



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

**Concluding observations on the fifth periodic report of the
Czech Republic, adopted by the Committee at its forty-
seventh session (4-22 October 2010)**

Addendum

**Information provided by the Czech Republic on the follow-up to the
concluding observations of the Committee***

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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I. Introduction

1. The Czech Republic hereby submits to the United Nations Committee on the Elimination of Discrimination against Women (hereinafter “the Committee”) the present written information on measures taken to implement the recommendations on domestic and sexual violence (Recommendation No. 23) and unlawful sterilizations (Recommendation No. 35) (hereinafter “the Information”). The Information develops the Concluding Observations which the Committee issued on October 22, 2010, after hearing out the Czech delegation during the 47th CEDAW session (CEDAW/C/CZE/CO/5) (hereinafter “the Concluding Observations”). The Concluding Observations of the Committee require the Czech Republic to submit, within two years, written information on measures and steps taken to implement the recommendations referred to above.

2. As to measures to eliminate domestic and sexual violence, Resolution No. 262 of the Government of the Czech Republic, dated April 13, 2011, approved the National Action Plan for the Prevention of Domestic Violence for the Years 2011-2014. Domestic violence is a serious and fairly widespread social phenomenon. This is why the National Action Plan for the Prevention of Domestic Violence for the Years 2011-2014 aims to implement systematic and comprehensive solutions of these issues. Its activities are targeted at supporting people endangered by domestic violence, children endangered by domestic violence, work with violent individuals, education and interdisciplinary cooperation, broad society and domestic violence, analyses and studies on domestic violence, and relevant legislation.

3. Although the year 2011 saw the hitherto highest-ever incidences of the criminal act of cruelty to or maltreatment of a person living in a common dwelling as well as of restraining order implemented as a preventive measure against domestic violence, these facts alone are not necessarily indicative of a general increase of this phenomenon in the society. On the contrary, they show that relevant stakeholders can already handle the social phenomenon and that the number of reported cases of domestic violence and their clear-up rate are increasing.

4. As of July 1, 2011, Act No. 181/2011 Coll., amending Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, and some other legal acts, came into force. The Code of Criminal Procedure has expanded the scope of application of adhesion proceedings to decisions concerning non-pecuniary damage claims. Victims of criminal acts who have sustained only non-pecuniary damage can now claim a compensation of the damage in the adhesion proceedings.

5. An act on victims of criminal acts and amending some other legal acts has been drafted as well. It is expected to bring, inter alia, the victim’s right to professional help, which will be provided free of charge to some categories of victims, and a right to protection against secondary victimization, to introduce a victim impact statement, and to expand the eligibility for and right to financial assistance and to increase its lump sum.

6. Act No. 459/2011 Coll., amending Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, and some other legal acts, which came into force on January 1, 2012, expressly permits the use of videoconference equipment in criminal proceedings.

7. The period covered by the present report also saw ongoing education and training of people who encounter victims of domestic violence in their line of work, including judges and attorneys, candidate judges and attorneys, policemen and policewomen, medical personnel etc. Programmes concerning works with people sentenced for violent crimes, including domestic or sexual violence, were implemented as well.

8. As to unlawful sterilizations, some substantial steps have also been taken.
9. In 2011, Act No. 373/2011 Coll., on specific medical services, was enacted and became effective as of April 1, 2012. Its Sections 12 to 16 deal with sterilization-related issues in a comprehensive manner. Sterilization can be performed for medical or other than medical reasons. Before the operation can be performed, the patient or her legal representative must express her consent and the attending physician is obliged to inform the patient about the nature, permanent consequences and potential risks of the operation. If sterilization is performed for medical reasons, the time between the provision of the above information and the operation shall be at least 7 days; if performed for other than medical reasons, the time referred to above shall be at least 14 days.
10. At its session on February 17, 2012, the Government Council for Human Rights approved a recommendation on unlawful sterilizations of women in the Czech Republic. The recommendation proposes that the Government of the Czech Republic should compensate women who have been unlawfully sterilized, as proposed in the Final Opinion of the Ombudsman of 2005. Furthermore, the recommendation states that the Government of the Czech Republic should be submitted a proposal of an appropriate compensation mechanism, based on results of the analysis of compensation options and of the three-year statutory limitation currently performed by the Ministry of Justice. It also suggests that documentary records of patients related to sterilizations performed since 1972 should not be discarded or liquidated. Last but not least, the recommendation proposes to prepare an analysis of possibilities of access of the affected women to free legal help, and to make the analysis available to the public.
11. The present written information covers the period between November 1, 2010, and June 30, 2012. It has been prepared in compliance with general guidelines on the form and content of periodical reports¹. The Information focuses on describing major changes that have taken place since the issue of the Concluding Observations by the Committee.

