

## **Minority Rights in the Czech Republic**

by the Czech Helsinki Committee, September 1999

The Czech Republic signed the Framework Convention for the Protection of National Minorities (hereinafter referred to as the Convention) in Strasbourg on April 28, 1995. The Convention was approved by the Czech Parliament in accordance with Article 39, paragraph 4 of the Constitution of the Czech Republic as an international treaty on human rights and fundamental freedoms pursuant to Article 10 of the Czech Constitution. The President of the Czech Republic has ratified the Convention. The ratification documents were deposited with the Secretary General of the Council of Europe, the Depository of the Convention, on December 18, 1997.

In accordance with Article 28, paragraph 1, the Convention entered into effect on February 1, 1998. Pursuant to paragraph 2 of the same Article, as regards the Czech Republic, the Convention entered into effect on April 1, 1998. At the same time Czech translation of the Convention was published in the Collection of Laws of the Czech Republic<sup>1</sup>. In accordance with Article 25, paragraph 1 of the Convention, the Czech Republic is now, one year after the Convention entered into effect with regard to the Czech Republic, transmitting to the Secretary General of the Council of Europe full information about legislative and other measures which the Czech Republic has taken to give effect to the principles set out in the Convention.

### **Part I**

1. Division of the Czech and Slovak Federative Republic on January 1, 1993 resulted in the creation of two independent unitary states - the Czech Republic and Slovakia. In comparison with Czechoslovakia, the demographic structure has changed in both new countries. Czechoslovakia was founded in 1918 as a state with a strongly heterogeneous ethnic structure. Only 64.3 percent of the population declared appurtenance to the Czechoslovak national identity in the ethnic sense of the word. There were more than three million Germans, three quarters of a million of Hungarians, and the Russian (according to the terminology used at the time in Reports of the State Statistical Office of the Czechoslovak Republic the "Russian-Great Russian/Ukrainian/Carpatho-Russian" or "Russian-Small Russian/Ukrainian"), Jewish and Polish minorities were numerous as well. Even after the Second World War, despite Nazi genocide of Jews and Czech and Moravian Romanies and expulsion of German citizens, Czechoslovakia's ethnic make-up remained relatively heterogeneous, as minorities amounted to more than one million in a population of fifteen million (1992). Besides, this number does not include the Czech national minority in Slovakia and the Slovak national minority in the Czech Lands. After the breakup of the Czechoslovak federation, the Czech Republic became almost homogenous as far as the ethnic structure is concerned. Although national/ethnic minorities (hereinafter referred to as national minorities) represent 5.2 percent of the demographic structure of the population, the most numerous is the newly recognized Slovak national minority which is strongly culturally and linguistically integrated. Conversely, assimilation, especially linguistic, has affected the Romany, Slovak, German, Polish and other minorities. With the exception of numerous, but dispersed, groups of Slovaks and Romanies, no national minority occupies a prominent position in the current ethnic make up of the Czech population. Besides persons belonging to national minorities who are citizens of the Czech Republic, there are foreigners living on a permanent or long-term basis in the country (most of them are from Slovakia and Ukraine). However, they amount to only approximately two percent of the population.

2. In 1997 the gross national product of the Czech Republic totaled 1 649.5 billion Czech crowns in current prices and 1 281.8 billion in fixed prices. The annual index in comparison with the previous year, 1996, was 101.0. In the first three quarters of 1998 the gross national product totaled 1 282.6 billion Czech crowns in current prices and 909.8 billion in fixed prices. The annual index in comparison with the previous year, 1997, was 97.9. As of September 30, 1998 the Czech Republic had a population of 10, 295, 725 (in comparison with

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<sup>1</sup> Communiqué of the Ministry of Foreign Affairs No. 96/1998 Coll., Framework Convention for the Protection of National Minorities.

1997 the population decreased by 7 917).

3. Protection of the rights of national minorities in the Czech Republic is enshrined in the Constitution of the Czech Republic and in the Charter of Fundamental Rights and Freedoms (see Appendix I). Individual areas are covered by specific laws. In addition, protection of the rights of persons belonging to national minorities is ensured by bilateral agreements between the Czech Republic and neighboring countries, in particular the Federal Republic of Germany, Poland and Slovakia.

4. Protection of minority rights is also guaranteed by the International Pact on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and other international treaties, at present especially the Convention. These legal standards are considered to be a part of the Czech law in accordance with Article 10 of the Constitution of the Czech Republic. This Article states: *Ratified and promulgated international treaties on human rights and fundamental freedoms, whereby the Czech Republic is obligated, shall be directly binding and shall have precedence over the law.*

5. In the modern history of the Czech Lands the status of national minorities has been defined in the law since the creation of the Czechoslovak Republic in 1918. After the end of the First World War, the legal status of minorities was based on international peace treaties, in particular the treaty between leading allied and associated powers and Czechoslovakia signed in Saint-Germain-en-Laye in 1919<sup>2</sup>. Articles 8 and 9 of this Treaty specified conditions for protection of the rights of Czechoslovak citizens who belonged to "ethnic, religious or linguistic minorities". The same principles of protection of "national, religious and linguistic minorities" were enshrined in the Constitutional Act of Czechoslovakia from 1920<sup>3</sup> as well as the implementing law on the principles of language rights in the Czechoslovak Republic<sup>4</sup> which formed a part of the Constitution. In a like manner, after the Second World War the status of minorities was always defined in the Constitution.

6. After the creation of the Czechoslovak federation in 1968, the Parliament adopted a constitutional law on the status of national minorities<sup>5</sup>. The list of national minorities set forth in the law included the German national minority in addition to the already included Hungarian, Polish and Ukrainian (Ruthenian) minorities. Other minorities, including the Romany minority were not recognized. According to the Constitution and the above-mentioned law, Czechoslovakia comprised two nations (in the ethnic sense of the word) at that time, i.e., Czechs and Slovaks, and four ethnic groups described with a term other than nation (in Czech *národ*), that is the term ethnic group (in Czech *národnost*). Minorities themselves have not been and are not described as national (in Czech *národní*), as was the case between the First and Second World Wars, but with the adjective "ethnic" (in Czech *národnostní*). This tradition of double ethnicity is still alive in the Czech Republic of today despite the fact that the Czech law, which honors civil principles, does not recognize the term of state-forming (ethnic) nation. The term nation is generally associated with language, culture and kinship rather than a state.

7. Besides, even the Czech translation of the Convention does not use the adjective *national* (*národní*) but the term ethnic (*národnostní*), which designates a group whose importance does not attain the significance of an ethnic nation. This approach was and still is based on the post-war assumption that it would be unsuitable to recognize members of minorities as belonging to a nation in the ethnic sense of the word, for example the German, Polish or Hungarian nations. This approach could support irredentism with which citizens of Czechoslovakia had tragic experiences in 1938 from the part of the states in which the above-mentioned minorities formed the majority.

8. In 1991 the Constitutional Law on the Status of National Minorities from 1968 was superseded by the Charter of Fundamental Rights and Freedoms<sup>6</sup>, which defines protection of national minority rights in Articles 24

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<sup>2</sup> Law No. 508/1921 Coll., Treaty between Leading Powers Allied and Associated and Czechoslovakia signed in Saint-Germain-en-Laye on September 10, 1919.

<sup>3</sup> Law No. 121/1920 Coll., which introduces the Constitutional Act of the Czechoslovak Republic.

<sup>4</sup> Law No. 122/1920 Coll. based on Article 129 of the Constitution which sets out principles of language rights in the Czechoslovak Republic.

<sup>5</sup> Law No. 144/1968 Coll., on status of national minorities in Czechoslovak Socialist Republic.

<sup>6</sup> Law No. 23/1991 Coll., which introduces the Charter of Fundamental Rights and Freedoms as a constitutional law of the

and 25. The Charter accords persons belonging to minorities both collective and individual rights. It differentiates between national and ethnic minorities without defining the difference. Definition of this difference is absent in the Czech law. (For the purposes of this information we focus on national minorities, excluding ethnic minorities.) After the breakup of the Czechoslovak federation the Charter became a part of the constitutional order of the Czech Republic on January 1, 1993<sup>7</sup>.

9. The Government of the Czech Republic formulated principles of the policy concerning national minorities in the document *Concept of the Government's Approach to Issues Concerning National Minorities in the Czech Republic* (Government Resolution No. 63/1994). Although this political document is not legally binding, its importance lies in the fact that it sets forth basic starting points of the policy concerning national minorities, including principles of the status of minorities and protection of their rights (see commentary to Article 3 of the Convention).

10. According to a public census carried out in the Czech Republic in 1991, 531 688 persons, that is 5.2% of the population, declared a national identity other than Czech. The results of this voluntary and anonymous declaration of national identity and mother tongue are as follows:

### **Population of the Czech Republic according to National Identity and Mother Tongue<sup>8</sup>**

(according to the 1991 public census)

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Czech and Slovak Federative Republic.

<sup>7</sup> Law No. 2/1993 Coll., Resolution of the Czech National Council from December 16, 1992 on declaration of Charter of Fundamental Rights and Freedoms as a part of the constitutional order of the Czech Republic.

<sup>8</sup> Ethnic makeup of the Czech population. Basic information from final results of the 1991 public census. Prague 1993; Statistical Yearbook of the Czech Republic 1993, Prague 1993, p. 412-413.

The table does not include the Moravian and Silesian national identities. These national identities were introduced for the first time in the history of the Czech Lands during the 1991 public census. The Moravian national identity was declared by 1 362 313 persons (13.2%) and the Silesian national identity by 44 446 persons (0.4%). This was a sign accompanying the search of identity in some areas of the Czech Republic during the process of social transformation following the change of regime in November 1989. It is certain that those citizens of Moravia and Czech Silesia who declared appurtenance to the Moravian or Silesian nationalities do not form a national minority which would in any way be covered by legislation on national minority rights. The issue was politicized by leaders of Moravia-oriented movements during a discussion about the so far unresolved status of Moravia and Silesia in the territorial and administrative structure of the Czech Republic. In the ethnic structure of the Czech Republic the population of Moravia and Silesia is not in the position of a national minority. This is evident from this population's unlimited possibilities to exercise civil and political rights with respect to receiving education in the mother tongue (the Czech language), diffusion and reception of information in the mother tongue (the Czech language), and development of culture, including regional culture. The Moravian and Silesian dialects do not significantly differ from the official standard of the Czech language.

