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Committee on the Elimination of Racial Discrimination**Concluding observations on the combined twelfth and thirteenth reports of Czechia***

1. The Committee considered the combined twelfth and thirteenth reports of Czechia (CERD/C/CZE/12-13), submitted in one document, at its 2755th and 2756th meetings (see CERD/C/SR. 2755 and 2756), held on 16 and 19 August 2019. At its 2769th meeting, held on 27 August 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twelfth and thirteenth reports of the State party. It expresses its appreciation for the frank and constructive dialogue with the State party's delegation. It thanks the delegation for the information provided during the consideration of the report in response to questions raised by the members of the Committee and for the additional written information submitted after the dialogue.

B. Positive aspects

3. The Committee welcomes the ratification by the State party to the following international human rights instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 2 December 2015;

(b) The Protocol P029 of 2014 to the Forced Labour Convention, 1930, on 9 June 2016;

(c) The Convention for the Protection of All Persons from Enforced Disappearance, on 8 February 2017.

4. The Committee also welcomes the following legislative and policy measures taken by the State party:

(a) The adoption of the State Integration Programme for Refugees, in November 2015;

(b) The adoption of the Strategy to Combat Social Exclusion 2016–2020, which contains provision on the social exclusion of Roma, in February 2016;

(c) The adoption of the National Strategy to Combat Human Trafficking in the Czech Republic 2016 – 2019, in April 2016;

(d) The adoption of the Crime Prevention Strategy in the Czech Republic for 2016 to 2020, in October 2016, which includes prevention of racially motivated crimes;

* Adopted by the Committee at its 99th session (05-29 August 2019).

(e) The amendment to the Victims of Crimes Act, in January 2017, which classifies victims of racially motivated crimes as particularly vulnerable victims entitled to free legal aid;

(f) The amendment to the Czech Criminal Code, in December 2018, which enables the prosecution of the denial, doubting, approval or justification of Nazi and Communist crimes against humanity and war crimes.

C. Concerns and recommendations

Statistics

5. The Committee regrets that despite its previous recommendation, there is still a lack of statistics related to the socio-economic situation of ethnic and national minorities in the State party. The Committee is also concerned that the absence of such data hinders the development of policies permitting to guarantee the equal enjoyment of the rights protected under the Convention by the different minority groups (art. 2).

6. Recalling its reporting guidelines (CERD/C/2007/1) and its general recommendation No. 8 (1990) concerning the interpretation and application of article 1(1) and (4) of the Convention, the Committee recommends that the State party collect data disaggregated by ethnicity, national origin, language spoken, sex, age and other relevant indicators. It also recommends that the State party establish a mechanism on socio-economic indicators on the situation of persons belonging to ethnic and national minorities, taking into account the principle of self-identification, and with the purpose of developing policies and measures to enhance the equal enjoyment of rights under the Convention by all persons or groups living/residing in its territory.

Anti-discrimination legislation

7. The Committee is concerned that “colour” and “descent” are not included among the grounds of discrimination listed in the State party’s Anti-Discrimination Act and in the Employment Act (art. 1).

8. The Committee recommends that the State party amend the Anti-Discrimination Act and the Employment Act to introduce “colour” and “descent” as grounds of discrimination, in order to bring it in line with article 1(1) of the Convention.

National Human Rights Institution

9. The Committee regrets the lack of progress to bring the Public Defender of Rights (Ombudsperson) in full conformity with the Paris Principles and to facilitate its accreditation as the State party’s national human rights institution by the Sub-Committee on Accreditation of the Global Alliance for National Human Rights Institutions (GANHRI). It is also concerned that under its current mandate, the Public Defender of Rights cannot represent victims of racial discrimination in court (art. 2).

10. Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party expedite the adoption of necessary amendments to the Ombudsperson Act to bring the Public Defender of Rights in full conformity with the Paris Principles. It also recommends that the State party facilitate its accreditation by the Sub-Committee on Accreditation of GANHRI. In addition, the Committee recommends that the State party broaden the mandate of the Public Defender of Rights to allow that institution to represent victims of racial discrimination in court.

