



Promotion
of Roma/Traveller
Integration and
Equal Treatment
in Education
and Employment

Partner report - Preparatory phase CZECH REPUBLIC



1. GENERAL FRAMEWORK OF THE SITUATION OF THE ROMA/TRAVELLER PEOPLE

The Czech Republic is a parliamentary democracy from 1989. Currently there is no Roma MP in the Czech parliament.

The basic law that embodies the protection of fundamental rights and freedoms is the Charter of Fundamental Rights and Freedoms (Act No. 2/1993 Coll., as amended – hereinafter only the “Charter”), which is a part of the constitutional order. Pursuant to Article 1 of the Charter, people are “*free and equal in their dignity and in their rights. Their fundamental rights and freedoms are inherent, inalienable, unlimitable, and irrevocable*“. The prohibition of discrimination is expressly provided for in Article 3, which stipulates that “*Fundamental human rights and freedoms are guaranteed to everybody irrespective of sex , race, colour of skin, language, faith, religion, political or other conviction, ethic or social origin, membership in a national or ethnic minority, property, birth, or other status.*“ According to Article 4 of the Constitution of the Czech Republic, fundamental rights and freedoms are protected by judiciary power and any individual or legal entity may file a complaint to the Constitutional Court if he believes that “*his fundamental right or freedom secured by the Constitutional Act has been breached by an effective decision issued in a process to which he was a party, by any measure or other intervention of public authority*”.

The Charter also embodies the rights of national and ethnic minorities. Whilst Article 24 stipulates that the national or ethnic identity of any individual may not be used to his or her detriment, thus applying to all individuals irrespective of their citizenship, Article 25, which regulates the exercise of national rights, refers to citizens. Thus, the Charter guarantees the rights to all-round development, in particular the right to develop with other members of the minority their own culture, the right to disseminate and receive information in their language, and the right to associate in ethnic associations, solely to the citizens of the Czech Republic. Only the citizens are entitled, subject to the conditions stipulated by the law, to receive education in their own language, to use their language in official contact, and to participate in the settlement of matters concerning national and ethnic minorities.

The Charter stipulates that details relating to the exercise of national rights are to be regulated by law. The relevant act on rights of national minorities was adopted in 2001. This act defines the term “national minority” as a community of Czech citizens living within the territory of the Czech Republic, who differ from the other citizens namely by common ethnic origin, language, culture and traditions, who constitute, as to their number, a minority of the population and manifest at the same time their will to be considered as a national minority for the purpose of common efforts to preserve and develop their own identity, language and culture.

The act grants to national minorities that have been living traditionally and for a long time in the Czech Republic special language rights (the right to disseminate and receive information in the language of the national minority, to use the language of the national minority in official contact and before the courts, and the right to receive education in the language of the national minority), the right to develop their national



minority culture and the right of the members of each such minority to participate in the settlement of matters concerning them.

Both the Act on Rights of Members of National Minorities and the Charter grant minority rights solely to citizens of the Czech Republic and fail to guarantee the rights of growing immigrant communities, which are finding themselves in the position of minorities. Representatives of national minorities criticised that the act does not foresee the establishment of an independent institution dealing with problems of national minorities, which would permit more extensive participation of representatives of national minorities in the decisions on matters concerning them.

Institutional Provisions

There are three advisory bodies of the government dealing with human rights protection – the Council of the Government of the Czech Republic for the Affairs of the Roma Community, the Human Rights Council of the Czech Republic Government and the Government Council for National Minorities. Secretariats of those advisory bodies are parts of the structure of the Office of the Government of the Czech Republic, where they jointly constitute the Human Rights Department, headed by the Government's Human Rights Commissioner. The adoption of the Act on Rights of National Minorities and changes in the statute of advisory bodies of the government resulted also in certain changes in these advisory bodies.

The Government Council for National Minorities was newly founded as an advisory body of the government by a government resolution issued in 1991.¹ Its status has changed following the adoption of the Act on Rights of Members of National Minorities, because it is established directly by the law as an advisory and initiating body of the government. The Council is headed by a member of the cabinet and its membership consists of representatives of public authorities and of representatives of national minorities, who must form, under the law, at least one half of its members.

Under its new statute, the Council of the Government of the Czech Republic for the Affairs of the Roma has 28 members. This means that the number of its members was increased by two representatives of the ministries and of the Roma community. Roma community representatives are newly appointed based on the territorial principle in a manner ensuring the representation of every region in the Council. The Council is chaired by a member of the government, the first vice chairman being the Government's Human Rights Commissioner, who used to preside over the Council until the adoption of the new statute. The second vice chairman is a Roma community representative.

Thus, the Human Rights Council of the Government of the Czech Republic has remained the only one out of these three advisory bodies that is not headed by a member of the government. According to its statute, the Human Rights Council is headed by the Government's Human Rights Commissioner. The Council establishes committees as standing work teams that may submit to it suggestions to improve the state of human rights in the Czech Republic and to observe those rights. As regards protection against discrimination, the most important role in this respect is played by

¹ Resolution of the Government of the Czech Republic No. 72 of March 13, 1991



the Committee for the Elimination of All Forms of Racial Discrimination, whose task is to monitor the compliance with the Convention on the Elimination of All Forms of Racial Discrimination.

The Human Rights Council of the Government of the Czech Republic, the Government Council for National Minorities and the Council of the Government of the Czech Republic for the Affairs of the Roma Community are defined as advisory bodies of the government. Therefore, they have no powers to provide any protection to individual victims of discrimination. They prepare proposals for the government concerning principles of policy to be followed in individual areas of protection of human rights, proposals of partial measures and suggestions to improve respect for human rights. At the same time, these bodies co-operate with non-governmental non-profit organisations focused on human rights.