II. Information regarding the recommendations of the Committee

Reply to the recommendations contained in paragraph 23 of the Committee's concluding observations (CEDAW/C/CZE/CO/5/Add.1)

1. Prevention and prosecution of criminal acts of domestic and sexual violence and the help provided to their victims

12. On January 1, 2010, Act No. 40/2009 Coll., the Penal Code, as amended, came into force, which stipulates and defines a criminal act of cruelty to or maltreatment of a person living in a common dwelling. A specific feature of the criminal act is that its perpetrators torment other persons living in the same premises, as a result of which there exists a specific form of mutual dependence and it is usually difficult for the tormented victims to leave the common dwelling.

13. The term "cruelty" as interpreted in court practice denotes maltreatment of a person who shares the same dwelling with the perpetrator, which is characterized by a high level of

¹ In particular the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents", approved at the 5th Inter-Committee Meeting of Human Rights Treaty Bodies in June 2006 (HRI/MC/2006/3 and Corr.1), and "Convention-specific reporting guidelines", which the Committee adopted at its 40th session in January 2008 (A/63/38 and annex I).

brutishness and ruthlessness, as well as a certain measure of permanency, and which the affected person perceives as a serious injustice². The perpetrator's behaviour does not have to be systematic or take a longer period of time; similarly, it does not have to produce any health consequences for the victim to be viewed as cruelty³. As to housing, the operative word is "common dwelling"⁴. The term does not emphasize the necessity to maintain a common household; it instead stresses the factual state of affairs, i.e. dwelling on the same premises, irrespective of the title it has arisen from.

14. The year 2011 registered the highest-ever incidence rate of criminal acts of cruelty to or maltreatment of a person living in a common dwelling. According to data of the Police of the Czech Republic, there were 661 identified cases and 485 persons (11 of them women) prosecuted in connection with this criminal act in 2011.

Table 1

Number of criminal acts of cruelty to or maltreatment of a person living in a common dwelling between 2008 and 2011⁵

<i>Criminal act of cruelty to or maltreatment of a person living in a common dwelling</i>	2008	2009	2010	2011
Acts identified	522	507	568	661
Acts solved	425	410	477	534
Number of prosecuted persons	400	384	436	485
Including women	18	16	18	11

15. The Ministry of Justice prepared a draft act on victims of criminal acts and amending some other legal acts. The draft has been approved by the Government of the Czech Republic and is presently discussed by the House of Deputies of the Parliament of the Czech Republic. The act is expected to expand the rights of victims and the scope of assistance provided to them. More specifically, the draft provides for:

- (a) The victim's right to professional help, which will be provided free of charge to some categories of victims;
- (b) The victim's right to information;
- (c) The victim's right to protection of privacy;
- (d) The victim's right to protection against secondary victimization;
- (e) A victim impact statement;
- (f) An expansion of the victim's eligibility for and right to financial assistance and an increase of its lump sum;
- (g) The victim to claim a compensation of material or non-pecuniary damage from the state rather than from the perpetrator.

² See Ruling R 20/2006 SbRt of the Supreme Court.

³ Cruelty may include bodily harm, but also psychic or sexual violence, extortion or abuse, threats, forcing the victim into humiliating acts, begging or acts that pose an extraordinary physical or psychic burden on the victim etc.

⁴ The term "common dwelling" is derived from the term "dwelling", which is defined as "a house, apartment, flat or other premises used for living, including offices thereof". In addition to houses and apartments, the term thus also includes cottages, summer houses, apartment hotels, dormitories, hostels, etc., i.e. all premises used for living.

⁵ Source: Police of the Czech Republic: Statistical summaries of crime data. Available at <http://www.policie.cz/clanek/statisticke-prehledy-kriminality-mapy-kriminality.aspx>.

16. The draft act referred to above also introduces preliminary orders into the Code of Criminal Procedure, including, for example, preliminary orders forbidding the person whom they have been imposed on to enter a particular dwelling, to maintain contacts with particular people, to stay or dwell in a particular place, to keep or possess items that could be used to perpetrate criminal acts, or to perform a specific activity or specific activities the nature of which would allow the criminal activity in question to continue or be repeated.

