

## **Violence Against Children in CZECH REPUBLIC**

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### **Extracts from the latest national NGO coalition's report to the UN Committee on the Rights of the Child**

**CRC Session 32, January 2003**

League of Human Rights, Czech Republic – English

[www.crin.org/docs/resources/treaties/crc.32/Czech\\_LHR\\_ngo\\_report.doc](http://www.crin.org/docs/resources/treaties/crc.32/Czech_LHR_ngo_report.doc)

[...]

**1. General measures and general principles.** In this chapter, we stress the problem that the Czech Republic does not yet have any authority capable of coordinating and supervising the observance of children's rights in the Czech Republic.

**2. Civil rights and freedoms.** In this chapter, we focus on the right not to be exposed to torture or other cruel, inhuman or degrading treatment or punishment—and above all, on the deficient and fragmented system of aid for tortured and abused children and on their secondary victimization during the investigation of crimes. We point out the prevailing use of physical punishments and bullying. Part of the chapter is devoted to infractions of the right not to be exposed to inhuman or humiliating treatment and of the right to privacy in residential-care facilities.

**3. Family background and alternative care.** In the introduction to this chapter, we point out the insufficient guarantees for the child's right to receive care from both parents and stay in contact with the "other" parent, especially the father, during divorce or separation. Further, we focus on the policy of care for children who have been deprived of their family. The current system gives preference to residential care and insufficiently supports aid to such children's own families and alternative family care, which fundamentally complies better with the demands of the CRC. We analyze in more detail the respecting of children's rights within the framework of residential care, the problems of foster care and adoptions (including international adoptions). Part of the chapter is devoted to insufficient protection of and aid for the victims of home violence.

**4. Special protective measures.** In this chapter, we focus on the problem of asylum seekers who are minors and are staying in the Czech Republic without the attendance of their legal guardians, and on the lack of respect for the demands of the CRC in the case of children placed in interim facilities for foreigners. A considerable part of the chapter is devoted to sexual abuse of children in the Czech Republic, and especially commercial sexual abuse and the deficient system for providing aid to sexually-abused victims.

[...]

In its final conclusions, following the presentation of the initial Report to the CRC, the Committee expressed its concerns regarding the insufficiently integrated strategy for handling child-related issues and the lack of a systematic mechanism for verifying all fields that the CRC covers.

The recommendations were left almost entirely unused. **Even today, no conception for protection of the rights of the child has been declared in the Czech Republic, and the government is taking no systematic steps in this direction. The system for protecting children's rights is markedly fragmented, and there is no authority that coordinates and supervises the observance of children's rights in the Czech Republic.**

[...]

*Proceedings concerning children are unbearably long and formalistic in the Czech Republic.* Often, the court rejects a proposal made by a social worker or by the parents because of formal defects, and

delays a hearing for this reason, without having pointed out these defects when the proposal was submitted. Courts do not respect the fact that time “runs faster” for a child than for an adult, and thus in 2001 the average length of a court proceedings concerning children was 233 days for alimony, 540 days for determining/denying fatherhood, and 258 days for adjustments to relatives’ visitation rights. Some court cases, especially those concerning fatherhood, lasted over 1,000 days.<sup>1</sup>

**Case study:** *The father of Štěpánka (born 1994) has been denying contact to her mother since 1997. Eventually, after more than three and a half years of court proceedings, Štěpánka was placed in her mother’s custody on the basis of a decision by an appeals court in January 2000. The father, however, refused to give in to the court’s decision. The relevant district court ruled that the decision be put into effect via the forcible removal of the daughter from her father’s care and transfer to her mother very late: in February 2001. And furthermore, this change of custody still has not yet occurred. At present, the father is hiding with his daughter in some place other than his permanent residence.*

[...]

Cruelty, abuse and neglect of children have serious consequences for their additional physical and mental development. This identification, therapy and rehabilitation demand interdisciplinary approaches, using medicine, psychological, social and legal aspects. But as highlighted in Chapter 1-1, **there still is no integrated system of services in the Czech Republic**. Cooperation of professionals in particular cases (e.g. social worker, investigator, guardian judge, an NGO) is rather accidental. Accessibility of help to children endangered by violence varies in different districts—especially according to whether the services have been established by non-governmental initiative in those districts.

