protection of children from all forms of violence.

VI. BASIC HEALTH CARE AND WELFARE

(articles 6, 18 paragraphs 3, 23, 24, 26 and article 27 paragraph 1-3)

152. The required health care of children is covered from public health insurance resources. Insurance contributions for children and juveniles till the completion of their vocational training (up to a maximum of 26 years) are covered by the state. The Act on public health insurance (Act No. 48/1997 Coll.)¹⁴⁹ provides the frequency of preventive medical examinations for children paid from public health insurance resources as follows: from birth to 18 months of the child's life 11 preventive examinations have been determined, next preventive examination is conducted when the child is 3 years old, preventive examinations are conducted at two-year intervals. For 15-year old girls, also one preventive examination by a gynecologist is part of the system in order to put emphasis on the priority of care for reproductive and sexual health of the young generation. However, preventive examinations of children are not limited at all and constitute a significant part of work of a general practitioner for children and young people. Hence, it is the responsibility of parents to take due advantage of this opportunity.

153. Children from marginalized groups have secured sufficient access to health care. It has been proved by a survey of 1999 conducted by the Internal Grant Agency of the Ministry of Health on health condition of the Roma population that has found that the vaccination of Roma children is comparable to other population groups (about 92%) and that more than 80% of the Roma population are satisfied with health care and on the other hand the same number of general practitioners for children and young people were satisfied with the care of Roma parents for the registered children.

154. The Czech Republic considers the issue of children's vulnerability to environmental pollutants serious and therefore the Ministry of the Environment has supported a number of scientific projects that examine possible effects of environmental pollution on children's health. These projects focused in particular on the most serious environmental factors in order to render the approach towards these issues more comprehensive. Due to similar nature of pollution, the findings of these studies can be used also in other countries of the world and in the Czech Republic's regions. The surveys examined in particular impacts of the polluted air

¹⁴⁹ Act No. 48/1997 Coll., on public health insurance and on amendment to certain related Acts, as amended.

in towns where most children live (66%) and where transport and furnaces for solid fuels are primary sources of pollution. Based on the survey findings, it is useful to monitor the relationship between the incidence of allergic diseases in children and pollution of the air and incorporate into the survey the findings of toxigenomics. The Ministry of the Environment, that finances the above projects, proposes to assess the environmental burden of the Prague air in the case of professionally exposed group of employees and on the basis of comparison of the findings obtain additional results suitable for assessment of burden on children's health.

155. Non-governmental organizations also alert the society to the absence of an early contact of the smallest children with living nature, which does not allow the child's due mental development. A set of measures that should address and gradually eliminate adverse impacts on physical and mental health of children and their development in terms of environmental aspects, is concentrated in State Environmental Policies for the period 1999-2001, 2001-2004 and 2004-2010 approved by the Government.

Children with disabilities

156. As at 31 December 2006, some 11,000 children with disabilities were placed in the long-term institutional care. Only 4% of them are in these facilities based on a court decision, otherwise they have been placed in institutional care by parents who do not want, are not able to or cannot care for these children.

157. The care for a child with disability in the family is an alternative option to institutional care. The legal framework that allows such care is the Act on social services.¹⁵⁰ It provides the conditions under which it is possible to provide social and activating services for families¹⁵¹ with children and social counselling services.¹⁵² This Act allows to draw down a care allowance for persons over one year dependent on assistance from another natural person whose purpose is to secure the required assistance. The amount of allowance is differentiated

¹⁵⁰ Act No. 108/2006 Coll., on social services came into effect on 1 January 2007.

¹⁵¹ Social activation services for families with children are field services, or, where appropriate, outpatient services provided to a family with a child whose development is endangered due to impacts of a long-term emergency social situation, which parents are unable to come to terms with on their own without assistance, and who faces other risks of endangerment to his or her development. These are in particular upbringing, educational and activation activities, mediating contact with social environment, social and therapeutic activities, assistance in advocacy of rights, justified interests and arranging personal matters.

¹⁵² Social counselling includes basic social counselling and specialized social counselling. Basic social counselling provides to people the required information conducive to the solution of their adverse social situation. Social counselling is the basic activity in the provision of all types of social services; providers of social services are always required to secure this activity. Specialized social counselling is provided with special focus on the needs of individual areas of social groups of persons in civil counselling centres, marriage guidance centres, counselling centres for older people, counselling centres for people with disabilities, counselling centres for victims of crimes and domestic violence; it also includes social work with persons whose way of life may give rise to conflict with the society. Specialized counselling also includes lending of compensatory aids.

subject to the degree of the person's dependence. A person who is granted this allowance may „purchase“ for it a social service, either in the facility registered under the Act on social services or from a natural person which may be precisely a family member. If a close person or another natural person living with the person eligible for assistance in a common household provides assistance to the eligible person, the municipal authority of the municipality with extended powers will issue to these persons upon their request free of charge a written certificate proving the period of this care for the purposes of health insurance and pension insurance. The municipal authority will always specify in this certificate the degree of dependence of a person to whom the care concerned is provided.¹⁵³

158. For a pupil with disability, education in the form of an individual integration in normal school is preferred, if such solution is commensurate with his or her needs and possibilities and conditions of the school and at the same time education of an individually integrated pupil follows an individual educational plan that is based on the school education programme of the relevant school, findings of a special pedagogical examination, or psychological examination by the school counselling facility or, where appropriate, recommendation of a registering general practitioner for children and young people or a medical specialist or another expert and opinion of the pupil's or adult pupil's legal representative. Implementation of individual and group integration of pupils with disabilities at schools is in certain cases secured by special pedagogues.¹⁵⁴

159. Statistical data on the number of children with disabilities attending pre-school educational facilities and kindergartens, primary schools, secondary schools and higher vocational schools are provided in the Annex to this report (Tables No. 9-12).

160. For pupils with serious mental disability, the Act allows to determine such type of education that is commensurate with the child's mental and physical abilities, based on a recommendation from a medical specialist and the school counselling facility.¹⁵⁵

161. The applicable legislation¹⁵⁶, furthermore, requires to secure furnishing of schools and school facilities with the required equipment and easy-access solutions. Hence, other

¹⁵³ Provision of Section 29 paragraph 4 of the Act on social services.

¹⁵⁴ Based on Decree No. 73/2005 Coll., on education of children, pupils and students with special educational needs and children, pupils and students who are exceptionally gifted.

¹⁵⁵ Provision of Section 42 of the Education Act.

¹⁵⁶ Decree No. 410/2005 Coll., on hygiene requirements for premises and operation of facilities and establishments for education and training of children and juveniles.

implemented measures are easy-access building adaptations of schools, stair-climbers,¹⁵⁷ ramps, etc.

162. In 2004, the Government of the Czech Republic adopted the Medium-Term Concept of State Policy on Citizens with Disabilities whose objectives and tasks were taken as the basis for the National Plan on Support and Integration of Citizens with Disabilities for the period 2006 – 2009.¹⁵⁸

Health care and health services for young people

163. The issue of health services for young people is „inter alia“ addressed in the Long-Term Programme of Improvement of Health Condition of the Population of the Czech Republic – Health for All in the 21st Century (Programme Health 21).¹⁵⁹ The programme in particular envisages to create by 2020 such conditions that would ensure that all born children and preschool children have better health allowing them healthy start of their life, securing better access to prenatal and perinatal care (especially for immigrants), reducing the infant mortality rate (currently, the infant mortality rate is at the lowest level in history, i.e. 3.4 per mille) and the contribution of congenital defects to the mortality rate of live births and reduction in the mortality rate and disabilities caused by road accidents and violence against children under the age of 5 by 50%.

164. The issue of health services for youth is supported by funding under the programme Strategy for prevention of socially pathological phenomena – Healthy life style, then at schools, in connection with school counselling and as part of the drug control policy grant programme.

Under the grant programme Crime Prevention in 2006 and 2007, for instance, the project Support for mental health of children by changing and developing their mental and hygiene habits was supported.¹⁶⁰

Health support projects focused on health of children and adolescents in the period 2000 – 2006		
Year	number of projects	funding allocated

¹⁵⁷ Mobile stair-climbers are intended primarily for wheelchair persons to climb the stairs.

¹⁵⁸ National Plan for the Support and Integration of People with Disabilities was adopted in 2005.

¹⁵⁹ The programme was approved by Government Resolution No. 1046 of 30 October 2002.

¹⁶⁰ The project widely supports rights of children and assists in the prevention of undesirable socially pathological phenomena and the syndrome of risk behaviour among children and youth.

2000	47	3 669 400,-
2001	54	4 625 000,-
2002	32	2 935 000,-
2003	36	3 702 000,-
2004	49	4 278 000,-
2005	38	3 089 400,-
2006	23	2 135 000,-
Total	279	24 433 800,-

165. Health condition of the child population in the Czech Republic has not improved significantly despite good quality of health care for this group of the population. The most frequent cause of child deaths are injuries. Also the number of congenital developmental defects, allergenic diseases, including asthma bronchiale is increasing, the number of nervous system disorders, mental retardation and serious behavioral disorders continues to rise, the rates of children with overweight and obese children are rising, too. The Ministry of Health considers the polluted environment, in particular in industrial agglomerations and unhealthy lifestyle to be the most serious causes of this status. At the Ministry of Health in 2005 the National Council for Obesity, which develops the National Plan of Action on the Prevention and Treatment of Obesity, has been established. The objective of the National Plan is to stop increasing rates of overweight and obesity among adults and reduce incidence of overweight and obesity among children.