17. Act No. 135/2006 Coll., which amends some legal acts in the field of protection against domestic violence, gives the Police of the Czech Republic certain additional competencies, namely the instrument of restraining order, which is a preventive measure and is imposed regardless of what criminal charges may be brought against the person upon whom it is imposed. In 2011, the hitherto highest number of restraining orders (1,430 persons) was recorded, i.e. approximately 66% more than in 2007 (862). In five years since the restraining order instrument came into force, there has thus been a two-thirds increase of the number of banished persons. The increasing number shows that the Police of the Czech Republic have learned to make effective use of the restraining order. The total number of persons a direct threat or imminent danger to whom prompted the restraining order was 2,060, including 173 men, 1,446 women and 441 children. The most frequent cases of violence were those involving married couples (585) or cohabiting/common law couples (488); compared to previous years, there was an increase of the number of violent acts committed by adult children against their parents (351). Domestic violence resulting in the restraining order posed a threat to 836 families with 2,016 minor children, of whom 441 were endangered directly and 1,575 indirectly – as witnesses. The total number of persons a direct or indirect threat to whom prompted the restraining order was 3,635 in 2011⁶.

18. Since 2010, data on cases of domestic violence committed in the presence of minor children and handled in cooperation with authorities responsible for social and legal protection of children, including cases involving the restraining order of the violent person from the common dwelling, has been monitored as well⁷.

Table 2

Number of restrained persons (on the grounds of restraining order), 2007 - 2011⁸

<i>Year</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Number of restrained persons	862	679	778	1058	1430

19. To prevent domestic violence, the Czech Republic has also been devoting attention to work with perpetrators of domestic violence. The Prison Service of the Czech Republic has launched a programme for violent crime perpetrators, including domestic violence ones. It is a long-term therapeutic programme focused on reducing the risk of recurrence of a violent crime (including domestic and sexual violence) after the release from prison. The programme is run by a special department for inmates who have been ordered by the court to undergo compulsory protective sexologist treatment for sexually motivated criminal acts. Since 1998, the programme has treated or is treating altogether 316 sexual deviants, including 254 who have already been released; 8.7% of the latter have committed a repeated sexual crime. In addition, there is the GREPP programme, which focuses on

⁶ Source: Association of Workers of Intervention Centres – Statistical data for 2011 – Comments. Available at <http://domaci-nasili.cz/Download/Komentar%20APIC%202011.doc>

⁷ In 2010, authorities responsible for social and legal protection of children identified 1,976 domestic violence cases committed in the presence of minor children, including 651 cases involving the restraining order; the corresponding figures for 2011 are 2,505 and 726, respectively.

⁸ Source: Bílý kruh bezpečí (White Circle of Safety): Domestic violence – restraining orders in the Czech Republic in 2011. Available at <http://www.domacinasili.cz/files/index.php?id=32>.

perpetrators who have been sentenced for violent crimes against children⁹, and its continuation, GREPP 2¹⁰.

20. In 2011, the Ministry of the Interior established a working group to develop a concept of work with violent persons, which should comprise system measures and particularly a proposal of legislative changes in this field.

21. Since 2001, a hot emergency helpline for persons endangered by domestic violence known as DONA has been continuously operated in the Czech Republic. It is also used by assisting professionals for immediate consultations and information. It is operated by Bílý kruh bezpečí, o. s. (White Circle of Safety, citizens' association), and funded by the Ministry of Labour and Social Affairs. It has so far received over 40,000 calls. In 2011, the team of expert consultants of the DONA helpline received 4,244 calls and provided 2,066 consultations on issues of domestic violence and other criminal acts.

22. Violence and sexual harassment in the workplace represents another specific area¹¹.

2. National Action Plan for the Prevention of Domestic Violence for the Years 2011-2014

23. The National Action Plan for the Prevention of Domestic Violence for the Years 2011-2014 (hereinafter "NAP DV") was approved by Resolution No. 262 of the Government of the Czech Republic, dated April 13, 2011¹². The draft of NAP DV was prepared by the Committee for the Prevention of Domestic Violence of the Government Council for Equal Opportunities for Women and Men (hereinafter "the Council"). The Council approved the NAP DV document as its recommendation to be submitted to the Government at its meeting on February 23, 2010¹³.

24. NAP DV is a response to the current situation in the Czech Republic, where statistical data suggests domestic violence continues to be a serious and fairly widespread social phenomenon. NAP DV aims to implement systematic and comprehensive solutions of these issues. Its activities are targeted at:

- (a) Supporting people endangered by domestic violence;
- (b) Children endangered by domestic violence;
- (c) Work with violent individuals;
- (d) Education, training and interdisciplinary cooperation in the field of domestic violence;
- (e) Society and domestic violence;

⁹ The GREPP programme also works with perpetrators of sexual violence against girls under 18. It is designed as a "straightening programme", is of a short-term nature and takes place twice a year in two prisons.

