



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 573rd meeting

Held at Headquarters, New York, on Thursday, 8 August 2002, at 10 a.m.

Chairperson: Ms. Abaka

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The meeting was called to order at 10.15 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Second periodic report of the Czech Republic (CEDAW/C/CZE/2)

1. *At the invitation of the Chairperson, Mr. Fuchs and Ms. Zelenková (Czech Republic) took their places at the Committee table.*

2. **Mr. Fuchs** (Deputy Minister of Labour and Social Affairs), as the head of the delegation of the Czech Republic, introduced his country's second periodic report. He proposed to concentrate on the most significant developments of the period that had elapsed since the report was originally submitted.

3. The Government and society of the Czech Republic had experienced considerable change in equal opportunities policy in four years under the impetus of the country's commitments under international law, and legislative and institutional preparations for accession to the European Union.

4. The Government had placed the Ministry of Labour and Social Affairs in charge of coordinating government policy on women. The Ministry had drawn up a national action plan for the advancement of equality between men and women, establishing the priorities reported to the Committee and using as a basis the recommendations of the Committee and of the Fourth World Conference on Women held in Beijing. Implementation of the plan would be reviewed every year to determine if existing measures needed to be maintained, eliminated or modified.

5. Another focus of Government effort had been gender mainstreaming. It had instructed all ministries to establish departmental or sectoral policies and to designate gender focal points to examine legal and policy proposals' impact on men and women. A Government Council for Equal Opportunities of Women and Men had also been set up as an advisory body to address institutional shortcomings connected with equal opportunity. The number of women in public office had risen at the last general election, winning 34 out of the 200 parliamentary seats. A number of major national agencies were headed by women, but only two ministers in the new Government were women.

6. Considerable strides had also been made in enforcing human rights. A Government Human Rights Council, a Government Agent for Human Rights and an Office of the Public Human Rights Protector (ombudsperson) policed those rights. The Government had also focused on implementing international human-rights legislation, including the Convention (adopted in 1987) and its Optional Protocol (adopted in 2001). The Convention had been incorporated into national law.

7. The Constitution of the Czech Republic enshrined equality between men and women, but the Government recognized that the constitutional provisions by themselves were not a sufficient guarantee of implementation of equality policy in everyday life. It had therefore revised individual items of legislation. Labour legislation in particular had been harmonized with European Union legislation; it now included provisions on equal pay for work of equal value, parental leave and compensation for discrimination.

8. The Committee had expressed concern when examining the Czech Republic's initial report that the country's legislation lacked a definition of discrimination. The general "umbrella" bill on protection against discrimination due to be submitted to the Government by the end of 2002 was expected to remedy that situation, as it would cover discrimination based on sex, race and ethnic origin, beliefs, age, disability and sexual orientation.

9. The greatest obstacle to fulfilling the terms of the Convention was the absence of public awareness of the principle of equality between men and women. Although a legal framework was being built, in order to translate legally guaranteed rights into action required that traditional stereotypes be broken down. It was important not to treat equality for women as a women's issue, but as a gender issue involving men as well. Education and awareness campaigns were the first step towards eliminating gender discrimination. Affirmative action also had a role to play; it included measures for groups that were disadvantaged on the labour market, such as women returning from parental leave, and those underrepresented in recruitment or promotion.

10. The Government saw measures against trafficking in women as a matter of international urgency, since the Czech Republic was a country of origin, transit and even destination. Severe penalties were imposed for such activities, which were considered as another form

of organized crime. Domestic violence, as a phenomenon affecting not just women but weaker family members such as children, the elderly and the disabled, had long been considered a taboo topic. Non-governmental women's organizations had helped to bring the issue out into the open and the Government was taking preventive and remedial measures to suppress violent acts against women. Public awareness campaigns had been launched and an inter-ministerial working group had been set up to combine healthcare, social, legal and police assistance in preventing and prosecuting such violence. National legislation did not treat the phenomenon as a separate offence; it could be punished if it took the form of assault and battery, restriction of personal freedom, extortion, rape, homicide or mistreatment of a dependent child. Cases of domestic violence could be prosecuted even without the victim's consent, and the new penal code being drafted would probably include domestic violence as an offence in its own right. Shelters ("asylum houses") were available for victims, and they received Government assistance, but it was increasingly recognized that it was offenders and not victims who should be forced to leave the household.