Statistics

A new census was held in the Czech Republic in 2001, i.e., after ten years from the previous one, which was held in 1991. Its preliminary results indicate that there are a total of 10,292,933 inhabitants living on the territory of the Czech Republic.

9.9% of the population, i.e., 1,022,318 persons claimed to have other than Czech nationality (by 490,630 persons more than in the last census). Most of those – 373,294 persons - claimed to have the Moravian nationality, followed by the Slovak nationality (183,749 persons), the Polish nationality (50,971 persons), the German nationality (38,321 persons) and the Silesian nationality (11,248 persons). As regards protection from discrimination, the number of persons claiming to have the Moravian or Silesian nationality does not play any essential role. As mentioned in the previous report, Moravia is the name of one of the two historical territories of the Czech Republic and its inhabitants do not have the status of a national minority, because they belong, as to their language a culture, to the majority society. Also members of the Slovak minority are highly integrated in the majority society due to their language a cultural proximity.

Only 11,716 persons claimed during the census to have the Roma national identity, which is approximately 20,000 persons less than in the previous census in which the number of persons claiming to have the Roma national identity was 32,903. According to informed estimates, there are about 200,000 Roma living in the Czech Republic, who are generally considered as Roma and claim by themselves to belong to this community. Nearly all original Roma inhabitants living in Bohemia and Moravia were exterminated during World War II, and most of the Roma who currently live in these territories come from traditional settlements in Slovakia. They were coming to Bohemia after the war, partly on a voluntary basis, partly within the scope of organised transfers. By such transfers, the communist regime gained, among others, cheap labour force for sparsely populated border regions, without paying adequate attention to the necessary assistance to the Roma in their adaptation to the new conditions. Thus, the Roma found themselves in a totally unknown industrial environment of big cities, which set new demand regarding their housing style, coexistence, etc. To be labelled as a Roma means troubles (impossibility to relocate, the duty to report to the authorities, etc.).



Therefore, the Roma avoided as much as possible to be designated as such. This belief still exists among the Roma and is transferred from one generation to another one

2. IDENTIFICATION OF GENERAL PROBLEMS REGARDING DISCRIMINATION IN THE FIELD OF EDUCATION AGAINST ROMA/TRAVELLER

The Charter of Fundamental Rights and Freedoms guarantees the right to education to everyone, i.e., irrespective of his citizenship, but guarantees the right to free education at primary and secondary schools, and depending on the ability and potential, also at the universities, only to Czech citizens. In accordance with the Convention on the Rights of the Child, primary education is provided in the Czech Republic to all children irrespective of their citizenship or residence status.

The basic law regulating the right to education is the Act No. 29/1984 Coll. on the System of Primary, Secondary and Higher Vocational Schools (the School Act), as amended. No provision of this act expressly prohibits direct or indirect discrimination or stipulates any protection against it. The School Act only declares that the primary and secondary schools educate their pupils in accordance with the principles of humanity and democracy and form their intellectual and moral development.

The School Act allows graduates of special schools and schools for mentally handicapped children to obtain education after passing courses organised at the primary or secondary schools. Without passing such courses, there would be a danger that the right for free selection of profession and preparation for such profession would be guaranteed only formally.

The amendment of the School Act promulgated as Act No. 19/2000 Coll. made it possible to enrol in secondary school not only pupils who have successfully graduated from the primary school but all pupils who have completed the compulsory school attendance and have met, during the enrolment tests, all conditions for enrolment by demonstrating appropriate abilities, knowledge, interest and health condition required in the selected branch of study. This amendment has allowed enrolment of pupils who have successfully completed a special school, thus overcoming a totally inadequate situation in which the special school graduates could not apply, by the law, for enrolment in secondary schools, which breached their right to free selection of profession and preparation for it, as guaranteed by the Charter.

The government prepared a new draft of the School Act, which expressly stipulated that the education is based, *inter alia*, on the principle of mutual respect, tolerance of opinion of other, solidarity and defence against manifestations of discrimination and intolerance. The draft also introduced a new term “special educational needs of children”, which included socially handicapped children and was reflected in a number of provisions guaranteeing specific approach to such pupils, thus granting to them satisfaction of their specific educational needs. The draft also set forth measures that are currently regulated only by decisions of the Minister of Education, Youth and Physical Education, on experimental testing of the forms and contents of upbringing and education, issued pursuant to Section 58(a) of the School Act, and by methodical



guidance. Thus, preparatory classes at primary schools and posts of teacher assistants would be established directly by the law. The Chamber of Deputies returned the draft to the government for completion, but then rejected it.

Act No. 111/1998 Coll. on Universities (the Act on Universities), as amended, declares democratic approaches relating to access to university education, obtaining adequate professions skills and preparation for research work and other professional activities, under which nobody may be discriminated due to his colour, sex, religion, national or social origin or membership in an ethnic group. At the same time, the Act on Universities does not contain express prohibition of direct or indirect discrimination in relation to university studies.

Since 2000, there has existed the Program of Support of Roma Secondary School Students, whose aim is to enable a growing number of Roma students, including the socially handicapped ones, to get secondary and university education. The program provides financial subsidies to Roma secondary school students (like payment of tutoring fees at private schools, travelling expenses, meals, school aids), which will allow them to continue or start their studies, which they would otherwise have to give up due to social reasons. The program has marked a significant success and its expansion has been proposed every year. In this respect, the government has ordered the Minister of Labour and Social Affairs to unify the practical application of the Program of Support of Roma Secondary School Students to avoid setting off such support payment with the total income of the parents of those pupils when assessing their social needs under Act No. 463/1991 Coll. on Social Needs, as amended, and the provision of social security payments to cover the costs paid out of the program funds, as there occurred certain cases when such support was included in the total income of the parents of those pupils during the assessment of their social needs.