¹⁰ GREPP 2 is designed as a long-term programme (10 months) the purpose of which is to reduce the risk of recurrence of a violent crime after the release from prison. A pilot run for 12 convicts took place between 2010 and 2011.

¹¹ In this respect, one can refer, for example, to the European Framework Agreement on Harassment and Violence at Work, concluded by European social partners in 2007.

¹² The English version of NAP DV is available at:
http://www.mpsv.cz/files/clanky/12194/5_material_NAP_15-04-2011_en.pdf

¹³ At its meeting held on February 23, 2010, the Council adopted the following recommendation: "Pursuant to Article 2, Paragraph 2, Subparagraph a), of the Government Council for Equal Opportunities for Women and Men, conclusions of the Council's meeting of February 23, 2010, and a recommendation presented by the Committee for the Prevention of Domestic Violence, the Government Council for Equal Opportunities for Women and Men recommends the Government of the Czech Republic to accept the National Action Plan for the Prevention of Domestic Violence as submitted."

- (f) Analyses and studies on domestic violence;
- (g) Domestic violence legislation.

25. NAP DV contains 32 tasks assigned to different ministries and other agencies and entities. Their thorough fulfilment should contribute to the prevention of domestic violence in the Czech society and to efficient help for people endangered by domestic violence.

26. In 2011, the first comprehensive report on the fulfilment of NAP DV (hereinafter “the Comprehensive Report”) was prepared¹⁴. The implementation and fulfilment of NAP DV is monitored by the Committee for the Prevention of Domestic Violence and the Council. The Committee for the Prevention of Domestic Violence is regularly briefed on the progress of the implementation and fulfilment of NAP DV at its meetings, and also formulates its opinion on and recommendations concerning the Comprehensive Report.

3. Access of victims claiming non-pecuniary damage to legal assistance

27. Act No. 181/2011 Coll., amending Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, and some other legal acts, came into force as of July 1, 2011. The act has expanded the scope of application of adhesion proceedings to decisions concerning non-pecuniary damage claims and surrenders of unjust enrichment. The terminology used by the Code of Criminal Procedure (“moral, property or other damage”) has been harmonized with that used by the Civil Code (“material damage and non-pecuniary damage”).

28. To ensure a more efficient exercise of rights of parties that have sustained non-pecuniary damage or at the expense of whom the perpetrator gained unjust enrichment, the portfolio of trial rights and instruments available to them has been expanded to the level available to damaged parties that have sustained property damage by a criminal act.

4. Training for police officers, judges, prosecutors, social workers and medical personnel

29. Domestic violence specialists operate at the Municipal Directorates of the Police of the Czech Republic in Ostrava and Brno. They are police officers who handle domestic violence cases comprehensively, from minor offences to restraining order to criminal acts. The next period will also see efforts to create a domestic violence specialist position at Regional Police Directorates, a job now partly performed by so-called domestic violence methodologists, who also participate in ongoing training programmes of police officers and other domestic violence prevention activities.

30. In 2011, the Police of the Czech Republic continued to develop and support a system of psychological assistance to victims based on crisis intervention groups established at the Regional Police Directorate level. Crisis interveners receive continuous special training in direct crisis intervention and also support by phone. Between the launch of the system on July 1, 2010, and June 30, 2011, 27 instructors and 206 crisis interveners were trained and 816 crisis interventions related to 669 crisis events provided to 1,540 clients.

31. Between 2010 and 2011, two training courses on domestic violence, stalking and short-term protection were organized for police officers. In this respect, the Ministry of the Interior cooperates very closely with non-governmental organizations¹⁵. In 2011, more than 3,000 police officers were trained. For several years now, the non-profit organization ROSA, o.s. (ROSA citizens’ association), has been leading interdisciplinary teams of experts on the prevention of domestic violence, doing so in cooperation with the District

¹⁴ Comprehensive reports on the fulfilment of NAP DV will also be regularly prepared in the years to come.

¹⁵ In particular, it cooperates with the Association of Workers of Intervention Centres of the Czech Republic. For details see www.domaci-nasili.cz.

Police Headquarter of Prague 4 and the Municipal Police Directorates in Ostrava and Brno. These teams are qualified to handle the most serious domestic violence cases.

