



**Summary Report of the Conference**

**Forced and Coercive Sterilization of Roma Women:  
Justice and Reparations for Victims in the Czech Republic**

**Organized by  
the OSCE/ODIHR Contact Point for Roma and Sinti Issues**

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This report should neither be interpreted as official OSCE recommendations based on a consensus decision, nor as the opinion of the OSCE Office for Democratic Institutions and Human Rights or of any particular OSCE participating State. The content of this report reflects opinions expressed by participants in the conference held in Prague on 1 June 2016, and no additional information has been included since then.

## TABLE OF CONTENTS

Acronyms and abbreviations .....	3
I. Introduction .....	4
II. Background .....	6
III. Summary of the sessions .....	7
Opening session.....	7
Session I: Experiences with mechanisms to establish truth and access to justice for victims of forced or coercive sterilization and other human rights violations in Europe .....	9
Session II: History of forced and coercive sterilization of Roma women in the former Czechoslovakia and steps undertaken to bring justice to victims .....	15
Session III: Defining ways forward and recommendations.....	18
IV. Conclusions .....	22
Annex I: Agenda .....	24
Annex II: List of participants .....	26
Annex III: Recommendations of international human rights treaty bodies .....	28

## **ACRONYMS AND ABBREVIATIONS**

<b>CEDAW</b>	Committee on the Elimination of Discrimination against Women
<b>CPRSI</b>	Contact Point for Roma and Sinti Issues
<b>ERRC</b>	European Roma Rights Centre
<b>HDIM</b>	Human Dimension Implementation Meeting
<b>MEP</b>	Member of European Parliament
<b>NGO</b>	Non-governmental organization
<b>ODIHR</b>	Office for Democratic Institutions and Human Rights
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>UN</b>	United Nations

## I. INTRODUCTION

Roma and Sinti women face multiple forms of discrimination, particularly in reproductive and maternal health. Coerced and forced sterilization is among the most egregious violations of Roma and Sinti women's rights. Roma and Sinti women have been subject to coerced and forced sterilization in a number of participating States of the Organization for Security and Co-operation in Europe (OSCE). Cases are documented in the Czech Republic, Hungary, Slovakia, Sweden, Switzerland, Norway, Germany and Uzbekistan.

The OSCE Action Plan on Improving the Situation of Roma and Sinti<sup>1</sup> draws attention to the specific situation of Roma and Sinti women, and requests that their concerns are systematically mainstreamed in all relevant policies addressing Roma and Sinti, including health care.<sup>2</sup>

In 2012, within the framework of the OSCE Human Dimension Implementation Meeting (HDIM), the Contact Point for Roma and Sinti Issues (CPRSI) of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) hosted a meeting to discuss particular problems in the areas of reproductive and maternal health, including coerced and forced sterilization of Roma women, in partnership with the European Roma Rights Centre (ERRC).<sup>3</sup>

In its 2013 Status Report<sup>4</sup>, ODIHR recognized that in 2009, the Czech Republic expressed regret for the coerced sterilization of Roma women and acknowledged the existence of individual failures, and that in 2012, the Council of the Government of the Czech Republic for Human Rights recommended the Government compensate the victims. The Status Report also noted that victims who sued were awarded compensation by the Czech courts and through settlements with the Government after their cases were declared admissible by the European Court of Human Rights.<sup>5</sup>

In February 2015, the Minister of Human Rights, Equality and Legislation submitted a draft Compensation Act to the Government, proposing that an independent expert committee review claims from victims and advise the Ministry on appropriate remedies. In October 2015 the Government rejected that bill. In subsequent communications with the Council of Europe, the Prime Minister said victims have always been able to sue for compensation in the courts,

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<sup>1</sup> OSCE Ministerial Council, Decision No. 3/03, "Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area", Maastricht, 1–2 December 2003, <<http://www.osce.org/odihr/17554>>.

<sup>2</sup> Further relevant commitments are adopted with the OSCE Parliamentary Assembly, "Resolution on Promoting Policies on Equality between Women and Men of the Roma Population", Belgrade, 6-10 July 2011, <<http://www.osce.org/odihr/81073>>, which encouraged OSCE participating States, *inter alia*, to support activities to improve the health situation of Roma women, and in the OSCE Ministerial Council, Decision No. 4/13, "Enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a particular focus on Roma and Sinti women, youth and children", Kyiv, 5–6 December 2013, <<http://www.osce.org/mc/109340>>, which called on the participating States to "ensure the security, well-being and health of Roma and Sinti women, youth and children", and "[step] up their efforts to ensure that Roma and Sinti women can enjoy and exercise their human rights and increasing efforts to combat discrimination against them at all levels".

<sup>3</sup> See "Confront discrimination to lessen health inequalities for Roma women, urge participants at OSCE human rights conference", OSCE/ODIHR, 27 September 2012, <<http://www.osce.org/odihr/94320>>.

<sup>4</sup> See OSCE/ODIHR, "Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area: Renewed Commitments, Continued Challenges, Status Report 2013", 2013, <<http://www.osce.org/odihr/107406>>.

<sup>5</sup> *Ibid.*, p. 34.

that the state publicly regretted the incidents in 2009, and that the rules according to which such surgeries are performed have been changed.<sup>6</sup>

Following these developments, civil society members, including Roma women, approached ODIHR to support a dialogue event including the authorities and civil society to raise awareness of the plight of Roma women coercively or forcibly sterilized and to promote mechanisms to bring justice to the victims in the Czech Republic.

Responding to this call, and following previous activities in this area, ODIHR with the support of the U.S. Embassy in the Czech Republic organized a conference on *Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic* to:

- Provide a forum for dialogue between the Czech authorities, victims of coerced and forced sterilization and civil society organizations on mechanisms to ensure access to justice and compensation for the victims and potential ways forward;
- Increase awareness of the recommendations of intergovernmental organizations on the issue of compensation of victims of coerced and forced sterilization;
- Share practices from other OSCE participating States where women from vulnerable communities, including Roma and Sinti women, were also subjected to coerced sterilization and where compensation mechanisms have been established.

The conference was a closed event. Participants included representatives of the Ministries of Justice and of Labour and Social Affairs, and the Minister for Human Rights, Equal Opportunities and Legislation; the Public Defender of Rights (Ombudsman); representatives of Roma women victims of forced and coerced sterilization; civil society representatives, including international Roma women activists; representatives of intergovernmental organizations, including a member of the UN Committee on the Elimination of Discrimination against Women; representatives of the UN Office of the High Commissioner for Human Rights and the Council of Europe Commissioner for Human Rights; representatives of the U.S. Embassy in the Czech Republic; and international experts from Norway, Slovakia, Sweden and Switzerland.

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<sup>6</sup> “Reply of Mr Bohuslav Sobotka, Prime Minister of the Czech Republic, to the letter of the Council of Europe Commissioner for Human Rights, Nils Muižnieks, concerning the bill on reparations for involuntary sterilisation of Roma women”, Council of Europe Commissioner for Human Rights, CommDH/GovRep(2015)11, 22 October 2015, <[https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CommDH/GovRep\(2015\)11&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CommDH/GovRep(2015)11&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864&direct=true)>.

## II. BACKGROUND

In 1972, then Czechoslovakia established a policy enabling authorities to encourage the sterilization of Roma women and women with disabilities placed in mental institutions in order to control their birth rate.<sup>7</sup> While the official policy of encouraging sterilization ended in 1991, social workers were reported to have coerced Roma women into sterilization through threats after that time,<sup>8</sup> and the last reported case of coerced sterilization of which civil society activists are aware dates from 2008.<sup>9</sup>

In 2005, the Public Defender of Rights (Ombudsman) published a report on its investigations into allegations that Roma women had been illegally sterilized in the Czech Republic. Its report found, *inter alia*, that from the 1970s until 1990, the Czechoslovak Government had sterilized Roma women programmatically as part of policies aimed at reducing their “high, unhealthy” birth rate.<sup>10</sup> It also found that sterilizations were performed illegally after 1993 in the Czech Republic.

In November 2009, the Government expressed regret over the individual sterilizations performed in contravention of the law and pledged to take steps to prevent the recurrence of such failures. In February 2009 and 2012, the Council of the Government of the Czech Republic for Human Rights passed recommendations urging the Government to introduce a mechanism to adequately financially redress victims of involuntary sterilization, such that those subjected to such sterilizations between 1 January 1972 and 27 May 1991 would be directly eligible for compensation from the state administration, while those sterilized after that date could seek compensation through individual complaints before civil courts.

In 2014, the Czech Helsinki Committee, a non-governmental organization (NGO), designed a bill detailing an alternative compensation scheme for victims of involuntary sterilization that proposed, *inter alia*, direct compensation by the state administration for all women involuntarily sterilized, regardless of the date.<sup>11</sup> In February 2015, the Minister of Human Rights, Equality and Legislation then submitted his own draft Compensation Act to the Government, proposing an independent expert committee to review claims of involuntary sterilization and advise the Ministry of Health on appropriate remedies.<sup>12</sup> In October 2015, the Czech Government rejected that bill.

