

Czech Republic Human Rights Review



Dear readers,

In the fourth year of its existence, the Czech Center for Human Rights and Democratization has continued in its aspiration to become a “standard” centre for human rights research. We have benefited from our membership in the Association of Human Rights Institutes (AHRI), which we joined last year, and have already started to cooperate with other members of AHRI on advanced research projects. In March, the European Network Against Racism published a report on the state of racism and discrimination in the Czech Republic with special focus on Islamophobia; members of the Center were the primary authors. You are invited to read about the conclusions of this report in this issue of the Review.

Further, the Center organized a well-attended seminar with Molly Pucci from Stanford University, and arranged a screening of the critically acclaimed documentary *Kabul Transit* with its director David Edwards. Recently, we also organized an international workshop on the EU’s accession to the ECHR, where both academics and professionals active in the field delivered their presentations.

In recent years, members of the Center successfully finished their studies not only in the Czech Republic, but also at Georgetown, in Venice, and in Luxembourg; some were accepted to PhD programs focusing on human rights issues. The 2013-2014 academic year promises to be internationally enriching as well – our

members are going to cooperate with us from New York University, Missouri State University, Oxford, and Leuven.

The Center’s International Politics and Human Rights section was renamed in February to “International Politics, Business, and Human Rights” and will more closely concentrate on research in the field of human rights responsibilities of businesses. In light of this, we would be remiss if we didn’t offer our readers an article in the Review about this emerging field of study. Additionally, the Review features articles about the turbulent developments in the Slovak judiciary as well as at the Czech Constitutional Court. Last but not least, we invite you to read about the most recent major cases against the Czech Republic decided by the European Court of Human Rights.

The Czech Center for Human Rights and Democratization was established in 2009 as the first institution of its kind in the Czech Republic, publishing a monthly Czech-language bulletin on human rights and organizing conferences and seminars. We have grown from a tiny idea to an organization of 30 members who are cooperating with us from 5 countries, and we look forward to furthering the debate on human rights in the Czech Republic and abroad. If you are interested in human rights developments and questions both in the Czech Republic and Slovakia, we would be happy to assist you with our expertise.

We wish you enjoyable reading.
Monika Mareková and Hubert Smekal

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Involuntary Hospitalization

Strategic Litigation Strikes Back

Lenka Píčová

During November 2012, the European Court of Human Rights (ECtHR) issued two important judgments regarding involuntary hospitalization of patients in psychiatric facilities. The complainants – represented by lawyers from the Human Rights League (LLP) and the Mental Disability Advocacy Center (MDAC) – were successful in both cases.

The first case, *Bureš v. Czech Republic*, concerned Mr. Lukáš Bureš, who suffered from psychosocial impairment. In 2007, Mr. Bureš accidentally overdosed on prescribed medication and visited a shopping centre. He was dressed inappropriately (e.g. wearing no pants), and was therefore spotted and arrested by the police. The police took him to the station and used various restraining means – such as fastening Bureš to a bed – that caused him (among other things) some long-term injuries. He was subsequently hospitalized for nearly two months in a psychiatric hospital.

The ECtHR held that the complainant was subject to inhuman and degrading treatment (prohibited by Article 3 of the European Convention on Human Rights), because even though he was not aggressive or otherwise seriously dangerous, the police resorted to excessive restraint. The Court also found a violation of procedural rights of the complainant. Law enforcement authorities unreasonably stopped the criminal proceedings and thus denied Bureš the protection of the rights guaranteed by Article 3 of the Convention.

In the second case, the complainant, Mr. Milan Sýkora, was first deprived of legal capacity in 2000 without any information. Proceedings regarding his legal capacity had lasted for years, during which he had been found legally incapacitated for two years and six months. During that time, he had been inter alia involuntarily hospitalized in a psychiatric hospital.

The ECtHR held that even if a person is legally incapacitated and placed under guardianship, the consent of the guardian is not sufficient to justify (*de facto* involuntary) hospitalization, and that the incapacitated person must have the possibility to initiate a judicial review of such a hospitalization.

Since Sýkora was denied such a possibility, the Court found that there had been a breach of Article 5, paragraph 4 of the Convention. Moreover, the Court also held that by this legal incapacitation the Czech au-

thorities violated his right to privacy and family life (Article 8 of the Convention). The representation of the complainant before the court was merely formal and his legal guardians had never met him.

