ADDITIONAL REPORT

on the Implementation of the Convention on the Rights of the Child in the Czech Republic

to the UN Committee on the Rights of the Child

Prague, July 2002
Czech Section of DCI

The English version of the Additional Report on the Implementation of the Convention on the Rights of the Child was set down with utilization of materials and documents prepared by the Czech Section of DCI.					
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I. INTRODUCTION

According to the Article 45 a) of the Convention on the Rights of the Child Additional report of NGOs to the Second periodic report of the Czech Republic on the implementation of the Convention on the Rights of the Child (hereinafter referred to as the CRC) is submitted to the UN Committee of the Rights of the Child (hereinafter referred to as the Committee).

CRC was signed by president of the Czech and Slovak Federative Republic in New York on September 30, 1990. It came into effect for the Czech and Slovak Republic on 6 February 1991. The Czech Republic as one of two successor states of the former CSFR is bound by the CRC from 1st January 1993.

The Czech Republic presented **the Initial report** on the fulfilment of the CRC in the period of 1993 -1994 to the Committee in February 1996. The Committee discussed the Initial report and the final Concluding Observations of the report have been edited by the Committee on 10th October 1997.

Concluding Observations of the UN Committee¹ were submitted to the relevant institutions and the Czech version of this document was published by UN Information Centre in Prague on October 20, 1997.

The Additional Report expresses opinions of organisations, associations and experts from non-governmental sector dealing with conceptual and practical issues of the implementation of children's rights. At the time of the preparation of this report, written materials (research reports and theoretical studies), conclusions of discussions in the seminars and conferences as well as information from children and the general public were utilized. These documents have been created as the outcomes of events devoted to the problems of children in different places of the Czech Republic.

From the 1993 seven inter-sectional seminars on implementation of the CRC were organised by the non-governmental organizations under the auspices of the Czech Parliament. The seminars were followed by the Public Hearing in the Senate in 2002 which has been focused on the non-governmental report as well. The findings from these events have formed the basis of this Additional Report to the Committee.

During elaboration of the Additional report the Czech Section of DCI observed the Guidelines for Non-governmental Reports and other recommendations of the Group of Non-governmental Organizations to the UN Committee for the Rights of the Child. Valuable information has been obtained from the analysis of non-governmental reports from some other countries, above all of the Supplementary Report on the Rights of the Child in Norway.

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¹ Concluding Observations CRC/C/SR. 411-413/ held on 30 September and 1 October 1997

The submitted report complete some information missing in the **Second Periodic Report of the Czech Republic** which - according to the opinion of different non-governmental organisations in the CR - pays little attention to the consequent effects of the measures taken by the Czech Government on the life of children and society. That's why this Additional report is trying to give concrete standpoints to the recommendations made by the Committee with regard to the Initial report of the Czech Republic on implementation of the Convention.

II. GENERAL MEASURES OF IMPLEMENTATION OF THE CONVENTION

Execution of the rights of the child

Article 4

Committee of the Rights of the Child, Concluding Observations, 1997

Item E26. In the light of the Vienna Declaration and the Programme of Action of 1993, the Committee encourages the State party to review its reservation to article 7, paragraph 1, of the Convention.

Item E36. The Committee welcomes the intention of the State party to accede to the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption and recommends that appropriate steps be taken to ensure its entry into force.

Item E40. The Committee encourages the State party to envisage ratifying ILO Convention No. 138, regulating the minimum age for access to employment. Furthermore, in view of the increasing phenomenon of children living in and/or working on the street, it recommends that efforts be strengthened to provide social support to such children.

In the past period a number of legislative standards with regard to ensuring the rights of the child has been adopted in the Czech Republic. They are stipulated both in the Czech legal order, and other instruments are internationally binding. To the second group, in addition to the conventional documents mentioned in the Governmental report /Item 7/, pertain the European Social Charter ETS 35/2000, the Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption ETS 43/2000, European Convention on the Exercise of Children's Rights ETS 54/2001, Convention of the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine ETS 96/2001 Coll.

The Czech Republic has signed the Optional Protocol to the CRC on the involvement of children in armed conflicts on 6 October 2000 in New York. The Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, for the time being, has not yet been submitted to the signature and ratification.

Outcomes and recommendations

The Committee may want to ask the Government

- whether and when it intends to accede to the second Optional Protocol to the CRC.

National Plan of Action

Committee of the Rights of the Child, Concluding observations, 1997

Item D9. The Committee is concerned in the lack of an integrated strategy for children as well as of a systematic mechanism to monitor progress in all areas covered by the Convention and in relation to all groups of children in urban and rural areas, especially those affected by the consequences of economic transition.

Item E27. The Committee takes note that a National Plan of Action has been drafted and encourages the State party to follow all the necessary steps to implement it. The Committee also recommends that the State party strengthen coordination between the various governmental mechanisms involved in children rights, at both the national and local levels, with a view to developing a comprehensive policy on children and ensuring effective evaluation of the implementation. Moreover, the Committee encourages the State party to continue and strengthen its efforts to develop a close partnership with non-governmental organizations (NGOs).

The World Summit for Children on 30 September 1990 in New York appealed to UN Member States to adopt the World Declaration on Survival of Children, their Protection and Development together with the Plan of Action for the nineties. While the World Declaration met with positive public reception in the Czech Republic and the impact of its conclusions has been present in the different areas of the care of children, the Plan of Action remained out of attention and interest of the State authorities and has not become a basis for the creation of the National Plan of Action in the Czech Republic. In consequence of this situation neither general conception nor the State policy stipulating how the rights of the child should be assured has been elaborated. As the main cause of non-existence of the National plan may be considered the lack of general political will.

NGOs in the Czech Republic keep accenting the need of creation and adoption of the **State complex conception for the care of children** considering the lack of it as a serious obstacle for the achievement of progress in fulfilment of the CRC. The appeal for developing of National Plan of Action in all candidate countries for EU membership came also from the conference "Build children's Europe - make child rights real" (A Call from Nyköping, Sweden, May 4, 2001).

