



## FPC Briefing: Human Rights in the Czech Republic- Unfinished Business

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On 20 June the Czech Republic became a member of the United Nations Human Rights Council, a role it will hold for three years. Since the Velvet Revolution of 1989 support for human rights has been an important part of Czech foreign policy, and the country's diplomats and leaders have vocally criticized the poor human rights records of numerous countries, in particular Cuba, Burma and Belarus. This is, to a large extent, the legacy of former president Václav Havel. Notwithstanding the Czech Republic's commendable commitment to human rights in the international arena, anyone with a serious interest in completing the process of political transformation which began in 1989 needs to understand that this country's transition has been far from easy, and is as yet incomplete.

### **Serious problems remain**

On the positive side, in September 2009, an Anti-Discrimination Act providing protection from discrimination on the grounds of gender, race or ethnicity, religious conviction, disability, age or sexual orientation was finally passed by parliament after years of stalling tactics on the part of president Václav Klaus, fulfilling a long-standing requirement of EU membership. Nevertheless, serious gaps remain both in legislation and in implementation in numerous areas. Of particular concern is the situation of the country's largest ethnic minority, the Roma, which constitute some 2% of the overall population. In November 2010 the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg visited the Czech Republic; his visit was followed by recommendations on a host of issues, including the need to combat the activities of extremist groups and the protection of the rights of the Roma in terms of ensuring equal access to education, addressing segregation in housing, and reducing the overall number of children that are placed in state-run institutions, which is very high by international comparisons. In the majority of cases, the reason for taking children into care is the poverty of their families, in contravention of two judgments of the European Court of Human Rights and of the UN Convention on the Rights of the Child. Whilst this affects all children from poor backgrounds, and data is incomplete, it is estimated that between 20% and 80% of children in institutionalized care are Roma<sup>1</sup>.

The Hammarberg report also draws attention to the issue of the sterilization of Roma women without their informed consent, a practice which was widespread under the communist régime, but which has still not entirely ceased. In late 2009 the government formally expressed regrets for unlawful sterilizations that had taken place, but little has been done in terms of implementing the recommendations of Hammarberg and others, including the Czech Ombudsman's office and numerous UN bodies. To date civil courts have compensated only a few victims, due to a three-year statute of limitations on seeking compensation for violation of personality rights. No action has so far been taken on the CEDAW Committee's recommendation that this statute be reviewed<sup>2</sup>. Besides the Roma, concerns have been raised regarding the rights of women in general (for instance, in December last year the government closed down a scheme whereby victims of domestic violence benefitted from free legal advice), people with disabilities, prisoners, immigrants<sup>3</sup> and asylum seekers.

### **One step forward, two steps back**

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<sup>1</sup> Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to the Czech Republic from 17 to 19 November 2010.

<sup>2</sup> Amnesty International 2011 Report for the Czech Republic.

<sup>3</sup> Report on the State of Human Rights in the Czech Republic for 2010, the Czech Helsinki Committee



When the current centre-right government took office in July 2010, the post of Human Rights Minister was abolished, and it took until February 2011 to fill the lower-level post of Human Rights Commissioner. This appointment was given to a relatively unknown individual. The Prime Minister's advisor on human rights and foreign policy, Roman Joch is vociferously opposed to any anti-discrimination legislation and has expressed openly homophobic views. A selection of Joch's quotes include: "Forbidding discrimination in the private sector is a breach of freedom. The logic is totalitarian"; "...it is the natural order of things that men should be attracted to women and women to men. Anything else is a deviation from normality ... And those who suffer from this deviation, and perversion, are – no offence - deviants."<sup>4</sup> Whilst the Czech Republic instituted registered partnerships for same-sex couples in 2006, same-sex couples may still not adopt, and despite widespread public support for equality, the majority of the political establishment is implacably opposed to any change in legislation. When government officials recently placed a child in foster care in a same-sex household, the Minister for Labour & Social Affairs appeared in the media to condemn the decision. Of even greater concern was the appointment, earlier this year, of Ladislav Batora as advisor to the Minister for Education, on the recommendation of the office of President Václav Klaus. And on 13 July it was announced that Batora was to take over as human resources director at the Ministry of Education<sup>5</sup>. Batora is a former candidate of a far-right party, who has in the past espoused openly racist and anti-Semitic views<sup>6</sup>.

### **Far-right groups**

The period since 2005 has seen a rise in the activity of neo-Nazi groups. Whilst there is no significant popular support for a far-right party, small groups of extremists, playing on widespread negative sentiment towards the Roma, have actively organised concerts and marches. These marches have often taken place in areas with a large Roma population. There has also been more sophisticated activity on the internet. This intensification of activity was raised by the European Commission against Racism and Intolerance (ECRI) in 2009<sup>7</sup> and there has been some positive progress since then. The year 2010 saw the stagnation of extremist activity, at least in part due to state action<sup>8</sup> and Thomas Hammarberg in his report "noted with satisfaction the Czech authorities' activities against extremism in 2009 and 2010" and recommended that they "build on their achievements." During 2010 the Supreme Administrative Court closed down the far-right Workers' Party and in October a regional court handed down unusually long sentences to the perpetrators of a particularly horrific arson attack on a Roma home in April 2009 which had left a two-year-old girl with burns covering 80% of her body. This attack led to public outrage, a greater awareness of the problem and a tightening of policy, as government officials awoke from their slumbers of the preceding years.