166. Data on hospitalization and out-patient treatment also reveal serious illness rates among children and adolescents. The ratio of child patients to total hospitalization cases in 2006 was 13.7 %. 312,000 hospitalizations (including physiological newborns) from 0 to 14 years have been recorded, which is 21 cases per 100 children. In the 15 – 19 years age bracket, there were 75,000 hospitalizations in 2006 (22 adolescents per 100 people). The most frequent cause of hospitalization among children in the 0 – 1 year age bracket are conditions which arose during the prenatal period (19 % of hospitalizations in this age group), then respiratory tract diseases (a 6 % share). In the 1 – 4 years age bracket and in the 5 – 9 years age bracket, obviously the most frequent cause of hospitalization were diseases of the respiratory system (roughly 40 % of hospitalizations in the 1 – 4 years age bracket and about 30 % in the 5 – 9

years age bracket), then injuries and poisonings (with about 12 % share). For children aged 10 – 14 years, the first place goes to injuries and poisonings (roughly 20 %). In adolescence, the most frequent cause is, again, injuries. Another source of information about illness rates is out-patient treatment. Children are treated most often for diseases of the respiratory system, then diseases of the nervous system and the sensory organs, diseases of the skin and subcutaneous tissues (primarily eczema).

167. The primary indicator of child health care is infant mortality where the Czech Republic has achieved a reduction under 10 per thousand in 1992, to 9.9 per thousand. In 2006, infant mortality was 3.3 per thousand. Hence, the Czech Republic ranks among countries with the best results in the world.

168. Infant mortality is affected by the low birth weight of newborns. The ratio of newborns with weight of up to 2,500 g to the total number of live births is about 7%, but the share in the total number of deceased infants is in the region of 60 %. The most frequent cause of infant mortality is certain conditions which arise in the perinatal period, which cause over one half of infant deaths. The second most frequent cause of infant mortality is congenital defects, deformation and genetic abnormalities. In 2005, 3,805 children with congenital defects discovered in the child's first year were reported. When comparing the number of defects in girls and boys, more defects appear in boys. The most frequent defects are congenital defect of the heart. Thanks to the improving quality of prenatal diagnostics, the incidence of certain congenital defects in the newborn population is decreasing. These are in particular nervous system fissures, abdominal wall defects, certain serious heart defects, urogenital system defects and genetically determined defects (primarily Down's syndrome). Despite the success achieved, congenital defects account for about 20 % of the total number of deceased infants.

169. Mortality in the 0-14 years age bracket has been steadily declining. This decline is caused by an extraordinary decline in mortality in infancy. In other childhood age groups a steady decline in mortality, but not so significant, has been recorded. The mortality in the 0-14 years age bracket achieved in the last two years is 38 deaths per 100,000 people in the age group, which is 0.038 per thousand. For children in the 1-14 years age bracket injuries and poisonings are the most frequent causes of death. The specific mortality rate in the 15-19 years age bracket is characterized by frequent fluctuations. Compared to 1980, mortality in this group declined by one third. The most frequent cause of death is injuries and poisonings.

170. Statistical data on the number of children born in hospitals, including the number of anonymous childbirths and data on the mortality rate of mothers in connection with childbirths are provided in the Annex to this Report (Tables No. 13-14).

171. Thanks to its traditional focus, the current pediatrics has a very well established system of preventive examinations focused on the monitoring of comprehensive development of children and immunization programme based on the vaccination calendar. In the period under review 2000 – 2006 a new Decree on vaccination against infectious diseases was issued which introduces into regular vaccination of children born after 31 December 2006 vaccination with hexavalent vaccine, furthermore, vaccination with conjugate vaccine of children with stigmatized health problems against infections caused by *Streptococcus pneumoniae* and also administering of the 5th dose of Inactivated Poliomyelitis Vaccine. The introduction of these vaccinations is fully in line with recommendations of the World Health Organization.

172. In 2005, the Act on protective measures against damage caused by tobacco products, alcohol and other habit-forming substances was passed.¹⁶¹ In terms of protection of children and juveniles, the Act introduced changes consisting in particular in the prohibition of sale of tobacco products to persons under the age of 18 and prohibited the sale of tobacco and alcoholic products in places and at events intended for persons under the age of 18.

173. Statistical data on the number of children infected with sexually transmitted diseases, HIV and the number of children addicted to alcohol and drugs are provided in the Annex to this report (Table No. 15).

Social security and standard of living

174. In the Czech Republic, the system of granting social benefits on the basis of the principle of linkage of a benefit to a particular person regardless of his or her citizenship is in place. Benefits under the state social support system and the system of assistance in material need under the system of assistance in material need pursuant to the new Act on assistance in material need (Act No. 111/2006 Coll.)¹⁶² effective as of 1 January 2007, which are intended for children and families with children, are awarded subject to compliance with the conditions of residence in the Czech Republic, whereas citizenship of the eligible person is not decisive. In urgent cases assistance is provided to all persons staying in the Czech Republic, although

¹⁶¹ Act No. 379/2005 Coll., on protective measures against damage caused by tobacco products, alcohol and other habit-forming substances and on amendment to certain other Acts effective as of 1 January 2006.

¹⁶² Act No. 111/2006 Coll., on assistance in material need, as amended.

they are residing in the Czech Republic in contravention of the legislation applicable to the residence of foreigners.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

(articles 28, 29 and 31)

175. The Committee recommended to the Czech Republic (concluding observation No. 55) that it ensure the availability and accessibility of free primary education for all children.

176. The Education Act allowed since 2006 access to primary education only to children who resided legally in the Czech Republic, since it provided that only foreigners who resided legally in the country were allowed to study under the same conditions as Czech nationals. This situation was contrary to a number of international obligations guaranteeing the children's right to education. Consequently, the Czech Government Council for Human Rights in response to this situation adopted on 17 April 2007 Motion for securing access of all children residing in the territory of the Czech Republic to primary education¹⁶³ in which it proposed to amend the existing legislation. The subsequent amendment to the Education Act¹⁶⁴ secured access to primary education and associated educational services to all foreigners under the same conditions as those applicable to nationals of the Czech Republic regardless of whether they reside in the territory of the Czech Republic legally or not.

177. Furthermore, the Czech Government Council for Human Rights dealt with the situation¹⁶⁵ where only certain groups of foreigners had access to pre-school or primary art and language education and educational services under the same conditions as those applicable to Czech nationals. The aforementioned amendment to the Education Act secured access to pre-school or primary art, language and special-interest education and educational services under the same conditions as those applicable to nationals of the Czech Republic also for most foreigners from third countries who legally reside in the territory of the Czech Republic.¹⁶⁶

¹⁶³ <http://www.vlada.cz/scripts/detail.php?id=22941>

¹⁶⁴ Amendment No. 343/2007 Coll.

¹⁶⁵ The Czech Government Council for Human Rights adopted on 19 June 2006 the Motion for securing equal and effective access of foreigners to education and educational services which addressed this issue.

¹⁶⁶ A foreigner's authorization to reside in the territory of the Czech Republic for a period over 90 days (long-stay visa (over 90 days)) is a necessary prerequisite for access to other types of education and educational services; furthermore, foreigners who are authorized to reside in the territory of the Czech Republic for the purpose of research, asylum-seekers, persons enjoying subsidiary protection, applicants for international protection or persons enjoying temporary protection have access to this education..

178. The new Education Act¹⁶⁷ abolished the so-called special schools. Special schools have been transformed under the new Education Act into primary schools. Pupils are educated according to the relevant education programmes.¹⁶⁸ The framework education programme of the primary school also addresses education of pupils with special educational needs¹⁶⁹ and pupils with light mental retardation. Education of pupils according to individual programmes is performed on the basis of recommendations from the school counselling facility and with the previous consent from children's legal representatives. Individual primary schools have prepared their school education programmes in accordance with framework education programmes, the process has been tested at pilot schools. Teaching according to school education programmes is started gradually – kindergartens, primary one to six, followed by additional years of primary schools in next years and other types of schools. School education programmes are assessed according to framework education programmes by the Czech School Inspection, in line with the Education Act, school councils have been established at schools which enable to parents, inter alia, to influence a school's educational process. In order to increase protection and quality of care for non-governmental nonprofit organizations, but also school facilities for special-interest education, the Ministry of Education, Youth and Sports has put in place the system of vocational training of staff working with children and youth according to the Instruction of the Minister of Education, Youth and Sports on testing of vocational training of staff working with children and youth in the area of leisure-time activities,¹⁷⁰ the Guidance Notes of the Minister of Education, Youth and Sports on securing further education of pedagogical staff of facilities for special-interest training of 2 July 2003 and recognition of the so-called Organizations for work with children and youth for the period 2007-2010 by the decision of the Minister of Education, Youth and Sports.