Also in October 2015, Nils Muižnieks, Council of Europe Commissioner for Human Rights, urged the Czech authorities to reconsider and adopt the reparations bill.<sup>13</sup> In March 2016, the

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<sup>7</sup> Claude Cahn, *Human Rights, State Sovereignty and Medical Ethics: Examining Struggles Around Coercive Sterilization of Romani Women* (Leiden: Brill Nijhoff, 2014).

<sup>8</sup> Gwendolyn Albert, “International impact of activism to redress coercive, forced and involuntary sterilization in the former Czechoslovakia and successor states, 1970 – present” (unpublished draft as of January 2016).

<sup>9</sup> See more: “Anna Maderova v. Czech Republic. Third Party Intervention”, European Roma Rights Centre, 7 December 2015, <<http://www.errc.org/cms/upload/file/third-party-intervention-anna-maderova-v-czech-republic-8-december-2015.pdf>>.

<sup>10</sup> “Final Statement of the Public Defender of Rights in the Matter of Sterilizations Performed in Contravention of the Law and Proposed Remedial Measures”, Public Defender of Rights (Ombudsman) of the Czech Republic, 2005, <[http://www.ochrance.cz/fileadmin/user\\_upload/ENGLISH/Sterilisation.pdf](http://www.ochrance.cz/fileadmin/user_upload/ENGLISH/Sterilisation.pdf)>.

<sup>11</sup> “Czech Helsinki Committee designs law to compensate illegally sterilized people”, Romea website, 14 January 2014, <<http://www.romea.cz/en/news/czech/czech-helsinki-committee-designs-law-to-compensate-illegally-sterilized-people>>.

<sup>12</sup> European Roma Rights Centre, *op. cit.*, note 9.

<sup>13</sup> See more: “Commissioner Muižnieks urges the Czech authorities to adopt the bill on reparations for involuntary sterilisations of Roma women”, Council of Europe, Commissioner for Human Rights, 22 October

UN Committee on the Elimination of Discrimination against Women (CEDAW) issued its Concluding Observations on the Czech Republic, highlighting its concern that the Czech Government has not taken sufficient and prompt action to provide reparations to these victims.<sup>14</sup>

Coerced or forced sterilizations of Roma women and others have taken place at different points throughout the nineteenth, twentieth and twenty-first centuries in countries such as Hungary,<sup>15</sup> Slovakia,<sup>16</sup> Switzerland,<sup>17</sup> Sweden,<sup>18</sup> Norway,<sup>19</sup> Germany<sup>20</sup> and Uzbekistan.<sup>21</sup> In some of these cases, compensation mechanisms have been established by governments.

### III. SUMMARY OF THE SESSIONS

#### Opening session

Mirjam Karoly, Senior Adviser on Roma and Sinti Issues and Chief of the Contact Point on Roma and Sinti Issues at ODIHR, opened the conference by sharing the testimony of a Yenish<sup>22</sup> woman from Switzerland who suffered from forced sterilization under the eugenics laws in effect there until the mid-1970s. Karoly welcomed an expert intervention, planned later in the day, on Switzerland's process to compensate survivors of these harms and emphasized that the OSCE aims to provide support to the Czech authorities and to the voices of the survivors of forced sterilization. She commended the Minister for Human Rights, Equal Opportunities and Legislation for putting forward legislation in February 2015 that would have compensated survivors of these harms, regretting that the Government ultimately failed to adopt that legislation, and calling it a lost opportunity to bring closure to this issue.

The Contact Point chief underlined that the conference was a dialogue event to share practices from countries that have established compensation mechanisms for survivors of

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2015, <<http://www.coe.int/en/web/commissioner/-/commissioner-muiznieks-urges-the-czech-authorities-to-adopt-the-bill-on-reparations-for-involuntary-sterilisation-of-roma-women>>.

<sup>14</sup> “Concluding Observations on the sixth periodic report of the Czech Republic”, UN CEDAW, 14 March 2016, <[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f6&Lang=en)>.

<sup>15</sup> “A.S. v. Hungary”, European Roma Rights Centre, 12 April 2004, <<http://www.errc.org/article/as-v-hungary/3778>>.

<sup>16</sup> “ERRC Welcomes UN Human Rights Committee Findings on Slovakia”, European Roma Rights Centre, 8 August 2003, <<http://www.errc.org/article/errc-welcomes-un-human-rights-committee-findings-on-slovakia/291>>.

<sup>17</sup> See: <<http://www.wiedergutmachung.ch/home/>>.

<sup>18</sup> “Roma in Sweden: A nation questions itself”, BBC News website, 4 December 2013, <<http://www.bbc.com/news/magazine-25200449>>.

<sup>19</sup> “Norway apologises for abuse of Gypsies”, The Guardian website, 9 December 2000, <<http://www.theguardian.com/world/2000/dec/09/2>>.

<sup>20</sup> “Persecution of Roma (Gypsies) in Prewar Germany, 1933–1939”, United States Holocaust Memorial Museum, <<https://www.ushmm.org/wlc/en/article.php?ModuleId=10005482>>.

<sup>21</sup> “Forced sterilization of women in Uzbekistan”, Open Society Foundations, December 2013, <<https://www.opensocietyfoundations.org/reports/forced-sterilization-women-uzbekistan>>.

<sup>22</sup> The Yenish people are descended from mostly travelling people who live throughout Europe, mostly in Germany, Austria, Switzerland, Wallonia, Luxembourg, Belgium and parts of France. They have a distinct language which has been recognized as a protected and promoted non-territorial language in Switzerland since 1997. For further information see: <<http://www.stiftung-fahrende.ch/geschichte-gegenwart/de/organisationen/radgenossenschaft-der-landsstrasse>>.



forced sterilization elsewhere in the OSCE area. The vast majority of such survivors have been women. Karoly noted that women from Roma and Sinti communities, women with disabilities and women from other vulnerable communities in particular have been subjected to coerced and forced sterilization. She encouraged conference participants to engage in a meaningful debate on how to move forward to bring justice to the survivors of these harms.

Lastly, Karoly thanked the U.S Embassy in the Czech Republic for providing the conference venue. She expressed hopes that the event would be an excellent opportunity to engage in a dialogue for promoting tolerance and non-discrimination and bring greater attention to the need to build alliances and bridges in society across ethnic boundaries and across borders in order to further the respect for human rights.

Soraya Post, a Member of the European Parliament (MEP) from Sweden, who identified herself as being of Jewish and Roma heritage, gave her opening remarks. Born in 1956, she recounted her childhood memories when her own mother, who was Roma, was forcibly aborted and sterilized during the seventh month of her third pregnancy at the age of 22. She described having been removed from her family by the state and put to work on a farm at the age of five before her parents were able to secure her release. She had to undergo psychological examinations before being allowed to enrol in primary school, where she was bullied by both adults and children because of her ethnicity. Lastly, she described child welfare authorities visiting her family looking for pretexts to remove her from her parents' care.

In the year 2000, the Swedish authorities compensated Post's mother and other victims of forced sterilization. She emphasized that "forced sterilization puts sorrow into the woman for the rest of her life and into the rest of her family as well."

The MEP then called on the Czech authorities to make sure no medical records concerning forced sterilizations are lost, by extending the mandatory time period for preserving them, and to create an independent investigative body to research the mechanisms through which forced sterilizations have occurred and the extent of them throughout the Czech Republic. She called on the Government to openly acknowledge responsibility for unjustified sterilizations committed during the communist régime and for the fact that sterilizations without informed choice and consent also happened after 1991. She urged the Government to introduce a special extrajudicial compensation mechanism for all victims of forced sterilizations, including women whose medical records have been destroyed or otherwise lost. Lastly, she emphasized that the authorities should arrange for the education of health care professionals regarding the broader issue of obstetric violence.

Post's remarks were followed by those of Elena Gorolová, the spokesperson for the Group of Romani Women Harmed by Forced Sterilization, based in Ostrava, Czech Republic. She told her own story of having been forcibly sterilized at the age of 21 during the course of the Caesarian delivery of her second child. When she was in labour, in pain, and about to undergo Caesarian delivery, she was asked to sign her consent to sterilization by tubal ligation as well. She had never been informed by the health care professionals who had handled her prenatal care, nor was she then informed by those who were handling her delivery, as to what sterilization entailed. In other words, she did not understand what exactly she was "consenting" to and was in no condition to make such a life-altering decision. After her child was delivered, she was informed that she would never give birth again, and she was misinformed that the sterilization had been a "life-saving intervention". She closed her

remarks by announcing that her group will be registering officially as an NGO in order to continue to seek reparations for what they have suffered.

