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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF THE CZECH REPUBLIC
ON THE OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR
THE PROTECTION OF NATIONAL MINORITIES IN THE CZECH
REPUBLIC**

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**Commentary of the Czech Republic
on the basis of regulation no. 27 of the
Resolution of the Committee of Ministers (97) 10 on the opinion of the
Advisory Committee on the Framework Convention for the
Protection of National Minorities regarding the fulfilment of the obligations of this
Convention by the Czech Republic – ACFC/OP/I (2001)4**

1. Introduction

The Czech Republic welcomes the adoption of the opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities (hereafter referred to as the “Convention”) regarding the fulfilment of the obligations arising from this Convention for the Czech Republic – ACFC/OP/I(2001)4 on the basis of article 26 of the Convention and regulations no. 23 of the Resolution of the Committee of Ministers (97) 10 at its 10th meeting on 6th April 2001. The Czech Republic appreciates the positive nature of the opinion and offers the following commentary to the individual critical points.

**II. Commentary on the general comments on the Report
of the Czech Republic**

Section 8. The preparation of the report was repeatedly consulted with concerned national minority communities. The debate on the fulfilment of the principles stated in the Framework Convention took place three times in 1998 at the meetings of the Council for National Minorities of the Czech Government. The final debate on the proposed text of the Report on the fulfilment of the principles set by the Framework Convention took place on the basis of initiatives from members of the Council, i.e. with the active participation of representatives of national minorities, on 5th March 1999. The comments and suggestions of representatives of the national minorities (Hungarian, German, Polish, Romany, Slovak and Ukrainian) were taken into account in the report.

Section 9. The text of the Framework Convention for the protection of national minorities has been published many times in various editions (the text of the convention including the Czech Republic report and its attachment are published on the web site of the Government Office in the section on the Government Council for National Minorities) and at the same time reference is made to this document in all discussions on national minority issues. An improved awareness of the Framework Convention is positively reflected, in particular, in connection with the legislative process of the government draft Act on the rights of members of national minorities and on the amendment of various laws. On the basis of the application of the law (as well as being published in the Collection of Laws the law will also be published in all the minority languages on the web site of the Government Office in the section on the Government Council for National Minorities and in the minority press) and the measures associated with it, it is possible to anticipate a further improvement in awareness of the Framework Convention in the appropriate local government bodies, a fact that is highlighted by the representatives of national minorities on the Government Council for National Minorities.

Another measure leading to an increased awareness of the Framework Convention and on the protection mechanism therein, is the **Seminar for Romany Advisors of the District Authorities** organised by the Ministry of the Interior in collaboration with the Council of Europe and due to be held in the second half of 2001.

The policy of the Council of Europe in relation to the protection of national minorities will be presented at this seminar. Representatives of the Council of Europe will, for example, provide information on the Council of Europe policy and the legal instruments for the protection of national minorities in relation to adherence to the Framework Convention on the protection of national minorities, on the role and work of the European Commission against racism and intolerance, on activities in the area of Romany migration, on sound experiences and procedures in areas such as work with the media, education and training, employment, political participation, housing, support for an environment of tolerance, the police and judiciary.

III. Commentary on specific comments in respect of articles 1-19

Article 3

Section 17. The Act on the Rights of Members of National Minorities approved by both chambers of the Parliament of the Czech Republic - the Chamber of Deputies (May 23, 2001 and July 10, 2001) and the Senate (June 27, 2001) which entered into effect on the day of its publication in the Collection of Laws (August 2, 2001, Act No. 273/2001, Item 104) includes the following definition of a national minority:

“A national minority is a community of citizens of the Czech Republic living within the current territorial boundaries of the Czech Republic that differs from the majority populous in terms, as a rule, of common ethnic origin, language, culture and traditions, forming a numerical minority within the population. At the same time such a group expresses a desire to be considered a national minority for the purpose of common efforts to preserve and develop their self-identity, language and culture and for the purpose of protecting the interests of their communities, which were historically created.

A member of a national minority is a citizen of the Czech Republic who declares himself to be of other than Czech nationality and who expresses a wish to be considered a member of a national minority together with others who proclaim the same nationality.”

Representatives of national minorities on the Government Council for National Minorities support the given definition, even though some of them also requested a detailed specification of individual national minorities. The specification of individual national minorities is, however, given in the causal statement to the law.

Section 18. Members of the Government Council for National Minorities include not only representatives of the state administration but also representatives who are members of the following national minorities: Hungarian, German, Polish, Romany, Slovak, Ukrainian and Greek. The meetings are regularly attended by invited members of other numerically smaller minorities living in the Czech Republic.

Section 19. Representatives of the German minority, in this context, highlight the fact that during the census in 1991 Germans in Moravia and Silesia also proclaimed Moravian and Silesian nationality. This phenomenon can be regarded as an expression of the historical provincial identity of a certain part of the population of Moravia and Silesia without regard to membership of an individual national minority. Preliminary results from the 2001 census show that 373 294 individuals (3.6% of the population) declared themselves to be of Moravian ethnic origin, which is 989 019 less (- 72.6%) than in 1999. 11 248 declared themselves to be of Silesian nationality (0.1% of the population), which is 33 198 less (-74.7%) than in 1991.

Section 20. See also the commentary to point 17. The Czech Act on the Rights of Members of National Minorities summarises the conditions for exercising the rights of national minorities and in a certain regard this is also above the framework of the Framework Convention e.g.: it defines the term “national minority”, newly founded on the basis of the law is the Council for National Minorities whose chairman is a member of the government and within the framework of anti-discriminatory measures the law implements EU Directive no. 2000/43/EC on the pursuance of the principles of equality in the treatment of individuals regardless of their racial or ethnic origin. In the form of a direct amendment to Act no. 200/1990 Coll., on offences as subsequently amended, in the provisions of section 49, a transposition took place of the provisions of article 7 of this convention according to which member states have to ensure the legal protection, by means of judicial or administrative proceedings including arbitration, of all individuals who were aggrieved by the non-application of the principle of equality. The arrangement in the Act on the Rights of Members of National Minorities extends the arrangement contained in this directive as it also impacts on discrimination for the reason of membership of an national minority.

Section 23. Of the representatives of national minorities on the Council for National Minorities only the Greek representative made reference to this phenomenon. Even though the Act on the Rights of Members of National Minorities states that a national minority is a community of citizens of the Czech Republic, individuals belonging to an appropriate group who are not Czech citizens also participate in the exercising of minority rights. Current information gained from consultations with individuals concerned with this issue is contradictory. The issue is also one of the individual approach of modern immigrants who have gained permanent residence status. As opposed to the traditional and well established national minorities, who have built their organisation structures and have their representatives who act as the legitimate representatives of a minority, establishing ethnic groups of individuals who are not Czech citizens proceeds on the basis of a complex development of social stabilisation and the forming of a collective awareness in the new conditions. This also causes ambiguity within these groups in formulating the requirements for the implementation of the national rights as set out in the Framework Convention.

The Czech Republic is developing, for members of ethnic groups who are not Czech citizens, a programme for the integration of foreigners. This programme concerns education, cultural development, religion and commerce etc.

Article 4

Section 25. Since April 2001 a pre-accession advisor has been working in the Department for Human Rights of the Government Office as part of the twinning programme. The result of this project should be the proposal of legislative changes (or completely new legislation) to ensure the implementation of European Council Directive 2000/43/EC of 29th June 2000 implementing

the principles of equality in the treatment of individuals regardless of their racial or ethnic origin. Transposition of article 7 of this Directive took place in the Act on the Rights of Members of National Minorities and on the amendment of certain laws – see the commentary to point 20. This relates to measures aimed at the penalisation of discriminatory behaviour against members of national minorities at all levels of the public administration as well as at providing an effective system for appealing against the discriminatory behaviour of public officials as well as private entities. General protection against discriminatory behaviour has, up till now, been covered by the little used arrangement for the protection of the individual contained in Act no. 40/1964 Coll., the Civil Code. Protection against infringement of human dignity is, among other methods, covered by the right to request a court for appropriate satisfaction or the payment of non-financial damages for the breach of rights. Discrimination in the area of employment can be now also be confronted by the amendment to Act no. 99/1963 Coll., the Civil Procedure Code, which in matters of employment sets out a shift of the burden of proof from the aggrieved party to the malefactor. A further proposed amendment to Act no. 99/1963 Coll., the Civil Procedure Code, concerns ensuring its concordance with the directives of 2000/78/ES, which set out a general framework for equality in employment or profession. The proposed amendment will be reflected mainly in the valid version of section 133a of the Civil Procedure Code, which sets out the shift of the burden of proof in cases of discrimination on the basis of sex (directive 97/80/ES). It proposes to widen this regulation so that the facts bear out that the case of a party to proceedings who was directly or indirectly discriminated against on the basis of racial or ethnic origin will be taken as proven in matters concerning employment, the provision of health and social care, access to education and professional training, access to public tenders, membership of professional and special interest associations and in the sale of goods in a shop or the provision of services, provided the proceedings do not prove the contrary. At the same time the proposed amendment will, in accordance with the mentioned directives, permit civic associations concerned with protection against discrimination on the basis of racial or ethnic origin to represent parties in civil proceedings that feel wronged by such discrimination (the proposed amendment to section 26 of the Civil Procedure Code).