32. In 2012, the Czech Judicial Academy¹⁶ included topics such as domestic violence, assistance to victims of criminal acts, amendments of the Code of Criminal Procedure related to the draft act on victims of criminal acts and the Code of Criminal Procedure amendment accompanying it, cooperation with non-governmental and non-profit organizations providing help to victims of domestic and sexual violence, cooperation with intervention centres and informed consent in the curricula of its criminal justice courses. Interdisciplinary cooperation in the field of medical, social and police assistance in the identification and prosecution of domestic violence cases is also covered by courses organized by the Czech Judicial Academy. The plan for the years 2011 and 2012 increases the number of lecturers representing professional groups encountering people endangered by domestic violence in their line of work (physicians, representatives of interdisciplinary cooperation from other regions of the Czech Republic, representatives of non-profit organizations, police officers and public servants handling minor offences).

33. The health care sector provides education for violence prevention (including domestic violence) experts. There will also be a manual for an “Advanced” specialized WHO TEACH VIP education module, followed by a verification of the module in day-to-day practice.

5. Increase of the number or capacity of asylum shelter facilities for abused women and girls

34. In 2010, there were 18 registered intervention centers in the Czech Republic, which provided their services to 3,121 anonymous clients.

35. In 2011, state budget subsidies were granted to “asylum shelter” social service providers listed in the register of social service providers (CZK 50,283,000.-) and to intervention centers (CZK 1,965,000.-). The purpose of the latter subsidy is to finance normal operating costs of the “intervention center” social service in accordance with the mid-term development plan of social services of the region. Compared to previous years, preventive social services (intervention centers, asylum shelters etc.) were also funded from individual projects in some regions. In 2011, a sum of CZK 7,750,000.- was also granted to support the operation of four secret asylum shelters for persons endangered by domestic violence.

36. Some of the tasks formulated in NAP DV also focus on the increase of capacities of asylum shelter facilities and consulting centers for abused women and girls¹⁷.

¹⁶ The Czech Judicial Academy organizes and carries out professional education and training courses for judges and prosecutors, candidates for positions in the judiciary and other trainees who are obliged to pass the courses pursuant to a special legal act or a ministerial ordinance. It analyzes and examines needs and requirements of judges, prosecutors and other professional groups and notifies the professional community of all education and training programmes it plans.

¹⁷ Task 1.3. Support to ensure the availability of social services consisting of asylum shelters with an undisclosed address for persons endangered by domestic violence in connection with regional medium-term plans for the development of social services, assigned to the Ministry of Labour and Social Affairs in cooperation with regional authorities and non-profit non-governmental organizations; Task 1.6. Support to specialized counselling centres for persons endangered by domestic violence, assigned to the Ministry of Labour and Social Affairs in cooperation with the Ministry of Interior, Ministry of Public Health, regional authorities and non-profit non-governmental organizations; and Task 1.7. Support to intervention centre services for persons endangered by domestic violence, assigned to the Ministry of Labour and Social Affairs.

A comprehensive review of users (clients) of social services by the gender is presented in the table attached hereto as Appendix 1.

6. Cooperation with and funding of non-governmental organizations

37. An amendment of Act No. 359/1999 Coll., on the social and legal protection of children, is expected to strengthen the cooperation with non-governmental organizations providing help to victims of domestic violence. The amendment introduces a new obligation of authorities responsible for social and legal protection of children, namely to provide some data to intervention centers upon their request. If domestic violence takes place in a family with minor children, close cooperation between the two entities referred to above is desirable. The intervention center also coordinates the cooperation of all bodies and authorities involved in the solution of a specific domestic violence case. The amendment of the act on the social and legal protection of children has already been approved by the House of Deputies of the Parliament of the Czech Republic and will be discussed by the Senate of the Parliament of the Czech Republic now. It is expected to come into force on January 1, 2013.

38. The Czech Prison Service has been cooperating for a long time with Bílý kruh bezpečí, o.s. (White Circle of Safety, citizens' association)¹⁸ in the field of domestic violence. For example, the cooperation included training of professionals in the use of the SARA DN method (a tool to evaluate domestic violence) and the Victim Statement (testimony of the victim).

39. In the "Human Resources and Employment" Operational Programme financed by the European Social Fund, victims of domestic violence, human trafficking or commercial exploitation are one of the target groups in Support Segment 3.1 – Support for social integration and social services. At the moment, the Operational Programme provides funding to several projects of non-governmental non-profit organizations focused on the assistance to the above target group. Non-governmental organizations also implement several grant-funded projects of assistance to victims of domestic violence, which aim to provide comprehensive support to the target group, including legal, psychological and employment counselling and job search assistance. In addition, this support segment includes projects providing professional education and training to social service workers whose professional development and education plans include domestic violence.