Psychiatric hospitals in the Czech Republic, unfortunately, continue to struggle with persistent problems in compliance with human rights standards. These problems are obviously linked to the overall situation in health care system, which is still generally conceived in a considerably paternalistic manner (see e. g. cases against home births). The above mentioned judgments, however, promise some changes in the practice of medical staff, courts and authorities in general (see e. g. a new methodology by the Ministry of Justice [1]).

Notes

[1] Methodological manual on the procedure of the courts, attorneys, and medical devices in the management of involuntary hospitalization of patients with mental disorders (Metodická příručka k postupu soudů, advokátů a zdravotnických zařízení v řízení o nedobrovolné hospitalizaci pacientů s duševní poruchou), 6 November 2012 (<http://portal.justice.cz/Justice2/MS/ms.aspx?j=33&o=23&k=2375&d=325687>).

Sources

Judgment of the European Court of Human Rights. *Bureš v. Czech Republic*. 18 October 2012, Application No. 37679/08.

Judgment of the European Court of Human Rights. *Sýkora v. Czech Republic*. 22 November 2012, Application No. 23419/07.

Press release of the Ministry of Justice regarding the four judgments of the European Court of Human Rights in the cases against the Czech Republic (Tiskové prohlášení Ministerstva spravedlnosti ke čtyřem rozsudkům Evropského soudu pro lidská práva ve věcech proti České republice), 22 November 2012 (<http://portal.justice.cz/Justice2/MS/ms.aspx?j=33&o=23&k=2375&d=325983>).



European Court of Human Rights, author Alfredovic, Wikimedia Commons.

The Third Constitutional Court

Ladislav Vyhnánek

One of the most important institutions in the Czech system of human rights protection – the Constitutional Court – has undergone some very important personnel changes. This year can be described as the end of an era of the “Second” Constitutional Court and the beginning of the third one. After a period of inactivity by the previous Czech President, Václav Klaus, the newly elected Miloš Zeman managed to find four judges for the Constitutional Court. Following the departure of Eliška Wagnerová, František Duchoň, Jiří Mucha, and Miloslav Výborný (who, as a last member of this group, left the Court on 3 July 2013), President Zeman appointed Milada Tomková, Jaroslav Fenyk, Jan Filip, and Vladimír Sládeček to take up the vacated seats. Moreover, the president asked the Senate to approve four other candidates to join the Constitutional Court in August, but only three of them got the Senate’s approval in the end. One of those judges was Pavel Rychetský, the President of the Court, serving his second term; two others, Kateřina Šimáčková and Ludvík David, are new to the Constitutional Court. These names reflect a balanced mixture of former Constitutional Court judges (Rychetský), judges of Czech

supreme courts (Šimáčková, Tomková and David), law professors (Filip and Sládeček) and practicing attorneys (Fenyk). Finally in November, the President got the Senate’s approval to appoint Radovan Suchánek. Suchánek could be considered the most controversial name on this list, mainly because of his young age and very close political ties to the Social Democratic Party. The question remains how these personnel changes will affect the Court’s approach to human rights. Nevertheless, the prediction is that the situation will remain more or less unchanged for two reasons. First, after 20 years of its existence, the Constitutional Court has developed an established body of case law which also precedentially binds the “Third” Court. Moreover, some of the new judges and candidates are not exactly new (Rychetský) and others have previously served as legal assistants at the Court (for example Filip and Sládeček).

In 2014, further seats will be vacated at the Constitutional Court. Some of the candidates being discussed belong to a younger generation of lawyers, such as Zdeněk Kühn or Vojtěch Šimíček, who are currently both serving as judges of the Supreme Administrative Court.

Constitutional Court of the Czech Republic, author Henta, Wikimedia Commons



An Independent Judiciary: Are Slovak Judges Capable of Self-Reflection?

Martin Bobák

A new documentary, an ancient mess

A report on a criminal infringement notice against documentarian Zuzana Piussi appeared in Slovak media in October 2012. Piussi had allegedly violated the personal rights[1] of Judge Helena Kožíková when she recorded a private conversation with the daughter of the deceased Judge Marta Lauková without Kožíková's prior consent. The conversation was subsequently published in the documentary *Disease of the Third Power* (2011) [2].