The legal regulation of the protection against discrimination in the field of penology is included in Act No. 169/1999 Coll., on the Execution of the Sentence of Imprisonment. Act no. 169/1999 Coll., is founded on an equal approach to all those convicted and section 15 explicitly states the equality of rights of all those convicted to serve a prison sentence. The conditions for the serving of a prison sentence, or other punishment, are identical for all convicted individuals regardless of the citizenship, racial difference or ethnic characteristics of those convicted. Protection of inmates against the unwarranted use of force and the degradation of human dignity is covered by section 35 of the Act, the protection of the rights and legitimate interests of inmates is covered by section 34. Manifestations of violence and other breaches of human rights among inmates are approached without regard to race, belief or language. Detected cases of the breach of the rights of convicted or accused inmates are recorded and investigated by the Czech Prison Service or the Czech Police as appropriate. Prisoners in Czech prisons can turn with their complaints to both state bodies and international bodies and organisations that are competent to look into information concerning breaches of human rights.

Section 26. The Czech Republic is a standard democratic state with all the traditional guarantees in the area of legal proceedings, the option is there for the review (several times) of administrative or legal decisions at the individual levels of the judicial system, including the Constitutional Court and international judicial and quasi-judicial bodies. According to Article 4 of the Constitution, rights and freedoms are under the protection of the judiciary. The just protection of the rights and legitimate interests of all parties to judicial proceedings is also

ensured by the procedural provisions, which apply equally to everyone and which also guarantee the fundamental principle of judicial independence. Article 36 of the Charter of Fundamental Rights and Freedoms directly concerns the rights to judicial and other legal protection. The legal means for protection against discrimination is a case brought to the appropriate court. Within 60 days from the date of receiving a decision on the last legitimate means provided by law for the protection of rights, and if such means does not exist then from the day when the event, which is the subject of a constitutional appeal, occurred, a physical or legal entity is authorised to file an appeal to the Constitutional Court on the basis of section 72 of Act no. 182/1993 Coll., on the Constitutional Court as subsequently amended. The means of protecting the individual against discrimination on the grounds of language, culture, ethnic background and religion is applied on the basis of the principle of the equal protection of rights and are regulated by generally binding legal regulations to which all individuals on Czech territory are subject. In the case of Act no. 140/1961 Coll., the Criminal Code (section 18) the punishability of a crime is assessed according to the legal code of the Czech Republic, even if it is committed outside the Czech Republic by a Czech citizen or a stateless individual with permanent residence in the Czech Republic. If it is justified the criminal code provides increased protection to individuals who are the target of attacks motivated by racial, nationalistic or other similar hatred in the form of either declaring such crimes as being a specific crime or the motive of the offender can be taken as circumstances conditional to the use of stricter punishment (section 196, 198, 198a, 219, 221, 222, 235, 256 of the Criminal Code).

Section 28. Among all the national minorities differences appear between the official statistical data from the census and educated estimates. The most significant differences occur in relation to the Romany community. The Government Interministerial Committee for the Affairs of the Romany Community therefore set aside the sum of 1 million CZK from the item “Support for Romany Integration Projects” of the state budget for 2001 (which totalled 25 million CZK) to cover the costs associated with concluding agreements on carrying out work with members of the Romany minority in relation to the census of people, homes and flats in 2001. Romanies therefore took part in the census as census officers or their assistants. Despite this, preliminary results from the 2001 census, published by the Czech Statistical Office on the 3rd July 2001, are surprising. Only 11 716 individuals, 0.1% of the population of the Czech Republic, declared themselves as being members of the Romany community according to the preliminary results of this years census. It is possible to assess the low level of declaration of the Romany nationality as an expression of the integration of the Romany minority from the psychological, sociological, cultural and spatial perspectives. The fact that, as opposed to 1991, the declaration of nationality was not obligatory could have had a significant impact. The preliminary results have not, however, evaluated the data on dual declarations (Czech-Romany, Czech-Slovak etc.) nor the number of respondents who did not state a nationality with regards to the fact that it was not obligatory.

The preliminary census results indicate a significant drop in the number of individuals declaring membership of the national minorities by all nationalities: Slovak 183 749 – 1.7% (a drop of 131 128 or 41.6% in comparison with 1991), Polish 50 971 – 1.7% (a drop of 8 412 or 14.2% in comparison with 1991), Germans 38 321 – 0.3% (a drop of 10 235 or 21.1% in comparison with 1991). Even though the results of the number of members of other numerically smaller national minorities have not yet been published the growth in the “others and undetermined” group is notable. Compared to 1991 it increased by 277 050 individuals or 364.7%. It will therefore be important to analyse the “others and undetermined” data, numbering 353 019 individuals (3.4%), as well as data on the declaration of multiple nationality (e.g. Czech-Romany, Czech-Slovak, Czech-Polish etc.), which was not evaluated in the preliminary results.

It is evident that the results of the census do not exactly correspond to the real numbers of the members of national minorities. For the state it is just a reference indicator that does not signify a change in the application of measures in the area of policy towards minorities, in particular in relation to the Roma. In this context, the Government Council for National Minorities considers it important to have at its disposal, apart from the preliminary results of the census, also a new background material - an expert correction of the results of the 2001 census and an expertise of a qualified estimation of the number of members of national minorities in the Czech Republic, in particular with a view to the Roma minority. A sociologist investigation, a qualified estimation of the composition of the population of the Czech Republic by nationalities, will be made before the end of 2001.

Section 29. The employment policy of the Czech Republic, in accordance with European employment policy, is devoted not only to increasing employment in general but also to increasing the employment of groups with high levels of unemployment (which includes the Romany community) and their integration into society. This orientation of the policy is derived from section 1 of Act no. 1/1991 Coll., as subsequently amended:

“A citizen can not be refused the right to employment on the grounds of race, skin colour, sex, sexual orientation, language, faith or religion, political or other conviction, membership or activity in a political party or movement, trade union or other association, national, ethnic or social background, property, family or health status, age, marital and family status or family obligations with the exception of cases that are stated in law or for a relevant reason concerning the prerequisites, requirements and nature of the employment that an individual would have to carry out and which is vital for the performance of this employment”.

The individual measures arise from the National Employment Plan of 1999 and the National Employment Action Plan for 2001 and have both a preventative and a realisation nature. Among the basic measures arising from both national employment plans are:

- 1) in collaboration with the Ministry of Education to include the subject Career Choice in the education programme of elementary schools and the subject Introduction to the World of Work into the education programme of high schools to give a basic orientation within the labour market;
- 2) a framework of measures to favour groups of job seekers that have trouble finding work. These groups, that are associated with long-term unemployment, are offered for a maximum of 12 months of unemployment (6 months in the case of school leavers and the young) a job or a retraining place;
- 3) to include into the draft employment bill the possibility of combining the provision of unemployment support with wages for the performance of limited/ part-time work;
- 4) to include in the draft employment bill the option of arranging employment in the form of allocating temporary or short-term employment to other employers;
- 5) to include in the draft bill on social necessity a mechanism permitting the rewarding of efforts to work in assessing the social necessity of an individual and in setting the level of social benefit;

- 6) to draw up principles in support of the development of housing for the catchment areas of strategic industrial zones where investors are creating a large number of employment opportunities;
- 7) within the framework of conditions for assigning public tenders to evaluate, all other conditions being equal, the entity in terms the proportion of job seekers employed;
- 8) to identify, in selected regions, groups that are at risk of discrimination and to systematically retrain individuals in these groups;
- 9) to expand the socially integrating retraining programmes within the programmes of the active employment policy of the employment offices including the provision of staff to secure their implementation.