40. The Czech Probation and Mediation Service and the non-governmental non-profit organization Association of Civil Consulting Centers implement joint projects providing support and assistance to victims of criminal acts and domestic violence. In their framework, the two organizations provide specialized comprehensive consulting services to the victims; in addition, functional networks of services for the victims are built around different consulting centers and multidisciplinary teams are established to deal with current issues in this field.

41. Also supported are non-governmental non-profit organizations working with violent individuals. In 2010 and 2011, 5 and 3 projects of this nature received support; in 2012, there are seven non-governmental organizations the purpose of which is to work with violent individuals. The projects focus on the development and implementation of resocialization programmes, development of methodologies and manuals for professionals who are in contact with the above target group, and education of experts, in particular psychologists, therapists, personnel of the Czech Probation and Mediation Service, judiciary personnel, law enforcement officers etc. In addition, 4 projects received support through a subsidy granted under the "Prevention of Domestic Violence, with an Emphasis

¹⁸ It is a non-governmental non-profit organization providing free, professional and discrete help to victims and witnesses of criminal acts. For details see <http://www.bkb.cz/>.

on the Work with the Violent Individual” subsidy programme of the Department of Crime Prevention of the Ministry of Interior, and some smaller projects received funding through subsidies aimed to support self-government bodies.

7. Recording devices, prevention of repeated victimization and unnecessary confrontations of the victim and the perpetrator

42. Act No. 459/2011 Coll., amending Act No. 141/1961 Coll., the Code of Criminal Procedure, as amended, and some other legal acts, which came into force on January 1, 2012, expressly permits the use of videoconference equipment in criminal proceedings.

43. Videoconference equipment is a tool capable of facilitating and speeding up trial proceedings, as well as of preventing a repeated victimization of victims. It can be particularly useful when endangered, threatened or vulnerable victims are interrogated or deliver their testimonies (especially because of their age, the nature of the criminal act perpetrated against them, their relation to the perpetrator or their inability to physically appear before the court because of their health condition), or when expert witnesses or interpreters are used.

8. Statistical data on domestic and sexual violence

44. Comprehensive statistical data on domestic and sexual violence by the gender is collected by the Ministry of Justice and the Police Presidium.

45. The Police Presidium maintains detailed statistical reviews of criminal acts by the year, which contain information on the number of identified, perpetrated and solved criminal acts, including domestic and sexual violence, segmented in accordance with the sections of the Penal Code.

Table 3

Basic data on selected criminal acts in 2011¹⁹

<i>Criminal act</i>	<i>Identified</i>	<i>Solved</i>	<i>Number of investigated/ prosecuted persons</i>	<i>Number of investigated/ prosecuted persons - women</i>
Sexual homicide	4	4	3	0
Homicide motivated by personal relations	108	98	101	11
Stalking	535	410	380	27
Cruelty to a person living in a common dwelling	661	534	485	11
Rape	675	468	405	1
Sexual coercion	27	23	16	0
Sexual abuse of a dependent	82	63	53	3
Sexual abuse – other cases	672	500	440	19
Commercial form of sexual abuse – other cases	3	2	1	0
Human trafficking	19	11	29	9

¹⁹ Detailed statistical data is available on the website of the Police Presidium: <http://www.policie.cz/clanek/statisticke-prehledy-kriminality-za-rok-2011.aspx>.

46. The Ministry of Justice collects statistical data on prosecuted and indicted persons, persons in respect whereof an abridged preliminary legal procedure is applied and a motion for sentence submitted, and sentenced persons. The data is structured by the gender of the perpetrator and the victim, the cause of the victim's death, the numbers of the prosecuted, indicted and sentenced persons, and the duration of the proceedings²⁰.

Table 4

Minor offences with a domestic violence element in 2011²¹

<i>Region</i>	<i>Number of minor offences perpetrated by women</i>	<i>Number of minor offences perpetrated by men</i>	<i>Total</i>
Karlovy Vary	68	383	451
Plzeň	105	458	563
Ústí nad Labem	241	1384	1625
Liberec	40	367	407
Central Bohemia	293	1056	1349
Capital City of Prague	139	673	812
South Bohemia	235	658	893
Vysočina	127	518	645
Pardubice	142	601	743
Hradec Králové	166	700	866
Olomouc	328	901	1229
Moravia-Silesia	390	1871	2261
Zlín	264	1257	1521
South Moravia	390	1539	1929

47. Since 2006, the Ministry of the Interior has been gathering statistical information on minor offences with a domestic violence element, which is structured, inter alia, by the gender and region.