In reality much progress has been made during the nineties. Programmes and plans focussing on the solution of urgent problems concerning different areas of children´ life have been created. National programme of AIDS prevention has been adopted in 1991 and Programme of the solution of HIV/AIDS issues for 1993 - 1997 which has been later enlarged on the period 1998 - 2002. At present times such projects are also realized within the National health plan, National plan for combating commercial

sexual exploitation of children and the Guidelines of the Government Policy Towards the Young Generation until the year 2002. The latest instrument which has the complex character should play a role of a National Plan of Action for this period. However, it is necessary so that Government works out and adopt National Plan of Action for the years 2002 - 2010 according to the Conclusions of the Summit on Children which have been adopted by UN General Assembly on May 10, 2002. (General Assembly of United Nations adopted Concluding documents from the Summit on Children which consists of the Declaration and Plan of Action for the years 2000 – 2010.)

Outcomes and recommendations

The Committee may want to ask the Government

- whether and when the complex National Plan of Action for the years 2000
 2010 will be elaborated according to the UN General Assembly document "World Fit for Children"
- the Committee might want to suggest the Government to include national programmes focusing on different areas of the children's care within this National Plan.

Indicators for evaluation of progress achieved in implementation of the CRC

Committee of the Rights of the Child, Concluding Observations, 1997

Item D10. The Committee is concerned about the need to strengthen the State party's limited capacity to develop specific disaggregated indicators to evaluate progress achieved and assess the impact of existing policies on all children, in particular children belonging to minority groups.

Item E29. The Committee recommends that the State party give priority attention to the identification of appropriate disaggregated indicators with a view to addressing all areas of the Convention and all groups of children in society. Such mechanisms can play a vital role in systematically monitoring the status of children, and in evaluating progress achieved and difficulties hampering the realization of children's rights. They can be used as a basis for designing programmes to improve the situation of children, particularly the most disadvantaged, including children belonging to minorities, children with disabilities, children ill-treated and abused within the family, children in institutions or deprived of liberty, children who are victims of sexual exploitation and children who live and/or work on the streets.

In the Czech Republic projects focussing on monitoring in different areas are being made. In application of the CRC, serious shortcoming is not only the absence of valid indicators and criteria for monitoring of the situation and development of children (or perhaps insufficient employment of existing indicators in different branches and their aggregation with the others) but total absence of at least one skilled or scientific workplace in the Czech Republic dealing with the topic in complexity and coordinating it.

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² Resolution of the Government No 1 of January 6 1999

³ Official Records Twenty Seventh Session Supplement 3 (A/S-27/19 Rev.1)

Experts' effort for creation of serious and complex scientific basis relating to children and youth in the Czech Republic still remains a torso which is included only in the activities of some ministries and non-governmental organizations. Moreover just these organizations are very much dispersed in their efforts, mostly thrown upon a practicality, good will and heart, grants and gifts. **The development of indicators** for monitoring implementation of children's rights may link to the **Additional indicators elaborated by UNICEF**⁴ with the focus on the quality of this process.

Outcomes and recommendations

The Committee may want to ask the Government

- what institution will be responsible for monitoring implementation of children's rights

National Committee for Implementation of CRC

Committee of the Rights of the Child, Concluding Observations, 1997

Item D11. While noting with satisfaction the existence of government bodies dealing with the welfare of children at the national and local levels, the Committee nevertheless expresses its concern that the coordination among them needs to be improved in order to develop a comprehensive approach to the implementation of the Convention.

The Second periodic report of the Czech Republic on implementation of the Convention on the Rights of the Child in the period 1995 - 1999 states the **establishment of National Committee for the family, children and youth** and the main functions of this body define as a mechanism of implementation of the CRC.

As a matter of fact the way of functioning of this committee has never been quite clear and at the end of 2001 it was abolished for the reasons of "insufficient activity". Although the Government adopted the Guidelines of the Government Policy Towards the Young Generation until the year 2002, there is no integrating centre for the realization of CRC. The Czech section of DCI is of the opinion that a constituent part of such centre should be the Section for the Rights of the Child which has been established to the Human Rights Council of the Government of the Czech Republic.

Outcomes and recommendations

⁴ UNICEF additional indicators for industrialized countries

The Committee may want to ask the Government

- how and when the Government intends to take measures for ensuring the coordination of activities in implementing of the CRC.

Ombudsperson

Committee of the Rights of the Child, Concluding Observations, 1997

Item E28. The Committee encourages the State party to pursue its consideration of the establishment of an independent mechanism to monitor the observance of children's rights, such as an Ombudsperson or a National Commission for Children's Rights.

The **institution of the public protector of human rights**⁵, including the rights of the child, an ombudsman whose office, independent of the Government, could protect individuals from illegal or otherwise wrong decisions or actions by authorities or even courts, has started its activity at the beginning of the year 2001 and resides in the city of Brno. Among other things, he is engaged in cases of insufficient protection of children's rights exercised by social authorities. The need of protection of the rights of the child often results also from impulses which primarily have to do with property, family and other suits. Even though such cases do not pertain to the domain of the public protector of the rights, ombudsman nevertheless intervenes in order to protect the rights of the child (and family).

Because the protection of children's rights appears as really urgent as well as that the requests addressed to the Office of Ombudsman in this connection are numerous, the opinion of the Czech section of DCI is that the best solution would be the establishment of ombusdperson especially for children.

Outcomes and recommendations

The Committee may want to ask the Government

- whether it will consider the possibility of establishment of the independent ombudsperson for children or other institution for the promotion and protection of the rights of the child.

Budget for children

The Plan of Action for implementation of the World Declaration of Survival, Protection and Development of Children (1990) appeals to the States for the revision of their State budgets and programmes focusing on the protection and development of children, encourages the States so that they would not restrict these programmes in the period of saving measures and act in the same way at the local level

⁵ Law No. 349/1999 Coll.

as well as in respect of the non-governmental sector. In the Second periodic report this issue remains practically not mentioned.

The difficulty of reaction to this challenge may be explained by the Law of the National Budget, which determines the budgetary means for particular ministries, including the means for children's purposes. The setting of independent and complex budget just for children would necessitate a change in the Constitutional Law.