11. Socio-economic considerations played a significant role in the status of women on the labour market and in the family. The Czech Republic had had a traditionally high employment rate for women. However, the division of roles within the family was still bound to the traditional pattern, with women bearing a double burden of work and household duties. Legal protection in the workplace had for some time been able to offset that disadvantage, but it had bred a disadvantage of its own: employers had shown an increasing tendency to hire men rather than women. The best solution to the disparity was consistent promotion of equal opportunities. While the younger generation found it easier to balance men's and women's roles in the family and to reconcile family and work it still required effort on the part of the Government to achieve the goal of equality between men and women in employment, political life, the family and society in general.

12. **Ms. Tavares da Silva** welcomed the additional information that the delegation of the Czech Republic had provided in its oral presentation. When reading the second periodic report, she had been struck by the information that law reform had been driven mainly by the need for harmonization with European Union

legislation. Since she was herself from a European Union member state, she understood that there was pressure to comply with such legislation, but she pointed out that as the most comprehensive global agreement on women's issues, the Convention went well beyond European Union requirements in many areas.

13. In connection with the mechanisms for promoting women's rights in the Czech Republic, she said that the oral presentation had provided much of the information that was not in the report itself, but she asked for further details of how the responsibility of the Ministry of Labour and Social Affairs for women's issues was exercised in practice. She also wished to know more about the implementation of plans for gender mainstreaming, which should be seen not just as a strategy but as a process demanding human and financial resources. Details regarding the Government Council for Equal Opportunities, the national action plan for the advancement of equality and the gender focal points had provided a partial answer to her question, but she wished to know how the policies were translated into action.

14. Referring to Article 4 of the Convention, she said that the second periodic report had cited the legal debate over the use of temporary special measures, yet it had also made clear that under the country's Constitution, international human-rights treaties, of which the Convention was one, were hierarchically superior to domestic law. Consequently, she welcomed the outcome of the discussion, which was that such measures were legitimate and could be made mandatory.

15. **Ms. Schöpp-Schilling** congratulated Mr. Fuchs and his delegation on the Czech Republic's performance over the previous four years. She was acutely aware of the challenges of economic and political transition and the need to assimilate a new body of law. However, that necessity also provided an opportunity: the Czech Republic was inheriting the achievements of a fifty-year battle for women's rights in many neighbouring countries.

16. The risk was that such rapid legislative change would be little understood by the public and even by the legal profession, whose role was to enforce the new laws. As a result, education and training were essential. She asked whether instruction in international and European law had been made a compulsory core course

for aspiring lawyers. If not, information would take too long to filter down to those who should have access to it. Since the Convention was directly applicable nationally, she asked if the Committee's recommendations were taken into account as "soft law" by the legal profession. As a related matter, she wondered if the Committee's conclusions regarding the Czech Republic's initial report had been communicated to the public, and whether non-governmental organizations and the Government Council for Equal Opportunities had been involved in the preparation of the second periodic report.

17. She welcomed the Czech Republic's ratification of the Optional Protocol to the Convention, but asked if it had plans to accept the proposed amendment to article 20, paragraph 1 of the Convention, which restricted the Committee's meeting time. The amendment required the affirmative vote of two thirds of the States parties, and she urged the Czech Republic to take the necessary action.

18. As the national mechanisms for implementing equal opportunities policy seemed rather fragmented, she welcomed the planned assessment by Swedish experts of the relevant institutional arrangements. She asked where human-rights complaints were lodged (the lower courts, or directly with the Constitutional Court), and whether there were proposals to establish a human-rights ombudsperson's service.