A range of measures have been prepared, some are being experimentally implemented on a trial basis and others are being implemented nationwide. It is necessary to appreciate that implementation of all the measures, i.e. creating the same conditions in the labour market, is not simple, has a long-term nature and requires patience for the elimination of discriminatory barriers that the law is unable to affect. One of the deficiencies is, in particular, the communication barrier that exists between the majority and minority community. To overcome this in the application of the above mentioned measures in the area of employment the “Commission of the Minister of Labour and Social Affairs” was established at the Ministry of Labour and Social Affairs and is headed by a Romany advisor. Its influence is gradually being felt not only on the labour market in individual areas but also in co-operation with other ministries and interministerial commissions of the Government Office and employees of these bodies are members of this commission. Among its activities is international co-operation, its members represent the Czech Republic at conferences, seminars and working groups involved in the employment and training on the labour market of members of the Romany community.

In the area of housing there are two significant projects running at the local level. The first of these is **the City of Brno Strategic Plan**, which is a development programme of community housing for members of the Romany community with the objective of improving interethnic relations in society. It is a representative example of co-existence with the Roma at a local level. The European Council significantly cooperated through its Development Bank in the preparatory process and within the curricula of a development programme. In this context the Czech government, by means of decree no. 387/2000, provided a loan guarantee in 2000 amounting to 32.5 million CZK, which the Brno Municipal Council intended to draw from the European Council Development Bank. With regards to negotiations the possibility for the drawing of credit from the European Council Development Bank by the Czech and Moravian Guarantee Bank has opened and the Czech and Moravian Guarantee Bank subsequently provided credit to the Brno Municipal Council. With regards to the role of the intermediary, the Czech and Moravian Guarantee Bank, it was no longer necessary to provide a state guarantee for the loan. The second project concerning housing is the Village of Coexistence in Ostrava – Muglinova. This project concerns the construction of 30 housing units together with a community centre and the necessary infrastructure. A specific grant of 16 500 thousand CZK was provided from the state budget. The target group for the project consists of 30 Romany and non-Romany families from the municipal district of Ostrava. See the commentary to points 60-63 and 66 regarding the question of education.

To secure the complete and actual equality of Romanies with the majority population or other minorities the government approved, in June 2000, the **Concept for Government Policy towards Members of the Romany Community Assisting their Integration into Society (Concept for Romany Integration)**. This sets the objective of integrating the Roma, as a national minority, into Czech society on the basis of mutual respect for traditions, history and language and to achieve in this way the problem free coexistence of the Romany community with the majority population. Sub-objectives include the ensuring of the security of Romanies and the Romany community by means of equality campaigns, the elimination of all forms of discrimination against individuals and whole groups of a specific race, skin colour, ethnic grouping, and language, the elimination of the education and training handicap, the reducing of unemployment, the improvement of the housing situation and subsequently health situation, the provision of support for the integration and establishment of Romany democratic representation, securing the development of Romany culture and language and the creation of a tolerant environment without prejudice towards minorities.

Along with integration assimilation is also covered but this must be the free choice of an individual. The government approved concept for the years 2001 – 2020, which will be regularly updated at the end of each calendar year, is open to continual nationwide debate. Participants to this debate are not only specialists and state officials but also the general public, including the Roma and their civic associations and other organisations.

Following on from the *Concept for Romany Integration* **Government Measures Leading to the Organisation of a Nationwide and Parliamentary Discussion on the Improvement of Relations between the Majority of Society and the Romany Minority** was approved.

Its objective is the achievement of improved relations between the majority of society and the Romany minority. Deficiencies in coexistence, where the opinions of members of the public or state employees are marked by prejudice or generalisations based on partial experiences, both personal and passed on, came to light during the preparation of the concept. A possible remedy to this can be seen in multicultural education and education to promote respect for variety, the continuation of the government anti-racism campaign and the special training of those members of the public administration who come into direct contact with Romanies.

On the basis of government decree no. 34/1999 **Tolerance Project** – a campaign against racism was implemented. It aim was to make the public aware of the harmfulness, inadmissibility and negative impact of all forms of racist and xenophobic behaviour, to declare a disapproving attitude to racist manifestations and to increase racial tolerance.

The campaign was implemented between 2.12.1999 and 30.6.2000 by the Government Office. A significant role in Tolerance Project was played by non-governmental organisations and the public.

The campaign was not only aimed at Czech-Romany interethnic coexistence but at the general attitude of the Czech majority to all minorities and nationalities. With regards to the fact that the final report from the Government Representative for Human Rights gave a positive evaluation to the government anti-racism campaign in 2000, 10 million CZK was earmarked for the Campaign Against Racism (Tolerance Project) in the proposed state budget for 2001. On the basis of government decree no. 147/2001 9.7 million CZK was released for a campaign against racism (Tolerance Project) and 300 thousand was released to co-finance the Project PHARE 2000 “Support for Racial and Ethnic Equality”. A media campaign giving an improved picture

of the Roma in Czech society is also part of the PHARE 99 programme “Improving Relations between the Czech and Romany Community”, which is realised by the non-governmental non-profit organisation Man in Crisis under the supervision of the government Interministerial Commission on the Affairs of the Romany Community. Part of this PHARE programme is the proposal of a multicultural syllabus that would contribute to improving interethnic relations in Czech society.

For the purposes of activities of a regional format, which are not often successful in the selection procedures of large foundations and central bodies of the state administration, funds were allocated in the state budget for 2000 for the Integration of the Romany Community (21 million CZK). The reserved amount was allocated according to material prepared by the Interministerial Commission for the Affairs of the Romany Community e.g. for a programme of socially integrated coexistence, a programme of social education for Romany children, a programme aimed at researching forms of coexistence between the Romany community and the majority population or the programme of support for Romany pupils. Likewise for 2001 the General Treasury section of the state budget again contained an amount for Integration of the Romany Community at a level of 25 million CZK, which, from January 2001, was allocated to similar programmes as in 2000 on the basis of the decisions of the Interministerial Commission for the Affairs of the Romany Community. The enlargement of the office of the Interministerial Commission for the Affairs of the Romany Community to include a further 3 specialist employees can also be considered an equality measure (it now has a staff of 6).

Section 30. Among the Romany advisors and assistants currently employed at the regional offices are 46 Romany women (out of a total of 84). Likewise the government Interministerial Commission for the Affairs of the Romany Community contains 4 Romany women from a total of 12 Romany members. There is a high level of engagement of Romany woman in the activities of Romany and pro-Romany non-governmental non-profit organisations.

Section 31. A proof of the effective application of Act no. 194/1999 Coll., amending Act no. 40/1993 Coll., on the Acquisition of the Citizenship of the Czech Republic is, that there are now no problems, as witnessed by the fact that from the day of the amendment coming into effect up to 31.5.2001 13 038 Slovak citizens have already acquired Czech citizenship by the simplified method (i.e. declaration according to section 18a).

Article 5

Section 32. Support for the cultural activities of national minorities as an expression of identity and tradition is formulated in article 14 of the Cultural Policy of the Czech Republic approved by government decree no. 40 of 10th January 2001. Support is also derived from the grant policy of the Ministry of Culture, formulated in accordance with appendix 1 of government decree no. 260 of 15.3.2000 “the Main Areas of State Grant Policy towards Non-governmental, Non-profit Organisations for 2001 (according to the government policy statement), where support is expressed for the fulfilment of all forms of the national rights of members of national minorities.

The majority of the provisions have already been fulfilled and further improvement is dependent purely on the finances available from the state budget for this area.

Since 1993 the Ministry of Culture has announced an annual selection process for projects in support of the cultural activities of members of national minorities living in the Czech Republic. On the basis of this selection a grant can be provided from the state budget aimed at the cultural

activities of any national minority in the Czech Republic. Grants are provided not only to members of Polish, German, Romany, Slovak, Hungarian, Ukrainian or Greek minorities but also to members of the Croatian, Rusyn, Bulgarian, Jewish, Russian and other communities. Into the category of “others” are included, apart from multiethnic events, for example the activities of members of the southern Slavic nations.