So far 2011 has seen a resurgence of marches in numerous towns, as well as clashes between anti-racist protesters and far-right supporters. The police have been severely criticized for responding inadequately in a number of occasions, and for failing to act despite clear evidence of illegal symbols on public display and hate-speech amounting to incitement to violence. Though some arrests of extremists have been made, the police have often taken harsher action against anti-racist protesters; this inadequacy is widespread though by no means universal, and is mostly caused by attitudes within some police forces as well as weak and ineffectual leadership in the Ministry of the Interior and the perceived indifference of ministers. In addition some mayors of smaller municipalities came

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<sup>4</sup> From an open letter to the Prime Minister by members of the ProAlt movement (2010): <http://www.proalt.cz/?p=1114>

<sup>5</sup> From the Czech daily Lidové Noviny 13 July 2011

<sup>6</sup> From the Czech daily Lidové Noviny 30 April 2011

<sup>7</sup> Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to the Czech Republic from 17 to 19 November 2010.

<sup>8</sup> Report on the State of Human Rights in the Czech Republic for 2010, the Czech Helsinki Committee.



out clearly on the side of the extremists. In the Czech Republic's second city, Brno, a far-right march was largely successfully opposed by a peaceful demonstration led by a range of public figures from the worlds of politics, academia, entertainment, sport and the churches.

## Social Exclusion

Though there has been evidence of political will to address the problems of extremism and racist violence, these are only a part of the overall problem facing the Roma in the Czech Republic, as elsewhere in Europe. The Roma face severe problems of social exclusion, discrimination in the allocation of housing, and a low rate of labour market participation. According to a World Bank study in 2008<sup>9</sup> some 55.8% of working age Roma adults living in excluded communities was not participating in the labour market. Key factors in keeping Roma families thus mired in poverty are discrimination in the workplace and, perhaps most important of all, low access to education. The World Bank report states: "Labor market exclusion of the Roma in the Czech Republic has been driven by unsatisfactory educational outcomes due to enrollment in special schools for children with learning disabilities as well as early school leaving, condemning many Roma to joblessness..."

It is in education policy, especially in issues of access and inclusivity that we find the most egregious violations of human rights in the Czech Republic. The most pressing issue of inclusivity in the Czech education system is the placing of Roma children 'special' schools for the mentally disabled (recently renamed 'practical' schools), a practice that began in 1945<sup>10</sup>. According to Amnesty's 2011 report for the Czech Republic, based on government statistics, some 35% of all children diagnosed as mentally disabled and placed in these 'practical' schools are from the Roma community, and in some areas the proportion is as high as 50%<sup>11</sup>. Thomas Hammarberg, in his report, argues that Roma children are twelve times more likely to be sent to 'practical' schools than other children. Whilst this practice exists elsewhere in the Central European region, according to an OSCE report in 2000, the Czech Republic was the worst offender<sup>10</sup>. Devroye (2009) suggests that the causes of this discrimination may be school placement tests that fail to account for Roma children's lack of preschool education, lack of familiarity with test situations and an inability to communicate in the Czech language (being more fluent in Romani) as well as apathy on the part of many parents. Going to a 'practical' school will mean that pupils are ill prepared for entry into mainstream secondary schools (until recently formal rules made this impossible), and therefore has a long-term impact on their education and life chances, a fact that is often not communicated to parents by education officials<sup>10</sup>. In 2007 the European Court of Human Rights ruled in favour of eighteen Roma students, who had sued the Czech government for being placed in special schools (the case of D.H. and Others).

Yet, since this ruling little concrete action has been taken. The Hammarberg report "finds that little has changed on the ground...and calls on them [the Czech authorities] to demonstrate commitment to its implementation by fixing clear and measurable targets for transfers of children from special to ordinary education and for overall desegregation of the school system." Though a National Action Plan for Inclusive Education was adopted by the previous government in March 2010, its implementation was postponed by the current education minister. In late May this year over 50 expert members of the Working Group on implementation of the National Plan resigned over the inaction of the ministry. Their resignation letter states that "...under the existing leadership of the ministry, 'inclusive education' is more and more obviously becoming mere rhetoric intended to calm the international community."

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<sup>9</sup> Czech Republic: Improving Employment Chances of the Roma (World Bank Report No. 46120 CZ).

<sup>10</sup> Devroye, Jennifer. The Case of D.H. and Others v. the Czech Republic. *Northwestern Journal of International Human Rights*. Volume 7, Issue 1 (Spring 2009).

<sup>11</sup> Amnesty International 2011 Report for the Czech Republic.



## **Conclusion**

It may have been tempting to think of the transformation of the Czech Republic and other countries in the region as complete once they joined the EU in 2004; however, despite the extraordinary achievements of the past twenty years, this process is still under way, and it is not inevitable that the path ahead will be smooth. There has been regression as well as positive progress. Those of us interested in the evolution of a truly democratic and cohesive continent, based on common values, should refocus our attention on this region, and on efforts to build the institutions of democracy. Political parties would do well to work with their counterparts in the region to help a fully democratic political culture to evolve. And Mr. Havel might usefully turn his interest in human rights back towards his own country.