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Franet country study: policy and legal highlights 2019

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| Issues in the fundamental rights institutional landscape | <p>No important developments on the Istanbul Convention: Despite the fact that the Czech Republic signed the Convention already in 2016, in 2019 it still has not been ratified.</p> |
| EU Charter of Fundamental Rights | <p>No right to vote abroad in the EP elections: The Supreme Administrative Court maintains that Czech citizens do not have the right to vote at Czech embassies for elections to the European Parliament if they are abroad. According to the Court, the right to vote abroad does not arise from Czech law or EU law (and thus not even from the Charter, the TEU or the TFEU).</p> |
| Equality and non-discrimination | <p>Refusal to issue a new birth number for a transgender person: The Supreme Administrative Court confirmed the decision of the Ministry of Interior, which refused to change the birth number of a person who was born into a male body to neutral or female and upheld the condition that an official sex change cannot be registered without surgery.</p> |
| Racism, xenophobia & Roma integration | <p>Ethnic discrimination in education: The Ministry of Education presented a draft amendment of Ministerial Regulation No. 27/2016. In response to it, NGOs petitioned to the Council of Europe arguing that the amendment will allow for the segregation of pupils with learning and behavioural disorders and will reduce the support for pupils with special educational needs which enables their inclusion in mainstream education.</p> <p>Segregation in housing: According to a housing expert from the NGO sector, by August 2019 one hundred municipalities have declared or were planning to declare ‘housing benefit-free zones’, some of them covering the whole territory of the town. According to NGOs, these measures are aimed at preventing poor people, including Roma, from moving into the towns.</p> |
| Asylum & migration | <p>No important development in 2019.</p> |
| Data protection and digital society | <p>Data retention: The League of Human Rights filed a complaint with the Office for Personal Data Protection about the illegal methods used in the advertising industry. Information about a person’s browsing history, location, and sexual orientation is shared without the consent of Internet users.</p> |
| Rights of the child | <p>The new act supporting the rights of children who are suspects in criminal proceedings: Act No. 203/2019 Coll. establishes a number of changes that improve the situation of minors, increasing their ability to meaningfully participate in court proceedings. Juveniles can now make their own suggestions for a guardian and if the criminal proceedings start before the youth in question has turned 18 years of age, the necessary defence can be extended to the age of 21.</p> |
| Access to justice, including victims of crime | <p>Victims’ Rights Directive: A summary research report examines the Victims of Crime Act’s impact on the situation of victims after its implementation. The results show that in all the areas the law regulates it has brought significant improvements and has had a positive impact on the position of victims. Nevertheless, the report shows that some shortcomings remain.</p> <p>Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022 was approved: The proposed 24 measures should lead to more consistent prevention, protection and support for persons at risk (including children) and more accessible assistance to victims.</p> |
| Convention on the Rights of | <p>The Ombudsperson as a monitoring body for the CRPD:</p> |

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| Persons with Disability | In her first year as a monitoring body under the UN Convention on the Rights of Persons with Disabilities, the Public Defender of Rights published a report drawing attention to the remaining stereotypes and prejudices directed against people living with disabilities and the lack of services and various support measures that could help people with disabilities to participate fully in society. |
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Chapter 1. Equality and non-discrimination

1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

On 27 May 2019, the Governmental Council for Human Rights discussed and approved its priorities for 2019-2023. It also set up a working group on human rights and modern technologies. All priorities will now be shared among Council committees, which will analyse the situation in the field and prepare concrete proposals to improve the protection of human rights in the Czech Republic. The priorities are as follows and their order reflects their importance, in the eyes of the Council: 1. Protecting the rights of people at risk of poverty and social exclusion; 2. Protecting the rights of children in legal proceedings; 3. Age discrimination and protection of the rights of the elderly; 4. Protecting the procedural rights of insured persons in the area of the reimbursement of health services; 5. Improving the situation in prisons; 5. The employment of foreign nationals and the protection of their rights; 6. Human rights and modern technology.

Discrimination on the grounds of race and ethnic origin

In her comprehensive research, the Ombudsperson focused on the question of the segregation of Roma children in schools and classes.¹ She pointed out the negative consequences that segregation has for Roma children themselves. Both the Education Act and the Anti-Discrimination Act prohibit direct and indirect discrimination based on race for schools, municipalities, and other actors in education. However, the state, municipalities, and schools are also obliged to take active action against and prevent segregation. The Public Defender formulated measures and recommendations for all the actors involved to address this situation.

In several cases, the administrative courts dealt with discrimination on the part of service providers. The first case was a statement by the restaurant operator that he did not want Muslims for his clients.² The second case was the case of a hotel in Ostrava that refused to accommodate Russians unless they condemned the annexation of Crimea.³ In both cases, the courts assessed the cases as examples of prohibited discrimination against consumers. In the second case, the owner of the Ostrava hotel appealed to the Constitutional Court, which quashed the decision of the Supreme Administrative Court and upheld the constitutional complaint of the complainant GOLDEN GASTRO SERVICE, Ltd., which operates the hotel.

Discrimination based on sex

The Supreme Court commented in more detail on the issue of equal remuneration in the public sector.⁴ In general, the Court stated that in the case of alleged discrimination in remuneration, it is always necessary to consider the specific content of the work of the compared persons and whether they perform the same work or work of comparable value as defined under the Labour Code.⁵ In the case of employment in the public sector, the situation is facilitated to a certain extent by the fact that the salary provided as remuneration for work is mandated by the Labour Code and its implementing regulations.⁶

¹ Public Defender of Rights (*Veřejný ochránce práv*) (2018), [Cesta ke společnému vzdělávání romských a neromských dětí](#) (Road to the shared education of Roma and non-Roma children), press release, Brno, 8 December 2018.

² Judgment of the Regional Court in Brno, file no. 29 A 115/2016 of 30 May 2018.

³ Judgment of the Regional Court in Ostrava, file no. 22 A 117/2014 of 17 January 2018 and the judgment of the Supreme Administrative Court, file no. 2 As 43/2018 of 28 June 2018.

⁴ Judgment of the Supreme Court, file no. 21 Cdo 2262/2018 of 28 November 2018.

⁵ See § 110 of Act no. 262/2006, the Labour Code (*Zákoník práce*), 7 June 2006.

⁶ See, in particular, Government Decree No. 222/2010 Coll. on the Catalogue of Works and Government Order (*Nářízení vlády o katalogu prací ve veřejných službách a správě*), 23 July 2010 and Government Decree No. 341/2017 Coll. on the Salaries of Employees in Public Services and Administration (*Nářízení vlády o platových poměrech zaměstnanců ve veřejných službách a správě*), 19 October 2017.

The salary is therefore determined on the basis of the nature of the work carried out, which is classed according to the complexity of the work into one of 16 grades and within which salary is determined on the basis of the amount of experience attained. It follows that equal remuneration in the civil service is tied to the fact that persons who perform the same type of work should be classed in the same grade and persons who have the same length of experience should be classed in the same grade. Even individualised, non-claiming salary components such as personal remuneration or extraordinary remuneration should apply the same criteria to all employees. The court is obliged to verify that the remuneration of the employer actually meets these criteria.

Age discrimination

Nothing new and significant to be reported for the period 2019.

Discrimination based on sexual orientation and gender identity

Legal gender recognition is, under current Czech law, dependent on surgery that prevents reproduction and involves the transformation of the genital organs.⁷ The Czech legislation was assessed by the European Committee of Social Rights.⁸ In 2018, the Committee found a violation of the right to health for reasons similar to those cited by the European Court of Human Rights in its ruling on a French rule as being in conflict with the right to the protection of private life,⁹ since trans * persons have the right to officially accessible and easy to fulfill conditions for such a change to be performed.

A case of a trans * person appeared before the Czech courts, in which this person wanted a new birth number corresponding to her psychological gender to be issued for her without undergoing the compulsory operational changes.¹⁰ Specifically, the Supreme Administrative Court (SAC) assessed the case of a person who was born into a male body, but subjectively does not identify as either male or female. A biologically male person requested a change of birth number from male to neutral or female. A cassation complaint was lodged with the Supreme Administrative Court (SAC) against the decision of the Ministry of Interior. However, the court refused the request because she did not meet the legal conditions for this change and the inaction of the Ministry did not constitute unlawful interference in her rights. The SAC commented particularly on the precondition of surgical intervention by agreeing with a dissenting opinion on the judgment of the European Court of Human Rights, as the SAC was opposed to an official sex change without surgery. The SAC referred to the basic principles of Czech society, which mostly perceives gender as a binary category – i.e. a person is either a man or a woman. According to the SAC, the rules for gender change are not unconstitutional, as legislation in the Czech Republic provides adequate means to achieve the goals, although they are not without risk and hardship.¹¹

In conformity with the applicable legislation, the SAC also refused to register the marriage of two men who had entered into marriage in the Netherlands as a marriage in the Czech Republic instead of a registered partnership.¹² According to the SAC, it was up to the legislator to decide.

⁷ See Section 29 (1) of Act no. 89/2012 Coll., the Civil Code (*Občanský zákoník*), 22 March 2012. Similarly, see Section 21 (1) of Act No. 372/2011 on Specific Health Services (*Zákon o zdravotních službách*), 8 December 2011.

⁸ *Transgender-Europe and ILGA-Europe v. The Czech Republic*, Complaint No. 117/2015 of 30 March 2015.

⁹ Judgment in *A. P., Garçon and Nicot v. France* of 6 April 2017, complaints nos. 79885/12, 52471/13 and 52596/13.

¹⁰ Judgment of the Municipal Court in Prague, file no. 3 A 153/2017 of 14 May 2018.

¹¹ 'In the Czech Republic, this concept of gender is so ingrained and considered normal, desirable, "natural" and constitutes one of the cornerstones of the social order that it cannot be abandoned by a court decision, even in cases such as those of the Constitutional Court', said Judge Karel Šimka. According to the SAC, a possible increase in an individual's comfort in life would create too much risk in the form of creating a risk of one of the basic parameters of the current 'normative order' being called into question.

¹² Judgment of the Supreme Administrative Court, file no. 8 As 230/2017 of 30 May 2018.

2. Research findings, studies or surveys on either experiences of discrimination or rights awareness

The *Annual Report on Discrimination* published in 2019 states that people most often felt discriminated against in terms of work and employment, as well as in access to goods and services or housing. This has been a long-term trend in the area of discrimination, as shown by statistics monitored since the Public Defender's mandate in 2010.¹³ The most common reasons for discrimination were reasons other than those defined by the Anti-Discrimination Act. These complaints often concern conflicts between people motivated by personal antipathies that, although potentially very unpleasant for those involved, do not constitute discrimination in the legal sense of the word. The reasons enumerated in the Act were represented in statistics as follows: race and ethnic origin, disability and age, and gender. These were the most common reasons in 2018. There were also 22 cases in which discrimination on multiple grounds at the same time was alleged.¹⁴ In 2018, the Ombudsperson received 342 complaints concerning discrimination. She found violations in 30 discrimination cases: 16 were direct, 9 indirect, and 5 were other forms of discrimination such as persecution, harassment, intention to discriminate.¹⁵ In 59 cases, discrimination was neither confirmed nor refuted.

A research by the Ombudsperson in 2019 entitled *Being LGBT+ in the Czech Republic: The Experience of LGBT+: People with Prejudice, Discrimination, Harassment and Hate Violence (Být LGBT+ v Česku: Zkušenosti LGBT+ lidí s předsudky, diskriminací, obtěžováním a násilím z nenávisti)*¹⁶ provided a great deal of knowledge about the position of LGBT+ people in the Czech Republic. The study was based on an online survey of 1,981 respondents who do not identify as heterosexuals. The survey was most often filled out by young people up to 25 years of age (62 %) and men and women both comprised 46 % of all respondents. The remaining respondents were made up of people who identify as transgender/transsex people (5 %), people who identify as non-binary (4 %), intersex people (< 1 %) and people who are unsure of their sexual/gender identity (< 1 %). The questionnaire was available on the websites of NGOs supporting LGBT+ rights.