Racist hate speech

11. The Committee is concerned at the prevalence of hate speech in the State party, in particular about:

(a) The diffusion among the general population, principally through Internet and social media, of racist hate speech, prejudices and stereotypes directed towards minority groups, in particular asylum-seekers, refugees, Roma and Jews;

(b) The use of racist hate speech, anti-migrant and anti-Roma rhetoric by politicians and public figures, including members of the Parliament, mayors and members of the government;

(c) The role of media in the propagation of racist stereotypes and prejudices about minority groups and fear of migrants;

(d) Reports of intimidation and a growing hostility towards journalists who attempt to cover issues related to migration independently and impartially (arts. 2, 4 and 7).

12. Recalling its general recommendation No. 35 (2013) on combatting hate speech and its general recommendation No. 7 (1985) relating to the implementation of article 4, the Committee recommends that the State party:

(a) Firmly condemn any form of hate speech and xenophobic rhetoric against minority groups and distant itself from racist hate speech expressed by politicians and public figures, and ensure that such acts are investigated and adequately punished, in line with general recommendation No. 15 (1993) on article 4 of the Convention;

(b) Intensify its public awareness-raising activities, including in schools, in order to promote a better understanding of the situation of minority groups and decrease prejudices and stigmatization against those groups;

(c) Strengthen the accountability of media outlets and journalists diffusing hate speech, and provide journalists with training on the rights of minority groups and on the legislation prohibiting racist hate speech;

(d) Protect journalists who cover issues related to migration and ensure they can perform their work without fear of reprisals or intimidation.

Racially motivated crimes

13. The Committee is concerned about the prevalence of racially motivated crimes in the State party, in particular attacks against property, threats and physical attacks targeting Roma, Jews, migrants and minority rights activists. The Committee is also concerned that many victims of racially motivated crimes are reluctant to report, leading to underreporting. In addition, the Committee regrets that the State party did not provide any disaggregated data related to racially motivated crimes (arts. 4 and 6).

14. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party:

(a) Eliminate the barriers faced by victims of racially motivated crimes and facilitate the reporting process, including by raising awareness about available remedies and providing victims with free legal aid;

(b) Ensure that cases of racially motivated crimes are properly investigated and those responsible are prosecuted and adequately punished;

(c) Promote the recruitment of persons belonging to minority groups in the police and the judicial system, with the aim of increasing trust in these bodies;

(d) Pursue the training of police officers, prosecutors, judges and other law enforcement officials on how to address racially motivated crimes;

(e) Provide statistics on racially motivated crimes disaggregated by sex, offense and ethnicity/nationality of the victim.

Situation of Roma

15. The Committee takes note of efforts made to enhance the integration of Roma. However, it is concerned that Roma continue to face barriers and discrimination in their

enjoyment of economic, social and cultural rights. In particular, the Committee is concerned about:

(a) The widespread discrimination faced by Roma on the housing market, the high proportion of Roma residing in socially excluded localities, often in so-called “residential hotels”, with no security of tenure and risks of forced eviction;

(b) The recent practice carried out by some municipalities of designating specific territorial areas as housing benefit-free zones;

(c) The significantly lower life expectancy among Roma, the lower percentage of Roma covered by the public health insurance scheme, and the discrimination in accessing health care;

(d) The disproportionately high number of Roma who are unemployed, the high rate of Roma in informal employment and the lack of representation of Roma in the public sector (arts. 2, 3 and 5).

16. Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party increase its efforts to promote the economic, social and cultural rights of Roma and guarantee their access to services without discrimination. In particular, the Committee recommends that the State party:

(a) Promote the access of Roma to adequate and secure housing as well as the development of social housing in socially and ethnically mixed neighborhood, combat discriminatory and abusive practices in the housing market, and ensure that evictions are only conducted as a means of last resort and in accordance with national law and international standards;

(b) Halt municipalities from instituting housing-benefit-free zones;

(c) Pursue its efforts to raise health awareness among Roma, including sexual and reproductive health, and to train health practitioners on the principles of equal treatment and non-discrimination;

(d) Develop targeted measures to promote the access by Roma in formal employment, with a particular attention to intersectionality concerns, including in the framework of the implementation of the Operational Programme Employment for 2014-2020;

(e) In line with its general recommendation No. 32 (2009) on the meaning and scope of special measures and taking into consideration the deeply rooted structural discrimination suffered by Roma, the Committee recommends that the State party introduce special measures to increase the representation of Roma in the public sector, both as a way to increase the employment rate of Roma and as a way to reduce discrimination and facilitate the access of Roma to public services.

