



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Eightieth session

### Summary record of the 2353rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 22 January 2019, at 10 a.m.

*Chair:* Ms. Winter

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*Initial report of Czechia on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports of States parties** (*continued*)

*Initial report of Czechia on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CZE/1, CRC/C/OPSC/CZE/Q/1 and CRC/C/OPSC/CZE/Q/1/Add.1)*

1. *At the invitation of the Chair, the delegation of Czechia took places at the Committee table.*
2. **Ms. Baršová** (Czechia), introducing her country's report (CRC/C/OPSC/CZE/1), said that the Government had adopted a number of measures to prevent and prosecute offences under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Following the amendment of the Czech Criminal Code in 2014, all offences defined in the Optional Protocol were now criminalized, and legal persons could also be held liable for them.
3. Child trafficking was covered by the provisions on general human trafficking, which distinguished between child and adult victims. A government strategy for the prevention of human trafficking, which specifically covered child trafficking, had been in place since 2003. The Government also issued an annual status report on trafficking that identified trends based on available data. In 2017, it had reported that most victims of trafficking in Czechia were children and that girls were at a higher risk of abuse than boys. The reports focused on the trafficking and sale of children, child prostitution and child pornography.
4. The National Correspondent for the fight against trafficking in human beings, abuse of women and children, illegal migration and employment, and the protection of the rights of victims of crime was responsible for monitoring trends in criminal behaviour, collecting data, coordinating the work of the specialized prosecutors, facilitating inter-agency cooperation and helping produce statements to unify the application of laws. It was mandatory for all regional and high public prosecutor's offices and the Supreme Public Prosecutor's Office to have prosecutors specialized in illegal migration and human trafficking.
5. The Criminal Code contained specific provisions to protect child victims during criminal proceedings, including the requirement that all interrogations be carried out in an appropriate manner by trained personnel. The Crime Victims Act set out a broad range of rights for all victims, including the right to protection from secondary victimization and the right to monetary assistance to cover therapy costs, in addition to special protection measures for especially vulnerable victims, including children. Other rights, such as the right to anonymity where there was a threat of serious harm, were guaranteed by other laws.
6. As various ministries collected data on offences involving children at different stages in the process, there were inevitably some discrepancies in the figures provided by each authority. A centralized information system for use by all authorities involved in the social and legal protection of children was under development.
7. **Mr. Kotrane** (Country Rapporteur) said that the Committee welcomed the progress made, in particular the ratification of numerous international instruments and the amendments to the Criminal Code and the Crime Victims Act. The Committee remained concerned, however, that the Government still did not have a coordinated, comprehensive system of disaggregated data on offences under the Optional Protocol, including the number of prosecutions brought and the sanctions handed down. He wished to know what was being done to disseminate information and provide training on the Optional Protocol for professionals who were in contact with children, including those in the tourism sector.
8. Although the delegation had stated that all offences under the Optional Protocol were punishable under Czech law, the provisions in force focused primarily on combating human trafficking. In that connection, he asked whether the Criminal Code explicitly criminalized the sale of children within the national territory, such as in cases of forced labour or facilitation of illegal adoption. He also enquired whether legal persons could be held legally responsible for offences under the Optional Protocol independently of their directors.

9. Noting that, according to the State party's replies to the list of issues, the use of inappropriate funds to obtain permission, via an intermediary, to adopt a child could be viewed as an offence, he asked whether that implied that such action was not considered an offence if the appropriate funds were provided, and whether Czech legislation covered the full scope of the offence of improperly facilitating an adoption as defined in the Optional Protocol. Did the courts have jurisdiction over offences under the Optional Protocol committed outside Czech territory by or against Czech citizens or residents, without requiring dual criminality?

10. **Mr. Madi** (Country Rapporteur) said that, although the Committee welcomed the National Strategy to Combat Trafficking in Human Beings, it encouraged the Government to develop a national strategy that covered all offences under the Optional Protocol and to allocate adequate human and financial resources for its implementation. The Committee was also concerned that the national budget did not allocate resources specifically for implementing the Optional Protocol.