Alexander Barrasso of the U.S. Embassy in the Czech Republic then welcomed the participants, highlighting that the appropriate treatment of ethnic minorities is a priority issue for the Embassy. He emphasized that on the issue of forced sterilization, dealing with the past is part of the work that must be done to address the wrongs that have been committed, and he thanked the previous speakers for sharing their stories. He noted that the 2015 bill to compensate the victims had been commendable but unfortunately had not passed, and expressed the hope that those in attendance would be able to collectively continue to shape the response of the Government to this issue in order to arrive at some sort of settlement. “We at the U.S. Embassy look forward to continuing to support those efforts,” he concluded.

### **Session I: Experiences with mechanisms to establish truth and access to justice for victims of forced or coercive sterilization and other human rights violations in Europe**

The Public Defender of Rights of the Czech Republic (Ombudsman), Anna Šabatová, thanked the organizers for convening the conference at a time when the chances for the adoption of compensation measures did not seem hopeful. In her previous capacity as Deputy Ombudsman she was involved in the work on this issue when, ten years ago, 80 victims contacted the Ombudsman with their complaints. The Ombudsman managed to access the medical records of 50 of them (30 records could not be found) and came to the conclusion that all of the sterilizations had been performed illegally; he then issued a Final Statement to that effect.<sup>23</sup>

Šabatová noted that prior to 1990, due to a decree that created incentives for sterilization, the forced sterilizations were committed differently than they were after the incentive program stopped; she also noted that even during the 1970s and 1980s, there had been legal measures in place for patients to provide informed consent to sterilizations. She said the nature of the cases investigated by the Ombudsman ranged from “minor to very flagrant”, but they were all human rights violations nonetheless, and the Final Statement (unlike the previous investigation of the issue by the Czechoslovak State Prosecutor in the early 1990s) was the first official statement of this fact.

The Ombudsman said her predecessor’s ambition had been to change what she referred to as the medical profession’s insensitivity toward patients’ rights, including the paternalistic notion that the doctor, not the patient, is the decision-maker when it comes to medical treatment. She also noted that mothers who had given birth to more than two children have also reported to the Ombudsman that doctors have attempted to persuade them to undergo abortions solely for the reason of their having “many” children.

The Ombudsman expressed her belief that the current law regulating female contraceptive sterilization in the Czech Republic is sufficient, and also the hope that the medical community has learned from these errors. One recommendation made by the Final Statement was compensation for survivors, but the Ombudsman emphasized her regret that its wording implied compensation should be provided by the state administration only to those who were

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<sup>23</sup> Public Defender of Rights (Ombudsman) of the Czech Republic, *op. cit.*, note 10. The vast majority of the complaints brought forward were by women, save for one complaint brought by a man who said he had been sterilized against his will in 1998 and that his wife, now deceased, had also been sterilized against her will.

harmed prior to 1990, and that those harmed after 1990 should individually seek compensation through the courts. She highlighted that some of the most egregious cases occurred after 1990, in that the survivors had never been informed by the doctors who sterilized them that their capacity to conceive had been irrevocably ended and sometimes did not learn the truth until years later. When the bill proposed last fall was designed, Šabatová supported it in her capacity as chair of the Czech Helsinki Committee, an NGO. Now that she is in the role of Ombudsman herself, she regrets the bill was not adopted.

Luzius Mader from the Federal Office of Justice, Switzerland, then presented on “Governmental steps undertaken for the recognition and rehabilitation of victims of compulsory social measures: the case of Switzerland.” He reported that on 28 April 2016, the Swiss National Council approved, on the first reading, a bill to compensate survivors of forced sterilizations and other compulsory social measures.<sup>24</sup> The law will go to the second chamber and will probably be enacted in September to take effect in April 2017. As a Special Commissioner on the issue, he has met several hundred victims and examined nearly 2,000 files, and he noted that being confronted with testimonies always provokes feelings of anger, shame and shock. He emphasized that such reactions are a sign of how differently these measures are viewed today than they were 50 years ago. He also noted that the victims in Switzerland came from various social groups and were not only Travellers or Yenish people.

In 2013, a round table for the victims of compulsory measures and forced placement was created and included the forced sterilization issue. In 2014, a popular initiative was launched to generate support for compensating the survivors of these harms. This was the culmination of 30 years of work to get several issues onto the political agenda. The first was the situation of Swiss Travellers (Yenish), for which the Government apologized in 1986, creating its “Operation Children of the Highway” scheme, which paid 2,200 victims approximately 11 million Swiss francs, with compensation varying according to the gravity of the cases. The second was the problem of forced sterilization, which began in the nineteenth century and continued until the 1970s, targeting primarily women, including women living with mental disabilities, and justifying the sterilization of these women against their will or with their forced consent with reference to “public health concerns” or their socioeconomic status. The final issue was that of persons subjected to administrative detention for “re-education” because they were “vagrants”. In 2014, a federal statute was adopted acknowledging that such persons had frequently been detained without due process; while that acknowledgment did not include compensation, its enactment was a clear sign that political awareness of the impact of compulsory social measures was rising. There was also a commemorative event held in Bern in 2013 that featured apologies to all concerned from representatives of local governments, children’s homes and churches.

The round table involved survivors and their representatives, who worked with representatives of the federal authorities, the cantons, the towns and communes, the churches, and the Swiss Farmers’ Union, ultimately issuing a report asking for compensation and 19

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<sup>24</sup> “*Federal Act Draft on Compulsory Social Measures and Placements prior to 1981 (CSMPA)*”, Delegierter für Opfer von föderal-erzwingenden Zwangsmaßnahmen, <<http://www.fuersorgerischezwangsmassnahmen.ch/pdf/gegenvorschlag/entw-e.pdf>>. Article 4 establishes that victims have the right to a solidarity contribution and that all victims shall receive the same amount of contribution. Article 8 establishes that victims will have 30 days to appeal rejection of their application for a solidarity contribution. Article 12 establishes that the cantonal archives and other state archives shall support the persons affected, their family members, and “any contact points” in their search for files. Article 16 establishes that the Swiss Confederation shall endeavor to ensure that the cantons create symbols of remembrance of these harms.

other measures, some of which required new law. One important measure was urgent financial aid to survivors, since many were in bad health and elderly, so this was set up with a minimum of bureaucracy in April 2014 and is administered by the charity Swiss Solidarity, using contributions from the cantons, churches and enterprises. Survivors apply to the round table that reviews their applications and awards compensation to those eligible. More than 1,100 victims have received nine million Swiss francs in compensation. Among the beneficiaries of this urgent aid, 15 per cent were Swiss Travellers (Yenish).

In April 2014, a popular initiative was launched demanding a full academic inquiry into the issue and 500 million Swiss francs to compensate the survivors. More than 100,000 signatures were collected and the government then drafted compensation legislation. That bill acknowledged the victims' suffering; instituted regulations concerning access to archives that might contain relevant records; instituted measures to raise public awareness and construct symbols of remembrance; established support for academic inquiry; and instituted a financial contribution to the victims as a gesture of solidarity. The emphasis was not on seeking damages, nor on holding the authorities liable. The goal, according to Mader, is to have the society acknowledge the injustices committed and to express the government's willingness to show solidarity with the victims.

The total amount of money that would be set aside by the government's bill is less than that sought by the popular initiative. Mader emphasized that the bill does not consider everybody affected by compulsory social measures to have been victimized (one would not be eligible for compensation merely because one was raised in an orphanage, for example). Victims are defined as persons affected by compulsory social measures or placements whose physical, psychological or sexual development was impaired through physical or psychological abuse; sexual abuse; forced removal of children from their mothers for adoption; forced or surreptitious administration of medication or medical experimentation; forced or surreptitious sterilization or abortion; economic exploitation by placing excessive demands on persons required to work, or by failing to pay them adequate remuneration; deliberate prevention of personal growth and development; or social stigmatization. The applicants do not have to prove beyond a shadow of a doubt that they were victimized, but they do have to present credible evidence that they were impacted.

He further emphasized that academic inquiries are necessary to thoroughly examine this dark chapter of history. Two different organizations are now doing this, one an independent group of experts, and one the Swiss National Science Foundation, which has the mandate to develop a comprehensive approach to this research. The political process in Switzerland is now advancing quickly in favour of compensation.

The next speaker was Majja Runcis of Stockholm University, Sweden, who presented on "Addressing forced sterilization, abuses and rights violations of Roma in Sweden". Her dissertation on this issue involved reviewing more than 4,000 files and ultimately triggered a debate about the Swedish welfare state, causing what she characterized as a rupture in the image of the welfare state as a force for good. When it was published in the late 1990s, her dissertation was the first time anybody had critically examined this aspect of the welfare state. In her research today she is comparing the files on recipients of welfare with the state inventory of Roma people done in 1943 and with the records of sterilizations.