19. With regard to article 4 of the Convention, she welcomed the positive outcome of the debate on the use of temporary special measures, but the positive training measures for those with a disadvantage on the labour market were more in the nature of permanent measures. She asked if there was an established concept of temporary special measures which included a legal basis, numerical goals and a timetable, and whether the gender focal points and the Government Council for Equal Opportunities were involved in designing such a concept. She wished to know to what extent the Government's instructions in the field of equal opportunities were binding.

20. **Ms. Saiga** said that she would welcome clarification about the composition of the Government Council for Human Rights. She also requested information regarding the relationship between that Council and the Government Council for Equal Opportunities of Men and Women.

21. **Ms. Goonesekere** expressed gratification in concerning the Czech Republic's acceptance of the justiciable nature of the Convention. However, there were still problems in enforcing the Convention. The Czech Republic's anti-discrimination legislation, had focused almost exclusively on labour law; accordingly, additional information was needed on how discrimination in other areas was to be addressed. In terms of legal remedies for violations of the Convention, it was unclear which court would be the first port of call for an injured party, in view of the condition that the Constitutional Court seemed to function as an appeals court. Clarification of the procedures enabling natural persons to bring their complaints to the courts was important if the State party's ratification of the Optional Protocol to the Convention was to be meaningful. The reporting State was also asked to indicate whether the Council for Human Rights was involved in court proceedings or whether its role was purely administrative.

22. It was a matter of some concern that rape was treated by the State as an offence only where force or the threat of force had been used to coerce the victim into sexual intercourse and that many other jurisdictions defined rape simply as sexual intercourse without the consent of one of the parties. Moreover, the punishment for rape in the Czech Republic did not appear to be in keeping with the seriousness of the crime. The delegation was urged to seek further information on the "no-drop" policy, according to which securing prosecution for violent crimes was regarded as a matter of public interest and cases could be brought before the courts by the State with or without the consent of the victim.

23. **Ms. Ferrer Gómez**, commenting on article 5 of the Convention, said that it was clear from the report that the Czech Government regarded the persistence of gender stereotypes as one of the main obstacles to the elimination of discrimination. She wished to know whether educational programmes dealing with the issue of equality included specific reference to the Convention.

24. In connection with paragraph 37 of the report, it would be useful to ascertain whether the proposed amendments to the Act on Czech television and the Act on Czech radio and the grant for the creation of audio-visual works related to the issue of equality in the cinema had been approved.

25. Furthermore, the reporting State should indicate whether recent amendments to labour legislation which promote equality have been publicized and whether those responsible for enforcing such legislation have received any training.

26. She also inquired whether the Czech Government's plan of action included specific strategies targeting the most vulnerable sections of the female population, namely older and economically disadvantaged women. It appeared that the Czech Republic did not take gender into consideration when assessing eligibility for social security benefits, which was a matter of some concern since the persistence of discrimination meant that women experienced the greatest difficulties in getting jobs and, if they were employed, received the lowest wages. Had the Czech Republic considered incorporating a gender perspective into social security programmes and, in the absence of gender budgeting, which perspectives were employed in the elaboration of the national budget?

27. **Mr. Fuchs** (Czech Republic), with reference to the question put by Ms. Tavares da Silva, said that the harmonization of Czech laws with those of the European Union was one of the Government's main tasks before its accession in 2004. However, it was also obligatory for new draft laws to comply fully with international conventions and covenants.

28. Based on the conclusions of its initial report, the Czech Government had decided to set up the Council for Equal Opportunities of Men and Women, which comprised 23 members, of which eight were representatives of non-governmental organizations and 13 were Vice-Ministers. Owing to recent Parliamentary elections in the Czech Republic, the Council had met only once since its creation, but a second meeting was planned for the end of the summer.

29. He explained further that the Council for Human Rights was mainly concerned with the implementation of and compliance with international human rights instruments, submitting proposals to the Government where appropriate, whereas the Council for Equal Opportunities focused on the practical aspects of the implementation of equal opportunities policy, such as incorporating gender mainstreaming into regional policies.