In 1999 the Ministry of Culture provided, on the basis of a selection procedure, grants from the state budget to civic associations of members of national minorities and their cultural activities a total of around 9 million CZK, over 9.6 million in 2000 and for 2001 the state budget has approved an amount on a par with that for 1999. Further state grants of around 8 million CZK are provided, for example, to projects or festivals through the Council of the State Fund for the Support and Development of Cinematography and individual departments of the Ministry of Culture.

In 2001 state grants will also be provided for the activities of the Vietnamese community. The Rusyn community is organising their world congress in the Czech Republic in the autumn of 2001 and a grant will be provided from the state budget for the accompanying cultural events.

Further to the approved Act on the Rights of Members of National Minorities (section 12 – the right of members of national minorities to develop their culture) a government decree is currently being prepared on the provision of grants to programmes targeting, in particular, theatres, museums, galleries, documentary activities and other activities of members of national minorities, including members of the numerically smaller minorities that have not been represented on the Council for National Minorities so far.

Section 33. See commentary on Section 29.

Section 34. See commentary on Sections 29. and 38.

Article 6

Section 36. Public awareness of the history, culture and traditions of national minorities features high on the agenda of the Government Council for National Minorities which acts as a clearing house for proposals made by representatives of national minorities. These proposals concern mainly work with the young generation, improving its knowledge of the culture and history of national minorities in the Czech Republic. It is to be noted that these efforts involve national minorities as such, without singling out the Roma community.

As a part of its policy to encourage positive attitude to different minorities, nations, religions and cultures, the Ministry of Education, Youth and Sports issued the *Methodical Instruction on education against manifestations of racism, xenophobia and intolerance* (1999). The instruction requires, *inter alia*, that the National Programme for Development of Education in the Czech Republic should provide for information on all ethnic groups which have lived in the Czech territory, and information on human rights, to be included in primary and secondary school curricula.

Detailed guidance on these subjects should be available before 31 December 2000. In addition, the Ministry has decided to include these subjects in the secondary school-leaving examination.

In this area, the Education Minister is assisted by his Advisory Group on Minority Education, comprising representatives of minorities living in the Czech Republic, government authorities, civic initiatives (e.g. Association of Municipalities with Refugee Facilities) and a representative of the Jewish community. Special facilities available for multicultural education at primary and secondary schools include seminars and textbooks highlighting historical phenomena and contemporary problems. Other relevant textbooks must take due account of the existence of national and ethnic minorities (textbooks are reviewed, inter alia, by experts from the Museum of Roma Culture and the Jewish Museum). For additional particulars, see commentary on Section 60.

Section 37. See commentary on Sections 53. and 54.

Section 38. In efforts to create better conditions for dialog among the different cultures national minorities and the majority population the Council of Czech Radio initiated in April 2001 the formation of an advisory body to the Programme Director of Czech Radio for national broadcasts. Members of this body are representatives of the following minorities: Bulgarian, Hungarian, German, Polish, Romany, Russian, Greek, Slovak, Ukrainian, Vietnamese and Jewish. Representatives of national minorities welcomed this measure and the creation of a similar body is anticipated at Czech Television. Representatives of national minorities can therefore participate in the conceptual aims and realisation of programme composition of broadcasts over the public media and so contribute to the balanced content of the programmes.

For the purpose of preventing the spread of negative stereotypes over the mass media the *Media Working Group* was established on the basis of government decree no. 994/2000 and in co-operation with the Interministerial Commissions for the Affairs of Romany Community and the Government Council for Human Rights. Invited into this group were certain members of the commission from the state administration, Romany members of the commission, independent experts as well as representatives from the public media and a representative of the Syndicate of Journalists. The group can assess, at the request of a member of the public or a legal entity, the ethnic level of a media or journalistically treated theme concerning the Roma, members of other minorities and foreigners as well as interethnic relations.

Consumer protection is derived from the Charter of Fundamental Rights and Freedoms. Concrete regulation is then contained in section 6 of law no. 634/1992 Sb, on the protection of the consumer:

“The seller when selling goods or providing a service must not act in contravention of good manners and in particular must in no way discriminate against a consumer”.

Certain protection is also afforded to the aggrieved consumer by the Civil Code (Act no. 40/1964 Coll.).

For the breach of the obligations stated in section 6 of the law on consumer protection (if the operator commits an act of discrimination) the regulatory body can apply a fine of up to 1 000 000 CZK. In fixing the level of the fine the nature of the illegal behaviour and the extent of its consequences are taken into consideration. Repeated breaches of the obligations during the course of a year can be punished by a fine of up to 2 000 000 CZK. Supervision of the protection of consumers against discrimination is carried out by the Czech Trading Standards Inspectorate (section 23 of the law on consumer protection). For the situation in the area of employment and housing see commentary on Section 29.

Section 39. According to the Government Report on Extremism on the Territory of the Czech Republic in 1999, the number of supporters of extremist movements marked a decline in the 1998-1999 period, and not a slight increase as stated by the Advisory Committee in Section 39. of its opinion. An increase was recorded as late as in the 1999-2000 period.

Section 40. In comparison with 1999 there was a 15% increase in crime with an extremist context in 2000, these were both crimes against a specific aggrieved party (including verbal attacks) and the propagation of racist and fascist movements aimed at suppressing the rights and freedoms of members of the population. At the instruction of the Chief of Police measures were effected to achieve greater co-operation between members of the criminal police concerned with extremism and the Romany advisors of the district authorities. Co-operation is likewise targeted at the prompt reporting of crimes aimed in particular at Romany members of the population.

Heightened attention in the Czech Republic is devoted to the prevention of the occurrence of these crimes and their detection. The detection, documentation and conviction of those who commit crimes with an extremist context is the job of a special branch of the criminal police at the level of the police presidium (Criminal Office), the regional directorship and the district (municipal) headquarters. Every crime with a racist or extremist motive, where the offender is unknown, is investigated as a so-called monitored case, which means that it receives the maximum degree of attention.

The measures taken in the area of training by the Ministry of the Interior serve the purpose of overcoming the “lack of trust prevailing between the police and members of minorities”. In eliminating racist tendencies within the police and in their training an important role is played by the Czech Police Academy, which has included greater emphasis in its education and training activities to themes such as the integration of the Roma and other national minorities into society, the elimination of racial discrimination and manifestations of racial hatred and their effective prosecution. Information from the pedagogical process indicates that over the past few years there has been a positive change in the views of students. There are no apparent displays of racial prejudice and on the contrary they have an increased appreciation for active engagement in the programmes for integrating the Romany and other minorities into society. At the Police High School of the Ministry of the Interior in Prague a so-called “Anti-racism Program” is already in its second year (approx. 40 teaching hours) and in collaboration with the Czech Helsinki Committee the “Neighbours” project has been implemented with the aim developing tolerance towards members of other national minorities. In collaboration with the Dutch Helsinki Committee and the LSOP (Dutch National Police Selection and Training Institute) the Professional Information and Documentation Centre for Education in Human Rights is being established.

The Ministry of the Interior, in co-operation with Great Britain, is organising seminars on the theme “Police Work in the Area of the Protection of National Minorities”. It is a three-day practical seminar (in the form of a workshop), which will be led by British lecturers and is targeted at Czech police officers, lecturers at police schools and members of national minorities. The aim is to pass on the British experience of work in an ethnically diverse society, to evaluate the significance of this experience for the situation in the Czech Republic, to develop ideas of a global approach to diverse cultures and racism and to find a way to achieve mutual understanding and the elimination of prejudice. In November 2000 the first pilot seminar took place, a further four took place in March and May of 2001 and a further two are planned for November of this year. These seminars are linked to the second part of the project targeted at

politicians, top management in the state administration and representatives of non-state non-profit organisations.