She noted that Sweden has established historical commissions on this issue and published a White Paper in 2014 that found Sweden has a dark history when it comes to the treatment of

Roma and Roma/Travellers. During the first half of the twentieth century this treatment had a racist basis that sought the annihilation of Roma people or, at a minimum, their removal from Sweden, while during the second half of the twentieth century this treatment involved the welfare state mapping and monitoring them. The White Paper found that Roma and Travellers were overrepresented as victims of forced sterilization; however, if one were to solely consult archival sources, this is not the picture one might construct, which begs the question of why the oral histories of Roma people in Sweden are so at odds with the documentary record.

Runcis noted that transformations in categories and terminology over time have contributed to an inaccurate historical picture, as the current terminology of “Roma” actually elides the historical difference between Travellers and “Gypsies” in Sweden (and the term “Gypsy” is only rarely used in official records). She emphasized that new research into this topic must combine archival work with capturing the collective memory of these events from survivors.

In Sweden, 63,000 people were subjected to the programmatic sterilization over a period of 40 years, with the number of women steadily increasing over time; by 1976 almost every person subjected to sterilization was a woman. Runcis compared the 1943 inventory of Travellers with the records of persons sterilized; since the majority of the Travellers registered in the inventory were male, there is almost no correspondence between the two sets of records, as the majority of those sterilized were women. One would have to know the maiden names of the women sterilized to establish any kind of correspondence between the data sets.<sup>25</sup>

The compensation ultimately awarded in Sweden was given to persons who had been sterilized by the 1960s, but not afterward; anybody sterilized after 1960 had to individually prove their case in court. According to Runcis, very few members of the Roma community have successfully applied for and received this compensation.

Ragnhild Nordvik of the University of Oslo’s Faculty of Law then presented on “Norway’s reparation mechanism to Norwegian Traveller victims of forced sterilization”. She reported that the Tater/Romani Committee in Norway, under the direction of Ambassador Knut Vollebæk, investigated the treatment of Tater/Roma people from 1850 until now and presented its findings to the Government on 1 July 2015.<sup>26</sup> She noted that public hearings are still being held on the issue. A sub-project of this effort has researched reconciliation efforts and implemented mechanisms for reparation and redress, including for coerced sterilization.

During the 1990s there was increased mobilization in Norway among Tater/Roma people and increased attention to historical injustices, including coerced and forced sterilization. From 1996-2000 the Norwegian Research Council earmarked funding for studying forced sterilization, and in 2000 the historian Per Haave published his dissertation, entitled “Sterilization of Taters 1934-1977: A historical study of law and practice”, which documented the sterilization of 125 Tater/Roma people, most of them women, under the Sterilization Act. Tater/Roma women were especially overrepresented among those forcibly

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<sup>25</sup> This is an example of how social practices surrounding women’s identities and identification (i.e. the changing of surnames upon marriage) can make it difficult to reconstruct their history.

<sup>26</sup> “Official Norwegian Reports NOU 2015: 7, Summary, Assimilation and Resistance. Norwegian policies towards Tater/Romani people from 1850 to the present”. Norwegian Ministry of Local Government and Modernisation, 2015, <[https://www.regjeringen.no/contentassets/7fc9dff997e34dafba07fa095ef632dc/nou-2015\\_7\\_summary.pdf](https://www.regjeringen.no/contentassets/7fc9dff997e34dafba07fa095ef632dc/nou-2015_7_summary.pdf)>.

sterilized during the 1930s and 1940s, and the estimates are that at least 230 Tater/Roma women could have been subjected to sterilization on the basis of what was called “medical grounds” at the time.

According to the Tater/Romani Committee’s findings, Norway contracted the private Norwegian Mission among the Homeless (the Mission) to implement its assimilation policies with respect to Tater/Roma people; the Mission was the most prominent organization undertaking this work between 1907 and 1986, and the Committee concluded its work was performed on behalf of the state.<sup>27</sup> The Mission’s work to forcibly settle Tater/Roma people involved placing them at the Svanviken labour colony,<sup>28</sup> which was conceived of as a transition between their travelling on the road and their residing somewhere permanently. Between 1949 and 1970, almost 40 per cent of women living at Svanviken were sterilized.<sup>29</sup> Among those registered as “vagrants”, 3.1 per cent of the Tater/Roma women were sterilized, while 1.8 per cent of “majority-society” “vagrant” women were sterilized.

These findings prompted a demand from Tater/Roma representatives for an inquiry commission, and in October 2002 the Norwegian Parliament decided to establish an inter-ministerial working group to consider compensation for the survivors. Its 2003 report found most cases in courts would be statute-barred and emphasized that these cases must be viewed in a context, acknowledging the particular ethnic dimension of these harms.

Nordvik noted that the Norwegian Parliament has a long-established tradition of *ex gratia* compensation going back to 1814, in which cases are decided on the basis of a discretionary assessment of their reasonableness. The process is non-statutory and is not intended to cover financial losses, but to provide consolation for wrongs, and the only condition is that the claim must be statute-barred and not covered by any other compensation scheme.

There is one group of forced sterilization survivors for whom the *ex gratia* payment process prior to 2004 was not able to deliver results because technically, at the time the women were sterilized, it had been lawful to do so. Since 2004, however, the *ex gratia* scheme has been extended to cover survivors of ethnically-motivated bullying, survivors of human rights abuses at the Svanviken labour colony, and survivors of forced sterilization.

From 2006-2013, 1,251 people applied through the extended special arrangement and 1,231 of them received compensation on at least one ground of complaint. Of the 15 who applied for compensation for coerced sterilization, seven were awarded it, two of whom had applied prior to 2004. 1,231 persons applied for compensation for bullying and 1,220 were awarded it, and 168 persons applied for compensation for their time at Svanviken, with 157 persons ultimately awarded compensation. One person was compensated on the grounds of forced adoption.

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<sup>27</sup> *Ibid.*, p. 5.

<sup>28</sup> Madeleine Zetterlund Stenhammer, a PhD candidate at Volda University College, writes in “Svanviken Labour Colony: A Brief Introduction” that the Svanviken labour colony was established by the private, Christian organisation the Norwegian Mission among the Homeless in 1908. The Mission believed adult members of Tater/Romani families would abandon their travelling lifestyle and learn to settle by performing labour in the colony; Tater/Romani men and women were also taught Norwegian grammar, mathematics, religion and science there. Refusing to work at the colony would result in punishment, the most common sanction being losing custody of one’s children.

<sup>29</sup> *Op. cit.*, note 26, p. 4.

Tater/Roma people were overrepresented among those forcibly sterilized between 1934 and 1977, although their total numbers remain unknown. Very few applications for compensation for forced sterilization have ever been filed with the authorities; Nordvik hypothesized that this may be because most of the forced sterilizations happened in the 1930s and 1940s, and that it may also be because survivors find it unbearable to discuss with others the trauma they have experienced, which applying for compensation involves.

Participants then discussed the fact that those subjected to forced sterilization seem, from the examples presented, to have been a broader group than just one comprised of Roma women, and asked what experiences of people living with disabilities have been in this regard. It was noted that the kind of eugenic sterilization of such persons that occurred in Germany during World War II stopped there after the war but continued in Sweden and Switzerland.

Participants also discussed the question of the public's response to compensation for these harms, given that this concerns groups that remain stigmatized. In the case of Switzerland, the public was described as having been very positive about compensation because the popular initiative achieved a groundswell of public support through its campaigning. The government reportedly cooperated closely with the initiative and decided to take action just six weeks after the campaign was launched, and the public consultation procedure seems to have been very convincing and supportive, as has been confirmed by the passage of the bill in the lower house.

In the case of Norway, one other group was also specifically mentioned for compensation as a result of historical inquiry, namely, the children of German soldiers and Norwegian mothers born during World War II, who frequently ended up in orphanages, where they suffered brutality and harassment. As for public opposition to compensation, there is a longstanding tradition of compensation in Norway, and during the 1990s there was a great deal of media attention to the issues addressed by the historical commission, for which the church has apologized twice and the government has apologized three times. The historical commission was actually convened after those apologies were made. Reportedly there has been some resistance to accepting the idea of compensation as justified from persons involved with the Mission (or whose family members worked for it) who view the intentions of the Mission, which ran the labour colony and orphanages, as having been good ones. Participants then asked what the Norwegian Government might ultimately propose on the basis of its ongoing review, and learned that an English-language summary exists of the commission's report that can be shared as the most recent communication on the issue.<sup>30</sup>

Participants asked whether the Swiss round table was a government initiative and what the political process of moving from rejecting compensation to adopting it had looked like in practice. A decade ago, the Swiss Government was said to have been opposed to compensating just one category of victims; the ultimate result was that the measure was designed broadly and comprehensively, which was said to be the key.

It was also mentioned that a paradigm shift on these issues occurred in European historiography during the 1990s, after the fall of the Berlin Wall. The concept of forced sterilization had previously been exclusively connected with Nazi Germany, but academics began to investigate the behaviour of Swedish social workers, the Swedish treatment of Jewish people, the crimes of Nazism in Sweden, etc. The Swedish forced sterilizations were

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<sup>30</sup> *Op. cit.*, note 26.

eugenically motivated and especially concerned the ostensible prevention of mental retardation. The Government there changed its position because of the international paradigm shift and decided it wanted to apologize for this history.