11. He wished to know what measures had been taken to increase awareness in the tourism industry about the sexual exploitation of children, whether the Global Code of Ethics for Tourism was disseminated among travel agencies, whether any cases of child sexual exploitation in the tourism industry had been prosecuted and whether any Czech nationals had been involved in sex tourism abroad.

12. He asked whether Czechia was a party to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. He also wished to know whether the Government intended to remove the dual criminality requirement in cases of extradition and whether the Optional Protocol could serve as a basis for extradition in the absence of a bilateral extradition treaty.

13. With regard to impunity, he asked whether it was correct that some cases of child trafficking and sale of children in which the victim had initially consented to the act had been prosecuted under the provisions on pimping, and whether any cases of sex tourism or sale of children for the purpose of forced labour had ever been brought to court. He would also like to know whether the high costs of civil litigation and the fear of retribution prevented child victims from seeking compensation, and whether it was correct that victims were allowed to join the victim protection programme run by the Ministry of the Interior only if they cooperated with law enforcement officers.

14. As the police helpline for reporting illegal online content had been shut down in May 2018, he asked whether the online portal for reporting offences was in operation and, if so, whether it operated around the clock, how many reports had been received thus far and what the procedure was for following up on reports. He asked whether the Government had a strategy for combating online child sexual exploitation and abuse, including by raising public awareness of the issue, making the topic a mandatory part of the school curriculum and establishing training programmes for professionals who worked with children.

15. He asked whether it was correct that victim support services were available only to nationals of European Union countries over the age of 18, thus excluding child victims of sexual exploitation. He would be interested to hear whether the Government had a dedicated agency for providing rehabilitation and reintegration services for child victims of offences under the Optional Protocol. He wished to know why only offences against children under the age of 15 were prosecuted and how offences involving children aged between 15 and 18 were dealt with. Lastly, he asked what the age of consent for prostitution was.

16. **Ms. Sandberg** said that she would like to know whether any studies had been conducted into the root causes of offences under the Optional Protocol and what measures had been taken to combat them. She asked what awareness-raising initiatives had been carried out among vulnerable groups such as the Roma community, children in institutional care and asylum seekers and whether there were any initiatives to raise awareness about the sale of children outside the scope of human trafficking.

*The meeting was suspended at 10.45 a.m. and resumed at 11.10 a.m.*

17. **Ms. Baršová** (Czechia) said that criminal offences whose nature precluded legal persons from being held liable for them under the Act of 27 October 2011 on Criminal

Liability of Legal Persons and Proceedings against Them did not include the crimes under the Optional Protocol. Thus, legal persons could be prosecuted for the commission of crimes under the Optional Protocol.

18. The English translation of the titles of sections 168 and 169 of the Criminal Code, “Trafficking in Human Beings” and “Entrusting a Child to Another Person” respectively, were to be understood in the broadest sense and included the sale of children as distinct from trafficking. In the Government’s view, the Criminal Code covered all crimes enumerated in the Optional Protocol.

19. Statistics were collated from a range of different sources, including the police, the judiciary, various ministries and child protection services. The Government would endeavour, in its future reports, to present the data in a way that was more compatible with the Committee’s requirements.

20. **Ms. Dršková** (Czechia) said that the police provided statistics on the number of criminal cases investigated and the number of persons prosecuted. The National Centre for Combating Organized Crime provided data on human trafficking, including the age and gender of victims. The Government’s victim support programme covered persons over the age of 18, regardless of their country of origin. The police and child protection services provided support to persons under that age. Helplines run by non-governmental organizations (NGOs) and financed by the Ministry of the Interior provided assistance in relation to missing children, children at risk and child victims of crime and domestic violence. In 2017, an emergency assistance helpline for children had received around 150 calls, 280 emails and 2,000 online chat requests.

21. **Ms. Bělohávková** (Czechia) said that sexual exploitation was included among the criminal offences reported on the citizens’ portal on the website of the Ministry of the Interior.

22. **Ms. Dvořáková** (Czechia) said that the data collected from public prosecutors’ offices and courts included information on the relationship between victims and perpetrators.