179. Preparatory classes for primary schools in the last year prior to starting compulsory school attendance for children who are socially disadvantaged and in the case of whom it is assumed that their assigning to the preparatory class will even out their development, may be established with the previous consent from the regional authority by the municipality, the

¹⁶⁷ Act No. 561/2004 Coll., on preschool, primary, secondary, higher vocational and other education (The Education Act).

¹⁶⁸ For each branch of education framework education programmes are issued. Framework education programmes define mandatory content, scope and conditions of education; they are mandatory for the development of school education programmes, evaluation of results of education of children and pupils, preparation and assessment of textbooks and teaching materials. Education at individual schools and school facilities is performed according to school education programmes.

¹⁶⁹ A child, pupil or student with special educational needs is a person with disability, health handicap or social handicap.

¹⁷⁰ Instruction of the Minister of Education, Youth and Sports No. 6/2003 of 1 July 2003, on testing of vocational training of staff working with children and youth in the area of leisure-time activities.

association of municipalities or the region. A preparatory class can be established, if at least 7 children attend it. The headmaster decides on assigning pupils to a preparatory class for primary school upon request of the child's legal representative and based on a written recommendation from the school counselling facility. The content of education in the preparatory class is defined in the school education programme.

180. Preparatory classes for children from disadvantaged socio-cultural environment have experience of the preparation of children for starting compulsory school attendance already since 1997. In 2003, the Faculty of Humanities of Charles University carried out monitoring of effectiveness of preparatory classes which confirmed effectiveness of this form of preschool preparation of the target group. Most pupils who have completed training in preparatory classes start successfully their compulsory school attendance at primary schools (88 % of children who have completed training in preparatory classes in the school year 2002-2003). The best results in this respect have been achieved by preparatory schools attached to kindergartens and primary schools (in the school year 2002-2003 98 % of pupils who had completed the training joined primary schools), whereas preparatory schools attached to special schools showed worse results (66 % of children joined primary schools).

181. The Annex provides data on number of children in preschool facilities in ordinary kindergartens and in special classes (Tables No. 16-17).

182. The Ministry of Education, Youth and Sports continues to create an optimum network of teacher's assistants for socially disadvantaged pupils whose work contributes to reducing intentional unauthorized absence of children and pupils from compulsory schooling and improves communication between teachers and parents of children and pupils and contributes to better school results of the disadvantaged target group.

183. Under the Programme of state support for work with children and youth in the area of securing leisure time of children and youth, civic societies supported by state grants (subsidies) prepare for children, regardless of their nationality, regular special-interest activities in the area of sports, culture, natural science and polytechnic activities. The civic societies prepare for unorganized youth increasingly sports and cultural events with special focus on prevention of xenophobia and racism. Civic societies prepare regularly with state support integrated summer camps in which Roma children, children from institutional care facilities and children from asylum facilities participate.

Programme in support of Roma community integration, teacher's assistant for socially disadvantaged children and pupils

184. The Ministry of Education, Youth and Sports announces every year the programme focused on support for education of Roma pupils and students, training of teachers for Roma pupils, preschool preparation of Roma children and carrying out of leisure-time and special-interest activities for Roma children and youth subject to their educational needs. The Ministry of Education, Youth and Sports also provides funding to schools to meet the costs incurred by the legal entity concerned in connection with the employment of the teacher's assistant. Furthermore, it offers every year to foreign nationals university scholarships under bilateral intergovernmental or sectoral agreements concluded with a number of countries. Scholarships are awarded to candidates nominated by competent bodies of the relevant countries.

185. The Government decided on establishing 171 government scholarship positions for studies at public universities in the Czech Republic for nationals of developing and other countries in need for the period 2003-2007. For each academic year, 250 positions are established. Furthermore, the Government has established¹⁷¹ 15 two-term positions a year for compatriots (foreigners) for research fellowships and language courses at public universities in the Czech Republic and 60 positions for a four-week and 20 positions for a two-week methodological course on Czech language and literature.

186. In the period 2003 – 2007, Institutional Research Concept of the National Information and Consulting Centre for Culture (a contributory organization of the Ministry of Culture) called Significance of selected collective art activities for forming the child personality at the age of compulsory school attendance (applied research) was examined. It has proved the impact of collectively performed art activities on the child's personality. The Ministry of Culture also provided grants (subsidies) for projects intended for children in the area of dissemination and receipt of information in languages of nationality minorities, support for cultural activities of members of national minorities living in the Czech Republic and support for integration of members of Roma communities. Furthermore, art and cultural events for children and youth, young creative generation, development of love of reading among children and youth and creation and presentation of works of both young artists and works addressed to children and youth, in the form of grants (subsidies) for selected projects.¹⁷² Last but not least, the Government supports young artists and programmes for children and youth

¹⁷¹ Government Resolution No. 773 of 25 July 2001.

¹⁷² Government Resolution No. 1622 of 14 December 2005, on support for Czech cultural heritage abroad for the period 2006-2010.

¹⁷³ Through the programme Cultural Activities, programme Support for Professional Theatres and programme Support for Permanent Professional Symphony Orchestras and Choirs (since 2004 programme State Support for Professional Theatres and Professional Symphony Orchestras and Choirs.)

as part of the programme of state support for professional theatres and professional symphony orchestras and choirs.¹⁷⁴

VIII. SPECIAL PROTECTION MEASURES **(articles 22, 30, 32 - 36, 37 letter b)-d), 38, 39 and 40)**

Refugee children

187. The fundamental piece of legislation for implementation of protection of rights of this category of foreigners in the context of the Convention is the Asylum Act that introduced in 2006 the institute of international protection taking two forms, namely

- the existing asylum and
- subsidiary protection, as the lower form of protection.

188. Subsidiary protection as the new institute replaces the existing obstacles to departing from the territory.¹⁷⁵ The Asylum Act is based on basic principles for the provision of special care and protection to all children under the age of 18 who have been temporarily or permanently deprived of their family environment, the best interests of the child always being basic concern and paramount consideration. This care and protection entails independent representation in asylum proceedings, protection from discrimination and prevention of possible abuse, free access to medical care, primary education, securing appropriate environment for accommodation, free access to special social and psychological assistance, possibility to take advantage of the offer of leisure-time activities allowing the child's self-fulfilment according to his or her talent, interests and ethnic affiliation.

189. In asylum facilities¹⁷⁶ children attend child centres staffed with carers. Children at the age of compulsory schooling attend primary schools. If the need arises, they are trained in learning support classes, where they learn the essentials of Czech language. Here also individual programmes for children with mental trauma are developed, educational, training and adaptation programmes are tailored to the environment the children come from in the context of individual abilities of a particular child.

190. Families with children live in asylum facilities in the so-called sheltered zones. Families of detained foreigners with children and foreign minors unaccompanied by their legal representative are currently placed only into the detention facility for foreign nationals Bělá-

¹⁷⁴ Government Resolution No. 902 of 10 September 2003.

¹⁷⁵ Pursuant to provision of Section 91 of the Asylum Act.

¹⁷⁶ Asylum facilities include reception, residential and integration facilities for asylum-seekers.

Jezová which has in place separate rooms for accommodation of families and unaccompanied minors. This facility is furnished similarly as asylum facilities with a child centre where carers care for children. School enrollment of children, similarly as for Czech children, is carried out immediately after their receipt into the facility and school attendance for accommodated children of detained foreigners is similar to the attendance of children in asylum facilities. There is a furnished class in the facility. Children who are subject to compulsory school attendance first complete the course of a Czech language in the learning support class and then they visit the primary school that is in a given municipality.

191. In 2002, the Government¹⁷⁷ approved the Concept of placing, training and education of children with the language barrier, including unaccompanied asylum-seekers, in institutional and protective upbringing facilities. This concept focused on establishing of special facilities intended for the receipt of foreign unaccompanied minors that would be included in the network of children's homes and secured by professional and specialized staff and that would provide multicultural environment with regard to ethnic and religious diversity. The removal of the language barrier, developing individual adaptation, training and integration programmes, etc. were top priority and paramount concern of the concept. Furthermore, securing individual representation by authorities for social and legal protection of children as guardians throughout the whole time of their residence in the Czech Republic, who would perform these activities in the best interests of children, was the basis of the concept.

192. Currently, two such facilities are being operated. A facility for children-foreigners and an upbringing care centre as a diagnostic establishment, for about 2 month-stay and the related educational establishment Permon, where children-foreigners are transferred after the elapse of some 2-3 months of the stay in the diagnostic facility and where already unaccompanied minors are being trained for their future profession in the form of the provision of secondary vocational education. The stay in this establishment is secured even after the child reaches the age of 18 by the extension of the institutional upbringing by the court or by an agreement as part of training for future profession up to the age of 26.