From the Law of the National Budget results also the State subsidy policy towards the NGOs. This Law stipulates the subsidy of activities of NGOs as a possibility only. In fact, the extent of this financial support of NGOs keeps reducing in the National Budget. The funds for the non-governmental organizations dealing with the handicapped, socially disadvantaged, neglected and abandoned children allocate the Ministry of Education, Youth and Sports and the Ministry of Labour and Social Affairs **The Law on social and legal protection of children**⁶ does not mention any direct subsidy of NGOs (but it mentions duties of NGOs and eventual penalties in the case of non-fulfilment of duties).

The Ministry of Education, Youth and Sports supports NGOs - civil associations, foundations and other non-profit organizations, the statuses of which primarily focus on the protection of rights of the child and organizations of the leisure time activities for children and youth, both in sports and other areas. Regrettably, the financial support is decreasing. Although NGOs associate and work with relatively small percentage of the young population, they make efforts to gather other young people for their activities.

Outcomes and recommendations

The Committee may want to ask the Government

- whether and when it intends to implement in its budget policy the engagement accepted by the adoption of Declaration of the World Summit for Children 1990 to make a complex budget of the funds allocated for children
- whether it would consider the possibility to grant more substantial support to NGOs dealing intensively with defence and promotion of children's interests no matter that children do not prevail among the members of such NGOs. The support could be done for instance from the budgets chapter for the protection of human rights because children's rights are human rights as well.

Non-governmental organizations

	Committee of	of the	Rights of	of the	Child.	Concluding	Observations,	1997
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⁶ Law No. 359/1999 Coll.

Item D12. The Committee expresses its concern at inadequate coordination and communication mechanisms between the Government and the non-governmental organizations dealing with children's issues.

In the Czech Republic there are about 400 associations offering free time activities to children and young people. Almost 300 thousand children and young people - two thirds of them associated in the Czech Council of Children and Youth - make full use of such activities. Consonant experience acknowledges - no matter if it concerns scouts, "tomíks", backwoodsmen or pioneers - that it is one of the most efficient kinds of prevention against social pathologies of the juveniles. Nevertheless, the financial costs of other kinds of prevention, not to say for remedy of their non-efficiency, are multiple in comparison with the funds granted for this remarkably efficient prevention. The fact, that the State is not sufficiently aware of key significance of such care of children and youth has reflection in the structure of the district offices. Practically nowhere one could find a department or section in which sphere of action would pertain this issues.

The Second periodic report lacks concrete statement in respect to non-governmental sector, mainly to the associations of children and young people themselves. It is not enough to mention just grants and other subsidy given from State to this associations. There is need to complete this passage with the facts on the quantitative and qualitative situation and development in this area and on the efficiency of the States support. The evaluation of a share of non-governmental subjects on the implementation of CRC (e.g. regular seminars organized by the Czech section of DCI or by the Associations of the non-governmental organizations ANO) is absent as well.

The organizations focusing on the protection of the rights of the child, especially those representing children themselves should be taken for partners in all the process of dissemination of knowledge on CRC, mainly in the fulfilment of the provisions of CRC. However, the co-operation in this process is not a rule.

Outcomes and recommendations

The Committee may want to ask the Government

- how co-operation of State authorities at all levels of public administration with NGOs is projected into the Czech legislation, especially in implementation of the rights of the child
- how are the possibilities of co-operation for NGOs dealing with children's rights with State authorities, which are responsible for social protection, employment, habitation, culture, prevention against criminality, racism, AIDS and drugs.

Information on the CRC

Article 42

Committee of the Rights of the Child, Concluding Observations, 1997

Item D14. The Committee is concerned that sufficient measures have not been taken to disseminate and raise awareness about the principles and provisions of the Convention in all parts of society, among children and adults alike, in conformity with article 42 of the Convention.

Item E31. The Committee recommends that consideration be given to incorporating the Convention in the curricula of all educational institutions and that appropriate measures be taken to facilitate access by children to information on their rights. The Committee also suggests that the State party direct further efforts to providing comprehensive training programmes for professional groups working with and for children such as judges, lawyers, law enforcement personnel, army officials, teachers, school administrators, social workers, and personnel of child-care institutions.

The Ministry of Education, Youth and Sports supports only projects focusing on education of pedagogues in area of the rights of the child. There is no countrywide programme in the Czech Republic relating to the children's rights to education. The awareness of **rights to participation of the child** is among the pedagogues very low and readiness to apply them at elementary and secondary schools is quite exceptional. As regards schools, municipalities, children's media and pupils' periodicals the respect for children's opinions on issues concerning them is neither regulated in the Czech legislation nor observed in practice.

The Second governmental report has mentioned various types of training for professionals - teachers, judges, workers in the social area - where they are being acquainted with the contents of CRC and its reflection in the Czech law. According to experience of the non-governmental organizations there are considerable reserves in this training. Public awareness of the rights of children is insufficient, not to say even minimal, somewhere the attendance at a training depends on voluntary involvement of participants (e.g. teachers).

It should be noted that in all parts of the State power, the representatives of which are in contact with children (teachers, educators, social workers, judges, paediatricians, policemen, officials) mostly lack understanding of the sense of the Convention. This shortcoming has its reflection in the attitude towards solution of individual cases, legislative steps, and observation of them. In favour of existence of rare cases of possibility to implement and respect children's rights in all spheres of social life gives the positive experience of the participants of Children's Parliaments.

The main burden of dissemination of the Convention lies before all on non-governmental organizations and their editorial activities, their organizing of children's meetings and associations of children and seminars for people working with children. Only with difficulties and slowly there are making acquaintance with the CRC pedagogues and parents.

This overall unpleasing state in dissemination of the CRC in the Czech Republic, when professionals and also the public have little possibility to learn about it and convince themselves of its utility for children, calls upon the State authorities to make a systematic solution.

Outcomes and recommendations

The Committee may want to ask the Government

- whether they have a strategic programme, which will assure that the substance of the CRC is made known to all children and adults
- and recommend to formulate a strategy to make the substance of the CRC more widely available to children and adults, namely to parents, politicians, professionals and journalists.