On the contrary, the data concerning the Romany minority contained in the statistical overview is substantially underrated. Even though fewer than 33 000 persons declared the Romany national identity during the census, qualified estimates and comparisons with registration of Romany citizens before November 1989 show that currently about 200,000 Romanies live in the Czech Republic. Of this number 20,000 are Vlax Romanies whose culture and language are substantially different. More than 95 percent of Romanies, Czech citizens living in the Czech Republic, moved to the Czech Lands from Slovakia after the Second World War or are descendants of these Romany migrants. The reason for the low number of persons who declared "*romipen*" (Roma, Romany national identity) is fear of possible consequences: Information collected in a 1930 public census, when all citizens were required to state national identity in a non-anonymous manner, was used in 1939 and thereafter to send Romanies into concentration camps and later to death transports. Due to the aversion of the majority towards Romanies, declaration of the Romany national identity, albeit anonymous, demands a certain amount of bravery.

As regards the table of official results of the 1991 public census, it needs to be mentioned that there is no information about persons who declared the Croatian national identity. Nonetheless, according to available information a small number of persons belonging to this historically traditional national minority, which was originally settled in Southern Moravia and Southwestern Slovakia, are dispersed throughout Moravia and Silesia. After the Czechoslovak Communist Party came into power in 1948, Croatians were accused of collaborating with the Nazis and sympathizing with Joseph Tito. Individual Croatian families were forcefully relocated from their original settlements to various parts of Moravia and Silesia.

	National identity (absolute number)	%	Mother tongue (absolute number)	%
Czech	9 770 527	94.8	9 871 518	95.8
Slovak	314 877	3.1	239 355	2.3
Polish	59 383	0.6	52 362	0.5
German	48 556	0.5	40 907	0.4
Romany	32 903	0.3	24 294	0.2
Hungarian	19 932	0.2	20 260	0.2
Ukrainian	8 220	0.1	4 882	0.1
Russian	5 062	0.1	-	-
Ruthenian	1 926	0.0	2 307	0.0
Bulgarian	3 487	0.0	-	-
Greek	3 379	0.0	-	-
Romanian	1 043	0.0	-	-
Austrian	413	0.0	-	-
Vietnamese	421	0.0	-	-
Jewish	218	0.0	-	-
Other (of which Czechoslovakian)	9 860 3 464	0.1 0.0	16 664	0.2
Unknown	22 017	0.2	29 666	0.3
<b>Total</b>	<b>10 302 215</b>	<b>100</b>	<b>10 302 215</b>	<b>100</b>

11. The proportion of the population whose national identity is other than Czech varies in individual districts and regions of the Czech Republic. The Slovak national minority, which was de facto the largest national minority in the Czech Lands already during the existence of the Czechoslovak federation and after the dissolving thereof has been recognized as a national minority, is dispersed throughout the entire Czech Republic. The highest concentration of Slovaks is found in the districts of Sokolov (9.9% of population), Cheb (9.3%), Český Krumlov (8.3%), Karviná (8.3%), Bruntál (8.1%) and in other cities, including Prague (2.0%). Some citizens who have declared the Slovak (and also Hungarian) national identity are Romanies.

12. There is a significant concentration of persons belonging to the Polish minority located in the continuous settlement along the state border with Poland. In two districts, Frýdek-Místek and Karviná, persons

belonging to the Polish national minority amount to more than 8% of the local population. The educational system in this region includes Polish minority schools from preschool establishments to the level of high schools and specialized secondary schools (including the Polish Pedagogical Center seated in \_eský T\_žín which was established by the Ministry of Education, Youth and Sports, a special office of the Czech School Inspection, and an educational-psychological counseling center) as well as Polish cultural and educational organizations.

13. Persons claiming German national minority live in the eastern, northern and western border regions of the Czech Republic, in an environment of former German language islands (such as the districts Jihlava and Vyškov). The greatest number of citizens who claim German national identity live in the districts of Sokolov (6.1%), Karlovy Vary (3.1%), Chomutov (2.6%) and Teplice (2.4%). In Moravia a greater concentration of citizens declaring German national identity is found in the Opava district (0.9%).

14. Despite territorial dispersion of the Romany population throughout the Czech Lands, this national minority can be considered concentrated in industrial cities in Northern Bohemia and Northern Moravia and in Prague.

15. Less numerous minorities - the Bulgarian, Russian, Ruthenian, Ukrainian, Greek, Bulgarian, Romanian, and also Jewish minorities - are dispersed throughout the country. In the case of Hungarians and Ukrainians there are greater concentrations especially in Prague, the Central Bohemian and Northern Moravian regions, and in the case of Greeks in the cities of Krnov and Brno.

16. As regards compliance with the basic objective of the Convention, the Czech Republic has adopted a number of measures. Some of them (16.8., 16.10., 16.16.) were adopted or began to be adopted already before ratification of the Convention:

16.1 During ratification of the Convention an international seminar on "Legal Instruments for the Protection of National Minorities" took place in the Chamber of Deputies of the Parliament. Joint meetings of representatives of the Chamber of Deputies, the Office of the Government, ministries and national minorities were regarded very positively. The results of these meetings were published<sup>9</sup>.

16.2 At the time of adopting the Convention, the Chamber of Deputies approved a voluntary resolution (No. 561/1997) which obligated the Government to analyze, following the adoption of the Convention, legislative standards in respect of issues concerning minorities, to propose modifications which would reflect the principles set out in the Convention, and to harmonize policies at the executive level with provisions of the Convention. This task is now fulfilled by the Governmental Commissioner for Human Rights who is also Chairman of the Council for National Minorities of the Government of the Czech Republic (Rada pro národnosti vlády \_R) - hereinafter referred to as the "Council", a consultative body of the Government. The Commissioner is also Chairman of the Inter-Ministerial Commission for Roma Affairs (Meziresortní komise pro záležitosti romské komunity) and the Council for Human Rights of the Government of the Czech Republic (Rada vlády \_eské republiky pro lidská práva), two additional consultative bodies of the Government. The position of a Commissioner who coordinates protection of human rights and proposes legislative changes and executive measures to the Government was created by the Government formed in September 1998 following parliamentary elections earlier that year.

16.3 The Council, whose members comprise representatives of six national minorities - Slovak, Romany, Polish, German, Hungarian and Ukrainian - and deputy ministers whose competencies include issues concerning minorities, has elaborated on articles of the Convention in respect of the legislative and executive conditions in the Czech Republic. Hence, a summary overview about the legislative situation regarding national minorities has been made for the Government.

16.4 The Council of Europe has prepared a questionnaire concerning the forms of participation of minorities in the decision-making process which has been forwarded to the Advisory Committee for Human Rights of the

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<sup>9</sup> See Legal Instruments for the Protection of National Minorities - Position and Protection of National Minorities in the Czech Republic. Published by Information and Documentation Center of the Council of Europe Prague. Prague 1997.

Council of Europe.

16.5 In accordance with the determination expressed in the Preamble of the Convention to enforce principles set out in the Convention through national legislation and the relevant governmental policy, the Government has included in its legislative plans for 1999 the drafting of a law on protection of the rights of national minorities in the Czech Republic with the aim to apply principles of the Convention to the law of the Czech Republic. The draft of the law is to be presented by the Government Commissioner for Human Rights by the end of 1999. Work on the law is based on the legislative need for a law, which would implement constitutional principles set out in the Charter of Fundamental Rights and Freedoms. Absence of a more detailed legislation, as presupposed by the Charter, has been a legislative deficit since the adoption of the Charter in 1991. The law could enter into effect in the second half of 2000.

16.6 In accordance with the Government's Policy Statement, the Minister of Interior submitted a draft of an amendment to the Citizenship Law in December 1998. The Government approved the draft in February 1999 and advanced it to the Chamber of Deputies. Changes put forward by the draft substantially facilitate the granting of Czech citizenship to former Czechoslovak citizens who have had permanent residency in the Czech Republic since the breakup of the federation. In recent years the Czech Republic has been criticized by various foreign institutions for difficulties faced by many persons, most of them of Romany origin, with respect to receiving Czech citizenship and ensuing rights after the division of Czechoslovakia. If the Parliament approves the proposed draft, the law could enter into effect in the summer or fall of 1999.

16.7 In February 1999 the Government approved the *Concept of the Subsidy Policy of Financing Organizations of Persons Belonging to National Minorities* (Government Resolution No. 131/1999) which outlines financing of operations of these organizations through government subsidies. In addition, there are plans to amend the law on budget rules in the future. Attention paid to issues concerning the Romany community is considerable. Based on a resolution of the Government, ministries regularly monitor their activities with respect to Romanies. In the last two years progress has been achieved for example in education (establishing of preparatory grades for Romany children, continuing education for adults). The Ministry of Labor and Social Affairs has submitted to the Government the *National Plan of Employment in the Czech Republic* which contains affirmative measures focused on creating conditions for higher employment, especially on the basis of the program *Measures for Solutions to Problems of Persons Who Face Difficulties on the Labor Market with Special Attention to Persons Belonging to the Romany Community*. The proposed measures apply to job creation, development of business, increasing of adaptability, and support of equal opportunities. In this regard the Government is preparing changes in the competencies of governmental employment authorities and amendments to employment laws, the law on trades, and the Commercial Code.

16.8 Crimes motivated by racism, ethnic intolerance and xenophobia began to appear in a greater extent after 1989, especially in the form of skinhead attacks on Romanies and citizens with dark complexion. Since 1994, when the Czech Government included racial conflicts among the most important security risks in the "Report on the Security of the State", the Government, the Ministry of Interior, the police and other authorities have been paying close attention to crimes committed with a racist motivation. In response to a negative development of criminal activities motivated by racism or nationalism, important measures were adopted in 1995. Among these measures was the adoption of the Government's draft of an amendment to the Criminal Code. Entering into effect on September 1, 1995, this amendment has resulted in harsher penalties for crimes motivated by racial or nationalist intolerance. The last occasion on which the Czech Government discussed penalties for these types of crimes was in January 1999 in connection with verification of compliance with the Government Resolution No. 686/1997 (which published the Report on the Situation of the Romany Community in the Czech Republic submitted by Minister Pavel Bratinka) which among other measures charged the Minister of Interior with monitoring criminal offenses committed in a racial context and providing the Government with regular reports on development of these crimes. An overview of criminal prosecution of these offenses in 1998 is included in Appendix II.

16.9 It is likely that the reported number of crimes motivated by racism for which charges have been laid is far from the actual number of such offenses committed. Among other causes, this is due to the Romanies lack of trust in the police which is reflected in the fact that many Romanies do not report verbal or physical attacks at all.