Supervision of the work of the Czech Police is aided by the option of submitting a complaint against their activity or inactivity. Members of the public can turn to the Inspection of the Ministry of the Interior, which within the framework of its activities (section 2 paragraph 4 of Act no. 283/1991 Coll.,) investigates crimes committed by police officers (including those that are racially motivated) and in this sense fulfils the function of a police body. A further option for appeal is the Department for Monitoring and Complaints of the Czech Police, which is the monitoring section of the police with universal effect. It is concerned with the specialised internal monitoring of the performance of duty, dealing with petitions, complaints, announcements and other submissions directed at members or departments of the Czech Police. Last but not least it is possible to turn direct to the state prosecutor. The Ministry of the Interior considers claim of the Advisory Committee in Section 40 that the lack of trust “also reflects the negative attitude of many police officers,..... towards these minorities, which in its extreme and most disturbing form allegedly leads to the abuse of minorities by individual police officers” unfounded.

Section 41. Since 2000, the Interior Ministry Police College in Brno has provided two types of courses designed for members of national minorities. The one-month introductory course for ***“Preparation of members of national minorities for service with the Czech Republic Police”*** is designed for candidates seeking employment with the police. The course should improve their qualifications and help them pass the police selection tests. To date, the course has been offered four times. Out of the total of 66 students enrolled, 18 were selected for service with the police force (Romans, Poles). The course is co-funded by the United Kingdom.

As a follow-up to this introductory course, successful recruits are offered the five-month ***“Preparatory course for members of national minorities”*** designed for in-service training of policemen who have not completed secondary education. The course should steer them towards an extensive two-year academic programme during which they will attain secondary education, develop basic professional skills and become properly qualified police officers. This in-service course includes instruction on national minorities and minority languages. To date, the course has been offered two times and the graduates now attend the Police College in Brno.

Section 43. From the report of the Ministry of Justice on the number and composition of individuals convicted for crimes with an extremist context for 2000 it follows that in the period from 1.1.2000 to 31.12.2000 a total of 148 individuals were legally convicted for a crime motivated by racial hatred. This represents 0.2% of the total number of 62,082 legally convicted individuals (in 1999 166 individuals were convicted for racially motivated crimes). The most common punishment used in these cases was a suspended prison sentence. From the point of view of the speed and smoothness of dealing with racially motivated crime it can be stated that this is systematically monitored both by the Ministry of Justice and by the presiding judges within the framework of their supervisory authority.

Unjustified delays in dealing with this type of crime are practically unknown.

The instruction from the Minister of Justice to the presiding judges, that in legally completed cases they examine the legality of the verdict and in justified cases initiate a complaint regarding the breach of the law, will continue to apply. During the assessed period the Minister of the

Interior submitted one such complaint in relation to this type of crime to the detriment of the convicted individual and another has been drafted for submission.

For the purpose of further improving the prosecution of racially motivated crime the Minister of Justice and the Government Representative for Human Rights organised seminars for selected judges and prosecutors in accordance with the Concept for Government Policy towards Members of the Romany Community assisting their integration into society.

Within the structure of the Ministry of the Interior is the **Working Group** of the Interdepartmental Commission for the Affairs of the Romany Community created for the area of competence of the interior department and the Czech Police. The chairman of the working group is the Deputy Interior Minister for Public Order and Security. The Working Group deals with the questions of the security of the Roma, racially motivated crime, the position of the Romany coordinator in the higher self-governing territorial units and other frequently discussed themes. At the last meeting (June 2001) the problem of the non-admittance of Romanies into restaurants and similar establishments was discussed. Those present discussed the options for the victim to appeal and the prosecution of those guilty of discriminatory behaviour. See the commentary to point no. 38. Employees of the Criminal Investigation Department of the Police Presidium are also regularly invited to the meetings. Representatives of the Working Group provide information on the security situation in the individual regions and any possible deficiencies, which are subsequently dealt with by members of the Criminal Investigation Department.

The Ministry of the Interior undertakes preventative measures against racially motivated crime as part of the *“Programme of Crime Prevention at a Local Level”*. It supports projects whose aim is to overcome prejudice, to limit xenophobia, to increase tolerance on the side of the majority and to emancipate and educate the Romany minority and help them to find their place in society. The final objective is trouble free coexistence in the locality and the limitation of the committing of racially motivated crime. These projects are rather directed at potential offenders, individuals that have not yet offended or who commit minor infringements or other pathological activities and not at pronounced members of extremist organisations or active sympathisers of these organisations. Incorporated into the “Programme of Crime Prevention at a Local Level” are the towns with the highest incidence of crime in combination with other social ailments such as unemployment, poverty and extremist manifestations. In 2001 84 towns were incorporated into this system. According to a classification of risk in the individual areas from the perspective of the occurrence of extremist crime (source: the Report on the Problem of Extremism in the Czech Republic 1999) preventative activities are in place in the first two risk bands. This represents 63 towns or 75% of all the towns engaged in the “Programme of Crime Prevention at a Local Level”.

Section 45. For the purpose of improving relations between the local authorities and the Romany community advisory boards for the integration of the Romany community were set up in all the districts (78). The statutory cities of Prague and Brno created their own strategy of multicultural and interethnic relations with special regard to the standing of the Romany community. The activities of these bodies are directed at the creation of the conditions for a tolerant multicultural environment at the local authority level and this is in particular with regards to marginalised groups.

Section 46. The case of the wall on Matiční Street ended with its removal on 24th November 1999. Before that, however, the Deputy Premier and the Minister of Finance approved the release of funds from the state budget reserve as an extraordinary advance for a targeted non-

investment grant amounting to 10 million CZK. The funds were provided to the Neštěmice quarter of Ústí nad Labem to cover the expenses associated with solving the issues surrounding coexistence on Matiční Street. After mutual discussions, however, a proportion of the funds were used for the purchase of three houses from old residents and the remainder was used for the renovation of social housing and three projects aimed at supporting free time activities, the renewal of a ground for teaching road safety and health education programs. Beyond that, the Government Interministerial Commission for the Affairs of the Romany Community is working closely with community workers in Ústí nad Labem where together with the non-governmental non-profit organisation Man in Crisis, the Ministry of the Interior, and the UNHCR measures are being supported for example to limit the influence of Romany usurers in the local Romany community.

In connection with the Matiční Street case the Constitutional Court of the Czech Republic issued two fundamental decisions. In the first the plenum of the Constitutional Court decided on the proposal of the town council of Ústí nad Labem and the Neštěmice district of Ústí nad Labem for the repealing of the provisions of section 62 and 62a of Act no. 367/1990 Coll., on Municipalities as subsequently amended such as to annul the provisions on reviewing the independent operation of municipalities by the Czech National Council (the Chamber of Deputies). The constitutionality and legality of independent performance of local authorities is guaranteed based on the Constitution of the Czech Republic and the Act on the Constitutional Court (182/1993 Sb.) by the Constitutional Court. By means of the second finding US 559/99 of 12th April, which came into effect on 19th April 2000 the tribunal of the Constitutional Court decided to repeal the part of the provisions of the Chamber of Deputies as of 13th October 2000 no. 457 part II, by which was repealed the resolution of the district authority Ústí nad Labem-Neštěmice of 15.9.1998 no. Z/69/98 regarding building modifications on Matiční Street. According to present Act no. 128/2000 Coll., on Municipalities, the independent operation of municipalities is reviewed either by the Constitutional Court or by the Regional Court.

Section 47. An effective system for appealing against treatment by the local, district, regional or central authorities is given in Act no. 128/2000 Coll., on local institutions, (sections 123-129), law no. 147/2000 Sb. on district authorities (sections 31-32), law no. 129/2000 Sb. on the regions (sections 81-91), Act no. 131/2000 on the City of Prague (sections 106-117) and Act no. 71/1967 Coll., on the administrative code (section 61). An individual or legal entity, if they claim that their basic human rights or freedoms have been breached, are able, on the basis of Act no. 182/1993 Coll., on the Constitutional Court and after fulfilling the legal conditions, to lodge a complaint against a legally binding ruling, measure or other action of a public authority. They can similarly lodge a constitutional complaint against the illegal intervention of the state into the rights of the local self-governing councils of the districts or regions. Compensation in the event of damage caused by the state administration or local government can be sought under the conditions given by law no. 82/1998 Coll., on responsibility for damage cause by the public authorities. The provisions of section 14 of the law on the rights of members of ethnic minorities and on the amendment of certain laws provide a new measure (see also the commentary to Section 17.) for the exercising of the principles of the equal treatment of individuals without regard to their racial or ethnic origin.