23. The use of inappropriate funds to obtain permission to adopt a child meant spending more money than was necessary to cover such costs as food and medication. Child trafficking offences were prosecuted regardless of where they were committed, whether in or outside the country.

24. Czech authorities had jurisdiction over crimes that had consequences in other States and did not prosecute only those crimes that had been committed on Czech territory. If the country in which a crime was committed did not have a relevant bilateral or multilateral agreement with Czechia, then the national law applied. In Czechia, national legislation governing cooperation in criminal matters provided for extradition in the event of dual criminality and where the applicable prison sentence was at least 1 year. The Criminal Code provided for the prosecution of Czech citizens and stateless persons with permission to stay in Czechia. The prosecution of nationals of other States whose only connection to Czechia was their habitual residence would be disproportionate. Offences were best dealt with in the country in which they were committed. There was currently no plan to revoke the principle of dual criminality.

25. Prostitution was not prohibited under the Criminal Code unless a child under 18 years of age was exploited for the purpose. Section 190 of the Code defined the criminal offence of prostitution that jeopardized children’s moral development. Anyone who engaged in practices relating to prostitution near a school or other similar facility or in a location reserved or designated for children was liable to prosecution.

26. **Ms. Hofschneiderová** (Czechia) said that the allegation in the shadow report submitted by Defence for Children International and ECPAT International that victims of the sale of children, child prostitution or child pornography in Czechia were not defined as vulnerable was false. Their vulnerability was recognized and competent local authorities were required to provide them with individual support plans.

27. The sale of children for adoption was a criminal offence. Measures to facilitate adoption could also constitute an administrative offence, since such action was reserved for

the regional authorities and the Office for International Legal Protection of Children, which was responsible for intercountry adoption. Such administrative offences were punishable with a fine of up to 200,000 koruny (CZK), which was equivalent to about €8,000. If the perpetrator was a legal entity, the fine was CZK 100,000, or approximately €4,000.

28. The data collected by the Ministry of Labour and Social Affairs concerned reported cases, which were frequently based on suspicion rather than established facts. Local authorities responsible for child protection were required to investigate the cases, which might be based on false reports. The number of cases recorded by the Ministry was therefore much greater than the number registered with the police or the Ministry of Justice.

29. **Ms. Jamrichová** (Czechia) said that the Ministry of Labour and Social Affairs was responsible for the training of social workers employed by local authorities to guarantee child protection. Every social worker was required to pass a written and oral examination following a training course that lasted for one or two weeks and that covered, inter alia, the Optional Protocol. Social workers had also been required since 2015, based on quality standards specified in a ministerial decree, to participate each year in a six-day capacity-building course. Some of the 4,000 courses approved by the Ministry dealt with trafficking and prostitution and were provided mainly by NGOs.

30. The Ministry had also developed a lifelong education model for social workers tasked with child protection. It included training in practical implementation of international treaties, including the Convention on the Rights of the Child and its Optional Protocols. The Ministry had recently distributed a document containing the Convention and Optional Protocols and commentaries thereon to all local authorities.

31. **Ms. Šmídová** (Czechia) said that the Ministry of Regional Development was responsible for the coordination of tourism in Czechia. It had regrettably failed to date to conduct awareness-raising or training programmes on human trafficking and related topics with travel agencies. However, it planned to hold a seminar for about 150 agencies, in cooperation with the Office of the Government, in 2019 to raise awareness of such issues. The delegation was unaware of whether the Ministry had disseminated the Global Code of Ethics for Tourism, but it would recommend that it should do so.

32. **Ms. Hofschnedierová** (Czechia) said that a branch of the State Labour Inspection Office specialized in illegal labour and undertook inspections of, for example, massage salons and activities in border areas. More than 9,500 labour controls had been conducted in 2017 and almost 3,000 illegal workers had been identified, of whom 767 were Czech citizens, 237 were citizens of European Union countries and 1,970 were citizens of other countries. The data had not been disaggregated by age, but children were certainly included. The State Labour Inspection Office accorded high priority to the development of a special methodology for controlling illegal employment.