16.10 The current (since 1995) criminal laws, which apply to crimes motivated by racism or nationalist intolerance, as defined in the Criminal Code, are fundamentally satisfactory. The applicable crimes are defined especially in Part V, called Crimes Seriously Disrupting Civil Life. Among these crimes are:

*Article 196 - Violence against a Group of Citizens and against Individuals,*

*Article 198 - Defamation of Nation, Race or Belief,*

*Article 198a - Inciting Ethnic or Racial Hatred,*

as well as crimes defined in Part VII, called Crimes against Humanity which include:

*Article 259 - Genocide,*

*Articles 260 and 261 - Support and Promotion of Movements Aimed at the Suppressing of the Rights and Freedoms of Citizens,*

*Article 263 - Persecution of Population.*

An important measure was taken in the area of criminal law in respect of the fight against crimes motivated by racism - an amendment to the Criminal Code which entered into effect on September 1, 1995. This amendment specifies with respect to the following criminal offenses: murder (Article 219, paragraph 2, letter g), bodily harm (Article 221, paragraph 2, letter b), extortion (Article 235, paragraph 2, letter f) and damaging another person's property (Article 257, paragraph 2, letter b) as a circumstance allowing the imposing of a more severe punishment (especially aggravating circumstance) if "such a criminal offense is committed on a person (or on the property of another person) due to such a person's race, national identity, political orientation, religion or the fact that such a person has no religion". Hence, the greater gravity of crimes motivated by racism is reflected in more severe penalties.

16.11 In spite of that, it needs to be admitted that effective penalization of these types of criminal offenses remains a pressing problem. The public as well as many police officers and other law enforcement officials often downplay racist crimes. Numerous attacks therefore remain either unpunished or attackers receive inadequately light sentences. Statistical information from 1998 shows that only 13 attackers were given unsuspended sentences; moreover, six of them were sentenced to imprisonment shorter than one year (see Appendix II), while the number of violent assaults alone is substantially higher. In many criminal proceedings of skinhead violence against Romanies, problems occur with proving racial motivation of attacks. Although the perception of the public and especially the media of the social danger of racist attacks has improved in recent years, the difficulties faced by law enforcement authorities in most cases point quite definitely to persisting xenophobia, especially with regard to Romanies.

16.12 Another serious problem stems from inadequate legislative possibilities of penalizing offenses which are motivated by discriminatory, racist or nationalist prejudice and which are not considered crimes due to their lesser severity and intensity. In addition, preventive measures have not been applied in a sufficient extent, especially among trade school students where neo-fascist and neo-Nazi movements continue to develop (skinheads). The Government is aware that repression alone, however necessary, cannot succeed without preventive measures, such as the planned campaign against racism (see 16.15). However, it can be expected that it will be a long-term problem which, besides education, will have to be dealt with by systematic elimination of social difficulties faced by these young people who are easily manipulated.

16.13 An improvements is expected to take place on the labor market and at work, where discrimination against Romanies is most pressing. Already in September 1998 the Government approved an amendment to the law on employment, including a new anti-discriminatory clause based on which the Government will be able to impose sanctions - strict financial fines on individuals or legal entities which discriminate against people on the basis of their race, national identity, complexion, etc. The draft of the amendment is currently human being discussed by the Chamber of Deputies. The amendment will provide a solution to open discrimination that the Government is trying to outlaw. Fight against hidden discrimination will have to continue.

16.14 In January 1999, the Czech Government passed a resolution describing as gravely disturbing a plan of the council of the municipal district Ústí nad Labem - Nešt\_mice in Northern Bohemia to build a fence between family houses inhabited by the majority Czech population on one side of Mat\_i ní Street and municipal buildings designated for social emergency residency purposes on the other side of this street; these buildings are inhabited mostly by Romany families who have been evicted from their original dwellings due to a failure to pay rent.

Although the cause of the endeavor of local residents to build the fence may not be racial prejudice but an effort to eliminate or lessen specific problems of coexistence with their Romany counterparts, which have deep social causes, the Government has pointed out to the local authorities that execution of this plan could be understood as a possible degrading of the persons belonging to the Romany community who live in the locality. For this reason the Government has decided that in case that construction of the fence is approved, it will try to use legal means to cancel such a decision. The Government has also charged its Commissioner for Human Rights with monitoring the situation and maintaining a dialogue with the local authorities in order to find a solution acceptable for all parties involved in the affair. Government Resolution No. 35/1999 and the Government's standpoint for CERD are enclosed in Appendix III.

16.15 The current Government has decided to launch a campaign against racism which was initiated already by its predecessor. In Resolution No. 34/1999 from January 11, 1999 the Government has charged its Commissioner for Human Rights with calling a tender to select an agency which will prepare and execute the campaign. The campaign, for which the Government has allocated ten million Czech crowns, will include media presentations, educational events and use of various advertising techniques. The aim of the campaign is not only to fight racism in a narrow sense of the word, but also to eliminate culturally motivated causes of intolerance and ethnic misunderstandings. This campaign will be a part of a broader project aimed at educating the population about multiculturalism, which is also supported by the European Union through the PHARE program.

16.16 Nonetheless, efforts of the Government to overcome widespread xenophobia are at the very beginning. It will be necessary to use sociological methods to examine to what extent are xenophobic acts related to isolationist aspects of the Government's policies after the division of the Czechoslovak federation. A certain aversion of the population is not directed only against people coming from the East but also against those who originate in the West; in this respect this antipathy is related to traditional anti-German attitudes. Central governmental authorities and increasingly also lower state administration bodies have to deal with various situations, such as petitions submitted by citizens who demand that no Romany families or families of repatriated Kazakh Czechs or refugees be provided accommodation in their neighborhood. In addition, the media - including, unfortunately, those in public ownership - sometimes encourage xenophobia by inciting fear of foreigners and criminal offenses, which they may commit. The population tends to be strongly prejudiced against asylum seekers and other refugees.

16.17 The current Government has built on the initiative of its predecessors by seeking a manner which could be used to confer dignity to sites where Romany concentration camps were located during the Nazi occupation, that is the localities in Lety in the district Písek, and in Hodonín u Kunštátu in the district Blansko. Serious problems are faced especially in Lety, where the site on which a concentration camp was formerly located is occupied by a large-scale hog farm. In Resolution No. 36/1999 from January 11, 1999 the Government charged its Commissioner for Human Rights with instituting a joint committee of historians, Romanists, representatives of descendants of Romany victims, and state administration officials. By the end of March 1999 this committee will provide the Government with conclusions of evaluation of the historical context and current social, moral and economic needs and requirements with respect to implementing measures conferring dignity to both localities. The aim is to use public funds to relocate the hog farm and to reconstruct both localities in a dignified manner. It is not the objective of these projects to provide direct support to the Romany national minority, but to define the majority's relationship to the Romany minority and its dramatic past.

17. The Czech Republic is a country associated to the European Union (the European Association Treaty from 1993 entered into effect on February 1, 1995). The Czech Republic applied for membership in the European Union in January 1996, and on March 31, 1998 accession talks began. One condition for membership in the European Union is compliance with so-called Copenhagen criteria, which include the protection of human rights and respect for and protection of minorities. The state of securing rights and protection of minorities is evaluated in regular reports of the European Committee, which focus on the progress made by the Czech Republic as part of accession proceedings. Based on these reports, the situation concerning minorities in the Czech Republic is satisfactory with the exception of the Romany national minority. Improved protection of human rights, concerning in particular the position of Romanies, has been possible also thanks to execution of programs financed from the PHARE fund.



## **Part II**

### **SECTION I**

#### ***Article 1***

**The protection of national minorities and of the rights and freedoms of persons belonging to these minorities forms an integral part of the international protection of human rights and as such falls within the scope of international cooperation.**

As regards protection of the rights of minorities and of persons belonging to minorities, the Czech Republic cooperates with international organizations of which it is a member: United Nations, Council of Europe, OSCE, ILO and UNESCO. The Czech Republic is a contracting party to the following treaties which enshrine protection of minorities:

- International Covenant on Civil and Political Rights,
- International Covenant on Economic, Social and Cultural Rights,
- International Convention on the Elimination of All Forms of Race Discrimination,
- Convention on the Rights of the Child,
- Convention on the Elimination of All Forms of Discrimination of Women,
- Convention concerning Discrimination in Respect of Employment and Occupation (No. 111, ILO),
- Framework Convention for the Protection of National Minorities,
- European Convention on the Protection of Human Rights and Fundamental Freedoms.

The Czech Republic is preparing to adopt the European Social Charter (this year) and the European Charter of Regional or Minority Languages (ratification process in 2000).

The Czech Republic is one of countries associated to the European Union; it is in the first group of candidate countries and demonstrates a deep interest in membership in the European Union in all areas of domestic and foreign policies.

#### **Article 3**

**1. Every person belonging to a national minority shall have the right freely to chose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.**

**2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.**

**The Charter of Fundamental Rights and Freedoms provide legislative guarantee of a free choice to belong to a national and language minorities. Article 3, paragraph 2 of this document states: Every person has the right to a free choice of his or her national identity. Any form of influencing this choice is prohibited, just as any form or pressure aimed at suppressing one's national identity.**

The choice of any national identity is an expression of free choice of every person; it is a private decision of every individual. No one is under the obligation to declare appurtenance to a national identity or a national minority. To enforce this constitutional principle the law<sup>10</sup> prohibits the collecting and storing of information which shows, among other aspects, the racial origin and national identity of individuals, unless such collecting and storing of information is based on a special law or done with the consent of the applicable person. However, there are no such special laws and the lack thereof, which prevents keeping records about the number of persons belonging to national minorities in individual localities and according to their age, is considered to be a shortcoming by many people, including some representatives of national minorities. In order to obtain education in a minority language, parents must apply for inclusion of their child in a minority school at the time of enrollment (the national identity of the student does not need to be stated). In case that parents demand inclusion

<sup>10</sup>

Law No. 256/1992 Coll., on protection of personal data in information systems.

of their child in a minority language school or class and there are a sufficient number of students for opening such a class, the child remains registered in the minority educational system.

In reality, the free choice to declare appurtenance to a national identity in the Czech Republic was for the first time after the Second World War demonstrated only during the 1991 public census. Based on the law in effect up to 1991, personal data stated on personal identification cards included information about the national identity which could not be changed. It was not, however, possible to declare the Romany or Jewish nationalities.

Considered, as a national minority in the Czech Republic are Czech citizens who are members of groups which with regard to their ethnic or language identity assemble and create organizationally structured associations in order to exercise their minority rights.

The Czech law does not define the term minority nor does it contain a specific list of such groups. However, the Czech Government has adopted the document *Concept of the Government's Approach to Issues Concerning National Minorities in the Czech Republic* (see Part I, paragraph 9) which defines the term national minority as a community of persons who:

- have permanent residency in the Czech Republic and are Czech citizens,
- share ethnic, cultural and language signs which differ from the majority of the state's population,
- express a shared interest to be recognized as a national minority with the interest to preserve and develop their own identity, cultural traditions and mother tongue,
- have a long-term, solid, and permanent relationship with the community living in the Czech Republic.