Availability of the CRC

Article 44, paragraph 6

Committee of the Rights of the Child, Concluding Observations, 1997

Item E42. The Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the report be published, along with the elevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.

The documents referring to the Initial report including the discussion to this report on the sixteenth session of the Committee and the Concluding observation have not been published in a manner which would support a discussion and initiative in implementation of the CRC by the politicians, officials, non-profit organizations and broad public.

The Initial report of the Czech Republic on fulfilment of the CRC in the years 1993 - 1994 was published by the Ministry of Labour and Social Affairs (Prague, 1996). The Ministry distributed it within its sphere of responsibilities. Ministry of Foreign Affairs made available the written replies of the Czech Republic to the questions of the Committee for instance to participants of the National Seminar on implementation of the CRC which was held in the Senate of the Parliament in 1998.

The final Summary evaluation of the Committee (Concluding Observations) has been translated into Czech by the UN Information Centre Prague (October 1997).

The Second periodic report of the Czech Republic on implementation of the CRC has been published by the Ministry of Education, Youth and Sports. The report is published on Internet as well.

Outcomes and recommendations

The Committee may want to ask the Government

- if it agree that in order to fulfil the task formulated in Article 44, 6 it is necessary to issue the second periodic report as a publication containing the governmental report on fulfilment of the CRC in the years 1995 - 1999, additional reports, written replies on the guestions of the Committee, the

records of defence of the governmental report and final recommendations of the Committee

- which procedure it will choose for publishing the documents mentioned above and whether the distribution to all interested subjects will be assured.

III. GENERAL PRINCIPLES

Non-discrimination

Article 2

The Committee of the Rights of the Child, Concluding Observations, 1997

Item D13. The Committee is concerned that the general principles of the Convention, as laid down in its articles 2 (non-discrimination), 3 (best interests of the child) and 12 (respect of the views of the child), are not being fully integrated into the legislative policies and programmes relevant to children, in particular in relation to children belonging to vulnerable categories such as children belonging to minorities, children with disabilities, children in institutions or deprived of liberty, children ill-treated and abused within the family, children who are victims of sexual exploitation, and children who live and/or work on the streets.

In this area the Czech section DCI paid attention especially to the situation of Roma children and children of refugees.

Roma children

The Committee of the Rights of the Child, Concluding Observations, 1997

Item E32. The Committee recommends that the State party undertake major efforts to develop awareness-raising campaigns aimed at reducing discriminatory practices against the Roma population and should envisage special programmes to improve the standard of living, education and health of Roma children.

According to information available for members of the Czech section DCI and to their own experience - in particular from their activities in favour of improving conditions for education of Roma children and children belonging to other minorities, children with disabilities and, last but not least, children abandoned by foreign prostitutes and placed in compulsory care institutions. In spite of all efforts, the living conditions of these children are - as far as the State can influence them - far from being suitable.

Though certain conditions which could help pupils in elementary schools coming from socially weak environment (very often Roma children) to enable them to acquire as good education as the children of major population have, hitherto considerable part of these children reaches only elementary education. The consequence is, that as young people without any higher education, they form a major part of unemployed people and many of them are a subject of socially negative influence.

A draft of a **new Education Act** which would considerably improve the education of Roma children has not been adopted till now. Non-governmental organizations organize the courses for Roma pedagogic assistants and have the main part of experience in this area.

However, the programmes improving education, health and consequently also the living standard of Roma children cannot be an affair of a voluntary sphere only. A **draft of Act on Youth** which should arrange, among other things, free time activities of children and youth has not been finished. Within the concept of the State policy towards youth the Ministry of Education, Youth and Sports (MEYS) should have prepare a design of this act. The Act should contain a concept of the participation of youth on the formation of consultation bodies for youth on all levels of the State administration and self-government. In comparison with the primary notion, the rights of participation have not been incorporated in the draft of the act. Now this draft contains only two items - one on counties and the other on communities. Therefore **this draft has not been accepted by the National Conference of Children and Youth in 2002.**

Therefore, it is urgent to finish all necessary legislative steps and promotional actions in order to ameliorate the standard of Roma community.

Outcomes and recommendations

The Committee may want to ask the Government

- which concrete projects and programmes in favour of Roma children will be adopted
- what kinds of responsibilities in realization of those programmes will have the regional and local authorities.

Refugee children

Article 22

Exceptional attention should be given to granting asylum **solitary refugee children**. These children belong to the most threaten group. Running from the country of their origin, from different reasons they are not accompanied by adults, who would be responsible for them. These children may become a facile subject of the worse exploitation and abuse. The problem - among other things - consists in setting the agelimit of 15 years for the responsibility in the case of infringing the act on the residence of foreigners and the possibility of detaining of minors at the age of 15 - 18 years and placing them in the detention facilities for foreigners. This is in contradiction with the article 3 of the CRC and articles 27 and 37, b),c) of the CRC. The problem has not been removed by adoption of **amendment of the Law on asylum**⁷.

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⁷ Law No. 2/2002 Coll.

The Czech Helsinki Committee - the special consultancy services for refugees - pay much attention to the facilitation of obtaining asylum for refugee children. According to their experience the problem of refugees in the Czech Republic became actual after opening the frontiers at the beginning of nineties of the preceding century. Since that time many refugees - adults and children - come to the Czech Republic in order to request asylum. There is no problem during the asylum proceeding as to the children coming escorted by their parents or other legal representatives. According to the CRC all persons who declare their age is under 18 years are treated as minors. All such applicants are granted a special care and their position in asylum proceeding is specific.

The problem arises at the moment of necessity to accommodate these minor applicants. There is no uniform facility where it would be possible to place them. For the time being the minor applicants of 15 - 18 years are being placed in the three sojourn centres for adult applicants of asylum. Though they are granted a special care, such centres are not especially just for the minor applicants.