193. Authorities for social and legal protection of children at the level of municipal authorities of municipalities with extended powers perform guardianship duties in cases of absence of parents and relatives, propose placement of children into diagnostic establishment, perform supervision and provide all assistance associated with the child's stay in the best interests of unaccompanied minors. Unaccompanied minors have unlimited access to legal

¹⁷⁷ Government Resolution No. 395 of 17 April 2002.

counselling services provided by NGOs involved in advocating for the rights of refugees and foreigners. Psychological counselling is provided by the Facility for children-foreign nationals. Children accompanied by their legal representative have also access to legal counselling service of NGOs, for applicants for international protection, psychological counselling is provided within the asylum facility by the Administration of Refugee Facilities.

194. Statistical data on the number of reunified families and asylum (international protection) granted to minor children are provided in the Annex to this report (Tables No. 18-22).

195. A foreign national aged between fifteen and eighteen years can be detained only for a period of ninety days¹⁷⁸, whereas an adult person can be detained for a period of one hundred and eighty days. Minors are detained only in exceptional cases, when there are reasonable grounds for believing that the reported age is not correct, i.e. in the case that the detained foreign national is in fact aged over eighteen years.

Children in armed conflicts, including physical and psychological recovery and social reintegration

196. In this point the Czech Republic refers to the information provided in the Second Periodic Report.

Courts for juveniles

197. On 1 January 2004 the new Juvenile Justice Act came into effect. This Act provides both substantive law and procedural law rules regulating the procedure and decision-making on juvenile justice and also provisions regulating the execution of judgment.

198. The perpetrator of an offence under the criminal law may be only a natural person who is at the time of commission of the crime sane, reached the age of fifteen¹⁷⁹ and is mature in terms of his or her rational and moral development. The concept of criminal responsibility of juveniles is therefore based on relative criminal responsibility, i.e. juveniles should be subject to criminal responsibility for their acts based on their achieved degree of moral maturity, not only upon reaching a certain age. The thing is that the degree of rational and moral maturity in particular at the age of about 15 is very different in case of individual juveniles and therefore the applicable legislation provides that a juvenile who has not at the time of commission of the crime such rational and moral maturity to be able to recognize its dangerousness for the society or control his behaviour, is not criminally responsible for this act. The purpose of

¹⁷⁸ Provision of Section 125 of the Act on residence of foreigners.

¹⁷⁹ Under provision of Section 89 paragraph 1 of the Juvenile Justice Act, a child under the age of fifteen is not subject to criminal responsibility.

measures towards juveniles is in particular to create conditions for social and intellectual development of the juvenile with regard to his or her achieved degree of rational and moral development, personal characteristics, family upbringing and the environment, the juvenile comes from and also his or her protection from adverse influence and prevention of additional commission of offences. This is implemented by imposition of upbringing, protective and criminal measures,¹⁸⁰ but in particular also an alternative response to the committed offences an alternative procedural solutions – special forms of proceedings, the so-called departure from standard judicial proceedings (conditional discontinuance of criminal prosecution, settlement and abandonment of prosecution).

199. The Juvenile Justice Act separately regulates in cases of children under the age of fifteen as a separate type of proceedings - non-contentious civil proceedings and hence the process is governed by the legislative regulation of the Civil Procedure Code, with variations from common rules stipulated in the Juvenile Justice Act.¹⁸¹ Similarly, in these proceedings the principle of disclosure of information to the public has been abandoned. A child under the age of 15, who has committed an otherwise criminal act, can be ordered the supervision of a probation officer, assignment to the therapeutic, psychological or other appropriate upbringing programme in the upbringing care facility and protective upbringing or the combination of the above measures. The strictest measure that due to its nature affects the child's private sphere most markedly is the imposition of the protective upbringing. However, the use of this measure is rather exceptional.

200. By the passage of the Juvenile Justice Act the Committee's requirement for the creation of specialized juvenile courts has been met since offences committed by juveniles in the 15-18 age bracket and otherwise criminal acts committed by children under the age of fifteen are considered by juvenile courts.¹⁸² Specific proceedings are conducted by the juvenile court in whose judicial district the juvenile resides and if he or she does not have a permanent residence, the proceedings will be conducted by the court in whose judicial district the juvenile stays or works. If it is not possible to identify the court in this way, the proceedings will be conducted by the court, in whose judicial district the offence has been committed and

¹⁸⁰ Upbringing measures are supervision of the probation officer, probation programme, upbringing duties, upbringing restrictions, admonition with a warning. Protective measures are protective treatment, seizure of a thing and protective care. Criminal measures are generally beneficial work, fine, fine with conditional suspension of execution, forfeiture of a thing, banishment, imprisonment conditionally suspended for a trial period (conditional sentence), imprisonment conditionally suspended for a trial period with supervision, unconditional imprisonment.

¹⁸¹ Provision of Section 96 of the Juvenile Justice Act.

¹⁸² Juvenile courts have been established by Decree No. 268/2003 Coll., whereby the rules of district and regional courts have been amended..

if it is not possible to identify this fact either, it will be decided by the court in whose judicial district the offence has been discovered.

201. Fair trial is ensured on the basis of adherence to the principle of promptness of proceedings¹⁸³ under which cases must be tried without undue delay within acceptable time limits. The principle of promptness of proceedings is reflected in juvenile criminal cases in various contexts. Besides general provisions of the Criminal Code, the Juvenile Justice Act provides for special time limits applicable to the performance of procedural acts that are different from general legislative regulation.

202. The emphasis is placed on personal and professional skills of persons who participate in handling juvenile criminal cases. Acts of pre-trial proceedings, in which a juvenile participates, are usually performed by the police body in charge of acts of criminal juvenile cases, a public prosecutor specializing in juvenile justice or a judge of the juvenile court, unless performance of such act by this body cannot be secured and performance of the act cannot be postponed.

203. The decisions, as well as any measures taken in consequence of such decisions, are reviewable by higher, independent and impartial body or judicial authority. Application for remedial measures in favour of the juvenile can be filed, even against his or her will, by the competent authority for social and legal protection of children. A complaint in favour of the juvenile can be filed also by his or her blood relatives in a direct line of descent, his or her sibling, adoptive parent, husband and cohabitee. Motion for a new trial against the defendant can be filed only by the public prosecutor within six months after the date when he or she has learned of the facts justifying the filing of a motion for a new trial, however by the expiration of a half of the limitation period at the latest.

204. If the child cannot understand or speak the language used in the proceedings, he or she is entitled to use before bodies in charge of criminal proceedings his or her native language (mother tongue) or the language the child indicates as language he or she understands or speaks.¹⁸⁴

205. The juvenile's privacy is fully respected at all stages of the proceedings. The aforementioned Juvenile Justice Act, in contrast with the previous legislative regulation of the Criminal Code, reflects newly regulated strict protection of juveniles' privacy. The Act places emphasis in this context on consistent application of the constitutional principle of the

¹⁸³ Provision of Section 3 paragraph 6 of the Juvenile Justice Act.

¹⁸⁴ Provision of Section 2 paragraph 14 of the Criminal Code.

presumption of innocence which it expressly links to the protection of personal data and privacy of minors in the interest of juvenile individual in the interest of eliminating adverse (injurious) impacts on his future life.¹⁸⁵ Hence, in the case of juveniles, in general the rule applies that (save for exceptions expressly stipulated by the Act) no one is allowed to make public information containing their first name and family name or any other information that would enable to identify them.

206. Persons under the age of eighteen cannot be sentenced for offences committed to a term of life imprisonment without eligibility for parole. A juvenile can be sentenced to unconditional imprisonment of a maximum of five to ten years.¹⁸⁶ Juveniles who serve the term of imprisonment are placed separately from other convicts, namely in juvenile prisons or special departments for juveniles.¹⁸⁷

207. Arrest, detention or imprisonment of a child is performed in accordance with the Juvenile Justice Act and is used only as an utmost measure and for the shortest possible time. The Juvenile Justice Act provides that criminal measures will be taken only in cases where special forms of proceedings and measures, in particular those re-establishing impaired social relationships and contributing to the prevention of illegal acts, would not be conducive to accomplishing the purpose of this Act.¹⁸⁸ The Juvenile Justice Act imposes on bodies in charge of criminal proceedings the obligation to prefer alternative procedures and measures aimed at social integration and prevention. Criminal measures are therefore considered to be *ultima ratio* (ultimate measure).

208. A juvenile must have a defense counsel already from the moment when measures are taken against him under the Juvenile Justice Act or acts under the Criminal Code performed, including the exigent and unrepeatable acts, unless the performance of these acts can be postponed and the defence counsel notified to this effect.

209. If a person under the age of fifteen is questioned as a witness about circumstances whose recollection might due to his or her age have an adverse impact on his or her mental and moral development, questioning needs to be especially considerate and in terms of its subject-matter be conducted in such a manner that in further proceedings it need not be repeated. A pedagogue or another person having experience of youth upbringing (usually an

¹⁸⁵ This general principle regulated in provision of Section 3 paragraph 5 of the Juvenile Justice Act is then developed in more detail in provisions of Section 52 – 54 of the Juvenile Justice Act.

¹⁸⁶ Provision of Section 31 paragraph 1 and 3 of the Juvenile Justice Act.