9. Position of the abused partner in decisions concerning suitability and appropriateness of mediation or alternating custody arrangements

48. The Parliament has passed Act No. 202/2012 Coll., on mediation, and amending some other acts, effective as of September 1, 2012. The act stipulates, inter alia, that, if deemed suitable and appropriate, the presiding judge may order the parties to meet with a mediator first and suspend the proceedings for the time being. The purpose of the provision is to promote broad use of mediation in cases where this option is suitable²².

10. Definition of rape in the new Penal Code

49. Chapter III of Act No. 40/2009 Coll., the Penal Code, as amended, effective as of January 1, 2010, (hereinafter "the new Penal Code"), deals with criminal acts against

²⁰ The statistical data is available on the website of the Ministry of Justice, www.justice.cz, bookmark infoData (<http://cslav.justice.cz/InfoData/uvod.html>).

²¹ Additional statistical reviews are available on the website of the Ministry of Interior: <http://www.mvcr.cz/clanek/informace-o-plneni-opatreni-pro-zavedeni-interdisciplinarnich-tymu-spojucich-zdravotni-socialni-a-policejni-pomoc-pri-odhalovani-a-stihani-pripadu-domaciho-nasiliv-za-rok-2011.aspx>

²² However, some experts claim that mediation may not always be a suitable tool, e.g. in cases of domestic violence in a family.

human dignity in the sexual area. It covers all sexual criminal acts in respect whereof the society, emphasizing the need to ensure of rights and liberties of women and children in particular, provides an increased level of protection of human dignity in the field of sexual relations.

50. The new Penal Code has redefined the *res gestae* of rape in Section 185, Paragraph 1²³, by adding acts regarded as extortion in the previous Penal Code, although they were clearly sexual criminal acts. Even the severity of punishment of such acts was not commensurate to the serious nature of the criminal act of sexual coercion. The punishment for extortion did not take proper account of the factor of helplessness of the victim, so typical for sexual coercion.

51. According to case law, the sexual intercourse is seen as any way of satisfying one's sexual appetite on the body of another person (of the same or different sex). It thus comprises coitus, a sexual intercourse comparable to coitus (e.g. oral or anal intercourse, but also caressing a woman's breasts, feeling male or female genitalia etc.). The above *res gestae* concept also provides for taking better account of circumstances that allow the perpetrator to be sentenced to a longer prison term and reflecting the seriousness of each qualified *res gestae*.

52. The new Penal Code has also provided a more detailed definition of "an intercourse similar to sexual intercourse" as "an intercourse performed in a comparable way" (e.g. oral or anal intercourse). This is why a sexual intercourse in the form of coitus or performed in a comparable way will always match the rape definition involving a particularly aggravating circumstance, as stipulated in Section 185, Paragraph 2, Subparagraph a) rather than the basic *res gestae* definition. The criminal act of rape shall be deemed committed using violence even if perpetrated on a person whom the perpetrator brought to a state of helplessness by a ruse or in another similar way.

Reply to the recommendations contained in paragraph 35 of the Committee's concluding observations

1. Act on specific medical services

53. In 2011, Act No. 373/2011 Coll., on specific medical services, was enacted and became effective as of April 1, 2012. Its Sections 12 to 16 deal with sterilization-related issues in a comprehensive manner.

54. The law stipulates that sterilizations can be performed for medical or other than medical reasons. Sterilization for medical reasons can be performed on a patient over 18 years of age, subject to her written consent; as to sterilizations performed for other than medical reasons, the patient must be over 21 years of age, submit a written request which shall be filed in her medical records, and there must not be any serious medical reasons preventing the operation. Minor or legally incapable patients can be sterilized only for medical reasons, subject to a written consent of their legal custodians, a positive opinion of a board of experts and consent of the court. The act stipulates the composition of the board of experts to guarantee its independence – there have to be at least five members, including a clinical psychologist and a lawyer.

55. Before the sterilization is performed, the patient or her legal representative must express her consent with it. To protect the patient's interest, the board of experts must

²³ The wording of Paragraph 1 reads as follows: Whoever coerces another person into a sexual intercourse by violence, threat of violence or threat of another grave damage, or takes advantage of the other person's helplessness for the same purpose, shall be punished by a prison sentence from six months to five years.

always invite the patient or her legal representative to its proceedings. When informing a legally incapable patient, the board of experts is obliged to take her mental maturity into account. Before performing sterilization for medical or other than medical reasons, the attending physician is obliged to inform the patient about the nature, permanent consequences and potential risks of the operation. The information must be provided before a witness from among medical personnel. If the patient requires another witness of her own choice, the health care provider shall make that possible.