[...]

Ministry of Labour and Social Affairs started to observe statistically a rate of abused children in 1994. Gained statistic data are incomparable to Police and Courts data. Data gained this way are hardly controllable and it is difficult to make reliable conclusions from them. **There is no reliable and usable monitoring of sexually abused and neglected children so far<sup>2</sup>.**

**Custody proceedings are very formalistic and long** (they take months and years), which does not enable to react efficiently for the benefit of the child. During these proceedings services of mediators, probation workers, community and family centres are seldom used.

**Neglected children** represent more than 50% of children with CAN syndrome in the Czech Republic. There are almost no social services for these children, except reformative measures of the court. In The Czech Republic “neglecting neglected” takes place in the state-wide measure.

[...]

**Psychical cruelty** belongs to the most difficultly identifiable violence committed on child. We often encounter the problem of parents bullying caused frequently by inadequate ambitions towards a child. Divorces represent also serious topic, which is always a traumatizing experience for a child. High divorce rate in the Czech Republic implies high rate of children who are not a potential but fact victims of psychical cruelty (see chapter III, p. 11).

**Case study:** *Father had kidnapped his seven-year-old daughter for the third time whereas she has been placed into her mother’s custody. He was hiding with his daughter in cottages and cellars for four months, he isolated her from the rest of the family, she did not go to school. For the whole time he manipulated and forced her against her mother so when the girl saw her afterwards she got hysterical attack and refused to come back. That is why she was placed into a child home based on preliminary ruling. Expert within the framework of legal proceeding assessed CAN syndrome of psychically abused child, caused by father. Nevertheless judge has conditionally stopped father’s prosecution due to kidnap with explanation of the long-term conflict between parents. Guardian court decided that the girl would stay in institutional care because in case she had been taken into mother’s care another kidnap would have threatened.*

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<sup>1</sup> Ministry of Justice statistics

<sup>2</sup> Between September 2000 and May 2001, an experimental project led by the Ministry of Labour and Social Affairs monitored as experiment monitoring of tortured, neglected and abused children, given criteria were formed by psychical, physical and sexual abuse, perpetrator and his relation to victim. Characters and descriptions of abuse were not respectful nevertheless.

[...]

Connected with investigation and help to child with CAN syndrome, ***additional system secondary victimization and maltreatment takes place under pretence of child's protection in the Czech Republic.***

In case of sexual abuse the ***child is being exposed to repetitive investigations and examination in presence of many other persons***; there are minimally two investigators present during the interrogation, the child curator, psychologist and advocate of a suspicious, newly judge<sup>3</sup>. Although it is stated in (Par. 102 of the Code of Criminal Procedure) that in subsequent proceeding any child younger than 15 years should be investigated only in necessary case, we often come across repetitive interrogations (child is in terms of criminal procedure forced to make a statement three times—before the accusation, during investigation in criminal procedure in front of psychologist, who evaluates his reliability and at last in front of a judge at the main trial.)<sup>4</sup>.

In the case suspicion of child abuse by family member the child is often being ***placed into child home*** to prevent repetitive abuse. It enables to split up from the aggressor on one hand but also from other members of the family, from whom child might expect support. This situation could be solved in a way that a state authority (e.g. Public Prosecutor) makes a preliminary ruling when potential aggressor would be prevented from coming closer to the child and his environment for limited time (a “protective order”), but there is no support for this possibility in legal regulation. Even in these cases placement in residential care could be prevented provided that network of crisis asylum houses existed where the child alone or with parents could find a temporary shelter.