¹⁸⁷ Provision of Section 76 of the Juvenile Justice Act and Section 5 paragraph 3 of Act No. 169/1999 Coll., on serving prison sentences and on amendment to certain related Acts.

¹⁸⁸ Provision of Section 3 of the Juvenile Justice Act.

employee of the authority for social and legal protection of children) who with regard to the subject matter of the interrogation and degree of mental development of the person interrogated would contribute to proper course of questioning. If this contributes to proper course of questioning, parents can be invited, too. Persons, who have been invited in this way, may propose postponement of the act to later time and in the course of performance of this act propose its interruption or termination, if the performance of the act or its continuation might have adverse impact on mental condition of the person questioned. Unless there is the danger of delay, the body in charge of criminal proceedings agrees to such proposal.¹⁸⁹ The child need not be questioned in cases where there is other reliable evidence of the act concerned, i.e. supported by other evidence.

210. Statistical data relating to the number of juveniles serving custody or serving prison sentences and average length of custody are provided in the Annex to this report (Tables No. 23-25).

Economic exploitation

211. Child labour in the Czech Republic, which due to its nature or circumstances under which it is performed, can be prejudicial to the health, safety or morals of children has not been enacted in legislation prior to the passage of the Employment Act, i.e. prohibited, however, such work was confined in the territory of the Czech Republic only to art and sports activities. The Employment Act¹⁹⁰ defined the conditions under which these activities can be pursued by children. Children can pursue art, cultural, sports and promotional activity for a legal entity or a natural person only if such activity is commensurate with their age, is not dangerous for them, does not prevent them from learning, attending school or participate in training programmes and if such activity is not prejudicial to their health, physical, mental, moral or social development. These activities can be pursued only on the basis of an individual permit issued for a particular child and a particular activity. The Labour Office decides on granting a permit based on a application in writing filed by the child's legal representative or another person responsible for the child's upbringing, into whose care the child has been placed by the court's decision. A medical report is an integral part of the aforementioned application.

212. Labour conditions for juvenile employees are governed by Act No. 262/2006 Coll., the Labour Code, which came into effect on 1 January 2007 and superseded Act No. 65/1965

¹⁸⁹ Provision of Section 102 paragraph 1 of the Criminal Code.

¹⁹⁰ Act No. 435/2004 Coll., on employment, as amended (the Employment Act).

Coll., the Labour Code.¹⁹¹ The Act imposes on employers a duty to create favourable conditions for a comprehensive development of physical and mental abilities of juvenile employees, inter alia, by special modification of their working conditions and possibility to assign them only work appropriate to their physical and intellectual development and provide them with increased care at work.

213. Employers are not allowed to assign overtime work and nightwork to juveniles. Exceptionally, juvenile employees over 16 years of age can perform nightwork not exceeding one hour, if this is necessary for their vocational education, under the supervision of an employee over 18 years of age, if this supervision is necessary for protection of the juvenile employee. Nightwork of a juvenile employee must immediately follow his or her day shift in accordance with the work shift schedule. If the employer must not assign to a juvenile employee work for which he or she has completed vocational education because such work is prohibited to be performed by juvenile employees or due to the fact that based on a medical report issued by the occupational medicine facility it is prejudicial to his or her health, the employer is required, till the time when the juvenile employee is allowed to perform this work, to assign to him or her another appropriate work consistent, if possible, with his or her qualifications.

214. Juvenile employees shall not be employed in work underground in the extraction of minerals, tunnelling or digging shafts and, furthermore, they shall not be employed in work that due to their special anatomical, physiological and mental characteristics at this age, are inappropriate, dangerous or harmful to their health or work in the course of which they are exposed to increased risk of injury or in the course of performance of which they might seriously endanger safety and health of other employees or other natural persons. In contrast with the previously applied protection of juveniles the scope of prohibition of some work may be extended also to employees under the age of 21.

215. The employer is required to keep a list of juvenile employees whom he or she employs and secure at his or her own expense that juvenile employees be examined by a physician specializing in occupational medicine prior to the commencement of their employment and prior to an employee's transferring to another work, on a regular basis, as required, however,

¹⁹¹ Prohibition of juvenile work is regulated also by Decree No. 288/2003 Coll., laying down types of work and workplaces prohibited to pregnant employees, breastfeeding employees and mothers until the end of the nine month after childbirth and to juveniles and laying down the conditions under which juveniles can exceptionally perform those types of works for the purposes of their vocational training (hereinafter referred to as „Decree No. 288/2003 Coll.“).

at least once a year, while juvenile employees are required to undergo determined medical examinations.

216. When assigning work tasks to a juvenile employee, the employer is required to follow a medical report issued by the occupational medicine facility.

217. Apart from prohibited work whose list is provided in Decree No. 288/2003 Coll., the Government Order¹⁹² laying down the conditions for employee health protection at work, on purpose makes stricter certain occupational hygiene limits associated in particular with the performance of physical work, including manual handling of loads, taking into account their immaturity or their incomplete physical development.

218. After the passage of the new Labour Code, all the requirements of the ILO Convention No. 138 concerning Minimum Age for Admission to Employment have been met. The Convention came into force for the Czech Republic on 26 April 2008.¹⁹³

219. The supervisory activity in the area of employment, i.e. also the employment of children is performed by Labour Offices, the Ministry of Labour and Social Affairs, customs authorities¹⁹⁴ and public health protection authorities (regional public health departments). The State Labour Inspection Office supervises compliance with the obligations stipulated by legislation applicable to protection of labour relationships and working conditions.¹⁹⁵

Drug abuse

220. As part of its drug control policy, the Ministry of Health continued to develop timely intervention programmes (including field programmes associated with „harm reducing“ activities), out-patient facilities with substitution programmes, day hospitals with intensive outpatient treatment, facilities with detoxification programmes, resocialization (therapeutic communities).

221. Under the grant (subsidy) programmes, the Ministry of Health, inter alia, supported the Substitution Therapy Programme (Methadone, Subutex), including the programme of substitution therapy for mothers, Detoxification Centre for Children and Adolescents in Prague, Drug prevention manual in practice of the general practitioner for children and adolescents and establishment of a new medical branch of study at the 1st Faculty of Medicine of Charles University and a new medical profession – addictology.

¹⁹² Government Order No. 361/2007 Coll. laying down the conditions for protection of health at work.

¹⁹³ Promulgated under No. 28/2004 in the Journal of International Treaties

¹⁹⁴ To the extent stipulated in provision of Section 126 paragraph 4 of the Employment Act.

¹⁹⁵ Act No. 251/2005 Coll., on labour inspection, as amended.

Sexual exploitation and trafficking in children

222. The Criminal Code¹⁹⁶ has introduced punishability of trafficking in human beings¹⁹⁷ and punishability of other forms of trafficking in human beings (not only for the purpose of sexual exploitation). This provision also applies to trafficking in children.

223. Furthermore, punishability of possessing child pornography has been introduced.¹⁹⁸ Anyone possessing photographic, film, computer, electronic or another pornographic work depicting or otherwise exploiting a child will face up to two years in prison. Criminal sanctions do not apply to pornographic texts. Abuse of a child for the production of pornography is a separate offence. The previous offence of corrupting morals has been changed to the offence of disseminating pornography. Sanctions for this offence have been made significantly more severe – previously, the offence of corrupting morals carried the sentence of a maximum of three years in prison, now dissemination of pornographic works should carry a maximum of up to eight years of imprisonment.

224. The National Plan to Combat Commercial Sexual Abuse of Children for the period 2006 – 2008 deals comprehensively with all aspects of exploitation and trafficking in human beings, including important measures that should increase protection of children from all types of their abuse. All measures in this document are geared towards increasing protection of victims of sexual exploitation, increasing prevention and social reintegration.

225. Furthermore, the issue of commercial sexual abuse of children is further developed in the Strategy on Prevention of Socially Pathological Phenomena in Children and Youth for the period 2005 – 2008. The key objectives of the Strategy are education for healthy lifestyle, development and support of social competencies and through improvement of coordination and control of specific primary prevention across sectors accomplish higher quality and effectiveness of the programmes implemented.

226. Since 2005, as part of preventive activities in the area of trafficking in human beings, the Ministry of the Interior in collaboration with the Police, self-governing authorities and NGOs has been organizing the so-called round tables aimed at informing the representatives of local and regional authorities about forms of prevention of trafficking in human beings and possibilities of the specialized Programme of Support and Protection of Victims of

¹⁹⁶ Act No. 537/2004 Coll., amending the Criminal Code came into effect on 22 October 2004.

¹⁹⁷ Provision of Section 232a of the Criminal Code. Thereby merits of the crime of trafficking in human beings have been harmonized with the definition set out in the Protocol to prevent, suppress and punish trafficking in persons, especially women and children supplementing the United Nations Convention against Transnational Organized Crime.

¹⁹⁸ Act No. 271/2007 Coll., amending Act No. 140/1961 Coll., the Criminal Code, as amended.