56. A protocol attesting to the provision of the above information shall be signed by the attending physician, the patient and the witness(es); the protocol shall constitute a part of the patient's medical records. An adequate period of time must elapse between the information and the consent; if the sterilization is performed for medical reasons, the time between the provision of the above information and the operation shall be at least 7 days; if performed for other than medical reasons, the time referred to above shall be at least 14 days. Sterilizations cannot be performed in medical facilities of the Prison Service of the Czech Republic.

2. Proposal of the Government Council for Human Rights

57. In 2010 and 2011, the Committee against Torture and Other Inhuman, Cruel or Degrading Treatment or Punishments of the Government Council for Human Rights (hereinafter "the Committee") prepared and approved a proposal to compensate unlawfully sterilized women in the Czech Republic, the purpose of which is to settle the issue of compensations of women who have undergone unlawful sterilization in the past and to support the adoption of new and comprehensive sterilization legislation, which would reflect requirements arising from current developments of law, ethics and medicine.

58. Acting on the proposal, the Government Council for Human Rights approved a recommendation on unlawful sterilizations of women in the Czech Republic at its session held on February 17, 2012. The Council's recommendation is presently undergoing an interdepartmental amendment procedure and the Czech Government has not yet endorsed it. The recommendation is thus not binding for the Government of the Czech Republic, and the latter will decide how to approach the issue of unlawfully sterilized women.

59. The recommendation proposes that the Government of the Czech Republic should compensate women who have been unlawfully and involuntarily sterilized in accordance with the Final Opinion of the Ombudsman of 2005²⁴. Furthermore, the recommendation states that the Government of the Czech Republic should instruct the Minister of Health to draft, in cooperation with the Ministers of Labour and Social Affairs, Justice and Finance and the Government Commissioner for Human Rights, and with a view to the recommendation and results of the analysis of compensation options and of the three-year statutory limitation performed by the Ministry of Justice, an appropriate compensation mechanism and submit it to the Government of the Czech Republic. The duty to prepare the analysis of compensation options is, inter alia, derived from the task formulated in the annual "Priorities and Policies of the Government in Promoting Equal Opportunities for Women and Men" Action Plan of the Government of the Czech Republic. In 2011, the Minister of Justice was instructed to prepare an analysis of compensation options and of the three-year statutory limitation applying to claims lodged in connection with unlawful sterilizations.

60. To make the compensation mechanism workable, the recommendation also proposes to instruct the Minister of Health to make sure that medical records of patients related to sterilizations performed since 1972 are not discarded or liquidated, although the relevant

²⁴ The Ombudsman recommended compensating especially women sterilized between 1973 and 1991, as his investigation confirmed the eugenic nature of the sterilizations.

archiving period may have elapsed²⁵. However, the discarding or liquidation is possible rather than mandatory under the law, which means the recommendation claims the Ministry of Health can, as a minimum, recommend not to discard the records. The recommendation also proposes to instruct the Minister of Health to draft a recommended procedure concerning sterilizations and publish it in the Official Journal of the Ministry of Health. Last but not least, the recommendation proposes to instruct the Minister of Justice to prepare, in cooperation with the Government Commissioner for Human Rights, an analysis of possibilities of access of the affected women to free legal help, and to make the analysis available to the public for the purpose of facilitating the access of the victims to courts. The recommendation envisages the analysis could be used as a source of information on the availability of legal assistance not only by sterilized women, but other people as well. The recommendation proposes that such information could be placed on websites or published in the form of leaflets or brochures.

61. As to women unlawfully sterilized since 1991, the recommendation proposes to consider:

(a) A potential change of the legal opinion on the non-applicability of statutory limitations applying to pecuniary claims arising from non-pecuniary damage to personal integrity rights, in spite of a historical court ruling to the contrary;

(b) The period of time elapsed between the sterilization proper and the moment the victim learned she has been sterilized, in situations when the information duty was not complied with.

62. The recommendation thus proposes to compensate also the women who did not have a reasonable chance to claim compensation before the court because of the lapse of the three-year statutory limitation applying to the filing of personal integrity lawsuits.

²⁵ Measures to prevent the discarding of medical records would include selection criteria applying to medical records to be excluded from the discarding procedure and conditions under which they will continue to be kept.