30. In response to the question put by Ms. Schöpp-Schilling, he said that unfortunately, the general public was not sufficiently aware of its rights in terms of legal

redress and there had been very few cases in which the courts had been asked to intervene in matters relating to gender discrimination. The population's ignorance of its rights under the Convention was highlighted as one of the major shortcomings of the Czech Republic's application thereof. Since collaboration with non-governmental organizations on public awareness campaigns and education were the main ways of overcoming the problem, a publication containing the text of the Convention, the delegation's initial report and related documents had been distributed to non-governmental organizations and local public administration bodies. Before finalizing the second periodic report, the Government had canvassed non-governmental organizations and the Council for Human Rights for their opinions. In addition, the web site of the Ministry of Labour and Social Affairs contained a section on equal opportunities where legislation and other pertinent documents could be consulted.

31. As far as the dissemination of information relating to new laws was concerned, it was standard procedure to publicize any legislative changes through all available media. In matters of employment and labour legislation, the Czech Government relied on its social partners to discuss new laws and to resolve any difficulties they created.

32. The Czech Government had just begun collaboration with Sweden on a project focusing on the assessment of existing institutional structures for the implementation of equal opportunities policies. In preparation for the Czech Republic's imminent accession to the European Union, decentralization was occurring in all domains and representatives of local bodies who had participated in a meeting with the Council for Equal Opportunities had expressed a desire to incorporate equal opportunities policies in their regional legislation.

33. Reverting to the subject of the administration of justice, he noted that natural persons involved in employment disputes were able to request protection from the district courts as a matter of course. Appeals could be brought before the regional courts and individuals were also able to approach the Constitutional Court. Although the Council for Human Rights had no formal complaints procedure, representatives of non-governmental organizations who sat on the Council could sometimes propose solutions to individual problems based on their own experiences of judicial proceedings.

34. The question of appointing an ombudsman on questions of equal opportunities was currently being discussed. The Government agent for Human Rights was not competent to deal with individual complaints, but he and the Council for Human Rights did have a certain amount of influence over legislative and non-legislative practices. In order to comply with European Union law, the Czech Republic would have to establish some kind of body to address discrimination issues; for that purpose proposals would be put forward by the end of 2002.

35. The measures contained in the programming document "Priorities and Proceedings of the Government in the Enforcement of Equality between Men and Women" were reviewed annually. It was stressed that the Czech Republic would not hesitate to 'name and shame' those Ministries which did not implement the recommended measures on time. In respect of the legitimacy of affirmative action on the part of the Government, it had been concluded after some debate that such action did not contravene the Czech Constitution and could be implemented with the aim of eliminating discrimination.

36. In his view, policies on social benefits for older women were unsatisfactory, and the issue of income support for the elderly had been placed on the list of sectoral priorities in 2001. His Ministry had tried to introduce a gender perspective into the discussion on social benefits, for instance, by researching single-parent households, in order to make necessary changes in legislation. More specific information on the budget allocations for social development by various ministries would be provided in the next report.

37. **Mr. Schorm** (Czech Republic) said that the Constitution of 1991 provided that the international human rights conventions took precedence over domestic law. A common law jurisdiction, as well as the Constitutional Court, could give preference to international law when there was a conflict between international and domestic law. Since the legal system in the Czech Republic followed the continental model, discrimination in general could not be claimed; rather, a victim must demand protection from discrimination. There was an ombudsman's office to defend the rights of individuals, and a similar institution was planned for discrimination complaints. Academic training in European and international law was required for all prospective lawyers and judges.

38. As for recourse available in discrimination cases, the burden of proof was reversed, in cases related to employment, in that discrimination was accepted as a charge and must be disproved. The Government was aware of the gaps in that area of legislation, and therefore a general law on discrimination was being prepared.