Trafficking in Human Beings. Since 2005, round-table discussions have been going on in 8 cities of the Czech Republic. In November 2006, for instance, the training Certain Forms of Violence against Women and Children was organized for 18 health assistants. The training was part of the training programme within the project SASTIPEN CR – Health Assistants in Socially Excluded Areas, implemented by the nongovernmental organization Drom, the Roma Centre. The training consisted in the provision of basic information on the following issues: commercial sexual abuse of children, trafficking in human beings and forced prostitution, system of social services for both child and adult victims.

Children belonging to minority groups

227. Already since 1999, the Government has been financing the Campaign against racism. In 2003, as part of the campaign, e.g. the project Diversity to libraries II: Information and media campaign at the regional and local level was implemented.¹⁹⁹ The aim of the project was to create through public libraries a space that will arouse interest among readers and library personnel in getting acquainted with various ethnic groups living in the Czech Republic and thereby participate in the process of shaping a tolerant environment. In 2004, the project National educational campaign against discrimination became a new feature of the above campaign. As part of the project, national conferences, regional seminars and a model student court were organized. More obvious declaration of the fact that this is a governmental campaign was a new and beneficial element of the campaign.

228. The Campaign against adverse attitudes towards the Roma population continued as part of the European Year of Equal Opportunities for All – towards a just society in the Czech Republic (hereinafter referred to as „the European Year of Equal Opportunities“). The aim of the European Year of Equal Opportunities was in particular to raise the awareness of the public about EU antidiscrimination policy and the right to equal opportunities for all. The effort to initiate a public or professional debate on illegal nature of discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation was an integral part of the Campaign.

229. Among priority areas for implementation of the European Year of Equal Opportunities was also elimination of prejudices to the Roma population and clarification of the principle of integration, i.e. the implementation of activities focused on multicultural education, within pre-school, primary and secondary education and development of educational technology supporting materials.

¹⁹⁹ This was a follow-up to the project of 2002.

230. The Education Act²⁰⁰ allows to establish preparatory classes of primary schools for children in the last year before starting compulsory school attendance who are socially disadvantaged and in the case of whom it is expected that their assigning to the preparatory class will even out their development. Education in the last year of a kindergarten established by the state, region, municipality or the association of municipalities and in the preparatory class for elementary school is provided free of charge.

231. The schoolmaster of a kindergarten, primary school, special primary school, secondary school and higher vocational school can establish in the class or the study group, attended by a child, pupil or student with special educational needs the function of a teacher's assistant.²⁰¹

232. The Government has adopted an implementation plan on the implementation for the Concept of Roma Integration for the period 2006-2009.²⁰² In the area of education, inter alia, the following measures have been taken:

- create, as part of transformation of special schools and individual education plans at primary schools, conditions for assigning pupils from socio-cultural disadvantaged environment into the main educational stream,
- prepare training for and train: field social workers working in Roma communities, staff of authorities for social and legal protection of children and Roma advisors to municipalities in communication skills with special focus on communication with the Roma ethnic group and also in knowledge of educational legislation and educational issues,
- based on a survey of the real position and activities of teacher's assistants develop methodological documents, manuals and prepare new forms of further education of teacher's assistants, propose supplementation of programmes of further education of teachers and headmasters in order to be able to take optimum advantage of teacher's assistants, and inform departments of education of regional and municipal authorities about examples of good practice of teacher's assistants at schools and school facilities.
- create own information web site and prepare further methodological documents on the role of a teacher's assistant for children from socio-cultural disadvantaged environment, summarize all information about possibilities of evening out chances of children and pupils from socio-cultural disadvantaged environment (in particular

²⁰⁰ Provision of Section 47 of the Education Act.

²⁰¹ Provision of Section 16 paragraph 9 of the Education Act.

²⁰² Government Resolution No.1573 of 7 December 2005.

pupils from the Roma community), including examples of life situation in the area of timely care (where and how a preparatory class may be established, what are the possibilities of assigning children into kindergartens, possibilities of financing, etc.) and create a link on the web site of the Ministry of Education, Youth and Sports and inform about it departments of education of regional and municipal authorities of municipalities in charge of the execution of the state administration and all primary schools.

- recommend to the accreditation commission of the Government of the Czech Republic to set as a necessary prerequisite for the accreditation of syllabuses of faculties training future teachers, the inclusion of an obligatory minimum on Roma communities, their history, language, culture and special features of communication and cooperation with parents. To set, as a necessary prerequisite for the accreditation of syllabuses of higher vocational schools specializing in teachers' training, the inclusion of an obligatory minimum on Roma communities, their history, language, culture and special features of communication and cooperation with parents,
- support the development of education programmes for adults, including the programmes developed by NGOs, that will be tailored to the needs of members of Roma communities, support mechanisms preparing members of Roma communities for lifelong education and guiding them to this effect, while using the resources of the European Structural Funds and national instruments.

233. In connection with the introduction of multicultural education as an obligatory part of instruction at all primary and secondary schools, also the number of governmental and nongovernmental institutions²⁰³ engaged in the implementation of multicultural education into the educational system, providing methodological guidance and training to teachers/pedagogues or organizing the training of instructors in the area of multicultural education is rising.

234. The Ministry of Education, Youth and Sports announces every year the programme focused on support for education of Roma pupils and students, training of teachers of Roma pupils, pre-school preparation of Roma children and implementation of leisure time and

²⁰³ This includes, for instance, the following organizations: the National Institute for Further Education, the Research Institute of Education, or nonprofit organizations Partners Czech, Step by step, Multicultural Centre Prague (*Multikulturální centrum Praha*), programme Varieties (*Varianty*) of the organization People in Need (*Člověk v tísni*) and other.

special-interest activities for Roma children and youth in accordance with their educational needs.

235. Under the Programme of State Support for Work with Children and Youth, funds are allocated to the area of care of leisure time of children and youth. Civil societies supported by state grants (subsidies) prepare for children, regardless of their nationality, regular special-interest activities in the sports, cultural, natural science and polytechnic field. Civil societies organize increasingly for unorganized youth sports and cultural events with special focus on prevention of xenophobia and racism. Civil societies organize integrated summer camps in which Roma children and children from asylum facilities participate.

236. The issue of human rights, multicultural education and education for tolerance is explicitly contained in Framework education programmes in the educational area Man and society which focuses on shaping positive civic attitudes, strengthening desirable value orientation and integrates knowledge and skills from various branches of study, in particular humanities. It develops the awareness of belonging to the European civilization and cultural sphere and support the adoption of values on the basis of which the current democratic Europe is being built. Prevention of racist, xenophobic and extremist attitudes, education for tolerance and respect for human rights and education for respect for natural and cultural environment are important aspects of education in a given educational area. The educational area Man and society includes the subjects History and Education for citizenship and at the same time is reflected also in other educational areas and in the whole life of a school.

237. The Framework education programme includes for primary education the following cross-curricular subjects:

- Moral, character and social education
- Education for democratic citizenship
- Education towards thinking in European and global context
- Multicultural education
- Environmental education
- Media education

238. The Framework education programme for secondary vocational education includes obligatory cross-curricular subject A citizen in a democratic society which significantly strengthens in the whole curriculum education for democracy and thereby also education for multicultural coexistence and thereby contributes to the elimination of extremism.

239. The nonprofit organization DROM has been implementing since 2005 the projects of health assistants. Activities of health assistants are monitored by Roma advisors and cooperating NGOs, feedback is obtained also from pediatricians. This is a project that is beneficial in particular for children from families with low socio-cultural status, without unsatisfactory hygiene conditions and children living in unsatisfactory housing conditions. Due to positive feedback (proved effectiveness of this new form of work with members of Roma communities) it has been agreed with the party implementing the project that the project will be continued on the basis of support from the grant (subsidy) programme of the Government Council for Roma Community Affairs for 2007.

240. In the area of health care, there is a system of preventive examinations focused on monitoring comprehensive development of children. As part of preventive examinations also functionality of the child's family is assessed. If the family environment that does not stimulate the child's development and endangers his or her development is discovered, the child is registered for systematic treatment and in collaboration with other experts – in particular psychologists – a therapeutic programme is proposed for the child. In the case of significant parental neglect of child care, a general practitioner for children and adolescents proposes to the authorities for social and legal protection of children to order to the family concerned a supervision of the child's upbringing, or, where appropriate, other measures. In the case of families that do not stimulate the child's development, placing of children into a creche or kindergartens is recommended, which may appropriately remedy certain shortcomings in the development of these children. Placing the children into kindergartens or, where appropriate, to specialized kindergartens is carried out in collaboration with pedagogical and psychological counselling centres. In this area the authorities for social and legal protection of children cooperate with many NGOs engaged in working with the family (the Czech centre for the improvement of family life STREP, NATAMA organization and others).

Street children

241. As regards the number of children living in the street, the Czech Republic does not have available informed guess of the number of these children. These are mostly children on the run from institutional upbringing facilities, children on the run from their own family or children-foreign nationals.