The participants then discussed how Roma civil society participated in initiating compensation. In the case of Norway, the first commission on the issue was said to have not included Roma members; the justification for that was reportedly that Roma members were viewed as incapable of impartially assessing the information. That reportedly changed when Ambassador Vollebæk took over, and Roma were allowed to participate.

## **Session II: History of forced and coercive sterilization of Roma women in the former Czechoslovakia and steps undertaken to bring justice to victims**

Lucie Rybová, the Director of the Czech Helsinki Committee, presented on “Forced and coercive sterilization of Roma women in the Czech Republic” and summarized milestones in the advocacy effort in the Czech Republic since 2004, noting that while complaints were brought forward and the issue was raised again in 2004,<sup>31</sup> very little work was done by the authorities with the survivors at that time. The Ombudsman’s report on the issue in 2005 was high-quality, but there was very little media coverage of it, and the complaints sent by the Ombudsman to the police for investigation were shelved. That same year the Council of the Government of the Czech Republic for Human Rights<sup>32</sup> decided to work on the issue, making it part of the government’s official human rights agenda, and instructed its Committee on Biomedicine to handle it; because the members of that Committee were all volunteer experts, there was a lack of capacity for them to follow through on that opportunity to propose changes. Between 2005 and 2007, the Ministry of Health convened its own commission on the issue and produced analysis, the results of which have never been publicized and which did not involve human rights or legal experts, according to Rybová.

It was not until 2007 that the first formal proposal for addressing the forced sterilization issue was submitted by the Council of the Government of the Czech Republic for Human Rights, calling for changes to legislation governing the performance of female contraceptive sterilization, but not for compensation. In 2008 the Council of the Government of the Czech Republic for Human Rights called on the government to apologize for the forced sterilizations, but did not call for compensation.

In 2011, the Council of the Government of the Czech Republic for Human Rights proposed that the government compensate the survivors; its estimation of the number of potential applicants for compensation was very broad and not based on further research. That same year, new health care legislation was adopted reflecting lessons learned from this issue; however, according to Rybová, stigmatization of the Roma community persists in healthcare facilities, as does malpractice, and some in the Czech Republic have even gone so far as to call for a revival of the communist-era practice of coercing and creating incentives for sterilization among Roma women in particular. Also in 2011, the Committee against Torture of the Council of the Government of the Czech Republic for Human Rights developed its compensation proposal, reflecting some of the verdicts achieved in such cases since 2004, but data about the full extent of the impact of these practices is still said not to exist.

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<sup>31</sup> Civil society first raised the issue in Czechoslovakia in 1978 as part of the Charter 77 movement. See “Document 23”, Charter 77, 13 December 1978.

<sup>32</sup> This is a body comprised of one-half civil society members and one-half representatives of the ministries.



Rybová noted that the NGOs involved in this advocacy all lack capacity, the government officials have been unwilling to discuss the issue, the survivors are stigmatized, and there is a general lack of public awareness about the issue. Some doctors are said to believe that compensating the survivors will tarnish the reputation of the medical profession. The cost of compensation is frequently raised as a reason not to do it, the argument being that this will reduce the amount of money available for groups and issues framed as being in “competition” with the survivors. Lastly, Rybová expressed the view that there has been very little support from outside the Czech Republic for advocacy inside the Czech Republic.

The Czech Helsinki Committee director closed by summarizing the arguments the government has reportedly made to civil society as to why no compensation scheme will be adopted. Some were reiterated in the Prime Minister’s letter to the Council of Europe, namely, that the government apologized in 2009; the victims have theoretically always been able to sue; and the courts know how to acknowledge objections to statutes of limitation and waive them. Rybová mentioned other arguments allegedly made by government representatives: that an *ex gratia* approach would not be “systematic”, that a lack of precise numbers of survivors makes estimating the cost of compensation difficult, and that if medical records are missing there is no proof the operation occurred. According to Rybová, government representatives have said that the need to compensate this particular group of persons as opposed to others harmed through medical malpractice has not been sufficiently justified. She also said they have characterized the amount of compensation sought as high compared to the compensation awarded to other victims of other harms, noting that other patients who have suffered harm due to medical malpractice could also be inspired to seek compensation.

The next presentation on “Forced and coercive sterilization of Roma women in Slovakia and initiatives to bring justice to the victims” was made by Vanda Durbáková of the Slovak Centre for Civil and Human Rights, which has been performing advocacy, empowerment activities for the Roma women affected, human rights monitoring and strategic litigation on this issue since 2002. During their fact-finding missions in eastern Slovakia they interviewed 230 Roma women, 110 of whom had been forcibly sterilized, and health care providers in 40 communities. The findings were summarized in a report called *Body and Soul*.<sup>33</sup> Most cases involved Roma women undergoing a second Caesarean delivery. There were cases where no consent to sterilization was obtained, as well as cases where minors were sterilized without the consent of their legal guardians. The last such case in Slovakia of which they are aware happened in 2002, and the cases extend back in time to the Czechoslovak communist era.

There have been 12 domestic court proceedings in these cases, eight of which resulted in appeals to the Constitutional Court and five of which have gone to the European Court of Human Rights. Criminal proceedings begun in these cases have been discontinued with the finding that “no crime” has been committed. Many civil claims have been dismissed, with the courts accepting medical experts’ reasoning that sterilization is a “life-saving” surgery.<sup>34</sup>

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<sup>33</sup> “Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom”, Center for Reproductive Rights and Poradna pre občianske a ľudské práva, in consultation with Ina Zoon, 2003, <[http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/bo\\_slov\\_part1.pdf](http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_slov_part1.pdf)>.

<sup>34</sup> In fact, sterilization is never a matter of medical emergency, according to the 2014 joint statement on how to eliminate coercive, forced, and otherwise involuntary sterilization from public health by seven UN agencies. See “Eliminating forced, coercive and otherwise involuntary sterilization, An interagency statement”, OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, May 2014,

Some violations have been found and the compensation for them has ranged from EUR 1,500 to EUR 17,000. The only violation ever found by the Constitutional Court has been a violation of the right to trial within a reasonable time.

In the European Court of Human Rights decisions in the matters of *K.H. and Others v. Slovakia*, *V.C. v. Slovakia*, *N.B. v. Slovakia*, and *I.G. and Others vs. Slovakia*, the Court has found violations of Article 3 (ban on torture) and Article 8 (right to family life) but has declined to assess the issue of discrimination. The compensation ultimately awarded has ranged from EUR 27,000 to EUR 31,000. According to Durbáková, these cases are just the “tip of the iceberg” in Slovakia.

Some of the barriers the survivors have faced to accessing justice included the length of the court proceedings; statutes of limitation; lack of access to medical records; dilemmas over whom to hold responsible for the violations, as many hospitals’ legal statuses have changed in the interim; the costs of the proceedings; and limited access to free legal aid. Cases involving survivors of forced sterilization in Slovakia have reportedly only ever been litigated by NGOs.

Durbáková closed her presentation by emphasizing that these cases provide just a glimpse into a much more widespread practice that the courts seem unable to fully recognize. She believes that states, therefore, should take all necessary steps to investigate the full extent of this practice and to introduce a comprehensive compensation mechanism for all forcibly sterilized Roma women in Slovakia and the Czech Republic.

The next presentation on “Steps undertaken by the state authorities to bring justice to victims” was made by Marek Szilvási, a Research and Advocacy Officer at the European Roma Rights Centre (ERRC) in Budapest. He noted that following the Czech Government’s refusal to adopt compensation last fall, Prime Minister Sobotka was contacted by the Council of Europe for an explanation. The response he gave to the Council of Europe’s Commissioner for Human Rights has been published and its content was reiterated to the UN CEDAW earlier this year, namely, that an *ex gratia* procedure would not constitute effective redress but that individually suing in court would, and that the government therefore plans to design measures to “make it easier” for the women to sue. According to Szilvási, when the CEDAW asked the government to elaborate, the delegation reportedly said the government was not obliged to share its reasoning, but that one of its concerns was about availability of sufficient evidence for the claims. This dilemma, Szilvási noted, is in fact one of the arguments for lightening the burden of proof, which an *ex gratia* procedure would accomplish.

In the case of Slovakia, Szilvási said the Ministry of Justice has acknowledged the European Court of Human Rights judgments and has expressed regret for individual instances of these harms, which the Ministry reportedly analyzes as having been caused by flawed legislation and not by malpractice. According to Szilvási, responsibility remains unacknowledged.

