



RESPECT
FOR THE NATURAL RIGHTS
OF HUMAN BEINGS

For: Human Rights Council
From: The Czech Helsinki Committee
Re: Submission for UPR - Czech Republic

29 March 2017, Prague

In this report the Czech Helsinki Committee submits its view on how specific recommendations made during the Universal Periodic Review on 22 October 2012 have or have not been implemented by the Czech Republic.

Cases of Roma women whose sterilizations were inconsistent with law (Recommendations No. 80–82, 94)

Recommendation 80. Consider to review the three-year time limit in the statute of limitations for bringing compensation claims in cases of coercive or non-consensual sterilizations in order to extend it (Greece).

1. The Czech Justice Ministry has produced an analysis of the options for extending the three-year statute of limitations, but the analysts were neither impartial nor independent. The analysis, therefore, is primarily based on arguments that do not admit the possibility of extending this limit.

Recommendation 81. Establish a roadmap with clear timelines to finalise the cases of sterilization of Roma women without consent and ensure adequate compensation and reparation for such women (South Africa)

2. No plan for investigating the cases of illegal sterilizations has been implemented by the Government whatsoever. Representatives of nonprofit organizations on the Committee against Torture of the Czech Government Human Rights Council produced detailed materials in 2011 which, in addition to recommending that the Government financially compensate the victims, also required the establishment of an independent commission of experts to assess each individual case. That proposal was approved at the beginning of 2012 by the Czech Government Human Rights Council, but because of the fundamental disagreement of the Czech Health Ministry, the comprehensive material was never submitted to the Government.

3. Instead, in 2014 the new Czech Human Rights Minister began his own initiative of working on an absolutely new law to compensate persons sterilized without their informed consent, and for that purpose he also formed an inter-ministerial working group. The original ideas produced by that working group about the conditions for compensation and the procedure for compensation, including the requirement expressed by nonprofit organizations that an independent expert commission be established, were ultimately not included in the bill to an extent guaranteeing that those who had been sterilized without their informed consent would not be in a disadvantaged position – in other words, such persons would have to document and prove their eligibility for compensation even in cases where their medical records have been destroyed, either because the legal deadline for preserving such records has expired and the records have been lawfully shredded, or because of neglect on the part of the health care facilities concerned. Instead of an independent commission, the Human Rights Minister's bill designated that the Czech Health Ministry should be the body that would assess the eligibility of the claims filed by persons alleging they have been harmed by being sterilized without their informed consent. Of course, as is clear from the Health Ministry's actions on this issue in response to the inquiry conducted by the Public Defender of Rights a decade ago, as well as from its statements since then, the Health Ministry is *a priori* not inclined to meet the demand that these persons be compensated, out of concern that such a step would launch an avalanche of complaints from other groups of patients.

4. An extremely important and unresolved discrepancy, therefore, exists between experts in international human rights law, including the Human Rights Commissioner of the Council of Europe, who has communicated in letter of 6 October 2015 specifically with the Czech Government on this issue and the legal interpretation that has been communicated to the victims by the legal representatives of the Health



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Ministry. Those representatives have informed the victims that the harms they have suffered are, in the view of the Health Ministry, legally no different than any other medical malpractice or neglect (i.e., operating on the wrong body part, etc.).

([Letter of 6 October 2015](#),

Available at

[https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?coeReference=ComDH\(2015\)25](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?coeReference=ComDH(2015)25))

That analysis ignores the very different findings of the Czech Public Defender of Rights in its [Final Statement from 2005](#) (available at http://www.ochrance.cz/fileadmin/user_upload/ENGLISH/Sterilisation.pdf); by court judgments finding that such cases constitute rights violations; by the UN Special Rapporteur on torture ([Torture in Healthcare Settings](#), 2013, available at http://antitorture.org/wp-content/uploads/2014/03/PDF_Torture_in_Healthcare_Publication.pdf); and by human rights and medical experts in the 2014 interagency statement on “[Eliminating forced, coercive and otherwise involuntary sterilization](#)” co-authored by the OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO (available at http://www.who.int/reproductivehealth/publications/gender_rights/eliminating-forced-sterilization/en/) There has been no effort made by the Czech Government to advise the Health Ministry and its legal experts of the most recent expert opinions from the areas of human rights and medicine on this issue.

5. Recommendation: The Czech Government should, without delay, arrange for the training of all Health Ministry legal personnel and staff involved in supervising reproductive health care in particular, all hospital administrators, and all gynecologists and obstetricians in how to safeguard the human rights of women and girls seeking gynecological and obstetrical care, specifically with a view to the performance of surgical sterilization or the implementation of other contraceptive measures with a long-term or permanent effect.