As regards the Program of Education in National Minority Languages and the Multicultural Education, the Ministry of Education, Youth and Physical Education provided support in 2002 to 16 educational projects submitted by civic associations.

Special schools

A persistent and permanently criticised problem is the transfer of Roma children into special schools. Thus, part of the children of the Roma minority completes their primary school attendance at special schools. Every child can be placed (and could be placed in the past) in a special school based on a check of his/her mental level performed by a psychological and pedagogic counselling centre, and only with written consent of a parent or legal guardian of the child. Thus, the grounds for transfer of a Roma minority child from the primary to special school do not lie in his/her Roma nationality, but the language handicap showing at his enrolment in the primary school and representing a serious obstacle as regards future education. Beside the language barrier, there is also the different dynamism of personal development, different hierarchy of values and social and cultural feelings of Roma families. An important role is played by the fact that the special school environment is familiar for the generation of parents, many of whom thus direct the child automatically to an identical educational environment through which they also passed.

The primary step towards the elimination of negative impacts affecting namely the Roma community children due to their social and cultural differences has been the



change in the diagnostic method used to test the overall ability of the child and its structure. The Ministry of Education, Youth and Physical Education has analysed all tests used to diagnose children placed into special schools, and prepared a Czech version of WISC-III-UK, a test of the overall ability and its structure, which is most frequently used in the whole world. This test was adjusted to the Czech language and cultural environment and was standardised using a sample of 1,457 respondents, stratified (according to the information published in the Statistical Yearbook of the Czech Republic) by geographic regions, nationality, settlement type, school type, sex and age group. As regards nationality, 93.7% respondents were Czechs, 6.2% Roma and 0.1% others. The application of the WISC-III-UK test should improve diagnostic methods of children, including those coming from another cultural and social environment, i.e., the Roma children. The use of the selected test and its methodological manual by psychological and pedagogic counselling centres, which only propose placement or transfer of the child to a special school, is not mandatory but is only recommended by the ministry. This means that the placement or transfer depends on the approach of the counselling centre to this problem. The Psychological and Pedagogic Counselling Institute and the Pedagogic Centre of the Ministry of Education, Youth and Physical Education have been organising training for psychologists in the work with this test and in the specific features of psychological diagnosing of Roma origin. It is important for psychologists to be able to assess the level of educability of the child having in mind the specific different environment from which the child comes. The intelligence test is only one of the tools and methods to identify the overall level and structure of abilities. Due to potential errors in the diagnostic conclusion, the quality of the intelligence test is only of a secondary importance.

Placement of a child in a special school is not final. Like a procedure for placement of the child in such school, there is also a procedure for his transfer back. The consent of the parent or legal guardian is necessary even in this case, and if the parent or guardian disagrees with such transfer, it is not possible to transfer the child from the special to an "ordinary" school. Transfer of successful pupils of special schools is carried out in accordance with the Decree of the Ministry of Education, Youth and Physical Education No. 127/1997 Coll. on Special Schools and Special Kindergartens. Following a review with parents, the special school principal is obligated to suggest transfer of the child to the primary school whenever the study results of the child provide a prerequisite that the child may be educated at the primary school. Every special school principal is obligated to inform the parents of his pupils on the possibilities and conditions of transfer of a pupil to the primary school. Also the parents have the right to initiate the transfer of their child by applying for diagnostic review and for permission to pass appropriate equalising exams. In the case of transfer, it is necessary to take into account namely the interests of the child and to proceed in co-ordination between the special and the primary school and the pedagogic and psychological counselling centre, which may prepare for the child an individual study plan if necessary.

The Ministry of Education, Youth and Physical Education has issued a number of instructions that are to enable special school pupils to acquire primary education. In 1996, the Ministry issued an instruction regarding completion of primary school education by special school graduates. According to this instruction, pupils who have finished their compulsory school attendance in less than the ninth grade of a special or



a primary school may complete their education. This shall allow, for instance, to pupils of practical school to be transferred to a vocational training centre. The Ministry further issued a guidance to ensure transfer of good achievers at special schools to primary schools.

Closing down special schools is not sufficient to rectify the current situation. Such legislation, although desirable, may not guarantee by itself a principal change of the prospects of those children regarding adequate education. These children need targeted assistance to overcome their social and cultural handicap. One form of such targeted assistance is the opening of preparatory classes for children from disadvantaged social and cultural environment (the "preparatory classes") and the use of tutors – teacher assistants (formerly "Roma pedagogic assistants"). The Ministry of Education, Youth and Physical Education issued in 2000 a guidance regarding the opening of preparatory classes for children with social handicap and the establishment of the post of tutor – teacher assistant. This guidance allows opening preparatory classes for children with social handicap, i.e., for children coming from families with low social and economic status, children threatened by pathological social phenomena, or from families who have been granted or are seeking asylum. The meaning of the preparatory classes is to prepare children from different social and cultural background for school education. It is possible to establish at schools and school facilities where there is a larger number of those children the post of tutor – teacher assistant, who will assist the pupils with adaptation in accordance with the teacher's instructions and facilitate communication between the pedagogue and the pupils, their parents or the entire community. Candidates for these posts are selected from among persons who know the environment from which the most of the pupils come. Particularly in classes with Roma pupils, the assistants usually come from the same language, social and cultural environment. Many assistants share their experience with the other pedagogues at the school.