LGBT+ people generally consider their position in the Czech Republic to be rather satisfactory. Although a large part of the Czech population thinks that Czech society is tolerant of LGBT+ people, the experience of LGBT+ people, as the research suggests, is often different. The research makes a reference to the findings of an unpublished 2018 public opinion poll by MEDIAN, a market and public research agency, which found that only one-third of the general public think that LGBT+ people are still discriminated against in the Czech Republic.¹⁷ However, three-quarters of the respondents of the Ombudsman's research, all of whom are actually LGBT+ people, think that people belonging to this group are discriminated against. The public therefore perceives the situation of LGBT+ people much more positively than the latter do themselves and the public to a large extent does not perceive the problems this group faces. Over the last five years, more than a third of LGBT+ people have been discriminated against and/or harassed, which is a figure roughly three times higher than the general population. Most often this discrimination took the form of perceived discrimination in the school or university environment (13% of all respondents, and the offenders are not only classmates, but often

¹³ Public Defender of Rights (*Veřejný ochránce práv*) (2019), [Výroční zpráva o ochraně před diskriminací 2018](#) (Annual Report on Protection against Discrimination), Brno, The Office of the Public Defender of Rights, p.11.

¹⁴ Public Defender of Rights (*Veřejný ochránce práv*) (2019), [Výroční zpráva o ochraně před diskriminací 2018](#) (Annual Report on Protection against Discrimination), Brno, The Office of the Public Defender of Rights, p. 86.

¹⁵ Public Defender of Rights (*Veřejný ochránce práv*) (2019), [Výroční zpráva o ochraně před diskriminací 2018](#) (Annual Report on Protection against Discrimination), Brno, The Office of the Public Defender of Rights, p.85.

¹⁶ Public Defender of Rights (*Veřejný ochránce práv*) (2019), ['Být LGBT+ v Česku: Zkušenosti LGBT+ lidí s předsudky, diskriminací, obtěžováním a násilím z nenávisti'](#) (Being LGBT+ in the Czech Republic: The Experiences of LGBT+ People with Prejudice, Discrimination, Harassment and Hate Crime), Brno, The Office of the Public Defender of Rights.

¹⁷ Public Defender of Rights (*Veřejný ochránce práv*) (2019), ['Být LGBT+ v Česku: Zkušenosti LGBT+ lidí s předsudky, diskriminací, obtěžováním a násilím z nenávisti'](#) (Being LGBT+ in the Czech Republic: The Experiences of LGBT+ People with Prejudice, Discrimination, Harassment and Hate Crime), Brno, The Office of the Public Defender of Rights, p. 14.

also teachers) and at work and employment (11%). The perceived discrimination most often took the form of verbal and psychological harassment, humiliation, insults, or threats (almost a tenth of respondents had personal experience with these forms of discrimination over the past five years). In most cases, discriminatory and harassing incidents remained unresolved: up to 91% of LGBT+ respondents did not report them anywhere.

The status of transsexual / transgender people is significantly more difficult and worse than that of lesbians and gays. Up to 86% of trans people felt discriminated against in the last five years, which is significantly more compared to lesbians (58%) and gays (33%). Another indicator is the different degree of openness about their sexual orientation and gender identity shown to friends, family, colleagues, or classmates, with trans people being about a third less open about this than are gays, lesbians, and bisexuals.

The most important measures that would help people to live better in the Czech Republic, according to LGBT+ respondents, concern family life. The greatest support in this respect is to make marriage accessible to same-sex couples (for 96% of respondents this would be helpful), recognition of same-sex couples across the European Union (95%), and adoption for same-sex couples (93%).

Chapter 2. Racism, xenophobia and related intolerance

1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

No significant legal or policy changes were introduced in 2019 relating to the application of the Racial Equality Directive.¹⁸ Regarding ethnic discrimination in access to education, one positive development occurred as the government approved the *Long-Term Concept of Education and Development of the Education System of the Czech Republic for 2019-2023*¹⁹ prepared by the Ministry of Education, Youth and Sports (*Ministerstvo školství, mládeže a tělovýchovy*) which includes a provision on fighting ethnic segregation in education on the municipal level. Two independent reports were published in 2019 regarding ethnic segregation in educational settings. A report by the Open Society Fund Prague, a non-governmental organisation, established that not only has there been no improvement in ethnic segregation in schools since 2016, when reform aimed at inclusion took place in education, but segregation has become even stronger.²⁰ While mainstream schools appear to have benefitted from the wider availability of inclusive measures, factors such as residential segregation continue to have a negative effect on ethnic segregation in education. The study is based on interviews with parents, school principals, and teachers (altogether 15 research participants) in three Czech towns. The Roma Civil Monitor report prepared for the European Commission by six Czech non-governmental organisations concerned with Roma rights issues offered similar conclusions.²¹ Roma children are still to a disproportionate extent being educated in special schools for disabled children and there has been no increase in the number of Roma children attending mainstream (not segregated) schools. Although a small number of schools have been engaged in desegregation efforts, these are not reflected in national policy or practice. No adequate monitoring system measuring the impact of education policy on the Roma is in place.

2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

In the course of 2019 the Czech Judicial Academy²² organised a series of trainings relevant to racism and xenophobia in the country. In February and December a seminar aimed at judges and members of the Police, the Public Prosecutor's Office, and the prison Service was organised that focused on the manifestations of radicalisation and extremism in the online world and the prison context. In November another seminar organised at the Regional Court of Hradec Králové focused on hate crime, extremism, and the radicalisation of people of the Islamic faith. In November another event was organised that was centred on cyber crime, which included a section on hate speech on the internet. In March a seminar on Romani culture was organised for judges and state prosecutors. The seminar covered a range of topics, including the Romani language, history, and cultural heritage. In cooperation with the Office for

¹⁸ Confirmed in communication via email by the Secretariat of the Government Council for Human Rights (Sekretariát Rady vlády pro lidská práva), the Department of Human Rights and Protection of Minorities (Odbor lidských práv a ochrany menšin), Office of the Government of the Czech Republic (Úřad vlády České republiky) on 6 November 2019.

¹⁹ Czech Republic, Ministry of Education, Youth and Sports (*Ministerstvo školství, mládeže a tělovýchovy*) (2019), *Dlouhodobý záměr vzdělávání a rozvoje vzdělávací soustavy České republiky na období 2019-2023*, Long-Term Concept of Education and Development of the Educational System of the Czech Republic for 2019-2023, Prague.

²⁰ Moore, D (2019), *Cesty romských žáků ke vzdělávání: Dopady inkluzivní reformy* (The Journeys of Romani Pupils to Education: The Effects of the Inclusivity Reform), Praha, Open Society Fund.

²¹ Roma Civil Monitor (2019) *Civil Society Monitoring Report on the Implementation of the National Roma Integration Strategy in the Czech Republic: Assessing Progress in Four Key Policy Areas of the Strategy*, Luxembourg, Publications Office of the European Union.

²² Communication via email with the Justice Academy on 18 September 2019.

Democratic Institutions and Human Rights (OSCE), the Academy is currently preparing a series of trainings for 2020 on hate crime.

The Public Defender of Rights published a research mapping the specific needs and problems of LGBT+ people in the Czech Republic. Based on the findings, the Ombudsperson recommended that the Criminal Code should be adjusted, so that it ensures that the LGBT+ group becomes one of the groups vulnerable to hate crime as the LGBT+ group should have equal protection and recognition to racial, ethnic or religious groups.²³ The Ombudsperson also recommended that the Ministry of Education, Youth and Sports and the National Institute for Education include the topic of LGBT+ and sexual minorities in the national curricula (or Framework Educational Programmes) for primary and secondary education, especially from an intersectional perspective.²⁴

We did not identify any developments aimed at preventing or combating hate crime and hate speech against youth.²⁵

²³ Public Defender of Rights (*Veřejný ochránce práv*) (2019) '[Být LGBT+ v Česku: Zkušenosti LGBT+ lidí s předsudky, diskriminací, obtěžováním a násilím z nenávisťi](#)' (Being LGBT+ in the Czech Republic: The Experiences of LGBT+ People with Prejudice, Discrimination, Harrassment and Hate Crime), Brno, The Office of the Public Defender of Rights, p. 17.

²⁴ Public Defender of Rights (*Veřejný ochránce práv*) (2019) '[Být LGBT+ v Česku: Zkušenosti LGBT+ lidí s předsudky, diskriminací, obtěžováním a násilím z nenávisťi](#)' (Being LGBT+ in the Czech Republic: The Experiences of LGBT+ People with Prejudice, Discrimination, Harrassment and Hate Crime), Brno, The Office of the Public Defender of Rights, p. 83.

²⁵ Confirmed via email communication with the Ministry of Education, Youth and Sports on 7 November 2019.

Chapter 3. Roma integration

1. Measures and developments addressing Roma/Travellers segregation

Segregation in education

The segregation of Roma children in education has been identified by both non-governmental experts and governmental agencies (for example, both the Czech School Inspectorate (Česká školní inspekce, ČSI) and the Ministry of Education, Youth and Sport (Ministerství školství, mládeže a tělovýchovy, MŠMT) have carried out monitorings of the segregation of Romani pupils in education),²⁶ and their strategic documents. In 2019, the Czech government approved the *Long-Term Concept of Education and Development of the Educational System of the Czech Republic for 2019-2023*,²⁷ which envisages ‘the provision of guidance to municipalities and schools on how to prevent segregation of Roma and non-Roma pupils in education’ (measure C.2.5). This task should be implemented by the MŠMT, the Agency for Social Inclusion (Agentura pro sociální začleňování, ASZ), municipalities, and schools through ‘cooperation with local action plans’ and ‘the fulfilment of local inclusion plans’ by 2023. These local action plans and local inclusion plans are aimed at combating selectiveness and social segregation but avoid the term and the problem of ethnic segregation. Indeed, the Roma Civil Monitor report published in 2019 stated that the 2016 reform of the Czech education system aimed at increasing its inclusiveness has only limited the impact on the segregation of Roma pupils and, in some cases, the adopted inclusive measures, such as preparatory classes and school clubs attended only by Roma pupils, or Roma-targeted initiatives built on anti-Roma and gender stereotypes (such as an ESF-funded ‘cleaning lady’ course offered to Roma girls), even strengthened the segregation.²⁸ These conclusions were confirmed by another research published in 2019 that stated that the introduction of inclusive measures have not had an impact on segregation, which is the result of wider configurations, including residential segregation, administrative measures, social policy, and the selectivity of elite schools. Moreover, while the mainstream schools have in general benefited from the inclusive reform, the situation in segregated schools has sometimes worsened; before the reform, disadvantaged schools were eligible for funding to pay for school assistants from diverse development programmes, while now paid assistance is contingent on a child first being diagnosed with a problem, but the neediest children are often never diagnosed.²⁹

The Agency for Social Inclusion (Agentura pro sociální začleňování, ASZ) is implementing an ESF-funded project called ‘[Inclusive and High-Quality Education in Areas with Socially-excluded localities](#)’ that supports schools and other stakeholders in the development of local educational institutions. In 2019, as part of the project, ASZ commissioned a research in 70 local educational networks (municipalities or groups of municipalities that share the same network of educational facilities) that analysed in detail the emergence and reproduction of segregation of disadvantaged pupils including specifically Roma, as well as models of desegregation. The analysis identifies what measures need to

²⁶ See for example: Czech Republic, Ministry of Education, Youth and Sports (*Ministerstvo školství, mládeže a tělovýchovy*) (2018), *Zpráva ze zjišťování kvalifikovaných odhadů počtu romských žáků v základních školách ve školním roce 2017/2018*, Praha.

²⁷ Czech Republic, Ministry of Education, Youth and Sports (*Ministerstvo školství, mládeže a tělovýchovy*) (2019), *Dlouhodobý záměr vzdělávání a rozvoje vzdělávací soustavy České republiky na období 2019-2023*, (The long-term plan for education and development of the education system in the Czech Republic for 2019-2023), Praha.

²⁸ Roma Civil Monitor (2019), *Civil society monitoring report on implementation of the national Roma integration strategy in the Czech Republic: Assessing the progress in four key policy areas of the strategy*, Luxembourg, Publications Office of the European Union, p. 61.