***There is absolutely insufficient law protection of a child as aggrieved party in a legal proceeding***, especially the right to legal aid. In most cases social/legal protection authority is appointed as a child's curator whose social workers have only little knowledge of law in general, let alone criminal law, and ability to appear in front of a court. Against the accused represented by professional advocate there is a social worker with lack of knowledge of law of procedure who does not have enough time to investigate the documentation, almost never protests against repetitive investigations, does not submit any complaint against withdrawal of prosecution. In better case a probationer is appointed as the curator who has legal education but only minimal experience and often is obliged to the judge who makes the decision. It would be reasonable for a social/legal protection authority to have a possibility to hire advocates in more complicated cases when child's curator has been appointed within the framework of legal proceeding and to use this possibility.

***High demands on profession for persons coming into contact with abused and neglected children*** including personal problems incorporation are often not met in practical life. In spite of certain educational ***programmes inadequate behaviour of Police, judges and other professionals and their incomprehension for basic aspects of victim behaviour and perpetrators of abuse and neglect prevails***; e.g. Police, judges, social workers keep on mentioning that child may cause that “father will be put into prison” and they consider child's statement as not respectful only because the child loves his parents in spite of all circumstances.

***Case study:*** *Even though Mrs Bártíková had bad memories of her husband, she supported contact between her son and father after their divorce. When her twelve-year-old son confided to her that his father had tried to abuse him, she did not believe him until new girlfriend of Mr Bártík looked her up with serious suspect that Mr Bártík had tried to sexually abuse her daughter. She confirmed strange behaviour of Mrs Bártíková son during visits (he did not want to wash himself; he slept in several*

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<sup>3</sup> Since Jan. 1st, 2002, a judge has to be present to unrepeatable pleading—in this case it is interrogation of person younger 15 years about facts reliving of which could have negative influence on their mental and moral development, which is being made before the official beginning of a criminal proceeding

<sup>4</sup> In the Czech Republic there are only 2 fully echoed investigation rooms with non-transparent mirror and record technique enabling interrogation of a child in presence of only one person, whereas others may ask questions and record can be used further. Room has been established by non-governmental organization—the Child Crisis Centre in Prague and Spondea Brno.

dress levels etc). Mrs Bártíková visited a social worker. In spite the boy was forced to witness the whole matter ten times (in front of social worker, psychologist, psychiatrist, investigator, judge in custodian proceeding who makes resolutions on forbidding of contact, court expert etc.), the judge asked him to make a statement during the main session—in front of public, father, his attorney, probationer, prosecutor. Mother protested against this, because the boy was in psychiatry care at that time. Although statement of court expert confirmed that statements of the boy had been reliable the judge acquitted the father of accusation because mother seemed to her being over protective and Mr Bártík did not show to be homosexual paedophile according to experts. She sentenced father for abuse of his girlfriend daughter nevertheless, taking into account expert statement that had stated alcoholism and unreservedness in case of father.

### **We recommend:**

***The Committee could recommend that the Government:***

- ***arrange the way of criminal proceeding so that it is managed with respect to the best interests of the child;***
- ***reconsider the current practice of the criminal proceedings to ensure a real protection of injured child immaterial rights;***
- ***consider establishment of a “protective order” (to forbid suspect of getting closer to victim and her residence for a limited time of investigation or after sentence);***
- ***support establishment of pre-gradual and whole-life education of professionals in field of abused and neglected children and increasing of personal qualification for work with these children (including burn-out syndrome);***
- ***regional authorities have mapped risks and needs of their region and initiate assessment of adequate services for endangered child identification, diagnostics, therapy, consequent rehabilitation, securing work with the whole family intended to keep the family for the child. In this respect it is necessary to assess a system of multidisciplinary teams;***
- ***and take steps to increasing of consciousness about the issue of neglected and abused children in a society, e.g. seminar for politicians and state officers, work with media.***

[...]

**Physical punishments** can become cruelty in certain circumstances, they only increase emergency to aggression and mean also stress with all possible consequences on child's health. ***In the Czech Republic still prevails meaning of pedagogues and parents that physical punishments are a common pedagogical method.*** According to a research study by Pink Line (in 1994) 94% of children with obligatory school attendance (and almost 100% of children in institutions) had experience with physical punishment by their parents, in 2000 this rate decreased for still alarming 84%. In the same period number of pedagogues accepting usage of physical punishments remains the same—50%, nevertheless number of pupils being punished this way has increased significantly.