Although the number of preparatory classes and tutors has been continuously growing, objective needs are evidently much higher. There are still many places and even entire districts that have not opened any preparatory classes or established tutor posts due to lack of interest of the management or founders of the schools. Moreover, the post of the tutor-teacher assistant should be established not only in zero or first grades but also in higher primary school grades. At the same time, it appears as useful to establish such post in other school levels, namely at vocational training centres, and also in institutional and protective education facilities.

To ensure more effective prevention of manifestations of racism, xenophobia and intolerance, the Ministry of Education, Youth and Physical Education issued a guidance regarding education against manifestation of racism, xenophobia and intolerance, by which it charged school principals and pedagogues with a number of duties, including the development of desirable attitudes towards people having other nationality, ethnic origin or religious belief, not ignoring any manifestation or sign of intolerance, xenophobia or racism and immediate taking appropriate and specific pedagogic measures.

Matters relating to the education against racism, intolerance and extremism are included in various topics that are dealt with by individual educational programs, mostly in civic guidance (like Man and Human Rights, Education to Democracy, Fundamentals of Psychology, Fundamentals of Sociology, Fundamentals of Political Science, Problems



of the Planet, etc.). As to vocational education, educational topics eliminating the impact of racism and extremism are included in general subjects and in some educational programs also in special subjects.

The National Institute of Vocational Education prepared two projects of programs of continuous education to pedagogues, which are now ready for accreditation. They are the Media Education in Secondary Vocational Schools and Multicultural Education in Secondary Vocational Schools. Another program under the name Educational Activities Directed against Youth Extremism in Vocational Education has been currently submitted for comments.

The Ministry of Education, Youth and Physical Education has elaborated three strategic materials:

- Strategy for Improvement of Education of Roma Children, focusing on the support of education of Roma pupils with the aim of improving their job opportunities, and on the support of the development of the Roma culture and traditions. The strategy pays attention cultural identities of the Roma children, establishment of posts of Roma assistants, forming of a support system for the pupils in their transition from the special school programs to primary schools, improvement of programs of completion of primary education, vocational counselling, provision of support to pupils and student of secondary and tertiary education, dissemination of information about the Roma, education toward tolerance and training of pedagogues.
- The Integration Policy Plan deals with partial areas of education of foreigners, namely learning Czech language as a second language, training of teachers in topics relating to integration of foreigners and multicultural education of the school population, and with support to the creation of programs, textbooks and teaching aids. A work team has also been formed at the Ministry of Education, Youth and Physical Education to deal with the problems of education of foreigners in the Czech Republic. In connection with this plan, the Ministry of Education declared a program of support of activities aiming at the integration of foreigners in the Czech Republic.
- The Strategy of Education to Human Rights and Tolerance deals with the problems of national minorities living in the Czech Republic. Newly conceived framework educational programs to be applied in every type of education will include multicultural education, which will be reflected in all subject with an emphasis on practical application, i.e., on the education to tolerance and pluralism to be applied in daily life. The principal aim is to create and tolerant and multicultural environment at schools and school facilities and to provide support to ethnic equality.

Among its recommendations ECRI (the European Commission against Racism and Intolerance) in its third report on the Czech Republic, advises to further strengthen measures in the field of awareness raising to the general public, local school directors as well as teachers concerning the importance of integration of Roma to education system. It also urges local authorities to devote resources toward fostering communication between Roma parents and mainstream schools. ECRI recommends that urgent measures be taken to address the educational needs of students currently in such special schools, including individual programmes and compensatory classes.



3. IDENTIFICATION OF GENERAL PROBLEMS REGARDING DISCRIMINATION IN THE FIELD OF EMPLOYMENT AGAINST ROMA/TRAVELLER

The general right to work is stipulated in Article 26 of the Charter of Fundamental Rights and Freedoms, which guarantees the right of every person to acquire means of his or her livelihood by work, the right to free choice of profession and training for such profession, and the right to engage in business or other economic activity.

There exists a number of labour laws regulating employment or service relationships. The most important of these laws is Act No. 65/1965 Coll., the Labour Code, as amended. Section 1(3) of its amendment – Act No. 155/2000 Coll. – stipulates the duty of employers to ensure equal treatment of all employees as regards their working conditions, including pay and other considerations in cash or in kind for their work, vocational training and career development opportunities. Section 1(4) prohibits any discrimination against employees in labour law relations on grounds of race, colour, sex, sexual orientation, language, faith and religion, political or other conviction, membership or activity in political parties or political movements, trade union organisations and other associations. This section further prohibits discrimination on grounds of nationality, ethnic origin or social background, property, family, health condition, age, marital and family status or family obligations. The Labour Code also expressly prohibits indirect discrimination, i.e., such conduct by employers whose consequences are discriminatory. Nevertheless, neither the Labour Code nor any other laws define direct and indirect discrimination, harassment, or abetting in discrimination on grounds of race or membership in an ethnic group.

Section 1(3) of Act No. 1/1991 Coll. on Employment, as amended, defines the right to employment as the right of citizens who are willing and able to work and genuinely seek a job to assistance in finding employment, to retraining and financial support when unemployed. In this respect, the amendment of the Employment Act No. 167/1999 Coll. expressly prohibited discrimination on grounds of race, colour, sex, sexual orientation, language, faith and religion, political or other conviction, membership or activity in political parties and movements, trade union organisations and other associations, nationality, ethnic origin or social background, property, family, health condition, age, family, marital and family status or family obligations, except in cases stipulated by the law or where there is a factual ground consisting in preconditions, requirements and nature of the employment which the citizen is to perform and which is necessary for performance of such employment.