Szilvási said some positive steps towards redress have been achieved through intensive advocacy. The flawed Sterilization Directive in the Czech Republic under which most of these harms were perpetrated has been abolished, and the practice seems to have gradually ceased, although the ERRC is currently representing a woman who was forcibly sterilized

there in 2008. The Czech Government did express regret in 2009, but again, only for “individual failures”.<sup>35</sup>

With reference to the Ombudsman’s mention of the divide created by the 2005 Final Statement between those forcibly sterilized before and after 1991, Szilvási noted that this distinction has not persisted in more recent Czech Government documents, including the bill proposed in the fall, which would have covered the period from 1966 to 2012. He also noted that three forced sterilization cases against the Czech Republic have been declared admissible by the European Court of Human Rights, and that the Government has settled them out of court, paying EUR 10,000 to each applicant.

Szilvási also noted that outside the Czech Republic there has been a great deal of international attention to this issue, with more than 12 concluding recommendations from all relevant UN treaty oversight bodies<sup>36</sup> and involvement from the Council of Europe. According to Szilvási, CEDAW’s most recent recommendations to the Czech Government regarding compensation for and prosecution of those responsible for these harms were very strong.

The participants then discussed the fact that the European Court of Human Rights has not yet chosen to address the issue of discrimination in these cases, either along the lines of ethnicity or gender. This was said to have impacted the understanding of the issue in Slovakia, as the Slovak Government has reportedly used this fact to argue that these incidents have been cases of individual failures by individual doctors and not systemic in nature.

### **Session III: Defining ways forward and recommendations**

The CEDAW Committee’s Concluding Observations on the sixth periodic report of the Czech Republic were then presented by Lia Nadaraia, Member of CEDAW, who explained that the Czech Republic is the second country she has visited since being elected to CEDAW in 2015. She said the transition to full recognition of human rights seems to still be a work in progress and noted that post-Communist countries reporting on forced sterilization over the

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<sup>35</sup> USNESENÍ VLÁDY ČESKÉ REPUBLIKY ze dne 23. listopadu 2009 č. 1424 k Podnětu ministra pro lidská práva ke sterilizacím žen v České republice provedeným v rozporu s právem [RESOLUTION OF THE GOVERNMENT OF THE CZECH REPUBLIC, 23 November 2009, No. 1424 on the Motion of the Minister for Human Rights on the sterilization of women in the Czech Republic performed in contravention of the law]. Article II of that Resolution says the “Government regrets the individual errors detected in the performances of sterilizations in contravention of the directive of the Ministry of Health of the Czech Socialist Republic LP\_252.3-19.11.1971, on the performance of sterilization” (“Vláda... II. vyslovuje politování nad zjištěnými individuálními pochybeními při provádění sterilizací v rozporu se směrnicí Ministerstva zdravotnictví ČSR LP-252.3- 19.11.1971, o provádění sterilizace...”), <<http://www.vlada.cz/assets/ppov/rlp/aktuality/USNESENI-VLADY.pdf>>.

<sup>36</sup> UN General Assembly, “Convention on the Elimination of All Forms of Discrimination against Women”, 25 August 2006, <<http://www.refworld.org/docid/3ae6b3970.html>>; “Concluding comments of the Committee on the Elimination of Discrimination against Women: Czech Republic”, UN CEDAW, Thirty-sixth session, 7-25 August 2006, CEDAW/C/CZE/CO/3, para. 23, <[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f3&Lang=en)>; “Concluding Observations of the Committee on the Elimination of Racial Discrimination, Czech Republic”, UN Committee on the Elimination of Racial Discrimination (CERD), 11 April 2007, CERD/C/CZE/CO/7, para. 14, <<http://www.refworld.org/docid/46484d2d2.html>>; UN General Assembly, “International Covenant on Civil and Political Rights”, 16 December 1966, <<http://www.refworld.org/docid/3ae6b3aa0.html>>; “Concluding observations on the third periodic report of the Czech Republic”, UN Human Rights Committee, 22 August 2013, <<http://www.refworld.org/publisher,HRC,CONCLOSURE,CZE,3f8d4ae94,0.html>>.

years have repeatedly told CEDAW that this issue is related to the Communist era and is therefore no longer a problem. She highlighted that CEDAW has twice stressed to the Czech Government the importance of compensating the victims and acknowledging these abuses. The most recent report is the third time the Committee has had to imperatively state its recommendations on the issue, which include the adoption of a legal framework to financially compensate the victims of coercive and non-consensual sterilization. She emphasized that the recommendation was unanimously adopted.

The next presentation, titled “Justice and reparations for victims: What does the government have to do?”, was made by Elena Gorolová, the spokesperson for the Group of Romani Women Harmed by Forced Sterilization, based in Ostrava, Czech Republic. She said the government must take action to redress the survivors, characterizing communications from the government to the survivors as promises of compensation that have not been kept. Gorolová could not understand why the government has not acted on the many international recommendations to it on this issue. Lastly, she noted that it is unclear why Roma women are the ones speaking up in the Czech Republic about this issue when others reportedly have suffered these harms too, but emphasized that her group seeks compensation for all who have suffered.

Her remarks were followed by a summary of the “Recommendations on this issue of the Commissioner for Human Rights of the Council of Europe”, delivered by Claudia Lam, Adviser, Office of the Council of Europe Commissioner for Human Rights. Lam noted that gender equality, the human rights of Roma people, and women’s rights are all priorities for the current Commissioner, who sent a letter to the Czech Republic on 6 October 2015 noting that forced sterilization is a serious human rights violation; that the 2009 general recognition by the Czech Government was just a first step in the right direction; and that the 2011 report by the Commissioner’s predecessor had noted that most victims have been left without an effective domestic remedy, a situation that persists according to expert reports. He also reminded the government that in 2011, the Committee of Ministers of the Council of Europe issued its “Guidelines on eradicating impunity for serious human rights violations”<sup>37</sup>, which instruct that there are special obligations towards such victims and that there must be an accessible, effective mechanism for reparations available to them, which may include rehabilitation, compensation, satisfaction, restitution and guarantees of non-repetition.

In the view of the Commissioner for Human Rights, the bill proposed to the government last fall had the potential to redress these violations. It would have established an independent expert committee to review individual claims and advise the Ministry of Health on compensation. It would also have delivered an official apology to each woman, compensation, and rehabilitation (artificial insemination or fertility treatment) free of charge, with a three-year time period during which survivors could apply for reparations. However, to the Commissioner’s regret, the government decided not to adopt the law. The Commissioner urged the government not to abandon the project, and asked for further information on the government’s position, to which the Prime Minister responded. The Commissioner then posted their correspondence online.

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<sup>37</sup> "Eradicating impunity for serious human rights violations. Guidelines and reference texts", Directorate General of Human Rights and Rule of Law, Council of Europe, 2011, <[https://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/Impunity\\_en.pdf](https://www.coe.int/t/dghl/standardsetting/hrpolicy/Publications/Impunity_en.pdf)>.

In the Council of Europe's 2012 publication titled *Human rights of Roma and Travellers in Europe*,<sup>38</sup> the general recommendation is made that Council of Europe member states should publicly acknowledge cases of forced sterilization, express regret for them, accept responsibility for them, and set up effective remedy mechanisms for them. The member states should take into account the obstacles for survivors to access justice, such as the destruction of their medical records and the feelings of shame that make coming forward emotionally traumatizing; should establish reasonable time limits for reparations processes; should provide assistance to the victims, including *ex gratia* compensation for those whose court claims have lapsed; and should prevent future violations by establishing clear requirements for obtaining informed consent and by sanctioning those liable.

With respect to the Slovak Republic, the Commissioner's report of 13 October 2015 (paragraph 65) stresses that most survivors have not been compensated, regrets that the issue is not fully resolved, asks for uniform standards to be applied concerning free and informed consent, and asks that the authorities accept responsibility for these harms. With respect to Sweden, the Commissioner's first report on this issue acknowledged that the creation of a commission for compensation was a positive step, while with respect to Norway the Commissioner commended the inclusive approach taken there when creating the 2011 public commission to seek a shared understanding of past injustices and abuses.

Lastly, Lam noted that there is a relatively new standard of which everybody should be aware, the 2011 Council of Europe "Convention on Preventing and Combating Domestic Violence and Violence against Women" (the Istanbul Convention), Article 39 of which requires the criminalization of forced sterilization. The aim of the Convention is to respect women's rights by allowing them to decide freely on the number and spacing of their children and by ensuring their access to appropriate information. This Convention is in the process of ratification by the member states.

The next presentation was on "Recommendations of the Government Council for Roma Minority Affairs" by a civil society member of that council, Lucie Fuková. She said the examples of Norway, Sweden and Switzerland were inspiring and noted very little information was available in the Czech Republic about the process that had led to the government rejecting the bill in 2015. She said she would try to return compensation to the government's agenda and noted that she has previously raised concerns that no form of support is provided by the state for the survivors of forced sterilization.

According to Fuková, discussions of this issue between the ministries have largely involved arguments over which of them is more to "blame" for the occurrence of these harms, an approach that she characterized as unproductive. She closed by expressing the view that the government as a whole should declare its unanimous support for compensating the survivors of these harms.