33. **Ms. Šmídová** (Czechia) said that the Ministry of Education, Youth and Sports supported programmes aimed at preventing risky conduct among children and young people, including conduct that might lead to the sale of children, child prostitution and child pornography. It allocated about CZK 20 million for the programmes each year, including CZK 8 million for the prevention of crime. It supported municipalities, regions, NGOs and other institutions. A regional school coordinator of prevention was appointed in each region, and a specialist in school prevention methodology was appointed in every primary and secondary school and in pedagogical and psychological counselling centres. The specialists were required to complete a 250-hour course, and the Ministry organized workshops, seminars and conferences each year. The National Institute for Further Education also provided programmes for teaching staff on prevention of risky conduct.

34. The Ministry was about to adopt a National Strategy for Primary Prevention of Risky Behaviour of Children and Young People for the period from 2019 to 2027 and an action plan for the first three years of the Strategy.

35. School curricula included information on children's rights and the Convention on the Rights of the Child, but they did not include specific information on the Optional Protocol.

36. **Ms. Baršová** (Czechia) said that the Roma community was highly vulnerable, not on grounds of ethnicity but because a large proportion of the community lived in poor and

socially deprived areas. The Agency for Social Inclusion in the Roma Localities, which was a department of the Office of the Government, was tasked with developing measures to improve their situation in terms of housing, employment and crime prevention. The municipalities were also encouraged to cooperate with the Agency. Unfortunately some groups adopted a prejudiced approach to the Roma community, falsely implying that many of them were involved in prostitution. Children could be at risk because of the situation in socially deprived areas.

37. The root causes of poverty and social exclusion ought to be addressed. For instance, the Ministry of Labour and Social Affairs should provide additional support to ensure that nobody was coerced into illegal activities owing to a lack of income. More emphasis should also be placed on awareness-raising. Excellent work was undertaken by NGOs and charities, and State cooperation with such bodies was indispensable. It was also easier for NGOs than for public authorities or the police to contact persons at risk, for instance of prostitution or trafficking.

38. **Mr. Madi** said that, according to the State party's legal system and Constitution, international treaties that had been ratified were part and parcel of domestic law. It was therefore unclear why the crimes identified in articles 2 and 3 of the Optional Protocol, such as the sale of children, had not been incorporated into the legal system.

39. He asked whether, when the police investigated cases involving Czech or foreign child victims, the children were referred to the Ministry of Labour and Social Affairs with a view to ensuring their recovery and social reintegration. Was there a centre that provided psychological assistance, food, shelter and other services for such children?

40. He noted that the helplines operating in the country were all run by NGOs and dealt with different issues, which might prove confusing for children. He asked why there was no governmental helpline that could be contacted to report all kinds of problems.

41. The Committee had raised the issue of dual criminality with a view to preventing impunity. The reference to stateless persons was irrelevant, since a person's citizenship bore no relationship to the commission of a crime.

42. He asked whether it was an offence for an adult to have a sexual relationship with a person aged between 15 and 18, regardless of whether the person's consent had been obtained.

43. He requested additional information on legal issues that might arise in connection with the age of persons involved in prostitution.

44. **Mr. Kotrane** said that the Committee appreciated the delegation's clarifications concerning criminal responsibility of legal persons and would be glad to obtain a copy of the relevant article of the Criminal Code.

45. Section 168 of the Criminal Code on trafficking in human beings notwithstanding, he stressed that the Optional Protocol concerned the sale of children, child prostitution and child pornography and that the inclusion of a specific provision prohibiting the sale of children was thus indispensable. It was crucial to ensure consistency with the terminology used in the Optional Protocol. Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, while commendable, did not equate to compliance with the Optional Protocol.

46. The State party's refusal to revoke its dual criminality requirement was unfortunate and should be reconsidered, as removing such provisions was vital to combating sex tourism.

47. **Mr. Cardona Llorens** said that he would like to know what action, if any, was taken against Czech-based tourism agencies that sold sex holiday packages to countries where child prostitution was not prohibited, and whether a Czech citizen who purchased such a package and raped children abroad would be liable to prosecution if the country where the offence had been committed did not criminalize such conduct. Could the delegation describe the mechanisms in place to monitor and combat child prostitution in Czech hotels?