242. The Ministry of the Interior has been preparing since 1999 the regular Evaluation of the system of care of children at risk. So far, the Government of the Czech Republic has approved and adopted four reports:

- Proposal for a systemic approach towards care of child and juvenile delinquents (1999),
- Evaluation of effectiveness of legislation related to systemic approach towards care of child and juvenile delinquents and evaluation of the activities of the experimental project called the Centre of Timely Intervention, including proposal for measures in the legislative, institutional and methodological field (2002),
- Evaluation of effectiveness of the adopted legislation related to the Proposal for a systemic approach towards care of delinquent youth (2004),
- Evaluation of the system of care of children at risk.²⁰⁴

243. The aim of the document Evaluation of the system of care of children at risk is to inform the Government about problems that have crucial impact on the functioning of the system of care of children at risk of being exposed to socially pathological phenomena and children who have already experience of criminal activities and propose measures that might have positive impact on the current unsatisfactory condition.

244. The above documents contain a number of specific tasks geared towards removal of problems in the area of care of the aforementioned group of children. The crucial element of the reports concerned is the long-term implementation of the project Timely Intervention System which at the local level plays the role of a systemic coordinating link among all entities that are responsible by law for work with risky children, children at risk and delinquent children – the Police, authorities for social and legal protection of children, courts, public prosecutor's offices, the Probation and Mediation Service, schools, physicians and NGOs. The project implements a common information system and establishes the Team for Youth. This team in a systematic and coordinated way works with the above children, their families and communities in excluded localities.

²⁰⁴ The document Evaluation of the system of care of children at risk was approved by the Government by its Resolution No. 1151 of 15 October 2007. This material defines the concept of a child at risk as:

- children ill-treated, abused and neglected (in all forms),
- children who find themselves separated from their family,
- children of a foreign national unaccompanied by an adult,
- children needing special care,
- delinquent and predelinquent children.

245. The Ministry of the Interior also provides a long-term support under the programme Partnership – Programme of crime prevention at the local level through grants (subsidies) to towns allocated to the care of leisure time activities of children, fieldwork with children and youth and the so-called low threshold facilities. These facilities are open to a wide range of clients having various problems, without any dependence of the clients on these facilities. These facilities primarily focus on unorganized youth or take the form of community centres in at-risk localities. Combination of social fieldwork and provision of the programme for motivated clients of the so-called street youth and street children is the basic principle of fieldwork and low threshold centres. Support is provided not only to clients, but also to social field assistants.

246. Other supported measures include projects targeted on at-risk youth. Probation officers for youth offenders who are assigned to authorities for social and legal protection of children at municipal authorities of municipalities with extended powers and NGOs in charge of social and legal protection of children organize regular weekend stays for these children and educational and recreational camps for children, in particular from families at risk of social exclusion.

247. The project Chance (*Šance*) is a preventive and humanitarian programme for commercially sexually abused children and youth living in the street in the Czech Republic. This project helps clients to find accommodation, find a job or get medical treatment.

IX. RATIFICATION OF TWO OPTIONAL PROTOCOLS

248. The Committee recommended to ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

249. The Government approved²⁰⁵ the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter referred to as „the Optional Protocol“). Subsequently, the Optional Protocol has been signed by the Czech Republic, nevertheless it has not yet been ratified because its ratification has been impeded by the absence of criminal responsibility of legal entities for criminal acts. The Bill on criminal and legal liability of legal entities and on proceedings against them that was submitted by the Ministry of Justice was rejected by the Chamber of Deputies of the Parliament of the Czech Republic in autumn of 2004. For this reason, the

ratification of the Optional Protocol has been postponed until the time when the appropriate legislation to this effect is enacted. The introduction of criminal responsibility of legal entities is envisaged by the draft material of the intended substance of the Act on administrative sanctions that should be prepared by the end of 2008. This Act will regulate administrative delicts whose elements will correspond to the crimes defined in the Criminal Code in order to meet the obligations arising from international treaties. As part of administrative sanctions also a register of recommended sanctions for legal entities, such, as for instance, depriving of the eligibility for public benefits and grants (subsidies), fines, temporary or permanent prohibition to pursue commercial activities, supervision, liquidation of the legal entity, etc., will be put in place.

²⁰⁵ Government Resolution No. 1124 of 16 November 2004.

**INFORMATION OF THE CZECH REPUBLIC ON FULFILMENT OF THE
OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT**

I. GENERAL MEASURES OF IMPLEMENTATION

Legislation

1. The UN Committee on the Rights of the Child in its concluding observation No. 7 focuses on the need for criminal sanctions for recruitment of children in armed forces and their use in hostilities, as well as on ratification of the Rome Statute of the International Criminal Court.
2. As regards criminal sanctions for recruitment of children in armed forces and their use in hostilities, let us refer to the draft of the new Criminal Code,²⁰⁶ that should cover such sanctions. Sanctions for conscripting and using children in armed forces at the time of peace

²⁰⁶ Considered by the Chamber of Deputies as Parliamentary Print No. 410.

and at the time of war are secured in provisions criminalizing trafficking in people²⁰⁷ and persecution of the population.²⁰⁸

3. The Government approved on 23 January 2008²⁰⁹ the ratification of the Rome Statute of the International Criminal Court.

Coordination and evaluation of the implementation of the Protocol

4. The Committee's urge requiring that the Czech Republic establish a body coordinating the implementation of the concluding observations of the Committee was reflected in Government Resolution²¹⁰ on concluding observations of the Committee on the Rights of the Child – the supervisory body of the Convention on the Rights of the Child to the Report of the Czech Republic on fulfilment of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict whereby members of the Government were recommended to take the Committee's concluding observation into consideration in their activities.

5. There was no need to take any organizational measures on activities of state bodies at the regional level in respect of the application of the Protocol because the legislation fully compliant with the Protocol is in place. For the same reason, there was no need to introduce any special procedures concerning self-governing bodies and the civilian public. The Czech Republic has not put in place monitoring mechanisms and tools for periodic assessment of implementing the Protocol, since the required legislation had been enacted already prior to the Czech Republic's accession to the Protocol.

National Plan of Action

6. In response to the Committee's observation that the Czech Republic develop a comprehensive national plan of action the Government approved²¹¹ the Concept of state policy on children and youth which builds on the Concept of state policy on young generation in the Czech Republic until 2002. Starting from 2008, the National Plan to Combat Commercial Sexual Abuse is planned to be replaced by the National Plan to Combat Violence Against Children which will deal with all forms of violence committed against children, i.e. also sexual abuse of children without commercial aspect and maltreatment and other abuse of children.

²⁰⁷ Provision of Section 166 of the Government Draft of the Criminal Code.

²⁰⁸ Provision of Section 410 of the Government Draft of the Criminal Code.

²⁰⁹ Czech Government Resolution of 23 January 2008 No. 63 on the draft ratification of the Rome Statute of the International Criminal Court.

²¹⁰ Czech Government Resolution No. 95 of 5 February 2007.

Dissemination/promotion and vocational training

7. In the area of information and education, the principles of the Protocol are incorporated into the training programmes for military personnel at all levels. The application of the Protocol is associated with the application of international humanitarian law.

8. Pedagogical staff working with children – asylum-seekers, refugees or migrants, are, as part of further education of pedagogical staff through accredited programmes, further trained in the given issues.

Allocation of funds

9. The funds intended for the implementation of the Protocol are allocated by government departments from individual budgets. Furthermore, financial grants (subsidies) are provided in support of various projects. As there was no need to take any organizational measures on activities of state bodies at the regional level in respect of the application of the Protocol, due to the fact that the legislation fully compliant with the Protocol is in place, funds allocated are not specified.

II. RECRUITMENT OF CHILDREN

10. Children who are students of military secondary schools (hereinafter referred to as „MSS“) are not members of armed forces and by their studies at the MSS they are under no obligation to join armed forces as a professional soldier or a civilian employee. Consequently, their status is equal to that of students of other secondary schools. The number of these persons has been gradually decreasing, because in 2002 it has been decided on downsizing this category of military education. In the period under review of the original 5 MSS, with some 750 pupils, the number of these facilities dropped to 2 MSS with up to 200 pupils. As at 31 August 2008, the Military Academy in Roudnice nad Labem will be abolished and only Military Secondary School and Higher Professional School of the Ministry of Defence in Moravská Třebová will be retained.

11. Students of military schools, as part of their instruction, are explained in detail the content of both the Convention and the Optional Protocol. For any cases of infringement of their rights the following system has been set. An efficient control mechanism has been developed for treating the children directly at school with a view to preventing cases of ill-treatment or attempted ill-treatment. The prohibition of ill-treatment of students, corporal

²¹¹ Government Resolution No. 343 of 7 April 2003.

punishments and inadmissibility of sexual abuse is incorporated into all preparatory materials of pedagogical staff, any such expressions would be dealt with radically.

12. Students are given the opportunity to discuss their problems in this area with their commanders and also with the school's social worker, chaplain and legal advisor to the school commander. They may also take advantage of the army information line whose number is published in the school. Last, but not least they may discuss their doubts at home with their parents who may then take the required legal steps. To this effect, students and parents have available a card with telephone and email contacts to the above school officers, including the school commander.