Even more problematic situation is with the group of minor applicants of the age 0 - 15 years, who are, according to the judicial decision, placed to the children homes or, more frequently they have to pass through the diagnostic institution and afterwards they are placed to the children home. No one of these facilities has been designated as a facility for the care of minor foreigners, particularly for the foreigners needing social care. The diagnostic institutions are designated for the care of children with disorders of behaviour or with a punitive delinquent past, thus not acceptable for minor applicants of asylum at all. It is necessary to seek new solutions of the protection not only for refugee children, but for minor foreigners in the Czech Republic against possibilities of neglect and abuse.

Outcomes and recommendations

The Committee may want to ask the Government

- which measures will be undertaken in favour of amelioration of living situation for refugee children
- whether and how it will the Czech Republic co-operate in this area with the programmes of European Commission.

Best interests of the child

Article 3

From the 1st June 2002 a Constitutional Act⁸ which regulates the Article 10 of the Constitution of the Czech Republic came into effect in the Czech Republic. From its new wording: " ... international conventions approved by the Parliament ... make a part of the

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⁸ Act No. 395/2001 Coll.

legal order and if a convention stipulates something else than an act, the convention will be applied..." follows the gravity of precise diction of international conventions. Thus the Convention on the Rights of the Child⁹ is a part of the legal order. However, its legal Czech diction in the case of the Article 3 instead of "... best interests of the child" states " interest of the child must be the foremost standpoint". This formulation allows legal possibility not to give the desirable priority to interests of the child. It is therefore necessary to adopt measures assuring implementation of the origin formulation into the legal order of the Czech Republic. Otherwise there might arise other problems which could compromise the possibility of application of the "best interests of the child".

As an example the Czech Section of DCI cites a serious harm of the best interests of the child in the case of preschool care for small children. **Preschool care** in theory and practice has a long tradition in the Czech Republic. Though it has a very good standard, in some situations it is hardly available or too expensive. With regard to the Article 3 of the CRC it has reference with a situation when parents or other responsible persons do not give the child adequate care and this duty devolve upon the State.

Some parents who neglect education of their children deliberately don't send them to preschool facilities. That's why it would be useful to make the attendance at preschool facilities obligatory for children for instance half a year before the beginning of compulsory school attendance. Such arrangement could be a boon also for integration of handicapped children. Compulsory attendance would ensure needed preschool education and reduce possible discrimination of children from socially weak families and promote individual development of each child.

Appropriate measures should be taken for ensuring availability of institutional care of children in the age up to three years. Especially as to the children from disadvantageous socio-cultural environment, in such a professional institution (crèches, nurseries or kindergarten) it would be possible to reveal in time contingent defects or disorders which may - in case of late identification - signify lasting deficiency of the child.

Outcomes and recommendations

The Committee may want to ask the Government

- how it will assure, that the best interests of the child will be formulated with precision at the level of constitutional acts
- how will be assured the best interests of children from disadvantageous environment.

Survival and development

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⁹ Act No. 104/1991 Coll.

Article 6

The Committee of the Rights of the Child, Concluding Observations, 1997

Item E38. The Committee recommends that the State party undertake more comprehensive research on the possible effects of environmental pollution on the health of children.

In the last decade ecological changes started in the Czech Republic, e. g. thermo power stations cease to pollute the atmosphere, but traffic of cars becomes more and more a threat for the cleanness of the atmosphere. A significant amelioration of cleanness of water and soil is a long-termed process and its results are continually monitored by the State Health Institute within the "System of monitoring the Environmental Impact on Population Health of the Czech Republic". ¹⁰

Children's accidents have a direct impact on the survival and development of children, for they change as a permanency health situation of the numerous families. The consequences of this accidents represent a serious problem in health, social and economic area.

Injuries are at the first place among the causes of the children's death (injuries of children under 14 years represent 20 percentage from the total of injuries). According to the statistics of traffic accidents from the Czech Police, children under 15 years have been the cause of 1.976 traffic accidents in 1999 (e.g. in comparison with 1998 bicycle accidents have increased). Injuries increase not only the number of untimely deaths but they have also social consequences for one injury has influence on many people from the child's environment.

Injuries similarly as suicides of children (which have decreasing tendency in the Czech Republic thus the country moved according to OECD from the group with the high rate of suicides into group with the middle rate of suicides. As to the children under 15 years it is a question whether to speak about suicidal behaviour or rather behaviour leading to self-homicide in the state of affect. For preventive measures it is important to know the motives of this behaviour. This area requires further research. On the one hand there is more liberal atmosphere in families, on the other hand aggressiveness among schoolmates is growing (chicane at schools) - influence of these phenomena should be systematically watched.¹²

Outcomes and recommendations

The Committee may want to ask the Government

 how it will assure at all levels of schooling the education to safe-behaviour on the roads, prevention of drug-taking including a passive smoking of tobacco products

¹⁰ National Institute of Public Health, Prague 2001

¹¹ Centrum epidemiologie a prevence detských úrazu, Prague 1999

¹² Sebevraždy 2001, Zdravotní statistika, UZIS 2001

- which measures will be undertaken to prevent availability of fire-arms and other arms to children.

Respect of the views of the child

Article 12

The Committee of the Rights of the Child, Concluding Observations, 1997

Item B13. The Committee is concerned that the general principles of the Convention, as laid down in its articles 2 (non-discrimination), 3 (best interests of the child), and 12 (respect of the views of the child), are not being fully integrated into the legislative policies and programmes relevant to children, in particular in relation belonging to vulnerable categories, such as children belonging to minorities, children with disabilities, children in institutions or deprived of liberty, children ill-treated and abused within the family, children who are victims of sexual exploitation, and children who live and/or work on the streets.

The Governmental report informs very briefly of implementation of the child rights to express freely his/her own opinions by amendment to the Act on the Family from the 1998 and by the provision of § 8 of the Act on social and legal protection of children¹³.

Researches which are carried out by the Czech and international subjects give information on real opinions of children (To the first group belong researches of the Institute of Children and Youth of MEYS in Prague and of the Social - Medical Faculty in Ceské Budejovice, to se second group belongs research "Young Voices" which has been done by the Czech Committee for UNICEF.) All these researches repeatedly reveal children's experience of insufficient possibilities to express their opinions to issues which directly affect them.