39. **Ms. Burcikova** (Czech Republic) said that the draft Bill Concerning the Provision of Equal Treatment and Protection against Discrimination would be submitted to the Government by the end of the year. It provided for the right to equal treatment and protection against any discrimination on the grounds of race, colour, descent, national or ethnic origin, gender, sexual orientation, age, disability, creed or religion. Based on major European Union anti-discrimination directives, the single law on discrimination would ensure the maximum equality of standards. The bill further provided for the rights and obligation of natural persons and legal entities, and the terms and conditions for implementation of affirmative action. Significantly, it established an Office for Protection against Discrimination. The draft law applied to both public and private persons and aimed to ensure protection from discrimination in employment, social security and social benefits, health care, education, provision of services and access to housing.

40. The bill defined discrimination as a situation created when a person was treated differently than another person would be treated on the grounds specified earlier. It also defined indirect discrimination, harassment and persecution, which were also considered discrimination and prohibited. Exceptions to the principle of equal treatment included requirements for service in the armed forces, the nature of a profession to be performed, or minimum age to perform a job. Special attention was paid to affirmative action, which would not be considered discrimination if it was justified and if the purpose of the action was to alleviate an apparent disadvantage for a limited period of time. Persons violating their obligations under the bill would be held liable. Persons whose right to equal treatment had been violated could demand that the discrimination cease and could claim compensation for damages, including financial compensation.

41. The potential role and functions of the Office for Protection against Discrimination were still being debated among the working group preparing the draft bill. The prevailing view was that the Office should be

entrusted with the task of promoting the principle of equal treatment through education, advisory services and dissemination of information. It would also have such powers as mediation and the authority to issue recommendations and expert opinions. It would also have the power to investigate discrimination cases.

42. **Ms. Švecová** (Czech Republic) said that the educational curriculum was being modernized at all levels to include material on human rights, discrimination and equal treatment, usually in the form of civics courses. The key to change, however, was the acceptance of the new curriculum by the teachers. The Government had worked in close cooperation with non-governmental organizations to organize training courses for teachers on the new curriculum. All the universities in the Republic were autonomous, and the Ministry of Education had little influence on course content, but it was her understanding that human rights and discrimination were covered in the faculties of law and social sciences.

43. **Ms. Achmad** asked if the Phare project would meet the need for a central national coordinating body on discrimination, which appeared to be required by the draft bill, and if not, whether such a body would be established.

44. **Ms. Shin** said that the priority document was an encouraging sign of political will, and she looked forward to receiving information about the budget allocations for each of the priorities. She would like to know whether ministers who did not fulfil their responsibilities were subject to sanctions, and whether non-governmental organizations had the opportunity of providing input for the annual assessments.

45. She asked for more details about the public awareness campaign to promote the programmes concerning domestic violence. She would also like to know how many shelters were available to victims of domestic violence and what other kinds of assistance were provided. Finally, she would like to know how widely the amendment to the criminal code had been disseminated.

46. **Ms. Corti** said she was pleased that women asylum-seekers could be interviewed by women officials upon request; however, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), there were 10,900 registered asylum-seekers and 1,245 refugees in the Czech Republic. There had been a recent increase in women

asylum-seekers aged 26 to 40; she wondered how many of those women were victims of trafficking, whether it was the Government's practice to grant such victims asylum, whether there were employment opportunities for refugees and whether most victims of trafficking preferred to leave the country or remain there.

47. **Ms. Gaspard** expressed concern about the Government's position that it could not move forward with the draft Act on Prostitution, which would license prostitutes for work in designated establishments, because it might violate the Czech Republic's obligations as a party to the Convention for the Suppression of the Traffic in persons and of the Exploitation of the Prostitution of Others. However, the Government should also consider its obligations under the Convention, which, unlike the earlier instrument, had a monitoring mechanism (the Committee); article 6 stated: "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women". Thus, all forms of prostitution, even voluntary prostitution, were prohibited. She asked the delegation to explain the Government's intentions in that regard.