Section 48. The prevention of religious intolerance is covered by the regulations in Act no. 200/1990 Coll., on offences (section 32) which permit the levying of a fine in the event of a breach of a generally binding legal regulation in matters concerning the church and religious communities. See also the commentary to Section 20.

Section 49. The situation is addressed by the government proposed bill on religious freedom and the status of church and religious communities and on the amendment of certain laws (the law on church and religious communities), which is currently being debated in the Czech Parliament. The draft bill states that the proposal to register a church or religious community in the Czech Republic must contain the original signatures of 300 adult citizens of the Czech Republic or foreigners with permanent residence in the Czech Republic (in accordance with Act no. 85/1990 Coll., on the Right of Petition as subsequently amended) declaring support for the church or religious community in question.

Article 9

Sections 53. and 54. The current effectiveness of the public media (Czech Radio and Czech Television) in relation to national minorities has in years 1999-2000 repeatedly been the subject of attention of the Council for National Minorities, at the instigation of representatives of national minorities. The lately taken measure at Czech Radio is the establishment of an advisory group to the Programme Director of Czech Radio for national broadcasting (see commentary on Section 38) that should improve the situation in this area. A similar measure has also been prepared for implementation at Czech Television. As an ad hoc solution the Ministry of Culture and the government Interministerial Commission for the Affairs of the Romany Community approved the broadcast of the television series Amare Roma, which used a unique method to give the majority an insight into the life of the Roma and Romany personalities.

Broadcasters have the right, guaranteed by law, to freely and independently broadcast their programmes and it is only possible to intervene in these broadcasts (including those of Czech Television and Czech Radio) on the basis of the law and within its limits. Czech Authorities are therefore unable to affect the programme content and composition of television and radio broadcasters and are unable to influence, specifically stipulate or order Czech Radio or Czech Television to devote a greater time to broadcasts for minorities. Czech Television is nevertheless obliged to act in accordance with law no. 483/1991 Coll., on Czech Television as subsequently amended (in particular by law no. 39/2001 Coll.), which states that among the main tasks of Czech Television is the creation and transmission of programmes and the provision of a balanced selection of programmes to all sections of the population with regard, among other things, to their ethnic or national background and national identity and the development of the cultural identity of the population of the Czech Republic including members of national and ethnic minorities. In setting these priorities the lawgivers did not name only the Romany minority but bound Czech Television to fulfil these tasks in relation to all the national and ethnic minorities. A similar legal arrangement is currently being prepared in the form of an amendment to the existing law on Czech Radio.

Act no. 231/2001 Coll., on the operation of radio and television broadcasting also states that a broadcaster from the law (Czech Television and Czech Radio) is obliged to compose the programmes in such a way as to provide a balanced output for all members of the population regardless of their national or ethnic origin or membership of a minority. It is not, however, possible to set an obligatory amount of time to be devoted to minority broadcasts in the laws on Czech Television or Czech Radio. The administrative body supervising the observance of legislation regulating radio and television broadcasting and thus also the composition of programmes is the Council for Radio and Television Broadcasting.

Following on from the approved Act on the Rights of Members of National Minorities (section 13 – the right to disseminate and receive information in the languages of national minorities) a

government decree is currently being prepared on the provision of a grant from the state budget for the publishing of periodical and non- periodical printed matter in the languages of the national minorities as well as radio and television broadcasts in the languages of the national minorities.

This will also be for members of relatively small minorities that are not represented on the Government Council for National Minorities.

Article 10

Section 55. and 56. The right of national and ethnic minorities to use their language in official communication is established at the constitutional level in article 25 paragraph 2 letter b) of the Charter of Fundamental Rights and Freedoms. In the legal order this right is further specified in the non-criminal area, particularly in sections 18 and 141 paragraph 2 of the Civil Procedure Code. According to these provisions every party to official proceedings has the right to use their mother tongue and parties for which Czech is not their mother tongue can have a court interpreter appointed as soon as such a need becomes obvious during proceedings (therefore not only at the instigation of the party in question). The expenses associated with allowing a party to use his/her mother tongue are borne by the state.

A specific regulation of the right to use one's mother tongue is also embedded in section 69 of Act no. 358/1992 Coll., on Notaries and Their Activities (the Notary Code), according to which if a party does not understand the language in which the notary records are being made then the presence of an interpreter is necessary. A similar arrangement is also contained in section 85 of Act no. 120/2001 Coll., on legal executors and executory work (the Executory Code), for the taking of executory records.

The right to use a mother tongue in criminal proceedings is secured by section 2 paragraph 14 of the Criminal code, which states that everyone has the right to use their mother tongue before bodies active in criminal proceedings. This principle is then set out in more detail in section 28 on the acceptance of an interpreter. According to the government draft amendment of the criminal code, which is currently being debated in the Senate, the stated principle should be modified so that more precise conditions will be stated under which a specific individual has the right to use a language other than Czech in criminal proceedings. (Anyone who announces that they do not have a mastery of Czech has the right to use his/her native language, or another language that he/she has a mastery of, before bodies active in criminal proceedings).

Specific measures arising from the government draft Act on Proceedings before Administrative Authorities (the Administrative Procedure Code) and the Act on the Rights of Members of National Minorities, which regulates the constitutional right to use the language of an national minority in official communication in section 9.

Section 57. The facility of providing a convicted individual with written material in the language of the relevant minority does not appear realistic in connection with an analysis of legal regulations and the possible measures within the framework of the preparation of the ratification process of the European Charter for Regional or Minority Languages. With regards to the issue of Romany interpreters the government Interministerial Commission for the Affairs of the Romany Community states that in the last two years there has not been a single request for the use of a Romany interpreter during court proceedings.

Article 11

Section 58. The surname is always entered into the register in a form corresponding to the rules of Czech grammar and next to this it is possible to enter a female surname in the form without the suffix. An individual member of a national minority can then choose which form she will use.

Section 59. As compared to the earlier adopted legal regulation, the new Act on the Rights of Members of National Minorities provides for more favourable conditions for the exercise of the right to multilingual signs and inscriptions: these may now be displayed in individual municipalities in the language of the minority for which at least 10 per cent of the municipality population opted in the latest census and provided at least 40 per cent of the adult population of such municipality opting for this minority applies for them.

Article 12

Section 60. The issue of multicultural education, with particular regards to the culture, history and language of national minorities, is the subject of a range of discussions at the meetings of the Government Council for National Minorities. With regards to the recent development of legislation on 14th March 2001 the Czech government approved the Act on pre-school, elementary school, high school, higher professional and various other forms of education and on the amendment of certain laws. This draft Act does not contain any provisions of a discriminatory nature and is in compliance with the international treaties to which the Czech Republic is bound. The draft Act was returned by parliamentary decree for completion and it is anticipated that it will be re-submitted to parliament in the autumn of 2001. The draft law is founded on the principles of education on the basis equal access to education for all members of the Czech population, mutual respect, tolerance of beliefs, solidarity and defence against manifestations of discrimination and intolerance.

The mentioned draft Act also newly addresses those participants in education who require a special approach such as to fulfil article 23 of the Convention on the Rights of the Child with regards to the right of an individual with a handicap or who is socially disadvantaged to receive special care, education and professional training so that he/she can lead a full and dignified life and achieve the highest possible level of independence, the highest possible level of education and social integration. Further in accordance with article 25 of the Charter of Fundamental Rights and Freedoms members of national and ethnic minorities are guaranteed education in their mother tongue and the obligation of the state administration to fulfil this right is stated. In the case of independent classes or schools the law states under what conditions this right is fulfilled. The draft Act also states that the number of pupils and students in classes, study groups or schools for national minorities is significantly less than the average stated for the majority population; the Ministry of Education, Youth and Sports can allow exceptions from the stated number of children, pupils or students. A new option is proposed for the support of the interests of members of national minorities that enables the school director, with the approval of the founder, to state, within the framework of the school programme, the subjects or partial subjects for which it is possible to organise bilingual classes. It is further stated that certificates, reports and diplomas, for school leavers from schools where lessons are taken in the language of a national minority, are to be issued in two languages, i.e. Czech and the language of the national minority in question.