48. **Mr. Gastaud** said that he would like the delegation to elaborate on the measures taken by the State party to combat negative stereotyping of Roma people and promote their inclusion.

49. **Ms. Baršová** said that the national Roma integration strategy comprised measures to combat prejudice against Roma and provide them with support. Grants were available for community activities organized by and for Roma, field-based social work in Roma communities and the employment of Roma regional coordinators, for instance. Awareness campaigns were conducted to counter negative stereotyping of vulnerable groups at risk of social exclusion, including Roma. The Government also supported the creation of hate-free zones and conducted capacity-building for Roma leaders. Crime prevention strategies targeted all populations at risk of engaging in criminal conduct out of economic need, not just Roma.

50. As regarded the Committee's concern about helplines operated by NGOs and the absence of a State-run service, NGOs were deeply committed to the cause and it would be unwise to exclude them from such activities. While it was true that the financial sustainability of those services might be uncertain, as NGOs often relied on time-bound European Union funds, it would be preferable for the Government to identify ways to ensure the sustainability of NGO-operated helplines, rather than replace them.

51. Czech legislation was fully compliant with the Optional Protocol. Her delegation had nevertheless taken note of the Committee's qualms about some terminology and the provisions in question would be revisited in order to rectify any misunderstandings resulting from possible errors in translation.

52. **Ms. Todorova** said that it would be useful to learn about legislation governing the relationship between the State and NGOs, especially with regard to funding. Might it not be preferable for NGO projects to be co-funded by the State in order to avoid reliance on European funds?

53. **Ms. Baršová** (Czechia) said that, under the Czech policy on State relations with NGOs, a portion of the budget was earmarked to fund projects run by NGOs each year. NGOs could submit project proposals to the various ministries, in accordance with their area of competence. European funds were mostly used for new projects and initiatives and served as a useful complement to State funding.

54. **Ms. Hofschneiderová** (Czechia) said that children referred to the local child protection authority were placed in the care of a social worker, who conducted an individual assessment of each case and prepared a support plan. The child might either remain in the care of the social worker or be referred to a competent professional service. A wide range of services was available, including: street crisis intervention centres, youth clubs, social activation services for families with children, sheltered homes for families, assisted living facilities and psychosocial counselling. Residential facilities were available to children in need of shelter; emergency shelters had a legal obligation to take in any child in need and to ensure he or she was afforded medical and psychological support. A mapping of all municipal and provincial services was currently under way with a view to designing a comprehensive network of services for children at risk. More than half of all municipalities and nearly all regions of Czechia were participating in the exercise.

55. **Ms. Baršová** (Czechia) said that the definition of the crime of trafficking contained in section 168 (1) of the Criminal Code was very broad, encompassing all actions that led to sexual exploitation. A specific reference to the sale of children had been omitted in order to ensure that all related activities were also criminalized.

56. Czech legislation did not criminalize voluntary prostitution; persons engaging in prostitution voluntarily were treated as victims, not offenders. Consensual sexual intercourse in the absence of any form of violence or coercion between adults and children aged between 15 and 18 was not punishable by law.

57. When it came to jurisdiction over the offences set out in the Optional Protocol, it should be noted that the distinction between stateless persons with permanent residence in the country and others also appeared in the United Nations Convention against Transnational Organized Crime.

58. **Mr. Madi** said that the transparent dialogue with the State party had facilitated greater understanding of the situation in the country and, he hoped, the obligations under the Optional Protocol. It was important to remember that the Optional Protocol was an instrument in its own right and that consistency with the terminology used therein was crucial. State party legislation must therefore establish the sale of children as a punishable offence; an implicit reference did not suffice. While the crucial role of NGOs was beyond doubt, the establishment of a well-publicized, unified, State-run complaints portal for children at risk would be desirable. Preventing and combating impunity in sex tourism should be made a priority.

59. **Ms. Baršová** (Czechia) said that her delegation appreciated the questions raised by the Committee, which had helped focus on several urgent problems. Although much progress had been made in law and practice, her Government was keenly aware of persisting challenges, including in the area of combating sex tourism, and would reflect on ways to overcome them.

*The meeting rose at 12.55 p.m.*