**Bullying** is a phenomenon that starts to follow children since their under-school age<sup>5</sup>. According to researches made in different types of schools it is being estimated that on average around one third of pupils of elementary schools and high schools<sup>6</sup> are being bullied. Mapping of bullying is very difficult but especially lighter forms and initial stages affect a large part of school population.

***The lack of preparation of pedagogues—who cannot identify bullying themselves, let alone work with children on managing the problem in its natural environment—remains a problem***

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<sup>5</sup> Bullying is any behaviour whose aim is to hurt an individual, endanger or stop or frighten other pupil, or group of pupils. It is deliberate and repetitive violence committed by individual or group towards individual or group of pupils who are not able to defend themselves due to different reasons. It includes both physical attacks in form of biting or extortion, burglaries, damaging of other person's possessions, and verbal attacks in form of verbal insults, slanders, threatening or humiliation, ignoring and overseeing. It can also have a form of sexual harassment. Revealing of bullying can be sometimes very difficult, because fear creates usually environment of “solidarity” of aggressors of handicapped.

<sup>6</sup> Source: Pink Line 2001; smaller incidence is admitted in “The Prevention Strategy of social pathological phenomena in cases of children and youth in competence of Ministry of Education section for period of 2001-2004” when it is being estimated that 20% average of pupils of elementary and high schools are being bullied.

(many pedagogues e.g. do not perceive the so-called 1. degree—ostracisation—as bullying but as a form of leisure and communication at school).

[...]

Research managed by the governmental Council for Human Rights in 2000 found out that **disciplinary punishment in some institutes can be considered as inhuman or even cruel**. They include prohibition to visit their families, isolation in rooms comparable with solitary confinement, prohibition to receive more food, wear special cloths, to be ostracized by other when child has to kneel in front of everybody in room, confiscation of personal possession, throwing all personal possession on the floor and physical punishments. The research came to conclusion that ***in some institutions there are 9% of children exposed to verbal insults from the staff and 18% of children revealed that they had become an object of physical violence by institute staff.***

In the governmental report (in art. 119) it is admitted to serious **lacks in guarantees of professional staff in** Child homes, diagnostics and educational reformative institutes and institutes of social care<sup>7</sup>.

[...]

In the Czech Republic around 30,000 children experience a divorce or separation of their parents. **Adjudication of environment takes place in a standard way when children are placed into their mother's custody in the majority of cases and their contact with father is adjusted only for one or two weekends a month.** This practice brings for the majority of children radical restriction or complete interruption of contacts with fathers.

#### ***Court Adjudication of Family environment after Divorce<sup>8</sup>***

<b><i>Child placed into custody of</i></b>	<b>1996</b>	<b>1997</b>	<b>1998</b>
<b><i>mother</i></b>	46,092	44,813	47,084
<b><i>father</i></b>	4,084	4,043	3,994
<b><i>other person</i></b>	1,344	1,459	1,456

[...]

**The main way of care for children who cannot stay in their own families is the institutional care that cannot meet the demands of the CRC principally and currently it does not fulfil them in a way it could. Professional researches prove that residential care does not guarantee neither quality life and child development nor his integration into society.**

<b><i>Placement of children into alternative care in 2000<sup>9</sup></i></b>	
into institutional care	<b>2,003</b>
custody of other persons than parents	1,026
custody of future adopters	512
custody of future foster parents	339
unplaced children	103
placed into protective care	81

**Our nation lacks a network of preventively oriented services that would prevent from taking the child away from natural family, or aiding his or her homecoming.** The conceptions of the Ministry of Education and the Ministry of Labour and Social Affairs also lack programmes for family support.

[...]