²⁹ Moore, D. (2019), *Cesty romských žáků ke vzdělávání: Dopady inkluzivní reformy* (Czech Roma students towards education), Praha, Open Society Fund, p. 20.

be adopted on the local level to fight segregation.³⁰ Despite such detailed knowledge of the problem and its causes and consequences, in practice, no systematic measures or policies have been adopted to fight the segregation of Roma in education. The most specific initiative was the publication of detailed (137-page) *Ombudsperson's Recommendations on the Joint Education of Roma and Non-Roma Children* at the end of 2018.³¹

In fact, there have been attempts to reverse the limited improvement in desegregation brought about by the inclusive reform from 2016. For example, in April 2019, the MŠMT [presented](#) a draft amendment of Ministerial Regulation No. 27/2016³² on the education of pupils with special educational needs that would allow for the segregation of children into classes for pupils with learning and behavioural disorders within special schools, including schools for pupils with a mental disability. Additionally, the draft regulation reduces the support for pupils with special educational needs that is guaranteed under the Education Act by limiting the number of teaching assistants per class. The government-regulation impact assessment does not discuss the regulation's potential impact on the segregation of Roma pupils (on the contrary, it generally claims that the new regulation 'will have a positive impact on the education of pupils with disadvantages'), but civil society organisations argue that this conclusion is false and the regulation may have a negative impact on segregation. In reaction to the proposed draft amendment, a group of advocacy NGOs petitioned the Council of Europe's Committee of Ministers to express their concerns. The new regulation would, according to the petitioners, contravene the ruling of the European Court of Human Rights in case *D.H. and Others v. Czech Republic* from 13 November 2007 and violate the principle of the new Education Act that pupils with special educational needs are primarily educated in mainstream schools.³³ The NGOs' initiative had not had any impact at the time of the writing of this report and the regulation had come into force; the government keeps claiming that it will not negatively impact segregation.³⁴

Residential segregation

No initiatives aimed at tackling the residential segregation of Roma were launched in 2019. After rejection of the draft Act on Social Housing by the Parliament in 2017, the Czech government approved a new grant scheme aimed at construction of municipal social and rental housing in 2019.³⁵ The Programme³⁶ was launched on 20 May 2019 with allocation of CZK 1 billion (€38.68 million) for this

³⁰ Čada, K., Hůle, D. (forthcoming), *Analýza segregace v základních školách z pohledu sociálního vyloučení*, (An analysis of segregation in basic schools from the perspective of social exclusion), Praha, Úřad vlády České republiky.

³¹ Public Defender of Rights (*Veřejný ochránce práv*) (2018), [Doporučení veřejné ochránčyně práv ke společnému vzdělávání romských a neromských dětí](#). Brno: *Ombudsman – veřejný ochránce práv*, (Recommendations of the Public Defender of Rights on the joint education of Roma and non-Roma children. Brno: Ombudsman – Public Defender of Rights), Brno, The Office of the Public Defender of Rights.

³² The draft amendment is accessible online at a website for teachers: <http://www.pedagogicke.info/2019/04/msmt-navrh-vyhlasiky-ktou-se-meni.html>

³³ Amnesty International, Forum for Human Rights, Open Society Fund Prague (2019), [Rule 9 Submission to the Committee of Ministers. D.H. and others v. the Czech Republic \(application no. 57325/00\)](#), 2 August 2019. The document is accessible online at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168096c5c2>

³⁴ Czech Republic, Ministry of Education, Youth and Sports (*Ministerstvo školství, mládeže a tělovýchovy*) (2019), [The Czech Republic's observations on the submission of Amnesty International, Forum for Human Rights and Open Society Fund Prague on the execution of the D.H. and Others v. the Czech Republic judgment](#), 26 August 2019.

³⁵ Czech Republic, Government of the Czech Republic (*Vláda České republiky*) (2019), [Usnesení vlády České republiky ze dne 15. dubna 2019 č. 246 o nařízení vlády o podmínkách použití finančních prostředků Státního fondu rozvoje bydlení na pořízení sociálních a dostupných bytů a sociálních, smíšených a dostupných domů](#), (Resolution of the Government of the Czech Republic dated 15 April 2019 no. 246 on the government regulation on the conditions for using the financial resources of the State Housing Development Fund to access social and accessible flats and social, mixed, and accessible homes), Praha, 15 April 2019.

³⁶ Czech Republic, Government of the Czech Republic (*Vláda České republiky*) (2019), [Nařízení vlády č. 112/2019 Sb. o podmínkách použití finančních prostředků Státního fondu rozvoje bydlení na pořízení sociálních a dostupných bytů a sociálních, smíšených a dostupných domů](#), (Government Regulation no. 112/2019 Coll. on the conditions for using the

year. There are no estimates of how many Roma may (at least potentially) benefit from the scheme and an ex post evaluation will not be possible either as no monitoring of the ethnicity of future tenants is planned. Additionally, the actual implementation of the policy will depend on local governments' decisions on the selection of tenants. The programme does not include mechanisms to guarantee that the new housing will not be built in segregated settings (such as existing Roma neighbourhoods) or that it will provide accommodation for the most vulnerable groups that are excluded from access to housing because of ethnic discrimination (the eligibility of tenants is based on income and current housing conditions).³⁷

Shortly after the launch of the programme, in June 2019, the town of Most, where the largest and most known Roma ethnic ghetto in the Czech Republic called *Chánov* is located, announced a plan to construct new housing from pre-fab containers for Roma at *Chánov*.³⁸ In August 2019, the local government commissioned a company that will prepare the construction documents necessary for launching the construction. The Agency for Social Inclusion (Agentura pro sociální začleňování, ASZ), which is assisting the town with absorbing the European Structural and Investment Funds, opposed this plan and joined a municipal expert group aimed at developing a dedicated strategy for the neighbourhood. The Agency for Social Inclusion wants to promote the desegregation of the neighbourhood and use the European Structural and Investment Funds for this purpose. In the meantime, a local Roma community action group organised a petition against the construction of pre-fab social housing, which has been signed by more than 100 inhabitants in the segregated neighbourhood.³⁹

2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

No specific measures with a specific impact or explicitly aimed at Roma inclusion were adopted in 2019.⁴⁰ In general, the Czech Republic mainly applies a non-ethnic approach to Roma inclusion that is based on a social inclusion paradigm. Civil society organisations have criticised the failure to monitor and evaluate the outreach and the impact that mainstream policies have on the Roma specifically.⁴¹ On the other hand, there exist policies that are nominally neutral but repressive in effect that central and local governments have adopted and that have had a disproportionately negative impact on marginalised Roma. The most visible example of such policies is the option municipalities have to declare an area a 'housing benefit-free zone', which was introduced by the 2017 amendment to the Act on Aid to People in Material Distress.⁴² According to NGOs, this regulation, which allows municipalities to declare zones in which any tenants signing a new rental contract are not eligible for housing benefits is being misused

financial resources of the State Housing Development Fund to access social and accessible flats and social, mixed, and accessible homes), Praha, 15 April 2019.

³⁷ Detailed information on the programme and eligible tenants are available at the [webpage](#) of the State Housing Development Fund (*Státní fond rozvoje bydlení*, SFRB).

³⁸ Seznam.cz (2019), '[Čunkodomy znovu na scéně. V Mostě plánují postavit na sídlišti Chanov nové bydlení pro Romy](#)' (Čunkodomy back on the scene. New housing for Roma planned for construction on the Chanov estate in Most), 16 June 2019.

³⁹ Mostecy Dennik.cz (2019), '[Chanov má projektanta. Agentura doporučuje sídliště postupně vylidňovat](#)', (Chanov has a designer. The agency recommends gradually depopulating the estates), 10 August 2019.

⁴⁰ Interview with representatives of Roma and pro-Roma NGOs during a meeting of the Roma Civil Monitor initiative on 23 September 2019 and phone interview with a member of the Governmental Council for Roma Community Affairs on 25 September 2019.

⁴¹ Roma Civil Monitor (2018), [Civil society monitoring report on implementation of the national Roma integration strategy in the Czech Republic: Focusing on structural and horizontal preconditions for successful implementation of the strategy](#), Luxembourg, Publications Office of the European Union, p. 9, pp. 15-19.

⁴² Czech Republic, Act No. 98/2017 Coll. on an amendment to the Act on Aid to People in Material Distress No. 111/2006 Coll., as amended, and the Act on State Social Support No. 117/1995 Coll., as amended (*Zákon č. 98/2017 Sb., kterým se mění zákon č. 111/2006 Sb., o pomoci v hmotné nouzi, ve znění pozdějších předpisů, a zákon č. 117/1995 Sb., o státní sociální podpoře, ve znění pozdějších předpisů*), 5 April 2017.

to prevent the potential relocation of the Roma into the towns.⁴³ This regulation was challenged before the Constitutional Court by a group of senators in 2017 (the case has not yet been ruled on), and specific cases of municipalities applying this law were recently abolished or are being assessed by general courts or regional governments (including cases of towns with significant Roma populations such as Kladno⁴⁴ and Ústí nad Labem⁴⁵). Despite these developments, according to an article published in the journal *Fórum sociální politiky* (Journal Social Policy Forum) by an expert working for the NGO Institute for Social Inclusion (Institut pro sociální inkluzi), by August 2019 one hundred municipalities either already declared ‘housing benefit-free zones’ since the amendment to the law was introduced, or there was evidence that they were planning to make this declaration.⁴⁶

Back in September 2018, the Minister of Labour and Social Affairs (*Ministerstvo práce a sociálních věcí*), Jana Maláčová, announced a set of 15 measures for fighting ‘business with poverty’ (expression used for operators of substandard over-priced accommodation which is often the only available housing option for the most vulnerable groups of population) and for helping people living in socially excluded localities.⁴⁷ These measures should include a stricter regulation of accommodation provision by private operators, development of available public rental housing stock (see the information on a new grant scheme aimed at the construction of municipal social and rental housing in the previous section) and reform of the housing allowances, as well as a widely defined objective in reforming employment policy and social work. The proposed measures, however, do not include a clear timeline or ensure funding for their implementation. In September 2019, the Committee for Social Policy of the Czech Parliament criticised the government for a slow progress in implementation of the planned measures and no progress in fighting poverty.⁴⁸ According to the Committee’s criticism, as reported by media, the only implemented measures concern the launch of the grant scheme for municipalities for construction of rental housing.⁴⁹

Interviewees from the Roma and pro-Roma civil society had been informed by representatives of the office of the Czech government that a new Roma inclusion strategy for the period after 2020 is being prepared by the National Roma Contact Point.⁵⁰ The responsible representative of the National Roma Contact Point, however, said that the development of the new strategy will not be consulted with the civil society.

⁴³ Roma Civil Monitor (2019), *Civil society monitoring report on implementation of the national Roma integration strategy in the Czech Republic: Assessing the progress in four key policy areas of the strategy*, Luxembourg, Publications Office of the European Union, p. 28.

⁴⁴ Deník Referendum (2019), *‘Kladno přijde o bezdoplatkovou zónu. Diskriminace dostala trhlinu’*, (Kladno loses its benefit-free zone. A crack opens up in the discrimination), 18 March 2019.

⁴⁵ Seznam.cz (2019), *‘Největší městské “ghetto” Ústí nad Labem míří k soudu. Bezdoplatkovou zónu napadla zastupitelka’* (The biggest urban ‘ghetto’ Ústí nad Labem heads to court. The benefit-free zone is attacked by a representative), 28 March 2019.

⁴⁶ Zieglerová, A. (2019), *‘Dva roky vyhlášení bezdoplatkových zón. Méně dávek, více bídý’* (Two years after declaring housing benefit-free zone. Fewer housing benefits, more destitution), *Fórum sociální politiky* (Journal Social Policy Forum) pp. 22-30, p. 25.

⁴⁷ Czech Republic, Ministry of Labour and Social Affairs (*Ministerstvo práce a sociálních věcí*) (2019), *‘MPSV připravilo 15 opatření pro boj proti obchodníkům s chudobou’*, (Ministry of Labour and Social Affairs has prepared 15 measures against the poverty business), press release, Praha, 21 February 2019.

⁴⁸ Czech Republic, Chamber of Deputies of the Parliament of the Czech Republic (*Poslanecká sněmovna Parlamentu České republiky*), Committee for Social Policy (*Výbor pro sociální politiku*) (2019), *Zvukový záznam z 19. září 2019*, (Audio recording from 19 September 2019), recording of the session, Praha, 19 September 2019.

⁴⁹ Romea.cz (2019), *‘Sociální výbor kritizoval ministerstva za neřešení situace ghett. Maláčová přespala v Předlicích’* (Social committee criticised ministries for failure to solve the situation of ghettos. Maláčová slept over in Předlice), 20 September 2019.

⁵⁰ Interview with representatives of Roma and pro-Roma NGOs during a meeting of the Roma Civil Monitor initiative on 23 September 2019.