Neither the Employment Act nor the Labour Code set forth detailed conditions regarding the applicability of factual grounds consisting in preconditions, requirements and nature of the employment on whose basis the differentiation of employees due to race or ethnic origin would not be discriminatory. The Employment Act also does not include any special provision granting to a victim of discrimination in access to employment based on his or her race the right to seek before the courts the prohibition of such conduct, removal of its consequences and adequate satisfaction or cash compensation for non-property harm. The Labour Code includes such provision, but only in relation to equal treatment of men and women.



Employment of persons encountering difficulties in their placement on the labour market

A Commission for Employment of Persons Encountering Difficulties in Finding Job on the Job Market was established at the Ministry of Labour and Social Affairs by Minister's Order No. 11/2001 with a special focus on the Roma community. For instance, the Commission submits suggestions for resolution of employment of specific groups, assesses the implementation of the adopted measures, arranges for the dissemination of information regarding implemented programs and consults essential matters regarding the use of adequate tools of active employment policy and financial funds in the social sphere, education and employment. When resolving the problem of high unemployment rate among the Roma, the Commission uses an ethnically neutral definition of "persons encountering difficulties in their placement on the labour market". The activities of the Commission are focused namely on:

- broad integrated programs for persons encountering difficulties in their placement on the labour market, including Roma job seekers, namely programs of the type of "Chance" (for adults) or "Bridge" (for youth). These programs are designated particularly for job seekers with primary education or low-level skills, or for those who did not complete their secondary studies or whose vocational or study branch is no longer in demand on the labour market;
- local-level co-operation between representatives of the Roma communities and local authorities in overcoming information and communication barriers and creating condition for further co-operation;
- co-operation with the Ministry of Agriculture, Ministry of Environment (State Environmental Fund), Ministry of Transportation (Czech Railways), Ministry of Defence (Military Accommodation Administration) and other ministries in ensuring participation of the Roma companies and companies supporting the Roman in public contracts,
- co-operation with self-government authorities in acquiring environmental contracts, like construction of wastewater treatment plants, or of gas and water distribution networks with the participation of Roma companies and companies supporting the Roma for the purpose of finding employment namely for unskilled Roma job seekers,
- co-operation with regional employment offices in the placement of Roma job seekers in public works projects for municipalities and cities,
- co-operation with social departments of local self-government in the resolution of employment problems of the Roma community,
- striving to include projects concerning employment and employability of the Roma in the European Programs – Leonardo da Vinci, Equal, Phare 2000 and SOP.

The basic policy document of the state employment policy is the National Employment Plan. The question of equal opportunities for all was included in the separate fourth pillar of the National Employment Plan, which consists of four basic objectives: to



enhance legal and institutional tools and mechanisms for the elimination of manifestations of discrimination on the labour market, to create grounds that would allow application of extraordinary temporary measures in favour of those groups of persons whose access to employment is significantly problematic, to monitor the progress in the assertion of the right to employment of groups of persons threatened by discrimination, and to contribute to the elimination of unjustified differences in remuneration of men and women.

Measures adopted under the National Employment Plan increase the possibilities of finding jobs for job seekers encountering difficulties in their placement on the labour market and mitigate discrimination impacts in the society. These measures include, for instance, recommendations for parties organising public tenders to give priority in their assessment of bids and the comparable compliance with other terms to entities employing the highest portion of job seekers registered with employment office, namely those encountering difficulties in their placement on the labour market, taking steps to increase employment of job seekers who have been unemployed for a long time, with an emphasis on the Roma community, enhancing legal and institutional tools and mechanisms to eliminate manifestations of discrimination on the labour market. The National Employment Plan is updated every year in the form of action plans. One of the tasks of the National Action Plan of Employment for the year 2001 was to identify groups threatened by discrimination in selected districts and to prepare methods for such purpose, including methods of personal self-identification with such groups. An employment services team was established for the fulfilment of this task, consisting of employees of consulting and job search departments and of retraining departments of employment offices in České Budějovice, Ústí nad Labem, Louny and Opava. The aim of the work carried out by the team is to identify groups of persons who are the most exposed to discrimination on the labour market, to prepare self-identification methods and to include those methods in the system of work with clients at the employment offices, to prepare for selected groups consulting and retraining programs in co-ordination with the other tools of active employment policy, with the aim of not only increasing employment, but also finding jobs. Results of the work of this team are to be reviewed and put to practice until the end of 2002 as an integral part of the activities of every employment office.

Through the PHARE Program, it was possible to include a block called “Social Inclusion and Equality of Opportunities” in two projects of the National Program PHARE 2000. Measures contained in those projects are focused on the integration of specific groups of population and on the increase of employment of persons threatened by social exclusion, on integration approach and partnership co-operation in the support of social inclusion. The projects also include consulting and motivation programs leading to independent gainful activities and development of social services.

The Ministry of Labour and Social Affairs has also submitted within the scope of the National Program PHARE 2002 a project relating to the implementation of the EQUAL Initiative in the Czech Republic. This initiative, which is a part of the employment policy of the European Union, strives to ensure equal access of disadvantaged groups of persons to employment and to suppress various forms of discrimination and inequality on the labour market. The nine priorities of this program include, for instance, overcoming racism and xenophobia, creation of equal opportunities for women and men and assistance to asylum applicants. The Czech Republic acceded to EQUAL in 2001.