Only little by little the participation of children and youth gets through the life of the society. Awareness of participation rights of the child among the pedagogues is very low and willingness to implement it in elementary schools is quite exceptional. Respect for the opinion of the child on questions concerning him/her relating to the schools, communities, children media and pupils periodicals is neither regulated in legislation nor observed in practice. Both passive and active franchise to the school councils have major citizens only, thus children under 18 years are excluded. For instance from 239 schools in Prague (1,2 mil. inhabitants) there are only 7 schools where **the school councils** have been created with the participation of 2 major pupils only. Legislative regulation of pupils committees doesn't exist. Establishing of such committees should not be obligatory but the headmaster should have an obligation to create conditions for arise and functioning of them.

The cross-sectional approach is very rare at work with children and with the non-profit NGOs co-operate practically only the department of youth of the MEYS or the **Section** for the Rights of the Child of the Human Rights Council of the Government of the Czech Republic. The co-operation with children's NGOs has no legislative basis

¹³ Act No. 359/1999 Coll.

and depends only on the good will of ministers or relevant officials. According to experience of the Council of Children and Youth the level of this co-operation is decreasing lately, e.g. persons appointed by the youth NGOs have not been invited to co-operate and discuss the bill on youth. It is obvious, that this form of participation of children and youth is not adequate to the articles 12 and 13 of the CRC. At the levels of regions, counties, communities and schools is the situation similar as well.

Participation rights of the child have not been incorporated (on the contrary to the origin intention) in the prepared Act on children and youth. Its contents have been reduced just to the formulations on the targets of public administration relating to utilization of leisure time of children and youth. Despite of many remarks of NGOs even in this issue the participation of children and youth is not considered as obligatory for public administration as well as in amendment of the prepared Act on school education system.

Outcomes and recommendations

The Committee may want to ask the Government

- how the articles 12 and 13 of the Convention will be implemented in the Czech legislation with regard to participation rights of children
- how and if the representative structures of children, including pupils' committees and children's media will be invited to co-operation.

IV. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Article 18, 20

The Committee of the Rights of the Child, Concluding Observations, 1997

Item D9. The Committee is concerned at the lack of an integrated strategy for children as well as of a systematic mechanism to monitor progress in all areas covered by the Convention and in relation to all groups of children in urban and rural areas, especially those affected by the consequences of economic transition.

The Government of the Czech Republic and its respective bodies did not prepare and have not been seriously interested in the preparation of a complementary family policy, a policy of complex care of the child and family with regard to the knowledge of their real situation. A serious shortcoming is absence of at least one professional or scientific workplace which could completely deal with these issues and co-ordinate them. (The Paediatric Research Institute in Brno which performed partly this target ceased to exist in 2001, the Institute for Mother and Child in Prague reduced its activities on the clinical works and the curative medicine.) Professional efforts to create a serious complex scientific basis for the family policy in the Czech Republic remain still a torso, included in professional activities of certain resorts and numerous NGOs.

There is no clearly formulated conception of the family State policy accenting the prestige of the family. **Alternative care of children** is still based on the **preference of institutional care before the substitutive family care.** Elaboration and adoption of family-friendly conception of a state policy which would influence taxation, educational, housing policy as well as support of a healthy well-being of the families remains an urgent task.

The Committee of the Rights of the Child, Concluding Observations 1997

Item D18. The Committee is concerned that corporal punishment is still used by parents and that internal school regulations do not contain provisions explicitly prohibiting corporal punishment, in conformity with articles 3, 19 and 28 of the Convention.

While **the Family Act**¹⁴ as well as the general public practice imposes to children duties towards their parents (and its last amendment¹⁵ even extends it of duty to honour their parents and respect them), the Convention omits such a duties. That's why in the Czech Republic the requirement of the UN Committee for children's rights - prohibition of corporal punishment - is practically not realizable. Of course, it is also about an outlasting paternalistic and parentalistic approach of the Czech society to their children.

In the above named amendment of the Family Act best interests of the child are omitted namely in provisions relating to adoption, what has as consequence a prolongation of the stay of the child at children's homes. (The survey effectuated by an institution for substitutive family upbringing revealed, that impossibility of granting permission for adoption immediately after the childbirth prolonged unnecessarily the stay of the newborn in average from 17,5 days in 1997 to 68,3 days in 1999.) Problematic is also a part of amendment relating to so called "six-months no interest" of biological parents, which had as a consequence prolongation of children's stay in institutions for children in average from 261,5 days in 1997 to 655, 1 days in 1999.

Three years after the amendment of Family Act came into force it is obvious, that this Act will have a serious impact on the lives of children living in newborns' institutions and children's homes.

Therefore possibilities of new solutions of this situation are wanted and new alternative forms of substitutive family care are to be implemented. A new hope of help for abandoned children gives the proposed therapeutic or professional foster-care of children with congenital development deficiencies, children with special development risks, mentally or physically handicapped children, children whose parents have health problems or are physically handicapped. For this purpose the profession foster-therapeutic should be created.

Outcomes and recommendations

The Committee may want to ask the Government

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¹⁴ Act No. 94/1963 Coll.

¹⁵ Act No. 301/2001 Coll.

- whether it considers to accommodate the provision on proving a qualified non-interest of parents about their child for the purposes of adoption before the court according with the best interests of the child
- whether in incorporating the Family Act to the Civic Code it will take the implementation of the Convention into account
- whether the practical policy towards family and children will be elaborated.

V. BASIC HEALTH CARE AND SOCIAL CARE

Articles 24, 27

Despite of the fact that Concluding Observations of the Committee for children Rights 1997 appreciated high standard of health services in the CR, during following years the health status of the child population is developing inconsistently with this observation.

The pediatric experts actively working with and within the Czech Section of DCI inform, that the health status of children is characterized by increasing number of children with congenital defects, allergic illnesses, including bronchial asthma, the nervous system disorders, mental retardation and serious behavioral disorders. Nicotine addiction and alcoholism is also increasing among youth. The percentage of adolescents, but also children, who have experiences with drugs and are already addicted to them has been increasing too.