Chapter 4. Asylum, visas, migration, borders and integration

Unaccompanied children reaching the age of majority

| Area of support | Description |
|---|--|
| Residence permit <i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i> | <p>The state organ responsible for unaccompanied minors is in all cases the Authority for the Social and Legal Protection of Children (<i>Orgán sociálně-právní ochrany dětí, OSPOD</i>). After the Authority starts an initial court process, the minor receives a temporary permit without a visa. This is a temporary solution and is followed by another process that seeks to find a long-term solution for the minor.⁵¹</p> <p>If it is found that the minor should remain in the Czech Republic, based on section 87, paragraph 1 of Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic (<i>Zákon o pobytu cizinců na území České republiky</i>),⁵² the minor is placed in alternative care. This in effect means placement in what is called a ‘diagnostic’ care institution, unless the minor has relatives in the country, in which case they are placed with the relatives. The length of time a minor can be placed in a diagnostic institution is a maximum of three years, but this period can be renewed and prolonged.</p> <p>There are two scenarios that influence the type of residence permit at this point, depending on the age of the unaccompanied minor: If the minor is under the age of 15, they will be granted a permanent residence permit. Based on section 87, paragraph 10 of Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic (<i>Zákon o pobytu cizinců na území České republiky</i>),⁵³ the permanent residence permit remains valid after the minor turns 18. If the minor is over the age of 15, the permit issued is temporary and expires at the age of 18, in conformity</p> |

⁵¹ The information provided in this chapter is entirely based on email communication with the Ministry of Labour and Social Affairs (*Ministerstvo práce a sociálních věcí*), Department of Child Rights Protection Methodology (*Oddělení koncepce a metodiky ochrany práv dětí*) on 2 October 2019 and 6 November 2019.

⁵² Czech Republic, Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic (*Zákon o pobytu cizinců na území České republiky a o změně některých zákonů*), 23 December 1999.

⁵³ Czech Republic, Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic (*Zákon o pobytu cizinců na území České republiky a o změně některých zákonů*), 23 December 1999.

| | |
|--|---|
| | <p>with section 87, paragraph 7 letter a) point 4 of Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic. Within 60 days of reaching the age of majority, the young person has the right to request permanent residence status based on humanitarian grounds, in accordance with section 66, paragraph 1 letter a) of Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic.</p> |
| <p>Guardianship (<i>representative under Reception Conditions Directive Article 24.1</i>)</p> | <p>There is no specific mentoring scheme. The Czech system differentiates between the custodian (<i>opatrovník</i>) and the alternative/substitute caregiver. The custodian does not directly care for the minor, but represents the minor in legal proceedings (an individual minor can thus have a series of different custodians, depending on the type of proceeding).</p> <p>The guardian (<i>poručík</i>) can, however, serve as the alternative caregiver. Since there is no professional foster care system for these minors in the Czech Republic, a small number of minors are placed in kinship care (family alternative care), but the overwhelming majority of unaccompanied minors are placed in institutional alternative care. There is one specific diagnostic institution in Prague where these minors are placed (unless it has full capacity, in which case they are placed at other institutions). This institution operates with a fairly strict regime and while it is not a detention center, minors are not completely free to move in and out of it. The procedural guardian in the case of alternative institutional care is normally the OSPOD. Support from the authority is discontinued after the minor turns 18.</p> <p>There are two options for continued support once the minor reaches the age of majority: the young person remains in alternative care (for the conditions of this support see below) or, if direct support is discontinued, the person is eligible for support from either a local social worker or social services. However, the young person is only eligible for this type of support if they qualify according to the terms of Act No. 108/2006 Coll. on Social Services (<i>Zákon o sociálních službách</i>).⁵⁴ Irregular residence status can be a limitation. Young persons thus have access to the same support as do adults.</p> |
| <p>Accommodation <i>Reception Conditions Directive Article 24.2</i></p> | <p>Alternative care caters to the minor's personal needs and can be prolonged after the minor reaches maturity. The young adult (whether he/she is in kinship care or, as is usually the case, in institutional care) does not automatically have the right to receive continued support and must specifically request it. If the young adult is in kinship care, their caregiver (not the young person) has the right to an extension of state support to cover the young person's needs. If the young person is in institutional care, he/she can come to an agreement with the institution, according to which he/she can remain living in the facility and receive continued care. In practice this is the most common solution. Some institutions have flats in which young persons can 'practise' independent living, but these are an exception to the rule. Another option is that young persons can live in higher-education student hostels, in which case they have the</p> |

⁵⁴ Czech Republic, Act No. 108/2006 Coll. on Social Services (*Zákon o sociálních službách*), 31 March 2006.

| | |
|--|--|
| | <p>obligation to pay regular visits to their original institutional care facility. In all cases, according to section 2, paragraph 6 of the Act no. 109/2002 on Institutional Education and Protective Care in School Facilities and on Preventive Educational Care in School Facilities and amendment to other Acts (<i>Zákon o výkonu ústavní výchovy nebo ochranné výchovy ve školských zařízeních a o preventivně výchovné péči ve školských zařízeních a o změně dalších zákonů</i>)⁵⁵ the maximum age to which support can be received is 26 years and in order to be eligible the young person must be enrolled as a student.</p> <p>Continued support after a young person reaches the age of majority is not tied to his/her residence status. For instance, if a minor is over the age of 15 when he/she receives a temporary residence permit (which expires at the age of 18, in conformity with section 87, paragraph 7 letter a) point 4 of Act No. 326/1999 Coll. on the Residence of Foreign Nationals in the Czech Republic), his/her permit will not be automatically renewed simply based on the fact that the young adult is receiving state support and is studying. They still have to request permanent residence status on humanitarian grounds (as described above).</p> |
| <p>Return <i>Return Directive, Article 10</i></p> | <p>Until they reach the age of majority, all unaccompanied minors are the responsibility of the OSPOD, which serves as their case coordinator. The authority, ideally in cooperation with the minor, formulates an individual plan for the minor, which in theory responds to the current needs of the minor, and in case of an impending return it should duly prepare the unaccompanied minor for the procedure or, if needed, provide free assistance. After the young person reaches the age of majority, OSPOD can arrange ongoing support from a local social worker.</p> |
| <p>Others</p> | <p>None.</p> |

⁵⁵ Czech Republic, Act no. 109/2002 on Institutional Education and Protective Care in School Facilities and on Preventive Educational Care in School Facilities and amendment to other Acts (*Zákon o výkonu ústavní výchovy nebo ochranné výchovy ve školských zařízeních a o preventivně výchovné péči ve školských zařízeních a o změně dalších zákonů*), 5 February 2002.

Chapter 5. Information society, data protection

1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

The EU General Data Protection Regulation (known as GDPR) has effectively replaced the Czech Personal Data Protection Act.⁵⁶ Act No. 110/2019 Coll., *On the Processing of Personal Data*⁵⁷ (hereinafter referred to as the ‘*Personal Data Processing Act*’) entered into force. Initially, this legislation was to take effect at the same time as the GDPR. However, due to the large number of amendments and the controversy surrounding some of the proposed provisions, the adoption of this law was more than three-quarters of a year late. The Personal Data Processing Act completes the legal framework and includes both national margins and special adjustments to the GDPR. The Personal Data Processing Act and the Accompanying Act,⁵⁸ which was also implemented, set out specific rules for the processing of personal data in the criminal field.⁵⁹ In addition to the exceptions for these areas, the draft law newly regulates the structure of the Office for Personal Data Protection (hereinafter Office) and strengthens its independence. Article 51 (1) of the Personal Data Processing Act defines the independence of the Office in the following way: ‘The activities of the Office may only be interfered with by law. In exercising its powers in the field of personal data protection, the Office shall act independently and shall be governed only by the legislation and directly applicable European Union legislation.’ In addition, Article 52 (1) states: ‘The Office is managed by the President of the Office, appointed and recalled by the President of the Republic on a proposal from the Senate.’ The activities of the Office are covered by a separate chapter of the state budget (Section 51 (2)) and the President submits an annual report (Section 57) to the Parliament and the Government within 3 months of the end of the budget year. The Office for Personal Data Protection issued several final decisions or fines issued for violations of the GDPR.⁶⁰

⁵⁶ Act No. 101/2000 Coll., the Personal Data Protection Act, as amended (*Zákon o ochraně osobních údajů a o změně některých zákonů*), 25 April 2000.

⁵⁷ Act No. 110/2019 Coll., the Personal Data Processing Act (*Zákon o zpracování osobních údajů*), 24 April 2019.

⁵⁸ Act No. 110/2019 Coll., the Personal Data Processing Act (*Zákon o zpracování osobních údajů*), 24 April 2019.

⁵⁹ Directive (EU) 2016/680 of the European Parliament and of the Council dated 27 April 2016 on the protection of individuals with regard to the processing of personal data by the competent authorities for the prevention, investigation, detection, or prosecution of criminal offenses or the enforcement of criminal penalties, and on the free movement of such data, repealing the Council Framework Decision 2008/977 / JHA and Directive (EU) 2016/681 of the European Parliament and of the Council dated 27 April 2016 on the use of Passenger Name Record (PNR) data for the prevention, detection, investigation, and prosecution of terrorist offences and serious crime.

⁶⁰ The Office for Personal Data Protection (2019) issues these final decisions on their [webpage](#).

2. Artificial intelligence and big data

| MS | Actor* | Type* | Description | Are Ethical concerns mentioned? (yes/no) | Are Human Rights issues mentioned? (yes/no) | Reference |
|----|----------------------------|-----------------|--|--|---|--|
| | Government / Parliamentary | - report /study | In May 2019 the Czech Government approved the National Strategy for Artificial Intelligence (NAIS), which is a strategic document for AI in the Czech Republic. The Ministry of Industry and Trade is responsible for the development and implementation of the strategy and it coordinated the establishment of the NAIS in cooperation with other departments and leading experts in the field of artificial intelligence in the Czech Republic. The National Strategy addresses seven key themes in the field of artificial intelligence, which include (in addition to the aforementioned support for research and development) the use of AI in industry and services; interconnection with human capacities, education, and the labour | yes | yes | Ministry of Industry and Trade of the Czech Republic (Ministerstvo průmyslu a obchodu) (2019), National Artificial Intelligence Strategy of the Czech Republic, Praha. Available at: https://www.mpo.cz/assets/en/guidepost/for-the-media/press-releases/2019/5/NAIS_eng_web.pdf |

| | | | | | | |
|--|--|--|--|--|--|--|
| | | | market; legal and ethical aspects; and areas of international cooperation. | | | |
|--|--|--|--|--|--|--|

*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit
- Academia
- Domestic Courts
- Business
- Independent State Institution
- Other

** for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

3. Data retention

In December 2017, the Pirate Party filed a proposal with the Constitutional Court to abolish legal regulations that allow the storage of operational and location data. On 14 February 2018, the government decided⁶¹ to bring the proceedings before the Constitutional Court and suggested that the court dismiss the proposal. The Constitutional Court rejected a petition of a group of 58 deputies to annul the Czech legislation on data retention, i.e. the blanket storage of metadata on electronic communication ('data retention').⁶² The proposal challenged certain provisions of the preventive retention of traffic and location data on electronic communications by telecommunications service providers ('data retention') and the possibility of their being subsequently passed on to law enforcement

⁶¹ Czech Republic, Government of the Czech Republic (*Vláda České republiky*) (2019), [Jednání vlády](#) (Governmental proceedings), Decision No. 100 of 14 February 2018.

⁶² Czech Constitutional Court (2019), [Současná právní úprava data retention je ústavně konformní](#) (The current legal framework for data retention conforms to the constitution), press release, 22 May 2019.

authorities, i.e. the Police of the Czech Republic, in specific cases – such as the search for a person who is wanted or missing, identifying a person of unknown identity or determining the identity of a corpse, preventing or detecting specific threats in the area of terrorism – or the Security Information Service, the Military Intelligence, or the Czech National Bank for the purposes of capital market supervision. The Constitutional Court concluded that the contested data retention adjustment fulfils the requirements laid down in previous Constitutional Court case-law and thus can be applied in a manner that is in conformity with the Constitution and guaranteed by Articles 10 (rights of protection against unauthorised interference in private and family life and against the unauthorised collection, disclosure, or other misuse of personal data) and 13 of the Charter of Fundamental Rights and Freedoms (the right to the secrecy of messages by telephone or another similar device). According to the Constitutional Court, the period of six months during which the operating and location data are stored is not manifestly unreasonable.