48. **Mr. Fuchs** (Czech Republic) said he believed that the Ministry of Labour and Social Affairs project implemented in cooperation with Sweden might lead to the development of a national machinery for women's rights. However, it had not been decided whether the new institution should deal solely with sexual discrimination or whether it should also be responsible for combating discrimination against older persons, the disabled and ethnic minorities, which were arguably even more serious problems. He considered it likely that a single body would be established and that it would be independent of any one ministry so that it could effectively coordinate all related government activities, but it might also be decided that the existing structures were adequate and that no further machinery was needed.

49. He hoped that his colleagues would take Ms. Shin's comment on the use of the words "sex" and "gender" into account in the future. He had no specific information on the budget allocations to each ministry for projects designed to combat discrimination or on funding for non-governmental organizations (NGOs) which sponsored shelters for victims of domestic violence, but he would see that the issue was addressed in the next report. No minister had ever been fired for

failing to comply with official directives on women's rights; however, no excuses were accepted and the fact that non-compliance was noted as a matter of record provided a powerful deterrent. NGOs were invited to submit comments and suggestions which were used in preparing the annual review of the national action plan, and they were provided with copies of the final document.

50. The statistics on asylum-seekers and refugees provided by UNHCR were accurate. He had no additional information on the composition of those groups and did not know why so many young women were requesting asylum. It might be difficult to obtain that information since personal data was protected under the law; however, he would see that the next report contained whatever statistics were available. Refugees were entitled to work. However, the employment regulations had been tightened in response to new visa requirements which had driven many illegal migrant workers from Ukraine and other Eastern European countries to request asylum. Once asylum had been granted, refugees received the same treatment as nationals of the Czech Republic and were entitled to apply for citizenship, although the process was a lengthy one.

51. The regulation of prostitution had been discussed for several years. Measures had been proposed to eliminate the conflict between the draft Act on Prostitution, prepared by the previous Government, and the international instruments to which the Czech Republic was a party.

52. **Ms. Šnajdrová** (Czech Republic) said it was true that NGOs had drawn the public's attention to the problem of domestic violence. An effective solution must be based on prevention as well as punishment. One NGO, White Circle of Safety, had launched an awareness campaign in cooperation with various ministries and had set up a 24-hour help line. The newly created inter-ministerial working group on violence against women was working to improve cooperation between the State and NGOs with a view to the development of new civil and criminal legislation and health care regulations.

53. Victims of domestic violence had 30 days in which to give their consent to prosecution of the offenders. Under a 2001 amendment, the Code of Criminal Procedure no longer required consent if it was evident that approval had not been granted or had been

revoked under pressure caused by threats, constraint, dependence or submission; however, both victims and the police must be made aware of that amendment. The Ministry of the Interior web site listed the addresses and phone numbers of all 30 shelters for victims of domestic violence. The Ministry planned to provide police officers with sensitivity training in dealing with victims of all forms of crime.

54. In May 2001, the definition of rape in the Code of Criminal Procedure had been extended to include not only coitus, but similar sexual intercourse and misuse of another person's vulnerability to perform such an act. Rape was punishable by two to eight years' imprisonment; the sentence was increased to three to ten years if the victim was under age 18, five to 12 years if the victim was under age 15 or if bodily harm was caused, and 10 to 15 years if the act resulted in the victim's death.

55. The Ministry of the Interior was working with the Governments of Germany and Poland to combat illegal migration and trafficking in human beings; a working group had been established in March 2002 to address the problem. While it was true that some asylum-seekers were victims of trafficking, the Government did not apply the Asylum Act to those women; under the Aliens Act, they were granted temporary residence for three months or until the case had been prosecuted on condition that they assisted the prosecution; in exceptional cases, permanent residence might be granted. During the period of temporary residence, victims were entitled to health care and security measures but not to economic benefits or access to the job market. The Ministry of Labour was implementing an initiative on the criminal justice response to trafficking in the Czech Republic and Poland, part of the United Nations Global Programme against Trafficking in Human Beings, which would consider ways of providing greater assistance and protection to victims. The State was also working with NGOs and the International Organization for Migration (IOM) to prepare a proposal to combating trafficking, which would be submitted to the Government in early 2003.

The meeting rose at 1 p.m.