Beside that the **primary pediatric care** is facing many problems. The major one can be characterized as its limitation to the curative care. However, preventive care is the duty, but there are examples e.g. in connection with the mandatory inoculations that different groups do not allow the pediatric staff to fulfill it.(Groups of parents against inoculations.) This situation results into the declining health status of children, particularly those with low educated parents. This development is supported by the overall declining cooperation with the families and within the families depriving and neglecting their children.

As an extraordinary important problem in this sphere there could be declared the absence of **the school health care**, particularly in big towns and cities at the level of the hygienic care, health aspects of the pedagogic process, care for disadvantaged and endangered children and handicapped children.

Mutual cooperation and sharing responsibilities between health services, special pedagogic and social care is envisaged. Hopefully, the proposal of renewing the position of the "district child care specialist" who will be able to co-ordinate complete care for children and youth, will be the step in the right direction.

The main problem of the **care for handicapped children** is its dividing between the Ministry of health care – care for physically handicapped – and the Ministry of Labour and Social Affairs - care for mentally handicapped and children with so called combined defects. The renewing of the activities at least one of special (scientific) institution, e.g. Research institute of pediatrics could be a way for improving total situation of these disadvantaged children

WHO included **childhood obesity** among important health problems in the industrially developed countries (the CR belonging among them). According to parameters of WHO the percentage of obese children increased from the year 1991 to the year 2000 from 3 per cent to 6 per cent. Increased prevalence is related significantly to nutrition (the quality of ingested food e.g. higher intake of saturated fat and simple sugars), sedentary activities during the leisure time (PC games, watching TV) and reduced physical activity and exercise.

Children with the diagnosis of obesity have the possibility to take part in the spa six weeks treatment which is financially covered by the compulsory health insurance. But until now there does not exist any preventive programme against child obesity.

Creation of **unified system of monitoring children affected** by **CSEC** remains also unsuccessful. Besides a considerable latency (there is about 2000 cases per year against some estimated 20.000 cases) also the registration differs in different branches. Thus different numbers are registered by the bodies of social and legal protection of the child and others by the police.

The term "Social and legal protection of the child", as the most important contemporary act in this area is named, gives evidence of considerable reduction of social questions on prosecuting apprehension of legislation and social questions are understood as social and legal.

Realization of social policy is implemented often in a chaotic way, some of its areas are elaborated at a very good level and are also implemented step by step into practice (e.g. **substitutive family care**). Many of areas, in spite of good elaboration, are backwards in implementation (e.g. the care of handicapped children, abused children or children threaten by CSEC). This is perceptible in the work with and in the family. Comparatively good level of benefits within the **Act on social aid** cannot substitute the work with and in the family not to speak about a possibility of misuse of the benefits for another purposes.

Partial conceptions have been elaborated by some ministries, for instance the National health care plan, National Plan against Commercial Sexual Exploitation, National Plan for Combating Drug Addict. But these conceptions are insufficiently coordinated with documents of other ministries. An exception is the National Programme of AIDS Prevention, adopted in 1991 and its continuation in the Programme of the Solution of HIV/AIDS Problems for the years 1993 - 1997, enlarged later for the years 1998 - 2002.

Several times already mentioned **Law on social legal protection of children** (No 359/1999 Coll.) is not helpful for NGOs caring for children because it underlines the only responsibility of governmental social care institutions. Thus it limits the possibility of supportive mutual co-operation needed particularly in the favor of disadvantaged children between different bodies.

Outcomes and recommendations

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The Committee may want to ask the Government

- when and how the support of the preventive pediatric health care will be ensured
- if the school health care will be included into the health care system
- if preventive health care, hygienic and epidemic information will be included into formal school education with special attention to children from families with lower status of education
- if a future amendment of the Law on social and legal protection of children will be more in relation with the CRC.

VI. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Articles 28, 29 and 31

Committee on the Rights of the Child, Concluding Observations, 1997

Item E31. The Committee recommends that consideration be given to incorporating the Convention in the curricula of all educational institutions and that appropriate measures be taken to facilitate access by children to information on their rights. The Committee also suggests that the State party direct further efforts to providing comprehensive training programmes for professional groups working with and for children such as judges, lawyers, law enforcement personnel, army officials, teachers, school administrators, social workers, and personnel of child-care institutions.

According to the experts of the Czech section of DCI in the Czech Republic there exist serious lacks in implementation of basic changes in the educational systems concerning their structure and their contents as well as in in-service-teachers training. The political changes in the Czech society after the year 1989 opened the possibilities for political and expert discussion about education of future generations. One of its objectives concerned the type of teaching that is focused primarily on accumulation of knowledge and not completely on maximizing child's ability and opportunity to participate fully and responsibly in a free society of 21st century. CRC represents an instrument that should guide educational opportunities to make available an appropriate balance between promoting mental, physical, spiritual, emotional aspects of education, its intellectual, social and practical dimensions as well as the harmonious development of the child to the fullest potential of his/her abilities and talents.

The draft of the new law on school education, prepared by the Czech Ministry of Education, Youth and Sports in the year 1999, contained articles dealing with the rights of pupils and students, protection of children against all forms of discrimination, respect to the opinion of the child and equality of boys and girls. Up to now the law was not approved and there is a possibility particularly for NGOs to complete it by the qualitative aspects of education.

A **new quality of school education** should emphasize the importance of acting in the best interest of the child, i.e. child friendly education. The key goal of education is a development of the individual child's personality, talents and abilities, in the recognition

of the fact that every child has unique characteristics, interests, abilities and learning needs. It means that teaching methods must be in accordance with these principles too. Teaching methods should be tailored to the different needs of different children. Education must also be aimed at ensuring that essential life skills should be learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with the life.

Basic skills include not only literacy and numeracy but also life skills such as ability to make well-balanced decisions, to resolve conflicts in a non-violent manners, to develop a healthy life style, good social relationships and responsibility, critical thinking, creative talents, etc. which all gives children the tools needed to pursue their options not only in their childhood but in their all life.