Based on the current legal practice, this definition corresponds to the status of the German, Hungarian, Polish, Romany, Slovak and Ukrainian national minorities whose representatives are members of the Council for National Minorities of the Government of the Czech Republic. To some extent this definition applies to less numerous groups: that is Bulgarians, Ruthenians (if they do not consider themselves Ukrainians), Russians, Jews, Croats as well as Greeks who have settled in the Czech Lands after the Second World War. Representatives of these national minorities are not members of the Council. The state does not define, delimit or designate national minorities in any way. The fact that a national minority is not represented in the Council for National Minorities of the Government of the Czech Republic does not mean that it is not considered to be a national minority.

Besides Czech citizens, there are foreigners who have permanent and long-term residency in the Czech Republic; most of them are Slovaks and Ukrainians. If there are national minority organizations, a minority educational system (Polish) and national minority newspapers (as is the case of Slovaks and Ukrainians), foreigners who have permanent and long-term residency in the Czech Republic and who are of the same ethnic origin as persons belonging to such national minorities can take part in these activities.

The state organization responsible for collecting and analyzing demographic data is the Czech Statistical Office (Czech name: \_eský statistický ú\_ad). Competencies of this institution include preparation and execution of public censuses as part of which the population, buildings and apartments are counted. The next public census in the Czech Republic is planned for 2001.

Political actions taken by the current Government lead toward the adoption of a law on protection of national minorities in the Czech Republic (see 16.5) and definition of principles of financial participation of the state in ensuring the rights of persons belonging to national minorities (see 16.7).

The Government of the Czech Republic pays special attention to issues concerning the Romany community. The adoption of specific measures is ensured by the Commissioner for Human Rights, who chairs the Inter-Ministerial Commission for Roma Affairs (see paragraphs 16.8 to 16.16).

#### **Article 4**

**1 The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.**

**2 The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of**

**economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.**

**3 The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.**

Effective laws of the Czech Republic prohibit and penalize acts of discrimination. Prohibition of discrimination is enshrined first of all in the Constitution (Article 96, paragraph 1) and in the Charter of Fundamental Rights and Freedoms (Articles 3, 24, 37 and others). Equality before the law is expressly defined by the criminal law<sup>11</sup> as well as the civil rules of court<sup>12</sup>, which state that equality of persons participating in court proceedings applies to every participant in court proceedings. This law is one of fundamental process regulations used and respected in judiciary practice.

In addition, prohibition of discrimination and equality before the law are set out in the International Convention on the Elimination of All Forms of Race Discrimination and in the Convention, which is binding and has precedence over the law. In spite of that, discrimination is commonplace in the Czech Republic, especially against Romanies. Legislative prohibition of discrimination, which involves sanctions for violations, is included basically only in the consumer protection law in connection to the law on trades and the law on the Czech Trade Inspection. However, sanctions for discriminatory practices provided for by these laws are unsubstantial and indirect. In legal practice, these laws have begun to be applied only recently, after several Romany citizens became members of the Czech Trade Inspection.

With regard to the labor market and employment, the Government focuses especially on elimination of discriminatory practices against Romanies, see Part I (16.13).

The effective law does not define sanctions for cases of racial (and ethnic) discrimination in the educational system, in the health care system, in prisons and in other areas of the society.

Persons belonging to the German national minority perceive as discriminatory the law, which defines property restitution after November 1989; this applies to persons who had declared the German national identity, but whose Czechoslovak citizenship was restored after the end of the Second World War. These sentiments reflect sensitive and unresolved problems, which concern broader political issues of Czech-German relations.

In the past there was no institution at the level of executive authorities of the public administration which would concentrate on anti-discriminatory policies with respect to persons belonging to national minorities. Currently, activities of executive authorities at the interdepartmental level are coordinated by the Government Commissioner for Human Rights. The Council for National Minorities of the Government of the Czech Republic, which is chaired by the Commissioner, is establishing a section for elimination of racial discrimination and racially motivated attacks. As a body of the Council, the section will prepare source materials for drafts of executive and legislative measures, which the Council will submit, to the Government.

As regards full and effective equality of persons belonging to national minorities, there are unresolved problems in the area of social and economic life, especially in relation to persons belonging to the Romany minority. For this reason the Ministry of Labor and Social Affairs is preparing the measures, which are, described in Part I (16.7).

## **Article 5**

**1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.**

**2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall**

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<sup>11</sup> Law No. 140/1961 Coll., Criminal Code, as amended; Law No. 141/1961 Coll., on criminal proceedings in court, as amended

<sup>12</sup> Law No. 501/1992 Coll., civil rules of court, as amended.

**refrain from policies or practices aimed at assimilation or persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.**

The Ministry of Culture and the Ministry of Education, Youth and Sports are responsible for promoting conditions necessary for preservation and development of cultural traditions, identity and language. The Ministry of Culture grants state subsidies in order to provide material support necessary for preservation and development of cultural activities, identity, traditions and language of national minorities.

State subsidies are granted mainly to civic associations. A tender is called on an annual basis to which these organizations submit their projects. The granting and using of state subsidies is defined in the law on budget rules of the state<sup>13</sup>, *Principles of Granting Subsidies from the State Budget of the Czech Republic to Civic Associations* (approved in Government Resolution No. 663/1992 Coll., and supplemented by Government Resolutions No. 223/1993 and No. 131/1999), and one-year agreements on the granting of state subsidies which are concluded between the central authority granting the subsidy and the recipient. Subsidies are granted for projects proposed by civic associations, religious organizations, and organizations promoting public interests. Besides subsidies provided by individual ministries, civic associations of national minorities use subsidy programs which are in the jurisdiction of local authorities, especially in the case of larger cities.

Multi-faceted development, especially the right to develop one's culture together with other persons belonging to a national minority, the right to disseminate and receive information in one's mother tongue, and the right to associate in national minority associations are guaranteed to persons who form national minorities by the Charter of Fundamental Rights and Freedoms (Article 25, paragraph 1).

In accordance with the effective law, the policy focused on creating conditions, which allow preservation and development of cultures of national minorities, provides national minority organizations with the possibility to build their own cultural institutions (museums, theaters, libraries, music, drama and folklore groups, publishing houses).

As part of the subsidy program the Ministry of Culture promotes development of cultural activities of persons belonging to national minorities with the aim to create conditions for preservation of their own cultural identity. In practice, this means also compensating for increased costs resulting from a smaller number of recipients.

Public expenditures related to the securing of the rights of persons belonging to national minorities apply first and foremost to education (Polish and Slovak minority schools are included in the public educational system). In addition, the subsidy policy of the Ministry of Education, Youth and Sports includes annual subsidies from the state budget for projects of national minority organizations focused on promotion of various academic and extracurricular educational activities.

The state offers considerable financial participation in the publishing of periodicals of national minorities, which are issued by national minority organizations. The amount of subsidies from the state budget granted to individual national minorities, publishers of national minority periodicals, in the past years is shown in the table below (funds are stated in thousands CZK):

National minority	1993	1994	1995	1996	1997	1998 (approved amount) <sup>14</sup>
Polish	4 679	5 439	5 993	6 430	5 747	6 450
Romany	5 575	3 600	4 523	4 700	3 433	5 170

<sup>13</sup> Law No. 576/1990 Coll., on principles of disposing of budget funds of the Czech Republic and municipalities in the Czech Republic (budget rules of the state), as amended.

<sup>14</sup> At the time of writing this document information about the drawing of subsidies was not available.

German	5 010	4 100	4 500	4 250	3 784	4 230
Slovak	1 502	2 800	6 300	6 400	7 207	7 930
Ukrainian	270	202	297	273	276	320
Hungarian	770	575	835	900	802	900

Analogously, subsidies from the state budget are granted every year for cultural activities of national minorities. The Ministry of Culture administers the subsidies. Below is an overview of granted subsidies in the past years as part of the Ministry's program of support for projects focused on preservation and development of national minority cultures (funds are stated in thousands CZK):

National minority	1993	1994	1995	1996	1997	1998
Polish	4 855	2 219	1 725	2 100	2 377	2 558
Romany	3 346	2 600	3 046	2 480	2 677	2 895
German	2 615	1 270	1 130	1 399	984	575
Slovak	440	1 400	1 959	1 839	1 649	2 188
Ukrainian	120	330	400	400	382	400
Hungarian	360	270	240	350	378	430
Croatian	100	150	90	66	0	0
Greek	0	150	60	176	174	180
Ruthenian	85	78	26	0	0	0
Other	240	0	700	600	490	830
Total	12 161	8 467	9 376	9 410	9 111	10 056

The noticeable decline in financial subsidies granted in 1997 and especially in 1998 to the German national minority does not reflect a restrictive measure against this national minority. Due to financial aid provided by the Federal Republic of Germany for so-called meeting centers of the German national minority in the Czech Republic (there are 12 active centers), organizations of the German national minority applied for subsidy for cultural projects to the Ministry of Culture only to a limited extent. Persons belonging to national minorities without limitations develop religious activities. There is no state religion in the Czech Republic. The Charter of Fundamental Rights and Freedoms specifies that the state may not commit itself to an exclusive ideology or religion. Religious activities are carried out without limitations and there are no state-recognized religions. The state, through the Ministry of Culture, registers 21 religions and religious organizations<sup>15</sup>. Registered religions and religious organizations enjoy substantial collective rights, are allowed to own property,

<sup>15</sup>

Law No. 161/1992 Coll., on registration of religious orders and religious organizations.

educate, operate publishing and cultural institutions, and provide health-care and social services.

Freedom of religious practices is on one hand enshrined in the Charter of Fundamental Rights and Freedoms and on the other hand in the law which defines conditions for registration of religions and religious organizations<sup>16</sup>. Use of the mother tongue of persons belonging to national minorities in religious services is based on internal regulations of individual religions or religious organizations.

As far as national minority languages are concerned, see commentary to Article 10.

Re: Paragraph 2

The law of the Czech Republic contains no provision, which would be directed toward assimilation of persons belonging to national minorities. Forced assimilation is prohibited by the Constitution (see commentary to Article 3). However, everyone has the right to assimilation. On the other hand, there is no law defining general integration policy concerning persons belonging to national minorities who are citizens of the Czech Republic.

As regards the position of national minorities, integration policies are created through various social, cultural and economic programs only with regard to the Romany national minority. The aim is to improve the social situation of Romanies and to create favorable conditions for existence of this national minority in the Czech society. The Government and the public administration face on one hand segregation tendencies, especially as far as accommodation is concerned, and on the other hand assimilation pressures from the majority population which often accepts Romanies only if they fully adopt the culture and lifestyle of the majority. The policy of the current Government is based on a plan to integrate Romanies into the society through their emancipation as a national minority, and not through assimilation, which has a strong tradition in the country. Nonetheless, traditional integration and assimilation pressures exerted by the Czech population and local authorities affect Romanies as well as other national minorities.