The Research Institute of Labour and Social Affairs carried out in 2001 a survey focused on employment of foreigners, which indicates that, apart from the Slovaks, the most numerous groups on the legal labour market are the Ukrainians, followed by the Vietnamese and the Polish. The net monthly income of legally employed foreigners is slightly (but not much less) than the average income in the Czech Republic. The survey of illegal employment of foreigners indicates that illegal employment of foreigners and various forms of circumventing laws regulating employment of foreigners is spread in the Czech Republic to a similar extent as in other European countries. The survey has also confirmed frequent breach of laws with respect to employment of foreigners, for instance by formal payment of only a part of their wages, overtime and non-compliance with limitation of work on days of rest and night work.

In its efforts to create an active immigration policy, the Ministry of Labour and Social Affairs prepared principles and procedure of implementation of a pilot project of Active Selection of Skilled Foreign Workers, which was approved by Government Resolution No. 975 of September 26, 2001. A detailed draft of this pilot project has been prepared on the basis of those principles.

In its third report ECRI urges the Czech Republic to make further efforts to improve the employment situation of the Roma community. It considers that, given the widespread and endemic nature of disadvantage and discrimination faced by Roma on the labour market, special measures should be implemented aimed at overcoming the high levels of unemployment among Roma communities. The ECRI also encourages the Czech authorities to adopt legislation in the field of anti-discrimination

4. ADOPTION OF A TARGET AND MAINSTREAMING APPROACH REGARDING DISCRIMINATION AGAINST ROMA/TRAVELLER PEOPLE ACCORDING WITH YOUR EXPERIENCE

Besides ongoing efforts to eliminate racial discrimination, i.e. to ensure equal treatment, it is also necessary to develop affirmative action aimed at those persons in a deprived situation for various social or historically conditioned reasons; this definition is not limited to members of the Roma community. Not even thorough protection against discrimination (itself a long-term process) is enough to eliminate long-term deprivation formed over generations. The social decline of the Roma communities can only be halted with affirmative action, pursuing the integration of Roma communities and the acquisition of economic self-sufficiency among its members as its prime objective. The aim of affirmative action also gives rise to suitable means, primarily ***activities leading to an increase in the level of education and professional qualifications.***

The ***Government is not adopting quotas*** in its affirmative action, determining numbers of Roma in certain jobs or between candidates accepted for study courses, but the way of goal-directed assistance enabling these persons to overcome the deprivation they suffer and come up to the demands required of them. The Government approaches affirmative action from the perspective of achieving the goals associated with it by 2020.

Affirmative action aimed at overcoming the historic deprivation of some groups is expressly permitted by the International Convention on the Elimination of All Forms of



Racial Discrimination, the Framework Convention on the Protection of National Minorities, and EU Directive No. 2000/43/EC, which specifically recommends it. The diction of these regulations indicates that these measures should not be considered to be discrimination - not even 'positive discrimination'. Therefore the Government constantly refers to such measures as affirmative action rather than positive discrimination. For the practical use of affirmative action it would be useful to have at least **approximation of number of Members of Roma communities living in various localities or facilities** at disposal. However, eliciting of these data is often refused by faulty references to Article 3 of Paragraph 2 and Article 10 of Paragraph 3 of Charter of Basic Rights and Freedoms and to Act No. 273/2001 of Coll., Act No. 273/2001 of Coll., on the Rights of Members of National Minorities and on an Amendment to Related Legislation. Such faulty references tend to confuse the individual level (freedom of choice of national/ethnic identity, protection of individual data) with the collective level of non-individualized data-processing in statistics. Solving this problem, which is more of methodological than of legal nature, would help to remove one of the obstacles which hampers the implementation of affirmative action in a number of spheres.

Affirmative Action in Education

In terms of educating the Roma, the aim of affirmative action is to achieve a change in the present situation, where a high number of Roma children only reach the lowest possible level of education. The Government believes a situation where many Roma children continue to be placed in special schools is not sustainable. Simply discontinuing special schools, as planned by the new Schools Act which is currently under preparation, is not enough to rectify the situation. Although this legislative change is clearly desirable, it does not in itself guarantee that the prospects these children will have of receiving an adequate education will improve to any great degree. If they are to overcome their socio-cultural handicap, these children need targeted assistance. One such form of goal-directed assistance is the creation of preparatory classes for children from a socio-culturally disadvantaged environment (hereinafter referred to as 'preparatory classes'). Another possibility lies in the use of educators/teaching assistants (formerly known as "Roma teaching assistants"), who themselves tend to be members of the Roma community. A teaching assistant is there to help pupils settle in and to facilitate communications between the teacher and the pupils, their parents, and where necessary the whole Roma community.

Preparatory classes and teaching assistants should be effective where the poor results of Roma children indicate the need for this assistance. Although the number of preparatory classes and educators is constantly rising, there is evidently an objective need for many more. Many localities - sometimes even whole districts - are still lacking preparatory classes and educators because of a lack of information or lack of interest on the part of the management or founders of schools. The role of teaching assistant should be established not just for the first years, but also for the higher grades of primary schools. They should be extended to other levels of schooling too, especially vocational training centres, but also to corrective facilities.

The Ministry of Education, Youth, and Physical Training is no longer the founder of schools in the absolute majority of cases and therefore can no longer apply direct methods of controlling them. However, the state cannot leave the implementation of affirmative action in education up to the founders alone, as it remains responsible for



the fulfilment of obligations arising from international agreements on human rights. The Ministry has a number of indirect motivating instruments at its disposal. The mediation of motivating information plays a significant role in the increase in the number of schools drawing on the possibility of appointing an educator - teaching assistant and setting up a foundation year. The Ministry can also help disseminate information on practical experience in the use of affirmative action through the range of education offered by Teaching Centres and the Institute of Teaching and Psychological Consulting. In this respect, Resolution No. 1145 of 7th November 2001 sets the Minister of Education, Youth, and Sports the task of *intensifying the support and promotion of establishing preparatory classes and the position of educator - teaching assistant with the aim of expanding these forms of affirmative action systematically in places where Roma pupils display educational problems and where preparatory classes and the position of educator - teaching assistant have not yet been set up*. However, if the approach is to be systematic it seems the Ministry of Education, Youth, and Sports will have to have sufficient direct (financial) motivating instruments available to it, i.e. separate funds earmarked specifically for preparatory years and educators - teaching assistants that it can offer to the founders of schools.