Segregation of Roma children and access of Roma children to education

17. While taking note of the information provided by the State party that all children educated in the curriculum for children with mild disabilities underwent re-diagnosis, the Committee is concerned that Roma children remain at risk of being misdiagnosed and enrolled in special education programmes for children with mild mental disabilities. The Committee is also concerned about the prevalence of segregated schools where the large majority of pupils are Roma, noting that this practice is exacerbated by the concentration of Roma in socially excluded localities and by the reluctance of non-Roma parents to have Roma pupils attending their children’s school. Moreover, the Committee is concerned that Roma pupils are at higher risk of dropping out from school (arts. 2, 3 and 5).

18. In line with its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:

(a) Increase its efforts to integrate Roma children into mainstream education and guarantee that those enrolled in special education are properly diagnosed, in order to ensure there is no misplacement of children in special schools;

(b) Develop a desegregation plan, including the redesign of assigned school districts, conduct awareness-raising campaigns on the advantages of diversity directed towards both Roma and non-Roma parents, and adequately sanction schools that do not accept to enroll Roma children, in line with general recommendation No. 19 (1995) on article 3 of the Convention;

(c) Conduct an analysis on the root causes of school dropouts of Roma children and take corrective measures targeting boys and girls, respectively.

Forced sterilization of Roma women

19. The Committee is concerned that in spite of its previous recommendation, no effective compensation mechanism for the Roma victims of forced sterilizations has been established. While noting there are ongoing discussions between the Executive and the Legislature, the Committee is also concerned that the State party still considers court action as the only way of redress for those victims, including for obtaining compensation. The Committee is further concerned that the three-year statute of limitations for claims of compensation in cases of forced sterilization of Roma women hinders their access to justice (arts. 2, 5 and 6).

20. Recalling its previous concluding observations, its general recommendation No. 27 (2000) on discrimination against Roma and its general recommendation No. 25 (2000) on the gender-related dimensions of racial discrimination, the Committee recommends that the State party expedite the establishment of a dedicated and effective compensation mechanism for Roma victims of forced sterilization and provide them with adequate support for redress, including for obtaining compensation, as well as free legal aid. It also recommends that the State party extend the statute of limitations for bringing legal claims in cases of forced sterilization to ensure that victims could seek and obtain compensation. It further recommends that the State party take measures to ensure that such acts are investigated and those responsible are prosecuted and, if convicted, are adequately punished.

Detention of asylum-seekers

21. Taking note with satisfaction of the efforts taken by the State party to limit the practice of detaining asylum-seekers, the Committee is concerned that the State party continues to detain asylum-seekers with their children, particularly those who are subject to a transfer order under the Dublin Regulation and are considered at risk of absconding. It is also concerned about the lack of alternatives and non-custodial types of accommodation for families of asylum-seekers with children (arts. 2 and 5).

22. Emphasising that the detention of asylum-seekers should be a measure of last resort and for as short a time as possible, the Committee recommends that the State party end the practice of detaining asylum-seekers with their children, including the persons subjected to transfer under the Dublin Regulation, and develop alternative non-custodial types of accommodation for asylum-seekers, particularly families with children.

Access of migrants to healthcare

23. The Committee is concerned that financial barriers prevent migrants without public health insurance scheme from accessing adequate healthcare. It is particularly concerned that undocumented pregnant women are required to cover the costs of labour and childbirth care and are therefore discouraged from seeking antenatal care, thus increasing the risk of obstetric emergencies and complications during childbirth. The Committee is further concerned about cases of undocumented migrants who were reported to the police when unable to pay health care bills (arts. 2 and 5).