Discrimination on the basis of any grounds offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child. Therefore emphasis should be placed upon the importance of teaching about racism as it has been practiced historically, and particularly as it manifests or has been manifested itself within particular communities. It is therefore important to focus on the child's own community when teaching human rights and the principles of non-discrimination. Such teaching can effectively contribute to prevention and elimination of racism, ethnic discrimination, xenophobia and related intolerance. Possibilities of such teaching should be reinforced also for children from badly functioning families, resp. from children's homes¹⁶

There is a need for education which promotes and reinforces the range of specific ethical values including education for peace, tolerance, respect to natural environment in an integrated and holistic manner, i.e. in a multidisciplinary approach.

All these aims and values need not only to be reflected in legal form or in administrative directives – such as "the White Book" of the Ministry of Education, Youth and Sports. Its effective promotion requires the fundamental reworking of curricula and the systematic revision of textbooks and other teaching materials and technologies as well as official school policies.

Outcomes and recommendations

The Committee may want to ask the Government

- how the prepared law on school education shall reflect the requested new quality of education
- how the prepared law on young people shall reflect the principles of non discrimination
- if the school does not create the background for professional segregation of boys and girls which is leading to discrimination on the labour market
- how special needs of handicapped children are secured in the school education
- if children from ethnical minorities do attend regularly school education and what are their possibilities to be taught in their mother tongue.

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¹⁶ Law No. 109/2002 Sb. on providing of the chidren homes care or protection care within the school institutions and on preventive education care within school institutions

VII. SPECIAL PROTECTION

Protection against violation and exploitation

Articles 19, 34

Committee on the Rights of the Child, Concluding Observations, 1997

Item E39. The Committee suggests that the State party undertake a comprehensive study of child abuse and ill-treatment in the family. The Committee also recommends reinforcing its policies and programmes to prevent and combat all forms of sexual abuse, including domestic violence and incest. As regards sexual exploitation of children, the Committee encourages the State party to take into consideration the recommendations of the 1996 Stockholm Congress against Commercial Sexual Exploitation of Children, as well as those of the Special Reporter on the sale of children, child prostitution and child pornography.

The Czech Section of DCI together with the participants of the Public Hearing on the Second Optional Protocol to CRC fully supports the necessity to stop worldwide violation and exploitation of children. The CR was the participating country to the international Congress in Stockholm on SEC and is bound to implement the Agenda for Action and the ILO Worst Forms of Child Labour Convention (182). The Programme of action to eliminate the worst forms of child labour is under preparation. The Czech Republic is also implementing the Council of Europe Recommendation No. 16 of 31. October 2001 on the protection of children against sexual exploitation. But the official measures are insufficient, and legal norms as well as educational approach is more or less tolerant to foreign tourist demanding child sex.

In the CR prostitution is not regulated by the law, but a young person under 15 years of age is not liable to prosecution. The age limit for practising sexual activities is 15 years. Sexual activity with a person under 15 years is always penalised regardless of the possible occurrence of commercial aspects. The maximum penalty is 8 years , when the child victim was injured than 12 years (the Penal Code has been recently amended, according to the Second Optional Protocol to CRC). In 2002 co-operation among the CR, Germany and Poland focused on prostitution in bordering regions was extended. The priority is to reduce the demand of foreign tourist in child sex.

The children at risk are obviously subjects of the compulsory basic education which includes parental and family education. The main part of preventive social work against CSEC is performed within Roma communities. Priority among these programmes have projects focused on children in pre-school age and their mothers .Roma assistants are engaged in the work with children and their families at the beginning of their compulsory school attendance . These activities are aimed at socialisation of children and their protection against risky sexual behaviour. (A special training of Roma street-workers is under preparation.) Newly engaged police officers are trained – within their official training seminars - how to deal with child victims of crime.

Children in crisis situations have at their disposal so called "Safety line" which covers the whole territory of the Czech Republic. This help line is operating 24 hours a day and is free of charge. If needed the child can get the contact with the nearest crisis centre where he/she can get the care of therapist, psychologist, paediatrician and social assistant. Crisis Centres are established by NGOs with the financial support of the Government. They work in big cities. Similar services are provided also by the Catholic Charity and other Christian institutions. The child victims are often helped only by the services of the NGO White Circle of Safety

The CR does not have effective measures combating pornography. (According to the article 205 of the Penal Code the punishment is only in the case when it is possessed for further distribution, dissemination or exportation from the country.)

During the first half of the year 2000, Ministry of Education, Youth and Sports, ministry of Justice, Ministry of Health Care and related NGOs prepared the National Plan against Commercial Sexual Exploitation of Children (NPCSEC) which was approved by the Czech Government July 12, 2000¹⁷. NPCSEC includes a report about the situation in the CSEC area as well as a lot of measures, but it does not create suitable conditions for improvement of the contemporary unfavourable situation. In this connection the insufficiently trained police officers, detention officers and judiciary officials about special needs of children represent the main reasons why CSEC is not recognized as one of the serious criminal act which endangers all the society. (Newly engaged police officers are instructed how to deal with the victims of a crime. But special programmes and policies on psycho-social development, child rights and child friendly procedures are not frequent.) Up to now the CR does not establish judicial institutions dealing exclusively with the child and juvenile criminality (and criminality on children). As a result, in the year 2002 the national policy against CSEC including amendments of Penal Code and broadening educational activities on vocational training institutions and public does not be finished.

Extraordinary protection is necessary also for **lonely refugee children** asking for asylum. These children belong all over the world to extremely endangered and violated groups. They are refugee under 18 years of age who left their country of origin, and from different reasons they are not accompanied by adults with legal and responsibility for them. These children then may became objects of violation and exploitation without any problems for the perpetrators.

Outcomes and recommendations

The Committee may want to ask the Government

- when the Optional Protocol to CRC on Commercial Sexual Exploitation of Children will be ratified and the connected national legislation (civil and penal order) will be amended
- how the training of police officers, staff of judicial institutions and broad public on the actual problems of CSEC will be improved

¹⁷ Decision of the Government No. 698/2000

-	what measures w	vill be	approved	to stop	sexual	tourism	and	trafficking	in
	children								

- what special measures will be approved for protection of lonely refugee children.

Prague, July 2002 HREC of CU