13. The Army of the Czech Republic seeks to contribute to the prevention of adverse phenomena in the life of children in the Czech Republic also by its activities for the benefit of civic societies working with children. The Ministry of Defence announces every year grant (subsidy) programmes, under which every year grants (subsidies) in the region of tens of thousands of Czech crowns are allocated also to these civic societies. Furthermore, the Army also participates in the organization of the project called BAMBIRIADA, an offer of leisure time activities and in collaboration with local authorities organizes for children sports, educational and cultural events. The biggest one are the Days of the Army of the Czech Republic that have been organized already for 5 years now.

14. The content of articles 28 and 29 of the Convention is guaranteed by the Education Act and it is implemented by additional related regulations. Students of the secondary police school are informed about the Convention in social science thematic areas in the following subjects:

- civics – The curriculum for this subject is consistent with curricula of the Ministry of Education, Youth and Sports for branches of study of secondary vocational schools and secondary apprentice training centres – full-time study and study on day-release schemes (effective from 1 September 2002). The issue concerned is reflected in the following thematic areas:

- Man in human community
- Citizen and democracy
- Man and law

- psychology – a student will learn theoretical principles of social skills that he actively uses in specific social situations,

- law – key competences of a student in this subject include communicative competences in specialized legal terminology, use of the Constitution of the Czech Republic, the Charter of Fundamental Rights and Basic Freedoms. Also administrative law and administrative proceedings are part of the instruction.

15. Within the framework education programme minimum time allotment for individual educational areas and thematic areas is defined. For legal education, the minimum number of class hours for the whole time of education has been set at 14 hours a week, i.e. 448 hours for the whole period of study. The scope of legal education is geared also towards formation of affective results of education (emotions, attitudes, preferences and values) which are desirable for anyone who completes his or her education in this field.

16. Education is geared towards accomplishing the following target competences of school-leavers : they should

- be able to distinguish between law and justice in their activities,
- be resistant to manipulative practices and corruption,
- treat people responsibly and tactfully, refrain from using unnecessary violence,
- have respect for human rights and freedoms guaranteed by the Constitution of the Czech Republic,
- be resistant to manipulative practices and corruption.

17. A student will acquire during his or her studies the following target competences in the area of administrative law:

- characterizes basic principles of administrative proceedings,
- enumerates participants in proceedings,
- describes the course of administrative proceedings,
- defines essential elements of the administrative decision,
- describes the procedure taken when using a remedial measure

18. The above explanation implies that students of schools of the Ministry of the Interior and the Ministry of Defence are well versed in administrative law and are able to lodge a complaint in accordance with the Rules of Administrative Procedure. Complaints can be lodged by students and their counsels either formally or anonymously.

III. MEASURES TAKEN IN CONNECTION WITH DISARMAMENT, DEMOBILIZATION AND SOCIAL REINTEGRATION

Measures on rehabilitation and social reintegration

19. The Czech Republic provides to children who are unaccompanied foreign nationals accommodation in special facilities – the Facility for children – foreigners which includes a school providing to them the required education, including practical instruction. Children can also visit schools outside the above facility. Their assignment to individual schools then depends on the level of their education.

20. Children accompanied by their legal representatives have the right to stay with their parents. In the case of applicants for international protection they have the possibility to stay in asylum facilities and are not separated from their parents at all. Right to education is secured for them, hence they attend school similarly as Czech children.

21. An unaccompanied minor is entitled to reside permanently in the territory of the Czech Republic, if he or she has been placed into alternative care based on a decision of the relevant authority (court) or if at least one natural person, to whose care the foreign national concerned has been placed, holds a permanent residence permit for the territory or if in the territory the institute, in which the foreign national concerned is placed, is located.²¹² After reaching the age of eighteen years, this foreign national is entitled to apply for a permanent residence, on the grounds worthy of special attention.

22. An unaccompanied minor is at the same time entitled to apply for an international protection under the Asylum Act. Throughout the whole time of his or her stay, the minor's guardian who protects the minor's interests and rights is appointed by court. The authority for social and legal protection of children at the level of the municipality with extended powers, where the unaccompanied minor's residence is registered, is appointed the minor's guardian.

23. All unaccompanied minors and minors applying for an international protection accompanied by a legal representative are entitled to free medical care.

IV. INTERNATIONAL AID AND COOPERATION

Protection of victims

24. Direct aid to children in regions affected by war conflicts is provided in the case of each deployment of servicemen of the Army of the Czech Republic. Primarily, this activity is

²¹² Provision of Section 87 paragraph 1 of the Act on residence of foreigners.

carried out through field hospitals and CIMIC troops (Civilian Military Cooperation), but servicemen of other troops of contingents contribute to aid, too. In the period under review, the Czech Republic's contingents were deployed as part of operations of international organizations in Bosnia and Herzegovina, Kosovo, Afghanistan and Iraq. Moreover, during natural disasters troops of field hospitals assisted also in Turkey and Pakistan.

25. Examples of aid are:

- cooperation with the movement On Own Feet – CENTIPEDE (*Na vlastních nohou-STONOŽKA*) headed by its President Běla Gran Jensen since 2000. Of the implemented projects, for instance, Building a water main for a school in the village of Wakhirdew and Pas Pul in Afghanistan and furnishing the school with furniture, the project School of Dreams 12x12, in which twelve Czech schools sponsored twelve schools in Kosovo with the aim to assist in creating nice environment in classes and in the vicinity of schools, hygiene of pupils, sending teaching aids and exchange of experience and supply of ambulances to Bosnia and Herzegovina,
- cooperation with the ADRA foundation – the project Adoption in a Package (*Adopce v balíčku*) for the benefit of children in Kosovo,
- securing the implementation of the project of vaccination of 50 children against jaundice in Afghanistan funded by the Olive Foundation,
- handing over of a gift from the Czech Red Cross to the maternity hospital in Basra, Iraq,
- securing the selection and transport of children under the programme MEDEVAC – a government programme funded by the Ministry of the Interior – selection of children with serious health problems in regions affected by war or a natural disaster in cases where medical treatment in a given place is impossible and the child's family cannot afford medical treatment, for their treatment in the Czech Republic. Military doctors select suitable patients and the army then transports them accompanied by their family member to the Czech Republic. A total of 101 children from Kosovo, Iraq, Afghanistan and Pakistan have been selected and transported,
- at all missions collections were organized among soldiers and other obtained funds were used for repairs of school equipment or children's homes' equipment or aid for families in the place of the mission was purchased.

26. Within the humanitarian aid provided by the Czech Republic, aid provided to children affected by armed conflict was a part of several projects in regions plagued by long-term conflicts associated with war.

27. In 2004, the Czech Republic contributed almost CZK 5 million in aid to Afghani refugees, this aid included securing living conditions for repatriated orphans and their education. The additional sum of CZK 3.6 million was invested in similar activities in Sudan and Chad in connection with the Darfur crisis. In 2005, the Czech humanitarian aid focused exclusively on regions affected by natural disasters. In 2006, CZK 15 million in aid were donated to people affected by the conflict in the Near East (Lebanon, Israel, Syria), with aid to children being a significant part of these donations.

28. Besides these general humanitarian projects, the Czech Republic contributes to UNICEF Funds on a regular basis. Since 2002, it has been contributing every year the sum of CZK 5 million (CZK 6 million in 2005). As an extra sum, in excess of the regular contribution, in 2006, CZK 3 million in aid were provided to UNICEF in Afghanistan.

29. Since the adoption of the Government Resolution on concluding observations of the Committee on the Rights of the Child, no company has applied for a permit for export of light and hand arms into countries where population under the age of 18 is directly involved in armed conflicts.

V. SUBSEQUENT MEASURES AND DISSEMINATION

30. In the area of information and education the principles of the Protocol have been incorporated into the programmes of training of military personnel at all levels. The application of the Protocol is associated with the application of international humanitarian law.

31. The Ministry of Education, Youth and Sports issued the Framework education programme for primary education which lays down the scope of obligatory content of the curriculum, while individual schools prepare their own pedagogical documents according to the Framework programme – school education programmes. In line with the Education Act²¹³, schools will start instruction according to the above programme for the 1st and 6th form by 1 September 2007 at the latest. The full text of these programmes is available from www.msmt.cz.

32. Cross-curricular subjects represent in Framework education programmes for primary education areas of contemporary problems of the current and future world and become an important and integral part of primary education. They are an important formative element of

²¹³ Provision of Section 185 of the Education Act.

primary education and help to develop the pupil's personality in particular in the area of attitudes and values.

33. In draft framework education programmes that are currently being prepared for individual fields and levels of education at secondary schools, in line with the set educational objectives competencies of a school-leaver are formulated, defining target requirements for his or her general and professional knowledge, skills, habits, or, where, appropriate, other required qualities. The developing of general competencies from individual framework education programmes into subject-matter areas in social science education allows to incorporate into school education programmes of both apprentice training and branches of study of secondary schools the subject-matter area focusing on extremism issues.

34. The text of the Report of the Czech Republic on fulfilment of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict is available to the public from the web site of the Government Office of the Czech Republic (www.vlada.cz) – in the section the Government Council for Human Rights and in the section Government Resolutions.