The League of Human Rights filed a [complaint](#) with the Office for Personal Data Protection about the illegal methods used in the advertising industry. Information about a person's browsing history, location, and sexual orientation is shared without the consent of Internet users.⁶³

In its judgment,⁶⁴ the Constitutional Court dealt, inter alia, with the question of the applicability of evidence of the so-called printscreens of non-public comments on social networks. In this case, the courts assessed the claim of an applicant for compensation under Act No. 82/1998 Coll. because the police did not allow the applicant to protest physically against the Prague Pride Parade (the police banned the applicant from entering the places where the march took place). As part of the indemnification procedure, the Circuit Court provided evidence in the form of printscreens of a private Facebook post made by the applicant. The court concluded that, provided that all legal conditions are met, it is possible to obtain information from social networks that are not freely accessible to the public, either through an informant or through a social network profile set up by the Police of the Czech Republic used for business purposes, and use this information as evidence. It is not necessary for the court to obtain information from social networks by the above-mentioned means, as this is not required by law.

⁶³ League of Human Rights (2019), [ÚOOÚ obdržel stížnost na nezákonné metody v online reklamě](#) (The Office for Personal Data Protection received a complaint today about the illegal methods used in online advertising), press release, 4 June 2019.

⁶⁴ Judgement of the Czech Constitutional Court (2019) [No. 3564/18](#) of 28 May 2019.

Chapter 6. Rights of the child

1. Procedural safeguards for children who are suspects in criminal proceedings

| | |
|----------------------------|--|
| Legislative changes | <p>The transposition of the Directive 2016/800 on procedural safeguards for children is complete and no further amendments to the national laws are envisioned in this regard.⁶⁵</p> <p>In August a new act was introduced that transposes the requirements in Directive 2016/800 on procedural safeguards for children. Act No. 203/2019 Coll.⁶⁶ establishes the following:</p> <ul style="list-style-type: none">- the amount of information children in criminal proceedings or their guardians receive in the course of the proceedings is expanded;- the juvenile has the right to suggest a guardian;- if the criminal proceedings started before the youth in question turned 18 years old, the necessary defence can be extended to 21 years (provided that this is seen as necessary with respect to the specific conditions of the case and the maturity or vulnerability of the youth in question). <p>Changes were also made to Act No. 218/2003 Coll. (Act on Youth Court) (<i>Zákon o soudnictví ve věcech mládeže</i>)⁶⁷, according to which if it is unclear whether the person in question has reached 18 years of age, they are to be considered a minor/youth. Furthermore, the changes include an investigation into the conditions of the youth, based on which a report is to be written on his/her personal, family, and social environment. The investigation, for which a clearly defined time frame is now given in the amendment, includes input from the legal representatives or guardians of the youth. The report is to be periodically updated. In addition, a clear preference is stated for audiovisual recordings (as opposed to sound recordings) during hearings.</p> <p>Act No. 293/1993 Coll. on Remand⁶⁸ (<i>Zákon o výkonu vazby</i>) was altered to allow the separation of youth from adults in custody if the youth reaches the age of maturity while already in custody.⁶⁹</p> |
|----------------------------|--|

⁶⁵ Communication via email on 7 November 2019 with the Department of Criminal Legislation of the Ministry of Justice (*Oddělení trestně právní legislativy Ministerstva spravedlnosti ČR*).

⁶⁶ Czech Republic, Act No. 203/2019 Coll. (*Zákon, č. 203/2019 Sb., kterým se mění zákon č. 218/2003 Sb., o odpovědnosti mládeže za protiprávní činy a o soudnictví ve věcech mládeže a o změně některých zákonů (zákon o soudnictví ve věcech mládeže), ve znění pozdějších předpisů, zákon č. 141/1961 Sb., o trestním řízení soudním (trestní řád), ve znění pozdějších předpisů, a zákon č. 293/1993 Sb., o výkonu vazby, ve znění pozdějších předpisů*), 15 August 2019.

⁶⁷ Czech Republic, Act No. 218/2003 Coll. on Youth Court (*Zákon o soudnictví ve věcech mládeže*), 31 July 2003.

⁶⁸ Czech Republic, Act No. 293/1993 Coll. on Remand (*Zákon o výkonu vazby*), 10 December 1993.

⁶⁹ The information in this section was obtained via email communication on 24 September 2019 with the Department of Criminal Legislation of the Ministry of Justice (*Oddělení trestně právní legislativy Ministerstva spravedlnosti ČR*).

| | |
|--------------------------------------|---|
| Policy developments | Targeting judges, state prosecutors, and their assistants, the Justice Academy organised three seminars concerned with the criminal activities of young offenders, including the issue of their imprisonment. ⁷⁰ |
| Other measures or initiatives | The Government Council for Human Rights announced that one of its priority areas for the period 2019-2023 will be children in court proceedings. ⁷¹ |

2. Legal and policy measures or initiatives developed about child internet safety

No significant legal developments were identified. The National Cyber and Information Security Agency organised a series of presentations and on-line training activities targeting children, including children of kindergarten age.⁷²

⁷⁰ Communication by email on 26 September 2019 with the Justice Academy (Justiční akademie).

⁷¹ Czech Republic, Government Council for Human Rights (*Rada vlády pro lidská práva*) (2019), [Rada vlády pro lidská práva schválila své priority na další období](#) (The Council approved its priorities for the upcoming period), press release, 27 May 2019.

⁷² Communication via email with the Education, Research and Project Department of the National Cyber and Information Security Agency on 26 September 2019.

Chapter 7. Access to Justice Including Crime Victims

1. Victims' Rights Directive

The report on extremism for the second quarter of 2019⁷³ shows that the police are increasingly dealing with cases of hate prejudice. *'Hate prejudice poses a threat to democracy, specific groups of people, and individuals, and prevents constructive solutions to social problems. Law enforcement authorities are increasingly dealing with manifestations of hate prejudice by persons who do not belong to any extremist group. These persons often do not even know that they are committing crimes with their statements or actions. In the context of criminal proceedings, they tend to downplay them'*, says the report. *'Hate prejudice differs from extremist hatred in that it may not be associated with any totalitarian ideology. The perpetrators do not necessarily have to be members or supporters of extremist movements. They also lack any clear drive to overthrow the system of pluralist democracy and replace it with a totalitarian system'*, explains the Ministry of the Interior in the *Report on Extremism and Hate Prejudice for 2018*.⁷⁴

In 2019, the Ombudsperson published the second *Proceedings on Prison Problems*. This extensive publication summarises the Ombudsperson's legal opinions on this issue from 2010 to 2018. The proceedings summarise, for example, the material conditions in prisons and the equipment of individual cells, how to prevent bullying, or how to deal with it, approaches to disciplinary punishment or the use of coercive measures. The publication is intended not only for the professional public or prison directors but can also be of help to prisoners and their relatives.⁷⁵ The published opinions are most often based on suggestions from prisoners themselves or their relatives. The Ombudsperson receives several hundred such suggestions each year. In 2018 it received 450 suggestions.

The Ombudsperson published its *Annual Report on Protection against Ill-Treatment under the Statutes of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*.⁷⁶ In addition to a summary of its activities in 2018, it presents a list of problems that persist in all sorts of facilities where people's freedom is restricted or where they are dependent on the care of others – be it long-term hospitals, police cells, or orphanages. For example, clients in social services facilities have nowhere to turn if their rights are violated. There is no independent authority to deal with their complaint. The Ombudsperson also draws attention to the large number of children, often under the age of three, who are placed in institutions. It criticises the fragmentation of responsibility for the provision of social services and the lack of access to social housing.⁷⁷ Among others, it recommends that the Courts should be obliged to publish their decisions in a publicly accessible database. This will increase the transparency of decision-making,

⁷³ Czech Republic, Ministry of the Interior (*Ministerstvo vnitra*) (2019), [Projevy extremismu a předsudečné nenávisti: Souhrnná situační zpráva 2. čtvrtletí roku 2019](#) (Expressions of Extremism and Prejudicial Hate: Summary Situational Report for the 2nd Quarter of 2019).

⁷⁴ Czech Republic, Ministry of the Interior (*Ministerstvo vnitra*) (2019), [Zpráva o projevech extremismu a předsudečné nenávisti na území České republiky v roce 2018](#) (Report on Extremism and Hate Prejudice for 2018).

⁷⁵ Public Defender of Rights (*Veřejný ochránce práv*) (2019), [Sborník stanovisek veřejného ochránce práv: Vězeňství II](#) (Proceedings on Prison Problems), Brno, The Office of the Public Defender of Rights.

⁷⁶ Public Defender of Rights (*Veřejný ochránce práv*) (2019) [Výroční zpráva o ochraně před diskriminací 2018](#) (Annual Report on Protection against Discrimination), Brno, The Office of the Public Defender of Rights.

⁷⁷ Public Defender of Rights (*Veřejný ochránce práv*) (2019) [Výroční zpráva o ochraně před diskriminací 2018](#) (Annual Report on Protection against Discrimination), Brno, The Office of the Public Defender of Rights.

and it is important for the predictability of the law and may contribute to the unification of case law.⁷⁸

A summary research report titled *The Victims of Crime Act's Impact on the Status of Victims of Crime and Proposed Recommendations for Practice*⁷⁹ compiled by SocioFactor, who organised a research survey under the National Security Research Program 2016-2021 (hereinafter Program) to examine the impact of the Act on the situation of victims after its implementation in practice was published. The aim of the Program is to fulfill the research needs of state administration authorities and thus support them in their role as guarantors of the security of the state and its citizens.⁸⁰ The Program is implemented in the frame of [contracts](#)⁸¹ with public and private institutions (such as universities, companies) for services in research and experimental development based on section 5, paragraph 2 of Act no. 130/2002 Coll. on the Support of Research and Development from Public Funds and on the Amendment to Some Related Acts.⁸² The results of the Research Program and concrete proposals are put into practice through the Manual for Work with Victims of Crime issued by the Probation and Mediation Service (hereinafter also the PMS).⁸³ The Manual is obligatory for all probation officers working with victims and it regulates all the methods of work that probation workers use with victims. The Manual is the basic reference point for the PMS Methodological Standards, which set the core standards for the way probation officers perform their duties.⁸⁴ The Manual states that working with victims is a cross-sectional issue covering the entire PMS, since officers are in contact with victims regardless of their specific field of work.⁸⁵ The results showed that in all the areas the law regulates it has brought significant improvements and has had a positive impact on the position of victims. Priority areas relate to establishing cooperation with assisting institutions, a sense of security, justice, activation of victims, and providing them with information, and also the problem of secondary victimisation. This includes, but is not limited to, providing comprehensive technical assistance, compensation, and financial assistance, respecting the dignity of the victim, the right to be heard, or the right to information. Victims' rights to participate in proceedings is manifest in a number of situations. Victims may, for example, make a statement about the crime's impact on his or her life during the trial or during appeal, even if he or she has already made the statement in writing. However, shortcomings remain. For example, in the area of the right to professional assistance, such shortcomings include financial demands, a lack of assisting subjects, and long waiting periods. The right to information, on the other hand, is confronted with the problem of victims' poor grasp of professional terminology or limited awareness of the existence of organisations that provide assistance.

⁷⁸ Public Defender of Rights(2019), [Činnost ombudsmanky v roce 2018](#) (The activities of the Public Defender of Rights in 2018), press release, 29 March 2019.

⁷⁹ Topinka, D. et al. (2018), [Dopady zákona o obětech trestných činů na postavení obětí trestných činů a návrhy doporučení pro praxi](#) (The Victims of Crime Act's Impact on the Status of Victims of Crime and Proposed Recommendations for Practice), Ostrava, SocioFactor.

⁸⁰ Czech Republic, Ministry of the Interior (*Ministerstvo vnitra*), [Program bezpečnostního výzkumu pro potřeby státu 2016-2021](#) (National Security Research Program 2016-2021).

⁸¹ Further details about the concluded contracts are available on the [website](#) of the Ministry of the Interior.

⁸² Czech Republic, Act No. 130/2002 Coll. on the Support of Research and Development from Public Funds and on the Amendment to Some Related Acts (*Zákona o podpoře výzkumu, experimentálního vývoje a inovací, ve znění pozdějších předpisů*) - complete amendment announced as Act. no 211/2009 Coll.

⁸³ Probation and Mediation Service of the Czech Republic (2016), *Manuál pro práci s oběťmi trestných činů* (Manual for Work with Victims of Crime), Praha: Probační a mediační služba.

⁸⁴ Topinka, D. et al. (2018), [Dopady zákona o obětech trestných činů na postavení obětí trestných činů a návrhy doporučení pro praxi](#) (The Victims of Crime Act's Impact on the Status of Victims of Crime and Proposed Recommendations for Practice), Ostrava, SocioFactor, pp. 137-138.