To find a solution to the issue of emancipation of Romanies as an ethnic group (national minority) as a way leading to integration, the Czech Republic would appreciate methodological aid from the Consultative Committee.

Integration programs, which focus on groups of foreigners, are developed separately. These programs are in the jurisdiction of the Department for Refugees and Integration of Foreigners at the Ministry of Interior. The ministry's jurisdiction includes the Government's infrastructure concerning foreigners on the whole. The Czech Republic does not possess extensive experience in this area, largely due to the small number of foreigners who have permanent or long-term residency in the country.

## Article 6

**1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and cooperation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.**

**2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural linguistic or religious identity.**

Re: Paragraph 1

The Government is adopting measures directed toward multicultural education, especially through the Ministry of Education, Youth and Sports and the Ministry of Culture. Activities of private organizations, which execute programs of multicultural education, are financially supported by the Ministry of Education, Youth and Sports through subsidies from the state budget of the Czech Republic (child and youth support and protection program).

In accordance with the applicable law<sup>17</sup>, the Ministry of Education, Youth and Sports has published the *Instruction for Elementary and Secondary Education Concerning Activities of Schools and Academic Establishments Against Racism, Intolerance and Xenophobia* (file No. 20 734/95-21). The aim of this document

<sup>16</sup> Law No. 308/1991 Coll., on freedom of religion and the status of religions and religious organizations in the society, as amended.

<sup>17</sup> Law No. 564/1990 Coll., on state administration and self-government in the educational system, as amended.

is to lead children and youth toward sensitive perception of coexistence of peoples of different national identity, religion and culture with regard to the realistic outlook that the number of children of different ethnic origin in the educational system will continue to increase. This program is implemented on a continual basis and during the 1998/1999 academic year a new instruction on prevention of racism and xenophobia in schools and academic establishment will be published. In addition, an inspection focused on issues of school activities against racism, intolerance and xenophobia was carried out in the past years. Results of the inspection were published in the *Final Report of the Czech School Inspection*. In accordance with the *Principles of Granting Subsidies from the State Budget of the Czech Republic to Civic Associations*, the Ministry of Culture gives grants from the state budget to finance programs promoting cultural activities of national minorities and multiethnic cultural events.

Besides activities of individual ministries with regard to multicultural education, understanding, and cooperation between various national minorities, an important role is played by the public Czech Television (it broadcasts programs on national minorities, refugees, etc.; however, some representatives of the German and Slovak national minorities have criticized Czech Television for not paying adequate attention to issues concerning national minorities) and Czech Radio (national minorities have separate departments), see Article 9, and also national minority periodicals whose publishing is subsidized from the state budget, etc.

The Government pays special attention to coexistence of various ethnic components of the Czech society. This is demonstrated in measures taken to improve protection of human rights in the Czech Republic (Government Resolution No. 809/1998), measures concerning the Romany national minority (Government Resolution No. 35/1999) and preparation of a campaign against racism (Government Resolution No. 34/1999).

As regards teaching tolerance to children and youth, there are special programs of cyclic education, so-called summer schools of tolerance, education of intercultural coexistence, etc. which teach educators the history of national minorities living in the Czech Republic. In 1992 the Ministry of Education, Youth and Sports and the Council of Universities jointly established the subsidy program Fund for Development of Universities whose activities include educating teachers. This includes problems concerning teaching persons belonging to national minorities and protection of human rights.

Re: Paragraph 2

See general commentary in Part I, paragraphs 16.8 to 16.12.

The Government is aware of the unsatisfactory situation concerning penalization of criminal offenses motivated by racism and xenophobia and pays special attention to this issue. This is demonstrated in the Report on Progress of Government Authorities in Penalizing Crimes Motivated by Racism or Xenophobia or Committed by Members of Extremist Groups (Government Resolution No. 192/1998) in which the Government charges applicable ministers with a set of tasks which will be monitored on an ongoing basis. As regards the Romany community, the Report on the Situation of the Romany Community in the Czech Republic and the Current Situation in the Romany Community (Government Resolution No. 686/1997) sets out a continuous task for the Minister of Justice to monitor criminal offenses committed in a racial context and to regularly inform the Government about the development of such criminal activities. In this regard, the Ministry of Justice and presiding judges, who are responsible for preventing, unjustified delays in court proceedings, point to inadequate speed and continuity of processing criminal cases of this type. In addition, there is an instruction of the Minister of Justice which specifies that presiding judges examine the legality of effective rulings and in justified cases, especially if the process of gathering evidence was inadequately concentrated on determining the motivation of a crime, initiate complaints for violations of the law.

From January 1, 1998 to December 31, 1998, courts of the Czech Republic validly sentenced 138 persons for criminal offenses motivated by racism or nationalist intolerance. However, as was described and explained in Part I, paragraph 16.9, this number probably represents only a part of all crimes of this nature, which were actually committed. An overview of validly sentenced persons for criminal offenses motivated by racism and ethnic intolerance, including basis statistical data, is included in Appendix II hereto<sup>18</sup>.

<sup>18</sup> The document was submitted by the Minister of Justice for a Government meeting on February 8, 1999 under the title *Report on Compliance with Resolution of the Government of the Czech Republic No. 686 from October 29, 1998 Concerning Paragraph 8, the Number and Structure of Persons Validly Sentenced for Criminal Offenses Committed in a Racist Context in 1998*. The Government discussed the document and adopted Resolution No. 115/1999 *On the Report on the State of Criminal Offenses Committed in a Racist Context in 1998* which, among other things, charges the Minister of Justice with ongoing monitoring of racially motivated criminal

## Article 7

**The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.**

Freedom of assembly and association is guaranteed. Even though laws based on which national minority organizations are founded do not expressly specify conditions for forming associations of persons belonging to national minorities, the law on association of citizens<sup>19</sup> allows the founding of civic associations on a minority principle, that is organizations of persons belonging to national minorities.

At the end of 1998 the Ministry of Interior had registered the following organizations (civic associations): 122 Romany, 39 German, 18 Polish, 12 Slovak, four Ukrainian, three Ruthenian, two Hungarian, one Croatian, one Lithuanian, one Serbian, one Macedonian, one Russian, one Greek, etc. (i.e. a total of 218) organizations.

Association of persons belonging to national minorities is not limited to civic associations. In accordance with the applicable law on association in political parties and movements<sup>20</sup>, political parties and movements have been founded on the principle of national minorities. Due to a limited number of members, their activities are not discernible on a national scale. Of 200 parliamentary deputies only one has declared a minority origin, the Romany deputy Monika Horáková who is a member of the political party Freedom Union.

As of December 31, 1998 the Ministry of Interior had registered the following political parties based on the principle of national minorities:

Coexistencia-Coexistence,

Movement of Committed Romanies,

Christian and Democratic Party of Romanies,

Romany Civic Initiative,

Romany National Congress,

Party of Citizens of the Romany National identity of the Northern Bohemian Region,

Eastern European National Minority Political Movement in the Czech Republic.

None of the above mentioned parties are represented in the Parliament. Only the Polish-oriented Coexistencia-Coexistence has several dozens deputies at the municipal level in towns in the districts Karvíná and Frýdek-Místek where the demographic structure of the population includes a greater proportion of persons belonging to the Polish national minority. The only Romany organization, which carries out systematic political activity, is the Romany Civic Initiative.

## Article 8

**The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.**

Religious activities are carried out without any definition of appurtenance to national minorities. On one hand religious activities are based on the law which guarantees freedom of religion, and on the other hand on the law which specifies conditions for registration of religions and religious organizations (see Article 5, paragraph 1).

Only communities of Czech citizens according to ethnic criteria are recognized as minorities. Minorities are not

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offenses and informing the Government about these developments in the first half of 1999.

<sup>19</sup> Law No. 83/1990 Coll. on association of citizens, as amended. The law specifies the following:

Article 1

(1) Citizens have the right to free association.

(2) No permission of a state authority is necessary for exercising this right.

Article 2

(1) Citizens have the freedom to found associations, organizations, movements, clubs and other civic associations

<sup>20</sup> Law No. 424/1991 Coll., on association in political parties and political movements, as amended. The law specifies the following:

Article 1

(1) Citizens have the right to associate in political parties and political movements...

(2) No permission of a state authority is necessary for exercising this right.



defined according to religious criteria. Even the Convention does not define national minorities on the basis of religion, although connection between religious and national identity is apparent in the Preamble of the Convention. Various religious communities, including religions, are not considered to be national minorities and their rights and the Constitution and the above-mentioned laws guarantee the individual rights and freedoms of their members.

Problems remain with the rights of foreigners who are members of religions and religious organizations, which are not registered in the Czech Republic, due to the fact that unregistered religious organizations cannot be recognized as legal entities. According to the law, such organizations can be registered if they have at least 10 000 adult members with permanent residency in the Czech Republic. However, followers of such religions have the right to freely express their religion or belief privately or publicly, as guaranteed by the Charter of Fundamental Rights and Freedoms.

The condition concerning the number of adult members of a religion or religious organization, specified by the law, causes problems in the case of foreigners whose religion is unusual in the Czech Republic. This applies especially to Islam which is the religion of hundreds of foreigners with permanent or long-term residency in the Czech Republic. For example, their efforts to build mosques have been accompanied by numerous acts of intolerance (signing of petitions against construction of mosques, statements made by groups of citizens as well as public officials who equate Islam with fundamentalism or terrorism). In the city of Teplice permission to build a mosque was not granted, in Brno construction of a mosque was allowed, but without a minaret.

#### Article 9

**1. The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.**

**2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**

**3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**

**4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

Re: Paragraph 1:

Persons belonging to national minorities have free access to the media. The right to impart and receive information is based on generally binding laws.

Re: Paragraph 2:

Access of national minorities to the media is expressly guaranteed by the law on Czech Radio<sup>21</sup> which among other things defines the providing of services to the public in the area of development of the cultural identity of national minorities in the Czech Republic. The law on Czech Television<sup>22</sup> has the same wording. In accordance with effective laws, organizations of persons belonging to national minorities distribute periodical and non-periodical publications<sup>23</sup>. In reality this means that the Czech Radio has four independent national minority departments (Polish, Slovak, Romany and German) which ensure regular broadcasts for national minorities. In addition, Czech Radio broadcasts regular programs for citizens from the Hungarian, German, Polish, Romany, Slovak, Ukrainian, Croatian, Vietnamese and Jewish communities. Czech Television has an independent

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<sup>21</sup> Law No. 484/1991 Coll., on Czech Radio, as amended.