6. The version of the compensation bill proposed by the Human Rights Minister was not ultimately adopted by the Czech Government in October 2015 because there was not enough political will to take such a step. The bill, including the proposed amount of compensation, was discussed in the media prior to its rejection, but none of the cabinet members who ultimately voted against it ever made their opposition to it public. The decision, therefore, came as a shock to the victims. Representatives of the nonprofit sector have now been challenged by the Government to first arrange for political support for such a move before the bill can be resubmitted to the Government.

7. The allegations of the Czech Government that the victims are able to seek compensation for their damages through court proceedings simply serve the Government’s own purposes of avoiding paying compensation (and are a long shot for the victims at best). The state-guaranteed system of free legal aid is so complex and ineffective that it does not guarantee any victims who are ignorant of their rights equal access to justice through the courts. A second, basic barrier to these particular victims exercising their rights through the courts is, unequivocally, the general three-year statute of limitations, the existence of which means that each lawsuit filed after the limitations have expired will not be accepted by the courts. The vast majority of the women reporting that they were sterilized without their informed consent suffered this ill-treatment more than three years ago. Some victims have died without receiving compensation.

8. Recommendation: The Czech Government should, without delay, adopt measures leading to the appointment of an independent, reliable commission of experts and task it with compensating, in an appropriate way, the victims of forced sterilizations.

Recommendation 94. Continue its efforts at all Government levels to give women of all ages access to all information and all services necessary to take informed decisions based on their needs regarding reproductive health (Paraguay)

9. While the provision of health care services has been legislated anew since 2013 by the Health Care Services Act and the Specific Health Care Services Act, during the period under review no basic activity or progress has been made by the state to significantly contribute to bolstering the positions of patients when it comes to making decisions about their own health and medical treatment, especially in the area of reproductive health.

10. Women and girls of all age categories generally, but especially women and girls living with mental disabilities and Romani women and girls, are insufficiently informed of their reproductive rights. In practice, an imperious, paternalistic approach persists on the part of doctors and/or health care staff toward clients who are either minors or women, especially those residing in social services facilities where, among other matters, efforts exist to introduce the same kind of birth control for all inmates across the board, irrespective of the individual health and/or needs of such patients, out of concern that adolescent girls growing up in institutional settings or women and girls with mental disorders might become pregnant. Moreover, societal pressure (political support) exists to regulate the number of children born to persons of Romani origin, ostensibly out of concern that such children will grow up in poverty.

11. Recommendation: Without delay, arrange for women and girls of all age categories, and especially for women and girls living with mental or psychological disorders or women and girls of Romani origin, to receive accessible forms of information about their reproductive rights, including information about all other specific services essential to supporting their decision-making with regard to their reproductive rights.

12. The Czech Republic has not yet abolished the option of performing surgical castration on persons who have been convicted of committing less serious sexual crimes, even after repeated criticism from the CAT and CPT. Under pressure from international human rights bodies, in 2014 the legal conditions and the legislation governing the performance of such interventions were tightened, but surgical castration remains legally possible in the Czech Republic, despite the fact that generally it is considered by experts abroad to be inhumane and outdated, constituting a serious intervention into the reproductive rights of persons suffering from sexual deviation that has a highly negative impact on their health as a result of undesirable side effects such as, for example, osteoporosis.

13. Recommendation: Abolish, without delay, the performance of surgical castration in the context of punishment for crimes and replace it with alternative methods of treatment.

Rights of persons in custody and serving prison sentences

14. The Czech Republic has long grappled with overcrowding in the prisons. This state of affairs is connected to an insufficient number of professional personnel to work with convicts so that the purpose of their punishment can be fulfilled, namely, that they be rehabilitated, and it is one of the causes of the high percentage of persons who re-offend after release. Other negative factors contributing to recidivism are the high debts held by those released from prison, an absence of affordable housing, and a lack of specific services to facilitate those released from prison (and their families) with returning to society and being permanently included in it.

15. The amnesty announced by the President of the Czech Republic in 2013 briefly contributed to lowering the number of persons imprisoned, but currently the prisons are overcrowded again. The Czech Justice Ministry wants to solve this problem by building new prisons, but that solution, without other systemic changes, is not acceptable in the long run. The Czech Republic already belongs among those countries in the world where a disproportionately high number of persons is sentenced to prison. The

state's activities to date to get the courts to award alternative punishments have gone unheeded, for many reasons. Even the conditional release of persons after serving 2/3 of their sentence has not yet been considered an unequivocal trend to follow by the courts, not even in cases where the convict is a woman caring for a minor child or children.