Out of overall number of children who have been accepted **during 2000 into baby and child institutions there were 59.7% placed due to social reasons, 21.0% due to health reasons, abused children represented 3.0% of children in institutions<sup>10</sup>.**

<sup>7</sup> Need of proper choice of staff has been mentioned by Committee for prevention of torture and inhuman and humiliating treatment or punishment in report from July 15th, 1997

<sup>8</sup> Statistic annual of the Czech Republic

<sup>9</sup> Statistics of the Ministry of Labour and Social Affairs

<sup>10</sup> Data come from the Report on current state of alternative care of the civic association Dom. The project Monitoring of baby institutions in Czech Republic came to similar conclusion—researched realized by Czech

**Bad social situation of parents—not neglect or cruelty—is the most frequent reason of placement of the child into institutional care.** Especially in this field there is the highest potential of prevention of the taking the child away from the family, provided that families with social problems would have received adequate help.

[...]

**Handicapped children represented 18.7% of children placed in 2000 into residential care.** Lack of supporting facilities for families with handicapped children (e.g. daily clinics), their geographical or financial inaccessibility highly decrease the possibility for seriously handicapped children to stay in long-term care of parents. Currently a parent of a handicapped child is so restricted in his possibility to work that usually a care for the handicapped child together with other children is financially unacceptable. An application for placement to an institution might be a sign of not lack of interest for the child but inability to give an adequate care and insufficient assistance of the state. Early care services do not exist.

Totally there were 1,920 **children discharged from residential care in 2000, out of which only 45.4% into own family, 25.6% into adoption, 16.1% into other children house, or a social care institution, 8.4% into other form of alternative family care and 4.5% elsewhere.**

[...]

#### **Institutional Care in the Czech Republic in 2000<sup>11</sup>**

	Number of Facilities	Boys	Girls
child diagnostic institution	8	170	88
diagnostic institution for youth	4	117	94
child reformative institute	15	353	125
reformative institute for youth	20	823	191
institute with reformative—healing regime		6	8
reformative institute for under-aged mothers	3	0	38
child home of residential type	82	1823	1420
child home of family type	45	710	671
total	xxxxx	4062	2635

[...]

Domestic violence includes different forms of aggression (psychical, physical, sexual, and economical) that takes places among members of one family. **Typical pattern of domestic violence in the Czech Republic is assistance of children.** In 90% of cases children are minimally direct witnesses of violent incidents between parents or they are confronted with consequences of mother's torture indirectly—they register atmosphere of terror, mother's psychical state, fear, physical injuries, or they perceive that she refuses or falsifies events that occur. Children become secondary victims of their mothers' cruelty and they overtake model of their primary family as a generally valid norm.

In case a child is exposed to environment stressed by violence it is in his interest without any doubt that he she should be the fastest as possible taken away from the aggressors reach—so that he could be with his mother in safety again. Assertion of this thesis is in practice of the Czech Republic very complicated and many times unmanageable. **The system is focused mainly on protection of perpetrator not the victim.** It is respected anxiously fulfilment of all legal rights of perpetrator who is affected minimally in the majority of cases.

[...]

**Contact of victim of domestic violence with policemen and further authorities active in criminal process also tends to be complicated.** Secondary victimization is being committed by Police currently. Insensitive and trivializing approach of police is common even in case under-aged children call for help—they tend to be frequent announcers. There is also human factor failure here—

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Helsinki Committee in 1999. According to research of the governmental Council for Human Rights, in 2000 20% children suffered from CAN syndrome, 5.7% children have been sexually abused in institutional care.

<sup>11</sup> Source: Ministry of Education, statistics on information pages—Internet

policemen are influenced by attitude that it is a private problem that should be solved between partners; absence of quality special education of police in the given set of issues is also a mistake.

[...]

Specific group of asylum seekers represent **under-aged applicants who stay without attendance of parents or other legal representatives**. In accordance with the Convention under-aged are considered as all persons coming into asylum proceeding younger than 18 years. Position of such applicants in asylum procedure is specific (guardian is appointed to them for stay and for asylum procedure). *Although a special care is provided to under-aged asylum seekers without attendance of legal representatives, in some cases it is still insufficient—especially in the field of accommodation.*

Originally under-aged seekers had special facility that has been appropriate only for them. It was a special building within the framework of one centre for adult asylum seekers. Currently this is regulated only for youth (aged 15-18).