<sup>22</sup> Law No. 483/1991 Coll., on Czech Television, as amended.

<sup>23</sup> Law No. 86/1990 Coll., which amends and supplements Law No. 81/1966 Coll., on periodical publications and other types of mass media; Law No. 37/1995 Coll., on non-periodical publications.

Romany department, which regularly broadcasts the Romany-oriented program ROMALE. The public television also broadcasts series of programs focused on national minorities living in the Czech Republic.

Re: Paragraph 3:

Publishing of national minority periodicals represents a specific area. Every year, based on submitted projects, subsidies are granted directly from the state budget for the publishing of national minority periodicals<sup>24</sup>. In 1998 these periodicals were as follows:

- three Slovak periodicals (monthlies *Slovenské listy*, *Korene*, *Slovenské dotyky*),
- six Polish periodicals (*Głos Ludu* published every second day, monthlies *Zwrot* and *Pra\_ský kurýr*, biweekly *Nasza Gazetka*, academic magazines published through the Ministry of Education, Youth and Sports as methodical materials for Polish schools, *Ogniwo* and *Jutrzenka*),
- two German periodicals (weeklies *Landes-Anzeiger*, since 1999 under the name *Landes-Zeitung*, *Zeitung der Deutschen in Böhmen, Mähren und Schlesien* and *Prager Volkzeitung*),
- three Romany periodicals (biweekly *Romano kurko*, monthlies *Amaro gendalos*, *Kereka-Kruh*, and since 1999 also *Romano hangos*),
- one Hungarian periodical (quarterly *Prágai tükör*),
- one Ukrainian periodical (quarterly *Porohy*).

Re: Paragraph 4

See commentary to Article 6.

## Article 10

**1. The Parties undertake to recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.**

**2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavor to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.**

**3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.**

Re: Paragraph 1

No law of the Czech Republic defines the official language or the language of communication. However, the law specifies use of the Czech language in some situations (Defense Act, registries, judiciary). In exceptional cases the law allows using the Slovak language. In reality the Slovak language is used without limitation also in official communication; save for the youngest generations Czech citizens understand Slovak without difficulties. Slovak films and presentations on television and radio are not dubbed or broadcast with subtitles. Passive usage of the Slovak language is a part of the Czech culture, at least for the contemporary generations of the Czech population.

Use of the languages of persons belonging to national minorities in the Czech Republic in official communication is guaranteed by the Charter of Fundamental Rights and Freedoms<sup>25</sup>. However, this constitutional right to use a national minority language in official communication, guaranteed by the Charter of Fundamental Rights and Freedoms "under conditions set forth by law", is not defined by the law in a comprehensive manner. In judiciary practice every person who does not speak the language in which communication takes place, and which in civil matters does not have to be Czech (in reality it is almost always Czech) but another language

<sup>24</sup> The granting of subsidies to publishers of national minority periodicals, civic associations of persons belonging to national minorities, is based on *Principles of Economic Securing of the Publishing of Periodicals of National Minorities* which were approved in Government Resolution No. 277/1993 (an amended version was approved in Government Resolution No. 771/1997).

<sup>25</sup> The Charter of Fundamental Rights and Freedoms, Article 25, paragraph 2, letter b): "Citizens constituting national and ethnic minorities are also guaranteed under conditions set by law the right to use their language in official contact".

understood by the parties and the court<sup>26</sup>, is guaranteed an interpreter. In criminal proceedings<sup>27</sup> as well as in proceedings before the Constitutional Court the law requires Czech as the language of communication and provides interpreting to parties who do not speak Czech.

Re: Paragraph 2:

The Polish community is concentrated in the T\_šín area, Silesia (Karviná and Frýdek-Místek districts). The principle of qualified national minority is not used.

Besides the constitutional guarantee based on the Charter of Fundamental Rights and Freedoms, provisions of the civil rules of court and the Criminal Code, no other laws define the use of the language of national minorities in official communication. This is a violation of the Charter which presupposes the existence of such a law.

Use of languages of national minorities is insufficiently (or not at all) defined with respect to administrative proceedings before public administration and local self-government authorities<sup>28</sup>. Although the administrative rules guarantee all parties in proceedings equal rights and duties, and consequently also the right to speak the mother tongue (national minority language), this law does not define the right of a party in proceedings to use his or her language (national minority language) without having to bear the costs of exercising this right. The state does not bear these costs. In this respect, representatives of national minorities opine that the defining of process rules in this area is important. The Council wants to persuade the Government to propose a law which would guarantee the use of national minority languages in official communication at all levels and in any place, regardless of the local density of population belonging to a national minority. This new law could be passed as part of the planned law on municipal authorities and self-governing regional authorities.

Re: Paragraph 3:

Although this right is defined in the Criminal Code, the text of accusation which an accused person must receive at least five days before the main court hearing is as a rule delivered only in Czech. An accused person, to whom an interpreter interprets the accusation only during the main hearing, is therefore significantly disadvantaged. The Council wants to propose a change in the Criminal Code, so that accused persons receive all documents in their language.

In respect of the Romany national minority, an unresolved problem is an entirely insufficient number of Romany interpreters.

## Article 11

**1. The Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronymic) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.**

**2. The Parties undertake to recognize that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.**

**3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the**

<sup>26</sup> Law No. 501/1992 Coll., civil rules of court, as amended, Article 18: "Parties in civil court proceedings are equal. They have the right to communicate before the court in their mother tongue...". Law No. 353/1991 Coll., on courts and judges, as amended, Article 7, paragraph 3: "Every person may communicate before the court in his or her mother tongue. The law specifies in which cases the cost of interpreting is born by the state".

Law No. 182/1993 Coll., on the Constitutional Court, as amended, Article 33:

- (1) Proceedings before the Constitutional Court take place in the Czech language. Persons may use their language in verbal proceedings or other personal communication.
- (2) If a party or a secondary party, who is a person, communicates or if a witness or an expert testifies before the Constitutional Court in a language other than Czech, the Court shall engage an interpreter, however, with the consent of the parties the Court is under no obligation to do so if testimony is to be given in the Slovak language. The engaging of an interpreter shall be inscribed in the record.

<sup>27</sup> Law No. 141/1991 Coll. on criminal court proceedings, as amended:

### Article 2

- (14) Every person has the right to use his or her mother tongue before law enforcement authorities. Law enforcement authorities shall carry out proceedings and proclaim their rulings in the Czech language.

<sup>28</sup> Law No. 71/1967 Coll., on administrative proceedings (administrative rules), as amended.

**Parties shall endeavor, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.**

Re: Paragraph 1:

Usage of first names and surnames is defined in the registration law<sup>29</sup>. The law in effect up to the present allows writing names according to linguistic usage of foreigners and therefore also persons belonging to national minorities. The same applies to abstracts from registers. An unresolved issue is inscription of feminine surnames in registers (and subsequently in all official documents). The existing law specifies that registration of a feminine surname must be in accordance with the rules of Czech grammar. This means that most feminine surnames are changed according to gender (usually by adding suffixes "-ová" or by changing "ý" to "á"). The requirement to change the surnames of persons belonging to national minorities against the way they perceive their languages (this does not apply to the Slovak national minority and some other Slavic minorities) is considered to be a discriminating restriction of their linguistic rights. The Government has drafted a new law on registries and names and surnames which deals with this issue in the sense of paragraph 1 of this Article. The law is expected to enter into effect in 2000. The law will allow alternate manner of inscription of feminine surnames in registries, that is without the feminine suffix, upon the request of the person, regardless whether she is a foreigner or belongs to a national minority or not.

The existing law and the planned law on registries and names and surnames provide individuals with the option to keep or, based on an application, change the name and surname (an administration fee is charged for the procedure).

Re: Paragraph 2:

The law of the Czech Republic does not define and therefore does not prohibit display publicly visible signs, inscriptions and other information of private nature in national minority languages. Publicly visible signs in various foreign languages, usually English or German, are routinely displayed for purely practical or commercial reasons. Polish signs are displayed in the T\_šín area in Silesia.

Re: Paragraph 3

The law of the Czech Republic does not prohibit use of bilingual topographic signs. In the Czech Republic, this would apply especially to the T\_šín area in Silesia where the Polish national minority forms a rather compact whole. However, there are no bilingual names of municipalities, cities, streets or local structures on official displays. The issue has been the subject of various discussions, especially with regard to the fact that in public life in the T\_šín area in Silesia bilingual names of retail outlets, public establishments and private and public institutions are routinely used. However, there are some disputes: representatives of the Polish minority demand that the building which houses the District Office in Karviná be identified in both Czech and Polish. So far, the efforts have been made to no avail, as there is no law defining this issue. The Ministry of Interior, in whose jurisdiction the District Office is, has not rectified the situation. In the case of toponyms, the official names are based on the Statistical Lexicon of Municipalities which is published on the basis of a decree of the Ministry of Interior<sup>30</sup> which does not prohibit usage of the equivalent of the name of a municipality in Polish or another language. Demands for bilingual toponyms are made only by representatives of the Polish minority, other national minorities are dispersed throughout the country and have not made demands for bilingual names of cities, municipalities or public areas.

According to the Ministry of Interior, the new law on municipalities will contain provisions allowing bilingual topographic names.

## Article 12

**1. The Parties shall, where appropriate, take measures in the fields of education and research to foster**

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<sup>29</sup> Law No. 268/1949 Coll., on registries, as amended.

<sup>30</sup> The current practice is based on Decree No. 97/1961 Coll., on names of municipalities, names of streets and the numbering of buildings, as amended.

- knowledge of the culture, history, language and religion of their national minorities and of the majority.**
- 2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**
- 3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

Re: Paragraph 1

Education of the majority population about the culture, history, language and religion of national minorities has traditionally been neglected. In spite of a certain progress made during the last ten years, Czech instruction books remain largely textbooks of the Czech ethnic nation, its history, its culture, its fight for ethnic autonomy and later state sovereignty, always in contrary to the German element. It is as though the Czech Lands have not traditionally been the home of various ethnic, cultural and religious communities, especially the German and Jewish national minorities, and also the perpetually disregarded Romanies. Representatives of the Jewish community in particular consider as unsatisfactory the way Jewish topics are presented in Czech elementary and secondary schools<sup>31</sup>. Similarly to other observers<sup>32</sup>, they point out that Czech textbooks and curricula do not provide sufficient information about Jewish presence in the history or provide such information in a distorted manner. The cause of this situation lies probably in the fact that all Jewish topics have been systematically ignored for decades.