The law newly sets out further matters for the benefit of pupils and provides assistance to those who, for various reasons, require it e.g. it establishes in legislation the institute “preparatory classes for elementary schools” with the possibility of establishing the post of assistant teacher. Access to high school education, limited only by the completion of the obligatory school attendance, is preserved after the forthcoming amendment of the existing education law. The rights of members of ethnic minorities are respected when completing high school education, as there is the option of sitting a maturity exam in the language and literature of the national minority in question etc.

Incorporated into the law is a universal ban on any form of discrimination in education and the obligation is placed on schools and education establishments to ensure the safety of children, pupils and students and the protection of their health, to create measures for the protection of individuals who during their education may be the subject of threats or acts of discrimination, antagonism or violence as a result of their ethnic, cultural, language or religious identity and also protect pupils against socially pathological effects.

A significant shift with regards to respecting the rights of Romany children is represented by the approach of schools to using the Romany language in communication with Romany children, in access to information on Romany culture, history and language. This information is included in the curricula (civic education, history, literature and music). With the support of the Ministry of Education, Youth and Sports the periodical Kereka (circle) is distributed to schools with information on the life of the Romany community. The Ministry of Education, Youth and Sports also distributed a book on Romany culture and history to schools. Selected schools are also sent the Romany periodicals Romano kurko, Amaro gendalos and Romano hangos. Regarding the standing of the numerically small minorities see commentary to Section 36.

In a further effort to support multicultural education the Ministry of Education, Youth and Sports recommended that schools include in their lessons information on minorities and education aimed at tolerance and to modify the education programmes on multiculturalism. In the area of the further training of teachers a training system has been created that allows up to date information on the issue of the national and ethnic communities living in the Czech Republic to be passed on to teachers. At certain teacher training schools a programme of Romany studies is being gradually introduced into the lesson plans. The Ministry of Education, Youth and Sports also provides financial grants to programmes targeting the free time of children and the young, into the area of summer camps and the fostering of tolerance. Significant financial support is directed towards Romany and pro-Romany civic associations.

Section 61. The principle of the ban on discrimination, in connection with the provisions of the appropriate articles of the Charter of Fundamental Rights and Freedoms, which guarantees the fundamental rights and freedoms of everyone without regard to sex, skin colour and membership of a national or ethnic community etc. (articles 2 and 3 of the Charter) and other documents, is respected in the universally binding legal regulations in the area of education, in particular in the main laws regulating the individual areas of education.:

- in the area of so-called regional education this relates to Act no. 29/1984 Coll.,
- on the system of elementary schools, high schools and commercial colleges (the education law) as subsequently amended, law no. 564/1990 Coll.,

- on the state administration and self-governance in education as subsequently amended and
- Act no. 76/1978 Coll., on education facilities.

Also law no. 111/1998 Coll., on higher education and on the amendment and supplementing of other laws, respects democratic principles, in particular with regards to access to higher education. Apart from this the provisions of article 10 of the Czech Constitution states the direct binding nature and validity above the law in the case of international agreements on human rights and fundamental freedoms, to which the Czech Republic is bound, and secures the conformance of internal laws with the provisions of these documents.

The special characteristics of the education of the children of members of the Romany community arises from the identification of certain factors that have a fundamental significance in the search for approaches and forms of educational work with these children. It is in particular the language handicap on starting elementary school that forms one of the major barriers to their future education but it is by no means the only one. Apart from the language barrier there is the difference in the dynamics of personal development, differences in the hierarchy of values and the social and cultural feelings of Romany families, which is reflected in their overall relationship to education.

An often raised criticised of the education system is that the majority of Romany children are educated at remedial schools so far. It must be remembered that for many Romany children education at remedial schools was more suitable as lessons took place in smaller class sizes and the subject matter was covered at a slower tempo. The cost of educating pupils at these schools is, however, greater than that of educating pupils at standard elementary schools. They are essentially schools of an above standard type that are intended for children with specific learning needs. From the remedial schools pupils are accepted into two-year apprenticeship fields and practical schools. A criticised deficiency in school leavers from the above mention type of school was that they were disadvantaged in the job market and prior to the amendment to the education Act no. 19/2000 Coll., also access to high school education. These schools were originally founded on the basis of the now defunct Act no. 95/1948 Coll, on the Basic Arrangement of a Unified Education System (the Education Act), which was passed in 1948, a time when there were only a minimum number of Roma in Czech lands. In accordance with the valid legal arrangement – Act no. 29/1984 Coll., on the system of elementary and high schools as subsequently amended and implementation decree no. 127/1997 Coll., on special schools and special nursery schools, the classification of pupils into these schools takes place at the proposal of schools or parents and always with their explicit written approval. A condition is thorough investigation in an educational-psychological counselling centre using objective tests (the tests were recodified in order to facilitate the situation of children coming from a different cultural and social environment beginning their school attendance.) Primarily, however, the government draft education bill abolishes the institute “remedial schools”. This is not just a technical change. The government draft Act on Pre-school, Elementary school, High school, College and Certain Other Types of Education and on the Amendment of Certain Other Laws (the Education Act) states conditions for remedial education programmes, forms and methods that correspond to the needs of children and pupils with health disadvantages or from a socially disadvantageous background and creates for them the necessary conditions that this education facilitates. As it was stated above, it is anticipated that the draft Act it will be re-submitted to parliament in the autumn of 2001.

Section 62. The problem does not rest in the very existence of remedial schools but in the fact that many Roma children are, for objective reasons, unable to cope with the demands put in ordinary elementary schools. The Roma pupils are in fact handicapped by the social and cultural environment they come from, they do not have proper conditions for due preparation for classes and their parents, usually, do not help them with their exercises. These schools ensure that Romany children gain at least the level of education that these schools provide. The integration of Roma pupils into ordinary elementary schools alone, without any further assistance, will not solve the problem of their educational backwardness.

After discussion with Romany representatives, the Ministry of Education, Youth and Sports adopted these measures. Schools were offered “**An Alternative Remedial School Education Programme for Pupils of Romany Ethnic Origin**” (see **Ministry of Education ref. No. 35 252/97-24**), which expanded the curriculum of remedial schools to include the missing elements of Romany studies and is aimed at the practical activities of pupils. To secure the smooth transition of successful pupils from remedial schools to elementary schools all the education authorities in the Czech Republic were sent **letter ref. No. 10 433/99-24 in which the schools were recommended** that when including new six year old pupils of Romany origin into remedial schools they should proceed prudently with the emphasis on specificity, in particular in the area of the tests of school maturity. It was recommended that only those children from the Romany community who have a proven mental disability should be included in remedial schools and to allow the parents of exceptionally successful pupils at remedial schools with excellent marks (average of 1 to 1.5) to request a re-diagnosis of their children for a transfer to elementary school conditional on the performance of classification tests according to section 13 paragraph 1 letter a) of Ministry of Education, Youth and Sports Decree no. 127/1997 Coll., on Special schools and special nursery schools. Apart from this a methodological instruction has been issued on the transfer of successful pupils from remedial schools to elementary schools (Ref. no. 28 498/99-24).

On the basis of the amended Education Act no. 29/1984 Coll., article 19, paragraph 1 Coll., on the system of elementary schools, high schools and colleges it is stated the entry to high school is not only open to pupils who have successfully completed elementary school and achieved an elementary education but also to pupils and other applicants (e.g. remedial school leavers) who have fulfilled the obligatory school attendance even though they may not have achieved an elementary education. On the basis of this amendment pupils who have successfully completed the ninth year of remedial school can be preferentially accepted into a vocational education establishment or practical school for a one or two-year training period.

A significant means for supporting the education of Romanies are the special education programmes that are organised by elementary and high schools with the aim of gaining an elementary education. These are intended for individuals who, for reasons of poor grades, repeated certain years and subsequently left school after the obligatory ninth year without completing the 9th grade.

The courses are also intended for remedial school leavers to allow them to complete the elementary education offered by elementary schools. Into elementary school programmes is also included, for example, the non-obligatory subject CAREER CHOICE. The subject is conceived in accordance with “measures in support of the employment of individuals difficult to place of the labour market (with regards to members of the Romany community)”, which the government approved by means of Decree no. 640/1999.