⁸⁵ Topinka, D. et al. (2018), [Dopady zákona o obětech trestných činů na postavení obětí trestných činů a návrhy doporučení pro praxi](#) (The Victims of Crime Act's Impact on the Status of Victims of Crime and Proposed Recommendations for Practice), Ostrava, SocioFactor, p. 138.

The amendment to Act No. 45/2013 Coll., on Victims of Crime in 2017 it appears to have produced positive results in the area of protection against impending danger. This protection is mainly required with respect to the risk of domestic violence. The right to privacy is also very positively evaluated, which, thanks to the timely confidentiality of the victim's personal data, helps prevent, among other things, secondary victimisation. The problem, however, is if the victim applies for this right too late. In the case of the right to protection against secondary injury, the situation is more complex. The right to have a trustee and an escort also receives a positive assessment. Equally beneficial is the victim's ability to express herself by making a statement about the impact of the crime on her life.

The Act on Victims of Crime⁸⁶ was not amended in 2019.

2. Violence against women

The Government approved the *Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022*.⁸⁷ The Action Plan focuses primarily on partner, intergenerational, and sexual violence. It brings together 24 concrete measures that should lead to more consistent prevention and more accessible assistance to victims.

The measures of the Action Plan are divided into three strategic areas: (i) prevention, (ii) protecting and supporting persons at risk (including children), and (iii) ensuring access to justice. Ensuring the availability of specialised services for persons at risk of violence and their children is one of the main priorities of the Action Plan. These are primarily shelters, emergency beds, and telephone emergency assistance. There is a shortage of specialised residential services (asylum houses) in the Czech Republic – there are approximately only 90 beds in total.⁸⁸

Support for therapeutic programmes for violent persons is also an important measure of the Action Plan. There are currently only 9 organisations offering these programmes in the Czech Republic and their capacity does not cover demand.⁸⁹ The Action Plan is also intended to contribute to enhancing education in the professions most often in contact with victims. An important part is also the prevention of these forms of violence through awareness-raising activities or education at schools.

Regarding the ratification process of the *Istanbul Convention*, there have been no significant developments in 2019, despite the fact that the Czech Republic signed the Convention in 2016.⁹⁰ An international conference entitled the *European Experience with the Istanbul Convention* was

⁸⁶ Czech Republic, Act No. 45/2013 Coll. on Victims of Crime, as amended (*Zákon o obětech trestných činů, ve znění pozdějších předpisů*), 25 February 2013.

⁸⁷ Czech Republic, The Government of the Czech Republic (2019), [Akční plán prevence domácího a genderově podmíněného násilí na léta 2019 – 2022](#) (Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022).

⁸⁸ Czech Republic, The Government of the Czech Republic (2019), [Akční plán prevence domácího a genderově podmíněného násilí na léta 2019 – 2022](#) (Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022), p. 33.

⁸⁹ Czech Republic, The Government of the Czech Republic (2019), [Akční plán prevence domácího a genderově podmíněného násilí na léta 2019 – 2022](#) (Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022), p. 26.

⁹⁰ Czech Republic, The Government of the Czech Republic (2019), [Helena Válková: Ratifikací Istanbulské úmluvy stvrdíme, že Česká republika patří k zemím s nulovou tolerancí vůči násilí na ženách a domácímu násilí](#) (Helena Válková: With the ratification of the Istanbul Convention we confirm that the Czech Republic belongs to the countries with zero tolerance against violence on women and domestic violence), press release, 7 October 2019.

held in Prague in November 2019. At the invitation of the Human Rights Commissioner Helena Váľková, representatives of countries that have already ratified the Convention came to Prague.⁹¹

⁹¹ Czech Republic, The Government of the Czech Republic (2019), [Helena Váľková: Ratifikací Istanbulské úmluvy stvrdíme, že Česká republika patří k zemím s nulovou tolerancí vůči násilí na ženách a domácímu násilí](#) (Helena Váľková: With the ratification of the Istanbul Convention we confirm that the Czech Republic belongs to the countries with zero tolerance against violence on women and domestic violence), press release, 7 October 2019.

Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

1. CRPD policy & legal developments

Since 1 January 2018, the Ombudsperson has become a monitoring body under the UN Convention on the Rights of Persons with Disabilities and should systematically address the problems of people with disabilities and seek comprehensive solutions. In her first year as a monitoring body for the rights of people with disabilities, the Ombudsperson launched a series of research projects on fundamental issues. In the area of the rights of persons with disabilities, the Ombudsperson established her advisory body made up of 11 members representing persons with different forms of disability. The Ombudsman drew attention to some of the shortcomings identified by the UN Committee on the Rights of Persons with Disabilities. The Ombudsman's report summarises the first year of operation, in some areas beyond the first half of 2019.⁹² There is a lack of services and various support measures to enable people with disabilities to participate fully in society, but it is above all necessary to gradually change society's view of people with disabilities and to get rid of stereotypes and prejudices. In the area of education, for example, the report identified as one of the shortcomings a situation where it still has not been resolved who should perform health-care activities in schools, e.g. the administration of medicines, insulin, etc. In addition, the report also pointed out the long-term lack of personnel in the Medical Assessment Service and the lack of interpreters of Czech sign language. The Medical Assessment Service is a system of medical assessment bodies whose main task is to assess the health status and working ability of persons for the purposes of individual social protection systems.

The Chamber of Deputies is discussing the adoption of the Optional Protocol attached to the Convention on the Rights of Persons with Disabilities.⁹³

2. CRPD monitoring at the national level

1. Measures taken to implement the CRPD at national level

On 1 January 2018, Act No. 198/2017, amending Act No. 349/1999 Coll., on the Public Defender of Rights, entered into force.⁹⁴ The amendment was described in the 2018 report.

2. Monitoring of CRPD implementation at national level:

a)

No changes.

⁹² Public Defender of Rights (*Veřejný ochránce práv*) (2019) [Monitorování práv lidí s postižením 2018](#) (The monitoring of the rights of people living with disabilities), Brno, The Office of the Public Defender of Rights.

⁹³ Czech Republic, Chamber of Deputies of the Parliament of the Czech Republic (*Poslanecká sněmovna Parlamentu České republiky*), [Sněmovní tisk 356](#) (Chamber Print), 7 October 2019.

⁹⁴ Czech Republic, Act No. 198/2017, amending Act No. 349/1999, on the Public Defender of Rights (*zákon č. 198/2017, kterým se mění zákon č. 349/1999 Sb., o veřejném ochránci práv*).

Table: Structures set up for the implementation and monitoring of the CRPD

| EUMS | Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1) | Coordination mechanism – Article 33 (1) | Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2) |
|-------------|---|---|--|
| CZ | Ministry of Labour and Social Affairs (<i>Ministerstvo práce a sociálních věcí</i>) | Ministry of Labour and Social Affairs (<i>Ministerstvo práce a sociálních věcí</i>) in cooperation with Ministry of Foreign Affairs (<i>Ministerstvo zahraničních věcí</i>), Government Board for People with Disabilities (<i>Vládní výbor pro zdravotně postižené občany</i>), and National Disability Council (<i>Národní rada osob se zdravotním postižením</i>) | <u>Public Defender of Rights</u> (<i>Veřejný ochránce práv</i>) |

Annex 1 – Promising Practices

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| Thematic area | <p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p> |
| Title (original language) | Jsmě fér: manželství pro všechny |
| Title (EN) | It's Only Fair: Marriage for All |
| Organisation (original language) | Amnesty International, Logos Česká republika, Mezipatra, Prague Pride, PROUD and Queer Geography. |
| Organisation (EN) | Amnesty International Czech Republic, Logos Czech Republic, Mezipatra, PROUD, Prague Pride and Queer Geography. |
| Government / Civil society | civil society |
| Funding body | individual donations, Open Society Foundation, EU Rights, Equality and Citizenship Programme 2014-2020 |
| Reference (incl. url, where available) | https://www.jsmefer.cz/english |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | since April 2017 until marriage for all is legalized |
| Type of initiative | advocacy campaign |
| Main target group | LGBT community, members of parliament |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | <p>The main objective of the initiative is to enable homosexual couples to enter into marriage (currently the only option is registered partnership) by amending the Civil Code. This objective is to be fulfilled by means of an advocacy campaign targeting both-policy makers and the wider population by entering into a dialogue with all political parties, politicians, public institutions, private enterprises, think-tanks, and NGOs. Project leaders hold meetings with members of parliament, senators, and ministers, lobbying about the importance of marriage for all. Some of the project's most important events have included: an international conference on marriage for all in the Czech Senate, the photo exhibition 'One Love, One Marriage' at a prestigious Prague location, a parade for marriage for all as part of Prague Pride, workshops and presentations at parliamentary clubs. The project also includes public debates throughout the country.</p> |

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| Highlight any element of the actions that is transferable (max. 500 chars) | All elements are transferable. |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | The practice is sustainable (until its main objective is reached) because part of its funding comes from private donors and because many of its activities are organised or implemented by volunteers from the LGBTI community who have a personal stake in the success of the initiative. |
| Give reasons why you consider the practice as having concrete measurable impact | The main objective (the amendment of the Civil Code) is measurable. |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | It is fully transferable to countries where marriage between homosexual persons is not yet legalised. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | The initiative has a country-wide network of supporters made up of volunteers, mainly from the LGBTI community, who assist with the organisation of events, address politicians on the local level, and contribute to local media. |
| Explain, if applicable, how the practice provides for review and assessment. | The project annually commissions a public opinion survey on support for marriage for all, the adoption of children for all, and the position of LGBTI people in society. |

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| Thematic area | RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances. |
| Title (original language) | Výchova k respektu a toleranci: od učitelů k dětem |
| Title (EN) | Educating to Promote Respect: From Teachers to Children |
| Organisation (original language) | Gender Studies in cooperation with Step by Step |
| Organisation (EN) | Gender Studies in cooperation with Step by Step |
| Government / Civil society | Civil society |
| Funding body | European Structural and Investment Fund - Operational Programme Prague |

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| Reference (incl. url, where available) | https://genderstudies.cz/aktivity/projekt.shtml?cmd[2828]=x-2828-2516528 |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 1 February 2018 – 31 July 2019 |
| Type of initiative | Capacity building, awareness raising |
| Main target group | Elementary school teachers (grades 1-4) |
| Indicate level of implementation: Local/Regional/National | Local (Prague) |
| Brief description (max. 1000 chars) | The project focuses on increasing the social sensitivity and rights awareness of pupils by giving them a better understanding of concepts such as equality, justice, democracy, citizen's rights, women's rights, and human rights. Particular attention is paid to understanding prejudice, violence, the infringement of rights of minorities, and extremism. The activities of the project mainly target elementary school teachers, who go through a series of trainings on innovative teaching methods. Sixteen teachers were directly trained in the project. There is a multiplication effect as trained teachers transfer their newly acquired knowledge to at least one additional teacher in their school. Other activities include an awareness-raising trip to an inspirational school abroad, where good practices are shared. The last activity type involved the formation of an expert group (university teachers, experts on multiculturalism and human rights, etc.), which created methodological guidelines outlined in Podpora rovnosti a rozmanitosti ve vzdělávání: Dvanáct ověřených metod pro rozvoj kolegiální spolupráce (Support of Equality and Diversity in Education: Twelve Verified Methods for the Development of Collegial Cooperation). |
| Highlight any element of the actions that is transferable (max. 500 chars) | All elements are transferable. |
| Give reasons why you consider the practice as sustainable (as opposed to 'one off activities') | The methodological guidelines are accessible online and can be adopted in any school/by any teacher. |
| Give reasons why you consider the practice as having concrete measurable impact | N/A |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | Stereotyping in education is a problem across the EU. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and | N/A |

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| implementation of the practice. | |
| Explain, if applicable, how the practice provides for review and assessment. | N/A |