Nevertheless, the state promotes the fostering of knowledge about culture, history and language of national minorities and the majority through subsidy programs administered by individual ministries, especially the Ministry of Education, Youth and Sports and the Ministry of Culture. Every year, these ministries call tenders for projects focused on activities of national minorities. Specifically, the Ministry of Culture administers the *Program of Development and Preservation of Cultures of National Minorities* and the Ministry of Education, Youth and Sports has the *Program of Support and Protection of Children and Youth* with the subprogram *Understanding*. In addition, the Ministry of Labor and Social Affairs promotes employment of persons who face difficulties on the labor market, with special attention paid to the Romany population. Ministries distribute grants to private non-profit organizations, including organizations of national minorities, for execution of various projects.

Re: Paragraph 2

The Ministry of Education, Youth and Sports promotes continuing education of teachers and preparation of teaching aids and instruction books. These efforts are concentrated on cyclic education of teachers as part of so-called *Summer School of Tolerance*, the program *Teaching Intercultural Coexistence*, etc. and especially the subsidy program Fund for Development of Universities whose activities include focus on continuing education of teachers.

Re: Paragraph 3

Equal access of persons belonging to national minorities to education is guaranteed to all citizens. Persons belonging to national minorities are not disadvantaged in any way. In recent years, the Government has adopted measures focused on providing suitable conditions especially for children from socially and culturally disadvantaged environments, in particular the Romany community, by opening preparatory classes in elementary and special schools. The aim of this program is to provide systematic (but voluntary) preparation of Romany children for the educational process. Linguistic preparation for Romany children and their preparation for the school environment is also ensured by Romany assistants in individual classes.

Special schools are intended for children with intellectual deficiencies (learning difficulties). However, Romany children with average or above-average intellect are often placed in such schools on the basis of results of psychological tests (this happens always with the consent of the parents). These tests are conceived for the majority population and do not take Romany specifics into consideration. Work is being done on restructuring these tests. The number of Romany children in special schools is high; some schools have 80 to 90 percent of Romany students. It needs to be mentioned that many parents of Romany children do not view education as a priority and support these trends with their attitudes. The mother tongue of most of these children is the Roma

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<sup>31</sup> For example L. Pavlát: *Jewish Topics in Czech Schools*. Prague 1998.

<sup>32</sup> For example D. \_an\_k: *Nation, National identity, Minorities and Racism*. Prague 1998.

language; they speak a Czech-Roma dialect which is not sufficiently developed.

The Ministry of Education, Youth and Sports administers special programs focused on the Romany minority. For example, the experimental program *Romany Children in Czech Schools* is being tested in ten schools. As part of this project the maximum number of pupils in classes has been reduced, so that teachers can pay individual attention to Romany children. Another important measure is provided by the introduction of Romany pedagogical assistants in elementary and secondary school classes with Romany students. For example, as of June 1, 1998, 23 Romanies were working in this function.

### Article 13

**1. Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**

**2. The exercise of this right shall not entail any financial obligation for the Parties.**

In accordance with the effective law, persons belonging to national minorities can set up their own private educational establishments without restrictions and apply for the inclusion thereof in the system of schools, preschool establishments and academic establishments under the same conditions as other citizens. This possibility is partly utilized by persons belonging to the German minority. For example, the Association of Germans of the Prague and Central Bohemia Regions has opened the Thomas Mann High School in Prague 8 (combined with an elementary school) which, besides students of German national identity, is attended by students from other ethnic groups. The Thomas Mann High School is included in the public educational system which means that, in accordance with the law on state administration and self-government in the educational system, the state has a financial obligation to this establishment, for example with respect to covering the costs of operation of this school.

### Article 14

**1. The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.**

**2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**

**3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.**

Re: Paragraph 1

Education of persons belonging to national minorities in the Czech Republic in their mother tongue is guaranteed by the Charter of Fundamental Rights and Freedoms (Article 25, paragraph 2, letter a) and laws pertaining to the educational system<sup>33</sup>. In accordance with educational system laws and the applicable decree of the Ministry of Education, Youth and Sports<sup>34</sup> students are registered for the obligatory school attendance in Polish or Slovak minority schools upon request of the parents. The issuing of school certificates is based on the Information No. 24 021/98-20 of the Ministry of Education, Youth and Sports on obligatory documentation of schools and academic establishments<sup>35</sup>. Students of minority schools receive bilingual certificates.

In the reality of the existing educational system the right to receive education in one's mother tongue is exercised

<sup>33</sup> Law No. 29/1984 Coll., on the system of elementary schools, secondary schools and specialized secondary schools (school law), as amended, Article 3, paragraph 2:

"Students belonging to national minorities are guaranteed, in the extent adequate to interests of their national development, the right to education in their mother tongue."

Law No. 564/1990 Coll., on state administration and self-government in the educational system, as amended, especially amendment No. 139/1995 Coll.

<sup>34</sup> No. 29/1984 Coll., on the system of elementary, secondary and specialized secondary schools and related regulations; Decree of the Ministry of Education, Youth and Sports No. 291/1991 Coll., on elementary schools.

<sup>35</sup> Law No. 29/1984 Coll., on the system of elementary, secondary and specialized secondary schools and related regulations; Decree of the Ministry of Education, Youth and Sports No. 291/1991 Coll., on elementary schools.

in three ways: 1) schools where subjects are taught in the language of a national minority, 2) Czech schools where the language of a national minority is taught as an optional subject, 3) dislocated classes where subjects are taught in the language of a national minority.

The demographic structure of students in the Czech Republic in respect of their national identity according to the parents' statement made at the time of registration students for the obligatory school attendance:

**Children, Pupils and Students in the Academic Year 1996/1997 according to national identity<sup>36</sup>**

School type	Total	National identity						
		Czech <sup>37</sup>	Slovak	Hungarian	Polish	German	Romanian	Other
Kindergartens	317 153	313 361	667	30	905	158	689	1 343
Elementary schools	1 100 096	1 084 933	6 878	412	3 041	774	573	3 485
High schools <sup>38</sup>	125 576	123 917	612	29	497	97	1	423
Specialized secondary schools	163 895	162 347	709	36	454	112	4	233
Integrated secondary schools	87 088	86 218	365	28	333	89	2	53
Secondary trade schools	138 252	137 099	667	43	158	59	60	166
Specialized high schools	13 294	13 162	79	2	26	8	0	17
Special schools	72 077	68 371	2 392	141	69	38	1 008	583
Universities <sup>39</sup>	136 763	124 600	1 213	165	439	90	4	252

The above statistic needs to be understood as an orientational overview. It is based on a voluntary decision of students' parents to state their children's national identity at the time of registration for school attendance. This information does not have to be provided (at the time of registration, a parent demands inclusion of a child in a minority school, however, the student's national identity is not registered). Nevertheless, two values in the statistic clearly distort the real situation. This concerns the underrated number of children belonging to the

<sup>36</sup> Bulletin of the Ministry of Education, Youth and Sports No. 10/1998.

<sup>37</sup> Statistical Yearbook of the Czech Republic 1997, Prague 1997, p. 554.

<sup>38</sup> Including the Moravian and Silesian national identity.

<sup>39</sup> The information applies to full-time study only, the same applies to integrated schools, secondary trade schools, specialized high schools and universities.

German minority and especially to the number of Romany students.

The degree of assimilation (linguistic, cultural) of the young generation of persons belonging to the German minority is high. Only the older generations identify themselves as having German national identity. Younger parents do not state that their children have German national identity. Romanies were for a long time deprived of being able to declare Romany national identity. Hence, they have become used to declaring appurtenance to the Czech, Slovak or Hungarian national identity. Many of them consider queries pertaining to their national identity as referring to the national identity, which was registered in their records in the past. Some Romanies are afraid of being disadvantaged if they declare Romany national identity.

Among special schools there are schools for children with light mental retardation and schools with children with various forms of handicaps (paralyzed, blind, deaf, etc.).

For issues concerning special schools see commentary to Article 12, paragraph 3.

Re: Paragraphs 2 and 3

In the Czech Republic, only the Polish national minority concentrated in the districts Karviná and Frýdek-Místek has a fully developed school system with subjects taught in the minority language. Methodology and the publishing of textbooks and methodical aids for Polish schools is provided by the Polish Pedagogical Center in \_eský T\_šin which was founded by the Ministry of Education, Youth and Sports. The following types of Polish schools exist in these districts:

- Polish minority schools in the academic year 1998/1999:
- Kindergartens, 38 classes - a total of 590 children,
- Elementary schools, 29 schools, 152 classes - a total of 2 642 students,
- Secondary schools, High School in \_eský T\_šin, 11 classes - a total of 271 students,
- Detached schools in Karviná - 82 students,
- Academy of Commerce in \_eský T\_šin, three classes - a total of 91 students.
- Secondary Schools of Mechanical Engineering in Karviná, three classes - a total of 73 students.
- Secondary Medical School in Karviná, three classes - a total of 51 students,
- Secondary School of Agriculture in \_eský T\_šin, one group in a class - a total of 16 students.

Due to being dispersed throughout the country, the Slovak national minority does not have a clearly defined education program. There is one elementary school in Karviná which was established in the past (attended by only about 50 students) and there are efforts in Prague to open the Milan Rastislav Štefánik High School. The Ministry of Education, Youth and Sports was prepared to open this high school in the academic year 1997/1998, however, the program failed due to insufficient interest from students.

Demands of the German national minority for education in German within the state educational system are difficult to satisfy due to the fact that persons belonging to the German national minority are dispersed throughout the Czech Republic as a result of state policy after the Second World War. Besides the Thomas Mann High School in Prague 8 (the school is attended by students of other nationalities as well), there are insufficient numbers of students in individual cities or municipalities for opening German schools. This is the reason why a German educational system has not developed, despite the fact that the public administration is prepared to fulfil its duty toward the German national minority in the educational system, as defined by the applicable laws. Representatives of the German national minority are aware of this fact and propose the establishing of bilingual Czech-German schools. However, the Government does not consider bilingual schools to be an element of a German educational system, but a part of language education in general, and the establishing of such schools is not specially promoted. In many schools the German language is taught to children of persons of the German national identity (and to Czech students as well) as an optional subject in addition to the regular curriculum of elementary schools.

The situation concerning education of Romany children and youth in general is a specific issue of the educational process. Although Romany representatives oppose a segregated Romany minority school system, educational programs need to be adjusted in respect of the specifics of Romany children and youth. Efforts of the public administration are therefore focused on gradual creation of conditions, which reflect the social and cultural specifics of the Romany community. For this reasons the Government is opening so-called zero or preparatory grades for socially handicapped children. In reality this means that Romany children are offered the possibility of undergoing systematic preschool education before commencing the obligatory school attendance. Preparatory grades are open in accordance with a decree of the Ministry of Education, Youth and Sports (No. 12 748/97-22);



for example, based on this measure a total of 69 preparatory classes, which are attended by 658 Romany children, were opened for the academic year 1998/1999.