Martin Martínek, Department Head of the Office of the Czech Government Council on Roma Community Affairs and Head of the Secretariat of the Czech Government Council on National Minorities, presented future steps to be taken by the Czech Government on behalf of the Ministry of Human Rights, Equal Opportunities and Legislation. After thanking the OSCE for convening the conference, he noted that the government apologized to the

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<sup>38</sup> "Human rights of Roma and Travellers in Europe", Council of Europe Publications, 2012, <[https://www.coe.int/t/commissioner/source/prems/prems79611\\_GBR\\_CouvHumanRightsOfRoma\\_WEB.pdf](https://www.coe.int/t/commissioner/source/prems/prems79611_GBR_CouvHumanRightsOfRoma_WEB.pdf)>.

survivors of forced sterilization in 2009. Since the government rejected the compensation bill last fall, he said his office has been “providing space” for civil society actors to express their demands on this issue and has established a Working Group for the Compensation of Roma<sup>39</sup> to find “alternative” ways to address it.

Participants then noted that it is currently difficult to imagine that the issue of compensation for these survivors would ever be supported by 100,000 signatures on a petition in the Czech Republic, as compensation for survivors of compulsory measures in Switzerland has been. They also asked who particularly took the initiative to establish independent commissions of inquiry in other countries and asked whether the Czech authorities could envision, for example, a ministerial commission or a parliamentary one. Participants also asked whether Roma women have tried to build alliances with other victims’ groups.

With respect to the Swiss case, the turning point was said to have come during a second commemorative event in 2013, organized by the Federal Office of Justice and co-ordinated with the submission to Parliament of the results of the popular initiative and the screening of a film about the “contract children” (children exploited for labour). All of the stakeholders reportedly collaborated and co-ordinated their messages, and there was clearly government’s willingness to lead. It was then noted that mechanisms such as “expert commissions” or “working groups” are not usually effective. Civil society initiatives can provide support, but without constructive co-operation from the state, it will be much more difficult to come to terms with such an issue. In Switzerland the public initiative tactically focused on one subset of all the groups harmed, the one around which most societal consensus for their compensation had been built, namely, those subjected to administrative detention. It was said to have been easiest to get approval for a federal statute to rehabilitate those particular survivors, which paved the way for other categories of survivors. All survivors from all categories were represented at the round table, which issued its report, within one year, on the practical measures to take.

Participants noted that Roma women survivors of forced sterilization from the Czech Republic and Slovakia have met each other, exchanged experiences and visited each other, but non-Roma women survivors have not contacted the Roma women’s group in Ostrava very often. Reportedly, those who did so declined to join when they realized everybody else in the group would be Roma.

Participants also noted it was regrettable that there had been so little input from the Czech Government. It was suggested that CEDAW and the Council of Europe should support the creation of an independent body to research what compensation for survivors would entail, perhaps even an international one. Participants also asked whether the government might organize a high-level meeting with authorities from Sweden to exchange experiences on the issue. The existence of an inquiry procedure through CEDAW was also noted, as was the fact that some official investigations are said to be underway into the experience of women with disabilities and forced sterilization in the Czech Republic.

It was noted that the correspondence between the Council of Europe Commissioner for Human Rights and the Czech authorities has been published in order for advocates of compensation to make use of it. The government’s arguments about lack of evidence were said to be unconvincing, as *ex gratia* systems such as the one proposed exist precisely to

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<sup>39</sup> Pracovní skupina pro odškodnění Romů.

alleviate the burden of proof required by courts. Participants noted that since judicial proceedings have no guarantee of success and can take as long as ten years, they are not a reasonable avenue of redress for survivors to undertake.

Participants noted that Sweden reportedly began to respond to the issue of forced sterilization after media coverage of the women's stories in which their ethnicity was not emphasized. It was suggested that widening the focus to that of women *per se* might garner societal support for compensation.

Participants discussed the need for political will and how to generate societal demand for it. Some noted that the "paradigm shift" in the European historiography mentioned earlier in the day reportedly has yet to reach the Czech Republic state, which – according to some participants – continues to deny its responsibility. The issue of redress has remained unresolved for decades and is one of the longest-lasting unresolved issues facing the Roma; it was noted that one survivor who applied to the Ombudsman has since died. Participants also noted that some attempts were initiated to sue the Czech Republic for crimes against humanity over these harms, but the progress of those efforts is unknown.

Participants noted that not much has been written in the Czech Republic about the forced sterilization of Roma women, especially in the medical literature; reportedly only four expert articles exist on the issue, and it is clear that there is a dearth of research in Slovakia as well. Some participants noted that a solid academic platform is needed to fill these gaps.

#### **IV. CONCLUSIONS**

The participants underscored that lack of compensation remains an impediment and is crucial to delivering justice for the survivors of forced and coercive sterilization. In this regard they called on the Czech authorities to take immediate steps to implement the recommendations of the UN Committee on the Elimination of Discrimination against Women (CEDAW) from 2006, 2010 and 2016, of the UN Committee on the Elimination of Racial Discrimination (CERD) from 2007, 2011 and 2015, the UN Human Rights Committee from 2007 and 2013, the UN Committee against Torture from 2012 and the UN Human Rights Council from 2008.<sup>40</sup> These international human rights treaty bodies have repeatedly recommended to the Czech authorities to establish an effective compensation mechanism for all the victims of forced sterilization, to provide assistance to the victims in gaining access to their personal medical files, to set up an independent committee researching the harm caused by the practice of forced and coercive sterilization, to ensure free and full access to sexual and reproductive health services for Roma women and girls, to prosecute and adequately punish those responsible for forced and coercive sterilization, and to take all necessary steps to ensure that no further pressure/malpractice is conducted by medical staff and social service providers.

In this regard, the experiences to address human right violations and past malpractices, including forced and coercive sterilization, from other countries such as Norway, Sweden and Switzerland, give good examples for the Czech Republic.

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<sup>40</sup> For an overview of the conclusions and recommendations of international treaty bodies see Annex III to this report.

What can be modelled in particular are the established mechanisms for securing evidence and establishing archives (ensuring data protection of the victims), establishing independent bodies to gather information, investigating and preparing an independent report about the human rights violations and the physical and emotional harm caused to the victims, creating dialogue between the authorities and survivors or representatives of victim groups (e.g., by establishing a national round table), and supporting campaigns and educational activities to raise awareness about past wrongdoings among the mainstream society. Participants agreed these steps would be the way forward in the Czech Republic.

Further, the participants acknowledged that support for the Roma women survivors' civil society organization and for broader coalition building among other groups affected by these violations is crucial to reaching all of the victims who have been harmed and deserve justice. At the same time, there was common understanding that there is a need for strong political leadership in further advocating for compensating the victims of forced and coercive sterilization and driving the process forward.

Participants acknowledged the official apology of the Czech Government in 2009, but underlined the need for going beyond a symbolic gesture and taking responsibility for delivering justice to the victims, including through material compensation and initiating a process to raise awareness in the public about these violations. A public awareness-raising campaign and educational initiatives aimed at practitioners could also serve as a tool to counter racism and discrimination and to educate the general public that forced and coercive sterilization violate the human dignity of a person.



## ANNEX I: AGENDA

### **Forced and Coercive Sterilization of Roma Women: Justice and Reparations for Victims in the Czech Republic**

Prague, 1 June 2016

**9:00 – 9:45**

#### **Opening session**

Welcome and opening speech – *Mirjam Karoly, Senior Adviser on Roma and Sinti Issues / Chief of CPRSI, OSCE/ODIHR*

Opening speech – *Soraya Post, Member of the European Parliament*

Opening speech – *Elena Gorolová, Group of Roma Harmed by Sterilization*

Opening speech – *Alexander Barrasso, U.S. Embassy in Prague*

9:45– 10:00

Coffee break

**10:00 – 11:30**

#### **Session I: Experiences with mechanisms to establish truth and access to justice for victims of forced or coercive sterilization and other human rights violations in Europe**

*Moderator: Mirjam Karoly, Senior Adviser on Roma and Sinti Issues / Chief of CPRSI, OSCE/ODIHR*

Governmental steps undertaken for the recognition and rehabilitation of victims of compulsory social measures: The case of Switzerland  
*Luzius Mader, Federal Office of Justice, Switzerland*

Addressing forced sterilization, abuses and rights violations of Roma in Sweden  
*Maija Runcis, Stockholm University, Sweden*

Norway's reparation mechanism to Norwegian travellers victims of forced sterilization  
*Ragnhild Nordvik, University of Oslo, Faculty of Law*

Discussion

**11:30 – 13:00**

#### **Session II: History of forced and coercive sterilization of Roma women in the former Czechoslovakia and steps undertaken to bring justice to victims**

**Moderator:** *Tatjana Perić, Adviser on Roma and Sinti Issues/Deputy Chief of CPRSI, OSCE/ODIHR*

Forced and coercive sterilization of Roma women in the Czech Republic

*Lucie Rybová, Director, Czech Helsinki Committee*

Forced and coercive sterilization of Roma women in Slovakia and initiatives to bring justice to the victims

*Vanda Durbáková, Slovak Centre for Civil and Human Rights*

Steps undertaken by the state authorities to bring justice to victims

*Marek Szilvási, Research and Advocacy Officer, European Roma Rights Centre*

Discussion

13:00 – 14:00

Lunch break

**14:00 – 15:30**

**Session III: Defining ways forward and recommendations**

*Moderator: Claude Cahn, Human Rights Adviser, OHCHR*

Concluding observations on the sixth periodic report of the Czech Republic

*Lia Nadaraia, Member of the UN Committee on the Elimination of Discrimination against Women (CEDAW)*

Justice and reparations for victims: What does the government have to do?