24. Recalling its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee recommends that the State party take steps to eliminate the financial barriers hindering access to healthcare for migrants who are not covered by the public health insurance, including access to prenatal, labour and childbirth care for pregnant women. In particular, the Committee recommends that the State party:

- (a) Target the persons who are not covered by the public health insurance, including undocumented migrants, with specific health prevention programmes;**
- (b) Provide emergency health care and any care related to childbirth free of charge for all;**
- (c) Ensure that medical practitioners and employers of medical facilities do not report undocumented migrants.**

Access of refugees to pensions

25. The Committee is concerned that many refugees cannot benefit from the retirement pension scheme of the State party due to their inability to provide documentation related to their past employment and meet the number of years of employed required under the Pension Insurance Act and that, consequently, they remain dependent on minimum subsistence allowances (arts. 2 and 5).

26. Recalling its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee recommends that the State party address the serious problem of access to pensions for refugees in an equitable fashion, in accordance with article 24 of the 1951 Convention relating to the Status of Refugees, respecting as well provisions of the 1967 ILO Convention No. 128 concerning Invalidity, Old-Age and Survivors' Benefits as appropriate.

Stateless persons and prevention of statelessness

27. The Committee is concerned that based on the State party's reservation to article 27 of the 1954 Convention relating to the Status of Stateless Persons, stateless persons who do not possess a permanent residency permit are not entitled to receive an identity document. The Committee is also concerned about the absence of definition of statelessness, of a dedicated statelessness determination procedure and of statistics relating to stateless persons. The Committee is further concerned about the lack of safeguards to prevent statelessness of children who are born from stateless parents or out of wedlock by a foreign mother (arts. 2 and 5).

28. The Committee recommends that the State party take the following steps to guarantee the rights of stateless persons and better prevent statelessness:

- (a) Withdraw its reservation to article 27 of the 1954 Convention relating to the Status of Stateless Persons, with a view to facilitating the access of every stateless person to identity documents;**
- (b) Adopt a legal definition of statelessness, in line with the 1954 Convention relating to the Status of Stateless persons;**
- (c) Adopt a dedicated and effective statelessness determination procedure;**
- (d) Initiate the systematic collection of statistics on statelessness in order to have a database recording the number and profile of stateless persons in the State country;**
- (e) Facilitate access to citizenship without discrimination for all children born to stateless parents, regardless of their status of residence, and for children born out of wedlock to a Czech father and a foreign mother.**

Trafficking in persons

29. The Committee is concerned that while the State party remains a country of origin, transit and destination for trafficking in persons, the number of persons convicted for human trafficking remains low. Noting that the large majority of victims of human trafficking are foreigners, the Committee is also concerned about the very low proportion of victims included in the Program of support and protection for human trafficking victims (arts. 2 and 5).

30. The Committee recommends that the State party pursue its efforts to combat trafficking in persons, including by:

- (a) Ensuring that perpetrators of human trafficking are identified, prosecuted and adequately punished;
- (b) Continuing to raise awareness of the population, including migrants, on the risk of human trafficking;
- (c) Designing specific awareness-raising campaigns in several languages on the contents and benefits of the Program of support and protection for human trafficking victims.

D. Other recommendations

Ratification of other treaties

31. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Labour Organization Domestic Workers Convention, 2011 (No. 189).

Follow-up to the Durban Declaration and Programme of Action

32. In light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

33. In light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

34. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

Dissemination of information

35. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of relevant ministries, in the official and other commonly used languages, as appropriate.

Common core document

36. The Committee encourages the State party to update its common core document, which dates to 25 January 2010, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

37. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 10 (NHRI), 16(b) (housing benefits free zones) and 20 (forced sterilisation) above.

Paragraphs of particular importance

38. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 12 (racist hate speech), 14 (racially motivated crimes), 16 (situation of Roma), 18(b) (segregated schools) and 22 (detention of children) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

39. The Committee recommends that the State party submit its combined fourteenth and fifteenth periodic reports, as a single document, by 24 March 2022, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports and 42,400 words for the common core document.