As regards the Romany community, the situation in secondary education is also specific. In accordance with the effective laws, the Doctor Rajko Djuri\_ Foundation has opened the first private Romany secondary school, the Romany Secondary Social School in Kolín, which has been included in the educational system of the Czech Republic. The school, which was opened in the academic year 1998/1999, receives financial funding from the Ministry of Education, Youth and Sports.

Autonomous Jewish schools also gradually develop. During the academic year 1997/1998, based on Jewish kindergarten classes the "Gur Arje" Lauder Elementary School was opened in Prague. Subjects taught in this school are based on the curriculum of the Ministry of Education, Youth and Sports. Another school of the Czech Jewish community, the Or Khadash High School, will open in the academic year 1999/2000. These schools are certified by the Ministry of Education, Youth and Sports and are included in the educational system of the Czech Republic. It means that the state, through the Ministry of Education, Youth and Sports, financially participate in their activities. Operating costs of these schools are paid by the Prague Jewish community and the Ronald S. Lauder Foundation.

### Article 15

**The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.**

The Charter of Fundamental Rights and Freedoms guarantees persons belonging to national minorities the right to participate in public affairs, which affect them (Article 25, paragraph 2, letter c). This right is not defined in a specific law, as presupposed by the Charter. To some extent this right is exercised by participation of citizens who belong to national minorities in the work of central authorities of the state administration.

Representation of national minorities in the public administration at the central and local levels is not defined by law. Hence, there is no definition of preferences for persons belonging to national minorities with regard to the system of parliamentary or municipal elections. However, persons belonging to national minorities may seek election within political parties in municipal or parliamentary elections without limitations. In reality this means that persons who belong to national minorities stand a better chance of succeeding in municipal elections than of being elected as parliamentary deputies.

A prominent position is occupied by the Council for National Minorities of the Government of the Czech Republic which is a consultative body of the Government. Members of the Council are representatives (Czech citizens) of the German, Hungarian, Polish, Romany, Slovak and Ukrainian minorities and deputy ministers from individual ministries<sup>40</sup>.

The function of the Council for National Minorities of the Government of the Czech Republic is as follows:

- the Council participates in preparation of measures of the Government which concern the rights of national minorities in the Czech Republic,
- the Council comments drafts of laws, Government resolutions and measures which concern the rights of national minorities in the Czech Republic before they are submitted to the Government,
- the Council prepares summary reports about the situation of national minorities in the Czech Republic for the Government,
- for the needs of the Government, ministries or other state authorities, the Council prepares recommendations focused on securing the needs of persons belonging to national minorities especially with regard to education, use of mother tongue, and matters concerning social and cultural life,
- the Council coordinates practical implementation of the Government's policy concerning national minorities by individual ministries and other government authorities,
- the Council cooperates with local self-government authorities on practical implementation of the Government's policy concerning national minorities,

<sup>40</sup> The Statute of the Council for National Minorities of the Government of the Czech Republic was approved in Government Resolution No. 259/1994 (supplemented by Resolution No. 580/1998).

- the Council cooperates with the Ministry of Foreign Affairs with respect to international aspects of the position and the rights of persons belonging to national minorities.

Another institution which independently handles issues concerning the Romany minority is the Inter-Ministerial Commission for Roma Affairs<sup>41</sup>. This Commission is also a consultative body of the Government whose members are Romany representatives (12 persons including two Vlax Romanies) and deputy ministers from individual ministries.

The function of the Inter-Ministerial Commission for Roma Affairs is as follows:

- The Commission evaluates documents of conceptual and implementation character which are used for the Government's decisions concerning the Romany community,
- The Commission evaluates compliance with Government resolutions and decisions made by individual ministries with respect to the Romany community,
- The Commission makes proposals for distribution of funds set apart for supplementary programs focused on development of the Romany community, and evaluates purposefulness and utilization thereof,
- The Commission collects information about the state and development of the Romany community and, when necessary but at least once per calendar year, makes summary reports on the situation within the Romany community,
- The Commission promotes knowledge of programs concerning the Romany community within this community,
- The Commission cooperates with Romany and pro-Romany organizations and elaborates on their suggestions and proposals.

Besides the above mentioned consultative bodies of the Government for issues concerning national and ethnic minorities, there are consultative bodies at the Ministry of Culture, the Consultative Committee for Issues Concerning the Cultures of National Minorities, at the Ministry of Education, Youth and Sports, the Consultative Committee for Issues Concerning the Educational System of National Minorities, and at the Ministry of Labor and Social Affairs, the Committee of the Ministry of Labor and Social Affairs for Realization of Measures Promoting Employment of Persons who Face Difficulties on the Labor Market with Special Attention to the Romany Population.

At the level of the legislature, issues concerning national minorities are the responsibility of the Subcommittee for National Minorities of the Chamber of Deputies (established on the basis of Resolution No. 18 of the Petition Committee of the Chamber of Deputies from October 1, 1998), Subcommittee for Application of the Charter of Fundamental Rights and Freedoms (established on the basis of Resolution No. 18 of the Petition Committee of the Chamber of Deputies from October 1, 1998); both these committees function within the framework of the Petition Committee of the Chamber of Deputies. Issues concerning national minorities are also handled by the Petition Committee, Human Rights Committee, Committee for Science, Committee for Education, and Committee for Culture of the Senate of the Parliament of the Czech Republic.

No seats are reserved for national minorities in the Parliament of the Czech Republic. After the last elections to the Chamber of Deputies and to the Senate (1998), only one of 200 deputies in the Parliament is a person belonging to a national minority. It is the Romany deputy Monika Horáková who is a member of the political party Freedom Union.

Foreign nationals who possess long-term or permanent residency permit in the Czech Republic do not have the right to vote.

## Article 16

**The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.**

<sup>41</sup> The Statute of the Inter-Ministerial Commission for Roma Affairs was approved in Government Resolution No. 640/1997 (supplemented by Resolution No. 580/1998).

No measures are taken in the Czech Republic to alter the proportions of the population in areas inhabited by persons belonging to national minorities.

With respect to dealing with issues concerning the Romany community, the function of national minority or Romany consultant has been instituted at the level of district offices.

#### Article 17

**1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**

**2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organizations, both at the national and international levels.**

Re: Paragraph 1

Representatives of organizations of persons belonging to national minorities maintain foreign contacts without restrictions, regardless of whether such contacts are maintained with the country populated by persons of the same ethnic origin or with other countries. Every individual national minority cooperates with similar ethnic organizations not only in Europe but throughout the world. National minorities participate in joint projects in the Czech Republic and abroad, participate in issuing publications, organizing cultural events, etc.

Re: Paragraph 2

In accordance with the effective law on assembly of citizens, persons belonging to national minorities found, without restrictions, private organizations, which freely develop their activities at national and international levels. This is demonstrated in the number of civic associations founded on the national minority principle. As of December 31, 1998, the Ministry of Interior (civil administration department) had registered 205 such organizations (see Article 7).

Organizations of persons belonging to national minorities cooperate with private organizations in the Czech Republic and on international level, such as the *Föderalistische Union Europäischer Volksgruppen - Federal Union of European Nationalities - Union Fédéraliste des Communautés Ethniques Européennes* (FUEV). Active in the regard are especially Czech representatives of the German and Polish national minorities. The German organization Association of Germans in Bohemia, Moravia and Silesia and the Polish organization the Polish Congress in the Czech Republic are collective members of the Federal Union of European Nationalities. In addition, the Slovak Community has made an application for membership in this organization in the Czech Republic (the application is currently being processed). Activity of representatives of the Czech Republic in this organization is also demonstrated in the fact that the 1998 FUEV Congress was held in Prague. In this respect the Ministry of Culture provided a substantial financial support for one of the events accompanying the congress.

#### Article 18

**1. The Parties shall endeavor to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighboring States, in order to ensure the protection of persons belonging to the national minorities concerned.**

**2. Where relevant, the Parties shall take measures to encourage transfrontier cooperation.**

Re: Paragraph 1

Protection of the rights of national minorities in the Czech Republic is guaranteed by bilateral agreements between the Czech Republic (including successive duties) and the neighboring countries which expressly define the position of the Polish, German and Slovak national minorities. These agreements are the Agreement between the Czech and Slovak Federative Republic and Poland on Good Neighbor Relations, Solidarity and Friendly Cooperation<sup>42</sup>, including the Agreement between the Government of the Czech and Slovak Federative Republic and the Government of Poland on Cultural and Scientific Cooperation<sup>43</sup>, the Agreement between the Czech and

<sup>42</sup> Communiqué of the Federal Ministry of Foreign Affairs No. 416/1992 Coll., on adoption of the Agreement between the Czech and Slovak Federative Republic and Poland on Good Neighbor Relations, Solidarity and Friendly Cooperation.

<sup>43</sup> The Agreement was signed on September 16, 1991.

With the aim to make this Agreement more specific, the Government of the Czech Republic and the Government of Poland adopted

Slovak Federative Republic and the Federative Republic of Germany on Good Neighbor Relations and Friendly Cooperation<sup>44</sup>, and the Agreement between the Czech Republic and Slovakia on Good Neighborliness, Friendly Relations and Cooperation<sup>45</sup>.

Re: Paragraph 2

Due to the fact that persons belonging to the Polish national minority live mainly in the part of Czech Republic, which is close to Poland around Těšín in Silesia, the Agreement between the Government of the Czech Republic and the Government of Poland on Cross-Border Cooperation<sup>46</sup> pays special attention to issues concerning the Polish national minority. This concerns mainly the educational system and cultural activities.

#### Article 19

**The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.**

The Czech Republic strives to comply with all principles of the Convention. In order to ensure compliance with the Convention, the Czech Republic is preparing a law on protection of the rights of national minorities (see Part I, article 17). The Czech Republic applies no restrictions or exceptions.

#### Article 30

- 1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.**
- 2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.**
- 3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.**

The Czech Republic has not used this Article.

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on April 12, 1996 the Program of Cultural, Academic and Scientific Cooperation between the Government of the Czech Republic and the Government of Poland during 1996-1998.

<sup>44</sup> Communiqué of the Ministry of Foreign Affairs No. 521/1992 Coll., on adoption of the Agreement between the Czech and Slovak Federative Republic and the Federative Republic of Germany on Good Neighbor Relations and Friendly Cooperation

<sup>45</sup> Communiqué of the Ministry of Foreign Affairs No. 235/1993 Coll., on adoption of the Agreement between the Czech Republic and Slovakia on Good Neighborliness, Friendly Relations and Cooperation.

<sup>46</sup> Government Resolution No. 84/1994, on adoption of the Agreement between the Government of the Czech Republic and the Government of Poland on Cross-Border Cooperation.