Other measures that support the education of the Romany population include

- .the arrangement of cultural material and education programmes at elementary schools and high schools such that they better suit the needs of Romany children;
- .the system for training teachers and other staff (educational consultants, educational psychologists and tutors etc.)
- .or the revision of the curricula for the majority population with the aim of increasing their knowledge of the Romany population and the elimination of prejudice with the co-operation of Romany advisors,
- .the securing of the interests of Romany pupils regarding study and the preparation of a variant of education that assists Romanies in gaining a high school and university education.

Section 63. In the interest of preventing the educational lack of success of children from a disadvantageous social and cultural background (in particular Romany children) the use of preparatory classes at elementary and remedial schools was tried experimentally according to section 58 letter a) of the Education Act. The objective of the preparatory classes is to systematically prepare children for their trouble free inclusion into the education system in the 1st class of elementary school. Activities in the preparatory year are directed mainly at overcoming the language handicap of Romany pupils, as they are not, as a rule, sufficiently prepared in this respect within the family to enable them to enter the first year of elementary school. This often results in them being included in remedial schools. **Romany pedagogical assistants** participate in the social and language training of the children. **The preparatory classes remain an education priority, particularly in localities with a large Romany population.** By the 1st April 2000 114 preparatory classes were functioning with 1425 children. Additional systematic measure of the Ministry of Education, Youth and Sports is recruitment of Romany assistants, who were originally recruited at the instigation of civic initiatives. Contemporary there have been 214 Romany assistants working in schools (nursery, elementary and remedial). Financial resources to pay the wages of the Romany pedagogical assistants are earmarked and released by the Ministry of Education, Youth and Sports at the request of a school. For the assistants qualification prerequisites and pay classification is stated according to the level of education achieved. An assistant must complete a 10 day course providing the basic minimum pedagogical knowledge and they can continue studies as a system of further training has been established and their training is also currently taking place within the framework of the PHARE 99 programme. With regards to high school study see commentary to Section 62.

Article 14

Section 66. Representatives of the German minority consider the option of education in the mother tongue for members of the German community to be unworkable in practice, as it is not possible to fill a minority school or class with the required number of pupils. This situation is caused by the scattered settlement of Germans throughout the country. The government draft education bill therefore offers a new measure, the possibility of bilingual schools in which one of the teaching languages will be the language of the appropriate minority. This law should come into effect in 2002.

At the current time lessons in the Romany language appear impractical, as Romany has not yet been uniformly codified. The partial codification of Romany, in which Romany magazines and

books are published in the Czech Republic, is currently insufficient to support the establishment of an independent Romany education system. See also commentary to Sections 60., 62. and 63.

Article 15

Section 67. The opinion of the Advisory Committee does not exactly express the current situation (see Section 44. of its opinion). The establishment of committees for national minorities is facilitated by section 117 of Act no. 128/2000 Coll., on the municipalities, section 78 of Act no. 129/2000 Coll., on the regions and section 78 of Act no. 131/2000 Coll., on the City of Prague. More favourable conditions for the establishment of these committees is set by the law on the rights of members of ethnic minorities and on the amendment of certain laws, including the provision that members of national minorities must form at least half the membership of a committee. On the basis of the law the Government Council for National Minorities is newly established at the central level, which is headed by a member of the government and whose membership is at least 50% composed of representatives of national minorities proposed by associations of members of ethnic minorities. The council, whose standing is significantly strengthened, is an advisory, initiation and co-ordination body of the government with influence on the allocation of funds drawn from the state budget in support of the activities of members of national minorities.

Sections 68 and 69. The provisions of section 6 of the Act on the Rights of Members of National Minorities sets out the new competence of the Government Council for National Minorities and gave them the task of submitting to the government a new statute from which will be taken the method for appointing members to the council, their new duties, the status of the secretariat of the council and the personal and other resources etc. Since 1997 the Interministerial Commission for the Affairs of the Romany Community has been in operation, which is an advisory, initiation and co-ordination body of the government for issues relating to the standing of the Roma in Czech society. Its membership consists of representatives of the central bodies of the state administration and members of the Romany community (14+12 members).

The Interdepartmental Committee, for example, participates with the Ministry of Labour and Social Affairs in the methodical leadership of the Romany advisors at the district offices. To the effectiveness of the Interministerial Commission for the Affairs of the Romany Community contributes recruitment of 3 other specialist employees to its office (it now has a staff of 6).

Section 70. The automatic representation of national minorities in the Czech Parliament is not permitted by the legal system. Even though there is only one Romany Member of Parliament, representatives of individual national minorities work closely with the Subcommittee for Minorities of the Petition Committee of the Chamber of Deputies. It is, however, possible to anticipate that, in accordance with section 47 of Act no. 90/1995 Coll., on the Procedural Code of the Chamber of Deputies as subsequently amended, a permanent commission of the Chamber of Deputies for national minorities could be set up (probably after the parliamentary elections in 2002) with a membership made up of both Members of Parliament and representatives of national minorities. In the legislative process, regarding the preparation of the Act on the Rights of Members of National Minorities, the opinion has prevailed that an effective method for securing the participation of representatives of national minorities in the solution of matters concerning national minorities is the establishment of committees for national minorities at the municipal and regional level and for the City of Prague. So far such committees have been set up in the cities of Brno, Liberec and Prague, in four regions (South Moravian region, the Ústí

nad Labem region, the Moravia-Silesia region and the Liberec region) and 32 municipalities and towns.

Section 71. Of key importance are measures arising from the Concept of Government Policy towards Members of the Romany Community assisting their integration into society. The objective is to create the conditions for the emancipation of the Romany minority in all areas of life whilst preserving the specific identity of the Roma. Integration in this case is taken to be a social process with the aim of creating civic coexistence whilst, to the maximum possible degree, preserving Roma culture and their values with regards to their private life. Also see commentary to Sections 25., 29., 32., 36., 38., 53., 54., 60.- 63. and 66.

IV. Commentary on the final comments

Section 78. See for example commentary on Sections 17., 20., 28., 32., 36., 53., 54., 55., 60.- 63., 66. and 67.-70.

Section 79. See commentary on Sections 29., 32., 36., 38., 39., 40., 41., 43., 45., 46., 47., 48., 49., 53. and 54.

Section 81. The acceptance of the Act on the Rights of Members of National Minorities changes the situation in that the law sets out the authority of the Council for National Minorities and gives it room to promote measures that improve the standing of national minorities, regardless of the size of their representation, in all areas of the life of minorities. The need to devote special attention to the standing of small minorities in the Czech Republic in the areas of education, culture and the retention of the membership base and its development is also highlighted by the representatives on the Council for National Minorities, for example a representative of the Greek minority and others. See also comments on Sections 32 , 36 , 53 , 54 , 60 –63., 66 and 67 -70.

V. Commentary on the draft conclusions and recommendations of the Committee of Ministers

The Czech Republic welcomes the adoption of the draft conclusions and recommendations of the Committee of Ministers by the Advisory Committee on the Framework Convention for the Protection of National Minorities on the basis of the opinion of the Advisory Committee regarding the fulfilment of the obligations arising from this Convention by the Czech Republic – ACFC/OP/I (2001) 4 at its 10th meeting on 6th April 2001.

The draft conclusions and recommendations of the Committee of Ministers on the fulfilment of the obligations arising from the Convention by the Czech Republic are derived from the individual Sections of the opinion of the Advisory Committee. For this reason the Czech Republic, in place of commentary on the draft conclusions and recommendations regarding the individual articles of the Convention, makes reference to the commentary to the individual sections of the opinion in respect of the appropriate articles.

In respect of Article 3

See commentary to Sections 17. – 23. of the Advisory Committee opinion.

In respect of Article 4

See commentary to Sections 25. – 31. of the Advisory Committee opinion.

In respect of Article 5

See commentary to Sections 32. – 34. of the Advisory Committee opinion.

In respect of Article 6

See commentary to Sections 36. – 49. of the Advisory Committee opinion.

In respect of Article 9

See commentary to Sections 53. – 54. of the Advisory Committee opinion.

In respect of Article 10

See commentary to Sections 55. – 57. of the Advisory Committee opinion.

In respect of Article 12

See commentary to Sections 60.– 63. of the Advisory Committee opinion.

In respect of Article 14

See commentary to Section 66. of the Advisory Committee opinion.

In respect of Article 15

See commentary to Sections 67.-71. of the Advisory Committee opinion.

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