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| Thematic area | ROMA INTEGRATION Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment. |
| Title (original language) | Férové bydlení |
| Title (EN) | Fair Housing |
| Organisation (original language) | R-Mosty |
| Organisation (EN) | n/a |
| Government / Civil society | civil society |
| Funding body | public: Government Office of the Czech Republic (Roma grant scheme), ESF, private donor (Agrofert) Foundation |
| Reference (incl. url, where available) | http://ferovebydleni.cz The project is ongoing and it started in 2016. |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | the original initiative in Prague started in 2017; in 2019, the NGO scaled up the initiative and established a spin-off in Mladá Boleslav |
| Type of initiative | social rental agency |
| Main target group | disadvantaged groups, mainly Roma (90%) and single-mother families (80%); the spin-off in Mladá Boleslav focuses specially on people in shelter accommodation |
| Indicate level of implementation: Local/Regional/National | regional (Prague and surrounding) and Mlada Boleslav |
| Brief description (max. 1000 chars) | To address the problems of a lack of affordable housing, discrimination of the Roma in the housing market, and the near non-existence of a social housing segment in the Czech Republic, the NGO launched a pilot social rental agency in Prague in 2017. The agency focuses on Roma and other disadvantaged groups (single mothers) and helps them to acquire rental housing in the open real estate market in a non-segregated setting. In 2019, the same NGO launched a spin-off initiative in the smaller town of Mladá Boleslav, where it focuses on people (mostly women) living in shelter housing and helps them to acquire rental housing in the open market. |

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| <p>Highlight any element of the actions that is transferable (max. 500 chars)</p> | <p>The agency actively seeks vacant apartments, approaches the owners, and offers them their services, which are more extensive and complex than the services of standard agencies. They include legal support, support in cooperation with tenants through the whole period of tenancy, and, if needed, a mediation service. Tenants are supported with social counselling, legal counselling, and, if needed, material and financial assistance to minimise the risks of violation of the tenancy contract. The tenancy contract is concluded for a period of a minimum of one year; additionally, the tenants must conclude a yearly contract on social work with the agency. However, the aim is for the tenants to be able to remain in the housing even after the social work support ends.</p> |
| <p>Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’)</p> | <p>The initiative has been successfully running for a few years and recently was scaled up into the town of Mlada Boleslav. It addresses the problem of housing with minimal costs and involves employing a real estate agent and social workers. This represents cost-effectiveness optimisation compared to more expensive initiatives involving construction or the procurement of social housing.</p> <p>As for the financial sustainability of the initiative, like all similar initiatives on social inclusion in the Czech Republic, it is dependent on grants and project-based funding.</p> |
| <p>Give reasons why you consider the practice as having concrete measurable impact</p> | <p>The initiative effectively addresses the problem of housing for vulnerable groups of the population in a context where social housing is non-existent, and it does so by using the available vacant housing stock owned by private individuals or public authorities. Since the beginning of 2019, 14 new tenants have been accommodated through the Prague-based project and another 10 through the spin-off initiative. What’s important is the impact on desegregation, as the rental housing is provided outside ethnic neighbourhoods (‘ghettos’) and does not lead to the concentration of numerous social-housing dwellings in one place, which usually creates the risk of a new ghetto emerging.</p> |
| <p>Give reasons why you consider the practice as transferrable to other settings and/or Member States?</p> | <p>This model can be used to tackle the problems of housing for vulnerable groups in settings with a lack of available social housing, and it requires significantly less resources and produces results more quickly than the construction or purchase of social housing do.</p> |
| <p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p> | <p>A drastic rise in rents jeopardises the project, as the housing allowances provided to families in need are not sufficient to afford rental housing in the open market in Prague. Therefore, the agency is currently focusing on available municipal apartments where the rise in rents has not been as drastic (but municipalities are also reluctant to rent their dwellings to socially vulnerable groups, in particular Roma).</p> |
| <p>Explain, if applicable, how the practice provides for review and assessment.</p> | <p>n/a</p> |

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| Thematic area | Asylum, visas, migration borders and integration Please provide a promising practice on the support provided to unaccompanied children when reaching majority. |
| Title or short description of promising practice in original language and in English | HOME IN A NEW COUNTRY II– Help for Unaccompanied Underage Children |
| Organisation (Government / Civil society) in charge of promising practise (original language/English) | Organizace pro pomoc uprchlíkům Organisation for Aid to Refugees (civil society) |
| Funding body | EU, Asylum, migration, and integration fund |
| Reference (incl. url, where available) | https://www.opu.cz/en/2019/09/domov-v-nove-zemi-ii-pomoc-nezletilym-bez-doprovodu/ |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 1 September 2019 – 30 June 2022 |
| Main target group | 1. Underage international protection applicants and unaccompanied foreign nationals (without legal representative) who have been placed in a specialised foster facility 2. International protection applicants and foreign nationals who have already come of legal age, but remain placed in a specialised foster facility to the age of 26 |
| (around 1000 characters) | The aim of the project is to raise awareness among the members of the target group, informing them about their rights and duties, about their status and possibilities in the Czech Republic, and assisting them with solving problems related to their situation. The project also aims to prepare unaccompanied children for the transition phase between institutional alternative care facilities and independent life after they reach the age of majority. The activities include: legal counselling and assistance, educational, socio-cultural, and leisure time activities, social counselling and assistance, and individual and collective professional psychological help. During all project activities, the services of qualified interpreters are used. |
| Indicate level of implementation: Local/Regional/National | National |
| Indicate success factors – why has the practice effectively promoted integration? | The project has just started. |
| If the initial funding of the initiative ended, how has the initiative been continued/followed-up? | N/A |
| Explain, if applicable, how the practice is being reviewed and assessed. | N/A |
| Does the initiative apply to both asylum seekers and protection status | Yes |

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| holders – and/or support the transition from one to the other? | |
| Does the initiative specifically support persons in need of international protection as they turn 18? If so, which type of support is provided? | Yes, all project activities target this age group as well. |

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| Thematic area | INFORMATION SOCIETY, DATA PROTECTION Please provide one example of a promising practice in relation to one of the topic addressed in this Chapter |
| | No promising practice has been identified for this thematic area. |

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| Thematic area | RIGHTS OF THE CHILD Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter. |
| | No promising practice has been identified for this thematic area. |

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| Thematic area | ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter |
| Title (original language) | Proč zrovna já? II - Komplexní poradenství pro oběti trestných činů |
| Title (EN) | Why Me? II – Comprehensive Counselling for Victims of Crime |
| Organisation (original language) | Probační a mediační služba |
| Organisation (EN) | Probation and Mediation Service of the Czech Republic |
| Government / Civil society | Government |
| Funding body | ESF |
| Reference (incl. url, where available) | https://www.pmscr.cz/en/why-me-ii/ |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 1 July 2016 – 30 June 2020 |
| Type of initiative | Counselling, awareness-raising, capacity building |
| Main target group | Particularly vulnerable victims of crime |
| Indicate level of implementation: Local/Regional/National | National |
| Brief description (max. 1000 chars) | The project builds on a previous project called ‘Why Me?’ implemented by the Probation and Mediation Service from 2012 to 2015. The current project continues to provide support to victims of crime, but it also offers a comprehensive counselling programme for particularly vulnerable victims, adapted to the needs of the different groups of victims. The programme is based on international experience and is aimed at people |

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| | <p>whose ability to cope with the consequences of crime is low due to the nature of the offense or a disability or impairment on the part of the victim.</p> <p>As a new element of the follow-up project, the Probation and Mediation Service developed interdepartmental cooperation at the regional level, and created multidisciplinary teams for victims with specific outcomes, such as including assistance to victims in regional strategic documents and concepts dealing with crime prevention. The project also trains social workers and workers in social services so that they are able to identify the signs of criminal activity and support crime victims in exercising their rights. Project activities take place at 55 locations.</p> |
| Highlight any element of the actions that is transferable (max. 500 chars) | All elements are transferable. |
| Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’) | Interdepartmental cooperation continues even after the project is over. The project also proposes making changes in strategic documents dealing with crime prevention. |
| Give reasons why you consider the practice as having concrete measurable impact | The number of counselling sessions, trainings and interdepartmental meetings can be quantified. |
| Give reasons why you consider the practice as transferrable to other settings and/or Member States? | All elements are transferable. |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | N/A |
| Explain, if applicable, how the practice provides for review and assessment. | One of the project’s key activities is an analysis of the needs of crime victims and an external evaluation. |

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| Thematic area | <p>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p> |
| Title (original language) | IDEA 12 |
| Title (EN) | IDEA 12 |
| Organisation (original language) | Quip |
| Organisation (EN) | Quip |
| Government / Civil society | Civil society |
| Funding body | Erasmus+ |

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| Reference (incl. url, where available) | https://www.idea12.eu/#targetText=The%20project%20IDEA%2012%20is,%20CZ01%2DKA204%2D023975 . |
| Indicate the start date of the promising practice and the finishing date if it has ceased to exist | 1 September 2016 – 31 December 2018 |
| Type of initiative | Awareness-raising, capacity building |
| Main target group | Lecturers on promoting the decision-making of people with mental disabilities |
| Indicate level of implementation: Local/Regional/National | National, international |
| Brief description (max. 1000 chars) | <p>IDEA 12 is an acronym of the full project title ‘Inclusive Direction in the Education of Adults on Article 12’. It contributes to enhancing the implementation of Article 12 of CRPD, which requires a coordinated and transnational intervention. IDEA 12 aims to enhance awareness and capacity-building and education. Innovative forms of adult education based on an inclusive approach are used as a tool of change.</p> <p>The main project objectives are as follows:</p> <ol style="list-style-type: none"> 1) Preparing written material on the right to full legal capacity and the right to support (assistance) in decision-making for people with learning disabilities and mental health problems, which will improve awareness of Article 12; 2) Preparing written materials on how to support people’s decision-making, which will improve awareness of a good practice on supported decision-making; 3) Preparing inclusive training on supported decision-making for professionals, public administrators, and people with learning disabilities and mental health problems. <p>The end result was a group of skilled and experienced lecturers, including lecturers with learning disabilities and mental health problem, who have first-hand experience of the barriers that exist. The project included several conferences and was international in its scope, with six project partners abroad (Quip was the lead partner).</p> |
| Highlight any element of the actions that is transferable (max. 500 chars) | All are transferable. |
| Give reasons why you consider the practice as sustainable (as opposed to ‘one off activities’) | The materials prepared are widely accessible. |
| Give reasons why you consider the practice as having concrete measurable impact | N/A |
| Give reasons why you consider the practice as transferrable to other settings | The project was implemented in 7 countries. |

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| and/or Member States? | |
| Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice. | N/A |
| Explain, if applicable, how the practice provides for review and assessment. | N/A |

Annex 2 – Case law

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| Thematic area | <p>EQUALITY AND NON-DISCRIMINATION</p> <p>Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report</p> |
| Decision date | 30 May 2019 |
| Reference details | Judgment of the Municipal Court in Prague, file no. 3 A 153/2017 of 14 May 2018 and follow-up Judgment of the Supreme Administrative Court No. 2 As 199 / 2018-37, dated 30 May 2019. |
| Key facts of the case (max. 500 chars) | A trans person asked the Ministry of the Interior to issue a new birth number corresponding to her psychological gender without her first undergoing the compulsory surgical changes. The final decision of the Supreme Administrative Court (SAC) specified sex as a biological, social, and legal concept. Biological sex can be medically determined mainly according to the form and function of external genital organs. Socially, gender is mostly perceived in a binary framework and in harmony with how an individual looks on the outside according to these external signs. Legal sex is strictly binary in Czech legislation; it is determined on the basis of external signs. The Court believes that subjective gender, i.e. the possibility of an individual to identify himself / herself as a gender, has so far been largely rejected by Czech society and (apart from a surgical change) this view has not been enforced in law either. The Court says that the ‘subjective’ concept has not yet succeeded in the Czech Republic because it is contrary to the ideas of Czech society about what gender is and what its social significance should be. There is currently no room for gender as a subjective category in the Czech Republic. According to the Court, the current legislation on gender change provides adequate means for those who wish to reconcile the gender perceived by them with how their sex is ‘objectively’ viewed. |
| Main reasoning/argumentation (max. 500 chars) | The judgment treats the trans gender phenomenon as a ‘behaviour pattern’. The SAC stated in the judgment that the subjective concept of legal sex in the Czech Republic has not yet become a part of legislation, most likely because it contradicts Czech society’s ideas of what gender is and what its social significance should be. The Court’s position is based entirely on the letter of the law at present, which it does not analyse in detail (such as the explanatory report, legislative process, parliamentary debate). There is no further examination or attempt to consider public opinion or other sources than the current legislation. The SAC emphasises that ‘the basic principles underlying how Czech society is organised at present, in particular the basic principles of family life and the basic principles of the perception of human relations, require legal sex to be strictly binary and essentially ‘objective’. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | The Supreme Administrative Court specified that from the perspective of the law, sex is strictly binary in Czech legislation, and it is determined on the basis of external signs. The possibility of an individual identifying as one gender or the other himself / herself has so far been largely rejected by Czech society and (apart from a surgical change) this view has not been enforced in law either. The Court stated that accommodating the trans-gender community did not constitute the majority practice of the member states of the Council of Europe either. |