*Elena Gorolová, Group of Roma Women Harmed by Sterilization*

Recommendations of the Commissioner for Human Rights of the Council of Europe

*Claudia Lam, Adviser, Office of the Commissioner for Human Rights of the Council of Europe*

Recommendations of the Government Council for Roma Minority Affairs

*Lucie Fuková, Member of the Government Council for Roma Minority Affairs*

Future steps of the Czech government

*Representative of the Czech government (tbc)*

Discussion

15:30 – 16:00

**Conclusions**

## ANNEX II: LIST OF PARTICIPANTS

<b>No.</b>	<b>Name</b>	<b>Organization</b>	<b>Country</b>
1.	<b>Elena Gorolová</b>	<i>Group of Women Harmed by Forced Sterilization</i>	<i>Czech Republic</i>
2.	<b>Nataša Botošová</b>	<i>Group of Women Harmed by Forced Sterilization</i>	<i>Czech Republic</i>
3.	<b>Marie Žigová</b>	<i>Group of Women Harmed by Forced Sterilization</i>	<i>Czech Republic</i>
4.	<b>Maria Čojevová</b>	<i>Group of Women Harmed by Forced Sterilization</i>	<i>Czech Republic</i>
5.	<b>Kumar Vishwanathan</b>	<i>Life Together</i>	<i>Czech Republic</i>
7.	<b>Jelena Silajdžić</b>	<i>Slovo 21</i>	<i>Czech Republic</i>
8.	<b>Michal Miko</b>	<i>Slovo 21</i>	<i>Czech Republic</i>
9.	<b>Lucie Rybová</b>	<i>Czech Helsinki Committee</i>	<i>Czech Republic</i>
10.	<b>Kateřina Červená</b>	<i>League of Human Rights</i>	<i>Czech Republic</i>
11.	<b>Štěpán Vidím Drahokoupil</b>	<i>Open Society Fund Prague</i>	<i>Czech Republic</i>
12.	<b>Ruben Pellar</b>	<i>Researcher</i>	<i>Czech Republic</i>
13.	<b>Gwendolyn Albert</b>	<i>Human rights activist</i>	<i>Czech Republic</i>
14.	<b>Lucie Fuková</b>	<i>Government Council for Roma Minority Affairs</i>	<i>Czech Republic</i>
15.	<b>Vanda Durbáková</b>	<i>Slovak Centre for Civil and Human Rights (Poradna)</i>	<i>Slovakia</i>
16.	<b>Gabriela Hrabaňová</b>	<i>European Roma Grassroots Organisations (ERGO) Network</i>	<i>Belgium</i>
17.	<b>Karolina Mirga Danek</b>	<i>ternYpe - International Roma Youth Network</i>	<i>Poland</i>
18.	<b>Marek Szilvási</b>	<i>European Roma Rights Centre (ERRC)</i>	<i>Hungary</i>
19.	<b>Adriana Lamačková</b>	<i>Centre for Reproductive Rights</i>	<i>United Kingdom</i>
20.	<b>Soraya Post</b>	<i>European Parliament</i>	<i>Sweden</i>
21.	<b>Maija Runcis</b>	<i>Stockholm University</i>	<i>Sweden</i>
22.	<b>Luzius Mader</b>	<i>Federal Office of Justice</i>	<i>Switzerland</i>
23.	<b>Ragnhild Nordvik</b>	<i>University of Oslo, Faculty of Law</i>	<i>Norway</i>
24.	<b>Lia Nadaraia</b>	<i>UN Committee on the Elimination of Discrimination against</i>	<i>Georgia</i>

		<i>Women (CEDAW)</i>	
25.	<b>Claude Cahn</b>	<i>Office of the United Nations High Commissioner for Human Rights (OHCHR)</i>	<i>Serbia</i>
26.	<b>Claudia Lam</b>	<i>Office of the Commissioner for Human Rights of the Council of Europe</i>	<i>France</i>
27.	<b>Barbora Rittichová</b>	<i>Ministry of Justice</i>	<i>Czech Republic</i>
28.	<b>Pavla Špondrová</b>	<i>Ministry of Labour and Social Affairs</i>	<i>Czech Republic</i>
29.	<b>Lucie Viktorinová</b>	<i>Ministry of Labour and Social Affairs</i>	<i>Czech Republic</i>
30.	<b>Barbora Cardona Ševčíková</b>	<i>Ministry of Foreign Affairs</i>	<i>Czech Republic</i>
31.	<b>Martin Martinek</b>	<i>Office of the Minister of the Czech Republic's Government for Human Rights, Equal Opportunities and Legislation</i>	<i>Czech Republic</i>
32.	<b>Anna Šabatová</b>	<i>Public Defender of Rights (Ombudsman)</i>	<i>Czech Republic</i>
33.	<b>Alexander Barrasso</b>	<i>U.S. Embassy, Prague</i>	<i>Czech Republic</i>
34.	<b>Helena Markusová</b>	<i>U.S. Embassy, Prague</i>	<i>Czech Republic</i>
35.	<b>Mirjam Karoly</b>	<i>OSCE Office for Democratic Institutions and Human Rights</i>	<i>Poland</i>
36.	<b>Tatjana Perić</b>	<i>OSCE Office for Democratic Institutions and Human Rights</i>	<i>Poland</i>
37.	<b>Idaver Memedov</b>	<i>OSCE Office for Democratic Institutions and Human Rights</i>	<i>Poland</i>
38.	<b>Vladimíra Šefranka</b>	<i>Interpreter</i>	<i>Czech Republic</i>
39.	<b>Lucie Lukavská</b>	<i>Interpreter</i>	<i>Czech Republic</i>
40.	<b>Adam Szoppe</b>	<i>Journalist</i>	<i>Sweden</i>
41.	<b>Veli Brijani</b>	<i>Journalist</i>	<i>Sweden</i>

## **ANNEX III: RECOMMENDATIONS OF INTERNATIONAL HUMAN RIGHTS TREATY BODIES**

### UN Committee against Torture (CAT)

“Concluding observations of the Committee against Torture: Czech Republic”, UN CAT, 7 May – 1 June 2012,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCZE%2fCO%2f4-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fCZE%2fCO%2f4-5&Lang=en)>.

### UN Committee on the Elimination of Discrimination against Women (CEDAW)

“Concluding comments of the Committee on the Elimination of Discrimination against Women: Czech Republic”, UN CEDAW, 7–25 August 2006,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f3&Lang=en)>.

“Concluding observations of the Committee on the Elimination of Discrimination against Women: Czech Republic”, UN CEDAW, 4–22 October 2010,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f5&Lang=en)>.

“Concluding observations on the sixth periodic report of the Czech Republic”, UN CEDAW, 14 March 2016,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f6&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCZE%2fCO%2f6&Lang=en)>.

### UN Committee on the Elimination of Racial Discrimination (CERD)

“Concluding Observations of the Committee on the Elimination of Racial Discrimination, Czech Republic”, UN CERD, 19 February – 9 March 2007,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f7&Lang=en)>.

“Concluding observations of the Committee on the Elimination of Racial Discrimination Czech Republic”, UN CERD, 8 August – 2 September 2011,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f8-9&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f8-9&Lang=en)>.

“Concluding observations on the combined tenth and eleventh periodic reports of the Czech Republic”, UN CERD, 25 September 2015,  
<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f10-11&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f10-11&Lang=en)>.

### UN Human Rights Committee

“Concluding observations of the Human Rights Committee: Czech Republic”, UN Human Rights Committee, 9–27 July 2007,

<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCZE%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCZE%2fCO%2f2&Lang=en)>.

“Concluding observations on the third periodic report of the Czech Republic”, UN Human Rights Committee, 22 August 2013,

<[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCZE%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fCZE%2fCO%2f3&Lang=en)>.

#### UN Human Rights Council

“Report of the Working Group on the Universal Periodic Review: Czech Republic”, UN Human Rights Council, 23 May 2008,

<<http://www.ohchr.org/EN/HRBodies/UPR/Pages/czsession1.aspx>>.