16. Recommendation: Through a basic reassessment of the state's crime policy, including court decisions about the kind and length of sentencing, reduce the number of prison sentences awarded, especially for so-called petty crimes, such as failing to pay alimony or child support. In cases where it is appropriate, especially with regard to the needs of children whose parents have been convicted of crimes, the courts should primarily take advantage of alternative sentencing or the punishment of house arrest.

17. During the period under review, the constantly-increasing, disproportionate indebtedness of persons during their imprisonment and after their release, to which nonprofit organizations have long drawn attention, has remained conceptually unaddressed by the state. The legally-established obligation of persons to pay for the costs of their imprisonment from the money earned during their employment in prison has also not been abolished. The amount of those costs may be restricted to a maximum of CZK 1 500 per month, but if we take into consideration the low compensation paid for the work of convicts generally, which is disproportionately and grossly low compared to the minimum wage (which in 2017 is CZK 11 000 monthly), then the obligation for convicts to cover the costs of their imprisonment, together with the deductions taken for them to pay off other costs connected with their criminal proceedings, leads to a situation in which convicts who work are not only unable to pay off their pre-existing debts, but on the contrary, are forced to allow them to grow.

18. Even when the convicts work for private businesses, their remuneration for their labor is inadequate and is incomparable to the amount of income that a regular employee would receive for the same work. The state, instead of motivating employers through financial and other incentives to create jobs for this group of persons at risk of social exclusion, is moving the burden onto the persons who are imprisoned by establishing very low compensation for their labor, whether paid by private or public entities.

19. As part of savings enacted during the economic crisis (post 2008), the so-called social allowance in the amount of CZK 100 per month to which convicts were once entitled who did not have enough financial resources of their own and who were unable to work has now been abolished. For certain groups of convicts, this has led to a basic deterioration in the conditions in which they are serving their sentences, as they are unable to pay, for example, to communicate with their children or loved ones (by post or telephone, etc.) or to buy personal hygiene products in the amount and of the type corresponding to their individual needs.

20. The Committee against Torture of the Czech Government Human Rights Council, responding to these problems, has produced a comprehensive material on the situation in the prisons with proposals for measures to improve the situation, and the Council reviewed it in 2014. After many long negotiations, the material was submitted to the Government in 2016, which approved it, but some basic proposals, such as abolishing the obligation of convicts to pay the costs of serving their sentence in prison, or the costs of being in custody, or basically increasing and then regularly valorizing the remuneration for convict labor, were not accepted by the Government.

21. Recommendation: Abolish the obligation of persons serving prison sentences or of persons in custody to pay the costs associated with such detention, or require such payment only of persons who achieve a certain level of employment-based income so the convicts can pay off their existing obligations during their imprisonment and still have enough money left over to arrange for dignified living conditions in prison, including the maintenance of family ties.



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22. Recommendation: Adjust the amount of remuneration for convicts working for private businesses so it will be adequate and proportionate to the amount of the wages paid to persons at liberty who perform comparable labor.

23. Recommendation: Fundamentally increase and regularly valorize the remuneration of convicts for their labor so the establishment of remuneration is adequate with respect to the legally-established minimum wage and so the convict will have enough money to cover essential needs and pre-existing obligations in cases where the obligation for a convict to reimburse the costs of imprisonment is maintained.

24. Recommendation: Persons in custody or serving sentences who have no savings and are without income from employment through no fault of their own (for example, due to a lack of job opportunities) should be provided with so-called social allowances that will be regularly valorized.

25. Recommendation: Improve the conditions for children and family members of convicts to visit them in prison by building dignified visiting spaces inside prisons that will be adequately-equipped facilities depending on the children's ages and needs.

26. Recommendation: Adopt systemic measures leading to maintaining and strengthening the family ties of convicted parents if they are imprisoned, especially if a convicted parent has been caring for a minor child or children or if, after release, it is assumed such care will continue, e.g., by expanding the opportunities for contact, including the option of leaving the prison for a short time, and by increasing the frequency and number of personal contacts per month.

Freedom of belief and religion

27. We would like to bring attention to the case of the two czech citizens Jaroslav Dobeš and Barbora Plášková, both members of religious group called „Path of Guru Jara Religious Society“ from Czech Republic.

Together with extensive testimonies given by his followers from the Czech Republic about long-term public pressure connected with discrimination at workplace indicates serious human rights violation and persecution based on belief.

28. Recommendation: To investigate the case by independent HR body and to ensure personal safety of both czech citizens.

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