*Under-aged asylum seekers aged 0-15 years are based on court decision placed into child homes or more often into diagnostic institutions. Neither child home nor diagnostic institution are intended for care of under-aged foreigners moreover with the need of special care—it does not comply in the way of care, profession nor language skills of the staff.*

Neither in Child home, nor in diagnostic institution there is possibility to take into account special needs of children coming from ethnic, religious, culture and language origin. Obligation to school attendance is not respected here either, especially because school attendance in belonging facilities, which are being attendant by children from diagnostic institutions and Child homes is managed only in Czech language without language preparation in advance.

Placement into diagnostic institution is impossible to be perceived as assurance of special protection and help. Even in spite of all effort of personnel it is impossible to speak about mental and social development of children, especially because nobody works with them both due to language barriers and time reasons. Neither orders nor the Act on Institutional Care specifies different conditions under which comprehensive examination of children with language barrier coming from different socio cultural backgrounds. Diagnostic institutions are not prepared for such examinations; they do have neither specialized workers nor relevant equipment. Under these circumstances obligatory eight- week stay of such children in a facility means lost time, because it is impossible to make any comprehensive examination conclusion of which have predictable value.

[...]

**Sexual abuse of children<sup>12</sup> itself represents relatively frequent phenomenon in the Czech Republic that is little announced and hardly controllable.**

In 2000 only Departments for Child Welfare made 154 motions to institute criminal proceedings<sup>13</sup>. An Epidemiology retrospective study of sexual abuse was undertaken by the Pink Line, which collected statistics on sexual abuse in childhood, taking as definition for sexual abuse the definition of the Health Committee of the Council of Europe, which includes also the no-contact form of abuse (such as confrontation to exhibitionist behaviours); Such study recognized that each third girl or woman and every fourth to fifth man were or had been confronted to sexual abuse<sup>14</sup>; two thirds of them were confronted with contact sexual abuse, approximately half of the contact sexual abuse included intercourse. In cases of sexual abuse committed on girls the perpetrator in half of cases was a man from the family, in one third of cases somebody known (e.g. teacher) and from one fourth it was a strange person. On the contrary in case of boys half of perpetrator is a strange person. The study has described growing tendency of commercial sexual abuse of boys.

Although problem comes to light it does not mean automatically that the crime is announced to Police. Officially it is announced up to every 6<sup>th</sup> to 10<sup>th</sup> case<sup>15</sup>. Usually the child confides to somebody under pressure of circumstances (friend, mother). Then around three quarters of children reject their victimization when confronted to strong reaction. Especially in “proper” families the world “ends” and the child is responsible for family disaster.

[...]

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<sup>12</sup> This chapter comes from materials of the Pink Line, E. Vaničková, M.D.

<sup>13</sup> Statistic annual in the field of labour and Social Matters, 2000

<sup>14</sup> E. Vaničková, M.D., 1995, Pink Line

<sup>15</sup> L. Čírtková, 2001

*Some non-governmental organisations provide certain data on the CSEC in the Czech Republic.* According to project “Šance” which works with youth and under-aged homosexual prostitutes in Prague, this problem concerns around 550-600 children a year, out of which 75% boys and 25% girls. Number of prostitutes increases while their age decreases. The average age of clients is 17 years old. In summer period it decreases under age of 15. Some children come back to their institutes for the winter or they come back to their families. More than 75%<sup>16</sup> of boys making their living through prostitution are in fact heterosexual, but offering their bodies to men is the way they survive on the street.

**Age Structure of Clients of the Šance Project in 2000**

	girls	boys
<i>7-8 years</i>	2	3
<i>9-10 years</i>	4	5
<i>11-12 years</i>	3	8
<i>13-14 years</i>	30	40
<i>15-18 years</i>	94	111

[...]

**The current system of education in the Czech Republic result in most Roma (“gypsies”) leaving schools without completed elementary education or receiving lower quality education at special schools.**

[...]

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<sup>16</sup> Source: Research of the Šance project