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| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | The Court rejected the case of a trans woman who wanted to transition from one legal sex to another (M to F) because she did not meet the legal conditions for this change and the inaction of the Ministry (its refusal to officially change her sex from M to F) did not constitute unlawful interference with her rights. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | <p>„Společenská představa o pohlaví je nyní založena na silné binaritě v kombinaci se silným přesvědčením o biologické „danosti“ pohlaví. V představách lidí, jejichž souhrn lze mít za sociální pohlaví (pohlaví jako sociální instituce, v jistém smyslu „zkonstruovaná“ společenským vědomím opřeným o biologické poznatky, tradici, každodenní zkušenost apod., která jako sociální konstrukce vytváří určité rysy společenského řádu, v daném případě rysy zcela zásadní), není v současné době prostor pro pohlaví jako subjektivní kategorii. Lidé pod dojmem sílící všeobecné známosti vědeckých poznatků o transsexualitě připouštějí, že výjimečně existují jednotlivci, kteří se „necítí“ ve svém biologickém pohlaví komfortně. I tak však lidé jsou ochotni připustit toliko „přeskok“ z jednoho z binárních pohlaví do druhého, ne však zvláštní, neobvyklé varianty jako subjektivní pocitování bezpohlavnosti nebo nějakého jiného (třetího, čtvrtého...) pohlaví či pohlavní nejednoznačnost (zachování si vnějších znaků jednoho i druhého pohlaví). Jakkoli je v intelektuálních a vědeckých kruzích tematika pohlaví diskutována způsobem odpovídajícím její složitosti, obecný převažující názor je, že odklon od přísně binárního sociálního pohlaví odvozeného od pohlaví biologického je nežádoucí, vymykající se „zdravému rozumu“ a rozbíjející základní stavební kameny společenského řádu.“ (para 80)</p> <p>‘Society’s notion of gender is currently based on a strong binary in combination as well as a strong belief that sex is biologically determined. In the imagination of people whose summary can be considered the sex of society (sex as a social institution, in a sense "constructed" by social awareness based on biological knowledge, tradition, daily experience, etc., which, as a social construction, creates certain features of a social order, in this case entirely essential), there is currently no room for sex as a subjective category. Given the growing awareness of scientific findings regarding transsexuality, people acknowledge that exceptionally individuals do exist who do not feel comfortable in their biological sex. Still, people are only willing to allow a "jump" from one binary sex to another, but not strange, unusual variants such as a subjective perception of sexlessness or some other (third, fourth...) sex or sexual ambiguity (preserving the external features of either sex). Although the issue of sex is discussed in intellectual and scientific circles in all its complexity, the generally prevailing view is that abandoning a strictly binary understanding of social sex derived from the biological sex is undesirable, against “common sense” and undermines the basic building blocks of the social order.’ (para 80)</p> |

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| Thematic area | <p>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</p> <p>Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.</p> |
| | No case law has been identified for this thematic area. |

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| Thematic area | ROMA INTEGRATION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed. |
| | No case law has been identified for this thematic area. |

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| Thematic area | INFORMATION SOCIETY, DATA PROTECTION Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter |
| Decision date | 14 May 2019 |
| Reference details | decision of the Constitutional Court (Ústavní soud) No. Pl. ÚS 45/17 available online at: https://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-45-17_1 |
| Key facts of the case (max. 500 chars) | A group of deputies challenged before the Constitutional Court some of the provisions in the Electronic Communication Act, ⁹⁵ the Criminal Procedure Code, ⁹⁶ and the Act on the Police of the Czech Republic ⁹⁷ regulating data retention and the use of data in criminal justice. They argued that these provisions themselves represent an unjustified violation of the right to privacy. The Constitutional Court rejected the complaint and stated that the legal regulation governing data retention is in accordance with the Constitution. |
| Main reasoning/argumentation (max. 500 chars) | The Constitutional Court argued that the retention of all data for a period of 6 months is acceptable. Electronic communication is widely used nowadays, so the data are preserved anyway by a provider. Therefore, it is better to have precise rules on how this should be done. Also, data retention is often the only way in which the state is able to protect the public interest (e.g. public safety, national security), which means the aim of this regulation is legitimate. Data retention is necessary in order for the state to perform its role effectively. The inevitable limitation of the right to privacy (together with the guarantees and sanctions included in the regulation) is therefore within acceptable limits. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | The state needs data retention in order to perform its role. The inevitable limitation of the right to the privacy connected with data retention is within acceptable limits. |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | The Constitutional Court rejected the complaint. The current legal regulation of data retention in the CR is in accordance with the Constitution and does not violate fundamental human rights. |
| Key quotation in original language and translated into | “Plošné uchovávání provozních a lokalizačních údajů představuje snahu státu ‘neztratit v době informační společnosti krok’ a mít v rukou efektivní nástroje k plnění svých úkolů – zde zejména v oblasti |

⁹⁵ Czech Republic, The Act No. 127/2005 Coll., The Electronic Communication Act (*zákon o elektronických komunikacích*). Available online at <https://www.zakonyprolidi.cz/cs/2005-127> (accessed on 26 October 2019).

⁹⁶ Czech Republic, The Act No. 141/1961 Coll., The Criminal Procedure Code (*restní řád*). Available online at <https://www.zakonyprolidi.cz/cs/1961-141> (accessed on 26 October 2019).

⁹⁷ Czech Republic, The Act No. 273/2008 Coll., The Act on Police of the Czech Republic (*zákon o Policii České republiky*). Available online at <https://www.zakonyprolidi.cz/cs/2008-273> (accessed on 26 October 2019).

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| English with reference details (max. 500 chars) | <p>bezpečnosti státu a jeho obyvatel. Principiálně proto z pohledu Ústavního soudu nelze data retention zavrhnout. Z hlediska práva na soukromí není šetrnější varianta, v níž by stát využíval dostupných údajů netransparentním, 'pokoutným' způsobem; takový důsledek však bez jasné právní úpravy nelze vyloučit."</p> <p>'Data retention represents the effort of the state to "keep pace with the information society" and to have available to it effective instruments so that it can perform its role – namely the national security and safety of the inhabitants. According to the Constitutional Court, data retention as such cannot be rejected. It would not from the perspective of the right to privacy be more considerate were the state to use data in a non-transparent and unofficial way, which without clear legal regulation is not an impossible outcome.'</p> |
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| Thematic area | <p>RIGHTS OF THE CHILD</p> |
| | <p>Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.</p> |
| | <p>No case law has been identified for this thematic area.</p> |

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| Thematic area | <p>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</p> |
| | <p>Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..</p> |
| Decision date | 29 January 2019 |
| Reference details | <p>Decision of the Supreme Administrative Court (Nejvyšší správní soud)</p> <p>No. 9 As 423/2018-29</p> <p>available online at: http://www.nssoud.cz/files/SOUDNI_VYKON/2018/0423_9As_1800029_20190129130618_20190213100015_prevedeno.pdf</p> |
| Key facts of the case (max. 500 chars) | <p>The Plaintiff was the victim of a robbery and suffered grievous body harm. According to a previous decision by the criminal court, the person convicted of this crime was supposed to pay her 200 000 CZK (on top of the sentence of imprisonment) as damages for pain and suffering. Since the convicted person was unable to do so, she applied to the Ministry of Justice to pay the amount instead, in conformity with the Crime Victims Act.⁹⁸ The Ministry refused. The Plaintiff challenged the decision in front of the court and was successful.</p> |
| Main reasoning/argumentation (max. 500 chars) | <p>The Ministry of Justice argued that refusing the application was justified, because the Plaintiff had not proved that the amount represented lost earnings or the cost of treatment. However, the Supreme Administrative Court pointed out that the Ministry of Justice did not adhere to the main principles of the Crime Victims Act and interpreted it formalistically. A crime victim that applies for compensation is supposed to provide proof in support of the amount of pecuniary damages sought, but this does not apply when there is a final court decision.</p> |

⁹⁸ Czech Republic, The Act No. 45/2013 Coll., The Crime Victims Act (*zákon o obětech trestných činů*). Available online at <https://www.zakonyprolidi.cz/cs/2013-45> (accessed on 22 October 2019).

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| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | Once a crime victim has a final court decision specifying the exact amount that he/she is entitled to as compensation for (pecuniary or even non-pecuniary) damages and applies for the compensation in conformity with the Crime Victim Act, the specified amount is binding. The Ministry of Justice cannot require the crime victim to provide evidence to prove that the amount represents only lost earnings or the cost of the treatment. |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | The Ministry of Justice is obliged to pay the Plaintiff the required amount. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | „Nemá-li tedy být zmínka o náhradě nemajetkové újmy uvedená v § 28 odst. 2 zákona zcela vyprázdněna, je třeba stěžovatelův výklad odmítnout. Toto ustanovení tak sice není samo o sobě právním základem pro poskytnutí peněžité pomoci, jak plyne z výše citované judikatury. Zároveň však poskytuje obětem trestných činů lepší postavení v tom, že nemusejí prokazovat a dokládat konkrétní druhy újmy.“ ‘Unless the reference to compensation for non-pecuniary damages in § 28, par. 2 of the Crime Victims Act has been completely voided, it is necessary to reject the interpretation of the Defendant. While the provision itself does not represent a legal basis for non-pecuniary damages, as follows from the judicature cited above, it puts crime victims in a better position as they do not have to provide proof of specific forms of damage.’ |

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| Thematic area | Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning. |
| Decision date | 28 March 2019 |
| Reference details | decision of the Constitutional Court (Ústavní soud) No. II. ÚS 2020/18 https://nalus.usoud.cz/Search/GetText.aspx?sz=2-2020-18_1 |
| Key facts of the case (max. 500 chars) | The Plaintiff was a person suffering from a psychosocial disease and was in the middle of the process of having his legal capacity restricted. He was issued a payment order (PO) by a court for a debt. The Plaintiff did not oppose it and the PO came into force. Later the Plaintiff's guardian (appointed after the Plaintiff's legal capacity had been restricted) challenged the PO before the Constitutional Court, claiming that he was not given a proper chance to defend his rights, since the lower courts did not take into account his handicap. He succeeded and the Constitutional Court cancelled the PO. |
| Main reasoning/argumentation (max. 500 chars) | The Constitutional Court argued that issuing the PO to the Plaintiff represented a violation of his right to a fair trial. The procedural ruler must be interpreted in compliance with the CRPD. Even though the Plaintiff had full legal capacity at that time, the court of first instance knew that the Plaintiff was living in a psychiatric hospital and that the proceedings to limit his legal capacity were taking place before the same court. Therefore, the court of first instance should have examined whether the Plaintiff was able to represent |

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| | himself before the court or whether he needed to be represented and then, if necessary, lit should have appointed a guardian. |
| Key issues (concepts, interpretations) clarified by the case (max. 500 chars) | According to the Constitutional Court, the PO (a simple way to collect a claim without a court hearing) must not be issued if there is any doubt about the legal capacity of the debtor and the debtor's ability to defend himself/herself before the court. |
| Results (sanctions) and key consequences or implications of the case (max. 500 chars) | The Constitutional Court cancelled the PO. |
| Key quotation in original language and translated into English with reference details (max. 500 chars) | <p>„Platební rozkaz nelze vydat vůči žalovanému, u nějž jsou s ohledem na jeho zdravotní postižení pochybnosti o jeho schopnosti účinně se účastnit řízení či o jeho (faktické) schopnosti samostatně jednat před soudem; u takového žalovaného totiž není zaručena reálná možnost domoci se projednání věci v řádném nalézacím řízení a není zřejmé, zda by jeho případná pasivita po vydání platebního rozkazu byla vědomým, respektive uvědoměným projevem vzdání se práva na veřejné projednání věci ve své přítomnosti.“</p> <p>‘A Payment Order cannot be issued to a Defendant if there is – in consideration of his/her mental disability – a doubt about his/her ability to effectively participate in court proceedings and his/her actual ability to represent himself/herself. Such a Defendant does not have a real opportunity to obtain a fair hearing and it will be unclear whether, in the case that he/she is not responsive after a payment order has been issued, this is deliberate, that is, a conscious action to relinquish his/her right to a public hearing in his/her presence.’</p> |