The need for affirmative action in education is not only due to the socio-cultural handicap of Roma children (defects in the structuring of terms, in the language of instruction, and in the concept of discipline due to their different family upbringing), but can also be put down to the rigidity of the education system, which is not prepared for manifestations of cultural difference. Therefore, while the Government believes that the present situation warrants an increase in the range of preparatory classes, it also considers it necessary over the longer term to aim for schools themselves to be better prepared. The objective is to transform the primary school so that it is an establishment that can cope with all children, no matter how prepared or unprepared they are for school, while schools similar to today's special schools would be reserved only for children with a mental handicap in the true sense of the word. This objective requires an individual approach to children at primary school, which could be improved by having fewer pupils in classes and, in particular, by ensuring teachers receive special training.

Besides general multicultural education, special teacher training should include the compulsory minimum of knowledge of the Roma community, the Roma language and culture, and special features of communicating with Roma parents. This training would be required for beginning teachers, who should receive most of this information as part of their studies at teaching training college, and teachers who have longer experience but who have so far only encountered Roma children sporadically. As far as possible, before a child starts at school teachers should be informed of the situation of the family the child comes from by the Roma adviser or educator - teaching assistant. Teachers who have a fair number of Roma children or "children from a socio-culturally disadvantaged environment with specific educational requirements" could be motivated economically.

Affirmative action in Roma education does not include the creation of a separate Roma education system, like the Polish national minority has; the Roma themselves are generally not clamouring for the establishment of this national education system. It should be borne in mind, however, that there are schools with a majority of pupils from a different socio-cultural environment (inaccurately called 'community schools'), which are mainly attended by Roma children, either because they live in the area or because



of the aversion of majority society². Government policy clearly has no intention of artificially increasing the number of these schools, which could be viewed as supporting segregating tendencies. The Ministry of Education, Youth, and Sports must try to ensure that, in cases where educational segregation has in fact occurred, these schools can provide Roma children with adequate education and aid their integration into society. With this in mind, the Government set the Minister of Education, Youth, and Sports³ the task of drawing up a project of schools with a full-day programme, where attendance of the non-teaching part is voluntary. Schools of this type should have the opportunity of applying, for example, permanent exemptions from the required number of pupils in classes and after-school clubs, higher pay for teachers, resources to run a whole-day free programme for pupils, the provision of free snacks, etc. It is also possible at these schools, at least in preparatory classes and the first grade, to use the Roma language as an auxiliary language of instruction; teachers' proficiency in this language should be taken into account when setting personal allowances.

Fundamental changes must also be made in pre-school education at nursery schools, which are currently attended by a very low number of Roma children. The consequence of this low preschool turnout is that a high percentage of children are starting their compulsory education unprepared, which has a very negative impact on how successful they are at school. A partial solution would be legislative measures enabling children from socially deprived families to attend nursery school without having to suffer any direct or indirect costs. One possibility here would be an amendment to Act No. 117/1995 of Coll., on State Social Support, in the wording of later regulations, so that a three- to four-old child nursery school attendance would not result in the claim to parental benefit being forfeited⁴ in the case of economically self-sufficient families. A more fundamental solution of a systematic nature would be the introduction of compulsory attendance at nursery schools in the final year before children are due to start primary school, as is the case in many comparable countries (e.g. Hungary). The creation of a ***programme of timely care for children from a socio-culturally disadvantaged environment*** must be a priority of further work on the Policy Concept.

As far as the transformation of special schools into primary schools is concerned, it is proposed that classes with the curriculum of a primary school be set up at special schools and that the more able children be gradually transferred to this programme. This process will make it possible to draw on the skills of special teachers from special schools (primarily the individual approach to pupils); children from the same family will remain in the same school, even if, say, one is placed in the special school programme and the other in the primary school programme. It is also possible for children to study some subjects using the primary school (or national school) syllabus and some subjects according to the special school syllabus. If schools have the same founder, the primary school can be merged with the special school and the transformation can be made within the new school that emerges. If schools do not have the same founder,

² Examples of these schools can be found in Chanov (Most), Předlice (Ústí nad Labem), Ostrav-Privoz, and other places.

³ Section II. 1 b) of Government Resolution No. 1145 of 7 November 2001.

⁴ In Section II. 2 b) of Resolution No. 1145 of 7 November 2001, the Government set the Minister of Labour and Social Affairs the task of considering the draft of an amendment to the said Act. By the end of 2002 there was no bill put to the vote.



it would be expedient to attempt to merger them in accordance with the relevant regulation.

For Roma children who currently attend a special school, individual programmes, including extra lessons, can be prepared in accordance with the recommendations of teaching and psychological advice centres. More compensatory classes should also be set up for them aimed at allowing them to continue their education in a primary, elementary, or national school programme.

Overcoming educational handicaps also involves educating adults who, as a result of their socio-cultural deprivation in the past, only attended special school, which meant any further education was closed to them. For these adults, courses have been created for them to add to their basic education, but these will have to be promoted more actively; it would also be advisable to orient these courses more towards skills that can be applied on the labour market.

Another priority is the need to enable more Roma students, including the socially deprived, to gain secondary or tertiary education. The programme of Support of Roma secondary-school students has a clearly affirmative nature. The aim of this programme is to use financial support to enable Roma pupils at secondary schools to continue or begin studies that they would otherwise have to forsake for social reasons.⁵

Affirmative Action in Employment

In the field of employment, qualification and retraining courses are an example of affirmative action. The main issue here is the acquisition of necessary knowledge and skills that balance out handicaps in access to employment in state administration or service in the armed and security forces of the state. These are skills that are widespread in the majority population but that are unusual among the Roma⁶. This area also includes retraining courses for Roma assistants and advisers focusing on work in state or self-governing bodies. A specific example of courses specifically intended for Roma, or members of national minorities, is courses preparing Roma for work in the police force, which has been under way since 1999. Similar courses are being planned for work of the Roma in the Prison Service. In the future there should also be the possibility of preparing for the army, where the system of military boarding schools would create conditions suitable for men from a socio-culturally disadvantaged environment to study and increase their qualifications in. The development of courses for women, teaching them skills they can use in their housekeeping, would also be expedient.

In its efforts to find solutions to the problem of high unemployment among the Roma, the Committee of the Minister of Labour and Social Affairs works on the basis of the ethnically neutral definition of 'persons difficult to place on the labour market'. Those who receive this assistance are indeed in many cases Roma, but statistically they

⁵ In 2000 up to 900 applications were accepted, in 2001 already 1531 and in 2002 up to 2500 applications for single school years were accepted.

⁶ For example, the ability to swim, which is a prerequisite for joining the police force or other security services, is not widespread among the Roma.



cannot be separated from other categories of 'difficult-to-place persons'. If affirmative action is to aid the Roma minority in particular, then it will be necessary to concentrate on this action as precisely as possible. In this respect, employment services specify the definition of particularly difficult to place on the market in a way that also embraces any different socio-cultural environment. ***The development of direct programmes aimed at overcoming unemployment among members of the Roma community should become one of the priorities of further Roma integration strategy.***

Further available affirmative action is to offer advantages to entities employing Roma (or 'persons difficult to place on the labour market'). To date, however, no interdepartmental agreement has been reached on the features of this preferential treatment, let alone its form. Several alternatives are worth considering:

- tax advantages, i.e. the possibility of deducting a fixed sum from the tax base for each such person employed,
- direct preferential treatment by providing a fixed sum for each employee from the above-mentioned group at the end of each calendar year,
- special treatment for companies during public procurement if they employ a precisely set percentage of Roma, similar to the system for firms that employ registered disabled persons.

Another complex professional and political problem arises when establishing the relationship between the minimum subsistence level and the minimum wage. Roma employment can be encouraged by gradually increasing the price of work, i.e. the minimum wage, rather than by reducing social benefits. (Even this process is limited by the fact that when increasing the minimum wage, unskilled employees in particular can become too costly for the employer.) The objective must be to ensure that it is worth while for every provider to work, regardless of number of children in the family and regardless of qualifications.

5. NATIONAL STAKEHOLDERS MORE ACTIVE AND APPROPRIATE TO CORRECT DISCRIMINATION AND BRIEF DESCRIPTION OF THEIR ACTIVITIES

Unfortunately as the government and the parliament did not adopt an anti-discrimination act, there is no specialized institution that deals with discrimination cases on daily bases. The ombudsman is not exactly empowered to deal with discrimination cases. Regarding employment there is no special institution that deals with the issue of discrimination, therefore courts decide on individual cases (we already had several decisions on discrimination in employment in favour of discriminated person). Regarding discrimination in education, official the Czech school inspection is the one that is empowered to decide on individual cases.

Regarding services it is the Czech Trade Inspection that is given a power to examine discrimination in services.



As to NGOs that deal with issue of discrimination I shall certainly mention the Counselling Centre for Citizenship, Civil and Human Rights – is a non-governmental and non-profit organisation, registered as a citizen's assembly. The Centre is monitoring:

- compliance of the Czech domestic laws with ratified international treaties on human rights and freedoms
- creation of conditions for the co-operation between a non-governmental sector and state institutions, with a special regard to human rights in the Czech republic
- legislative activities of governmental institutions with regard to the obligations arising from international conventions on human rights

In its activities, the Centre especially

- precipitates and conducts strategic litigation designed to bridge the gaps between the mandates of anti-discrimination laws and the actual treatment of the Roma
- draws attention to discrimination and proposes systematic measures for protection from discrimination

NGO that is active in education area is Step by Step Czech Republic. It is a non-profit organization that was established in 1994 as a center for continuous development and implementation of the Step by Step Program as well as other projects that focus on reform of the system of education and development of civil society.

Among its program Areas are:

- Inclusion and integration – children and teenagers with specific needs (minority groups, children with special needs)
- On-going professional development for teachers and faculty

Step by step CR has developed several programs and projects that eradicate discrimination for current education system in the Czech Republic.

6. EXAMPLES OF GOOD PRACTICES AND STRENGTHS OF OTHER PUBLIC OR PRIVATE ENTITIES IN YOUR COUNTRY REGARDING ANTI-DISCRIMINATION MEASURES AND POLICIES FOR ROMA/TRAVELLER

The field of education is definitely the one that should be regarded as a good practice in anti-discrimination measures. Although special schools are still present in the Czech Republic, various measures were undertaken in this country that can be treated as measures that equalise the access to education to Roma children. First it is program of preparatory classes, second, program of Roma school assistants and third it is scholarship program for secondary school Roma students – all explained above.