The director had a lot on her plate. Piussi aspired to spotlight the term *judicial independence* in an investigative way. She asserted that the term is currently being distorted and redefined within the Slovak judiciary while conceptually disconnected from its common notion vis-à-vis other European countries [3]. The director aspired to unveil and align facts about the power of Slovak judicial principals, who, by means of personally targeted coercion and institutionalized disciplinary proceedings with subordinate judges, have transformed the Slovak judiciary into an untrustworthy pillar of state power. In the documentary, Piussi interviewed a number of critics and confronted Štefan Harabin, the Chairman of the Judicial Council, personally. She sensibly depicted ambivalent views on the functioning of Slovak judicial administration. The documentary's greatest asset lies in illustrating the inability of those criticized to reliably explain their suspicious acts.

But what are the legal issues related to the content of the documentary? The subject matter of the film delivers a thorough critique of the conditions within the Slovak judiciary. The criminal infringement notice against Piussi has generated a relatively new issue in the conflict of personality rights and freedom of speech. Until now, personality rights were interpreted within the ambit of civil law that reflected the constitutional norm. However, a dimension of criminal law has recently been added to cases of defamation. Judge Kožíková swung into high gear to combat the journalists and other critics who aptly pointed out the judiciary's structural dysfunctions and personal blunders.

Some troubles with some members of the judicial branch

The courts' independence[4] is a requisite component of legitimate judicial performance. By definition, an environment of dependence and constant personal pressure can never provide an appropriate forum for resolving

legal disputes. If the courts are likely subjected to any external pressure (which impairs judicial independence) and if the judges preliminarily favour one party over the other (which impairs impartiality), the judiciary can never act as an independent and impartial branch of the state. Such courts are not shielded from bureaucratic control and do not generate public trust.

The Constitutional Act no. 90/2001 Coll. complemented the Constitution and established a new judicial self-governing institution – the Judicial Council. The foremost purpose was to secure the independence and impartiality of the Slovak judiciary in a similar way as in other European democracies [5]. The actual functioning of the Council has been publicly questioned, because the competences that were originally meant to strengthen independence and impartiality have been allegedly employed to cleanse the judicial branch of inconvenient justices. If any judge negatively appraises internal conditions of the judiciary, his critical voice will likely be, by means of devastating disciplinary proceedings, purged [6]. These proceedings give rise to vast internal pressure on acting judges not to step aside of institutionally defined, but often unsound, dogmas.

In addition to that, judges are allegedly subjected to preferential treatment, which splits them into two dichotomous groups: *the preferred submissives* and *the victimized dissenters*. If that assertion is true, it might be very difficult to perform well in the position of judge. Altogether, every judge stands before a factual obstacle of his pledge, because to “*interpret laws and decide independently and impartially, according to [...] best conscience*”[7] seems to be rather equivocal commitment in the current state of Slovak judicial affairs. Furthermore, widely publicized exemplary cases against nonconforming judges provide an impetus of intimidation, which often prevents the judges from deliberating independently and impartially.

Reflecting criticism or wrestling it?

The criticism of independence standards in Piussi's documentary is undoubtedly a positive move towards the widespread public dissatisfaction with the Slovak judiciary. The critics do not have an easy task. Nowadays, it is not that difficult to obtain fishy information, but in the realm of actions against infringement of personality rights, the critics must pay due attention while revealing delicate facts. Such actions have become very frequent in recent years. For instance, Harabin successfully battled defamatory voices in several civil law cases, where

his personality rights and the journalists' freedom of speech conflicted. The criminal infringement notice of Judge Kožíková represents an utterly new method of an allegedly injured judge seeking justice. It is undoubtedly a tough nut to crack.

Presumably, hidden camera images aided in portraying what might be "behind the scenes" in the Slovak judiciary. If Piussi had not utilized this technique for obtaining information, some facts about the justice system would have probably never been communicated to the public. Society would plausibly never learn about the internal affairs of judicial administration.

In these circumstances, should not the judges and the courts, which aspire to perform as the legitimately deciding institutions, be continually subjected to an assessment? Can critique-proof judges and judicial principals generate social values without any directly addressed criticism? Does an unencumbered critique provide a valuable corrective of judicial independence? Be that as it may, malicious legal counterattacks against critical voices signal the failure of the Slovak judiciary before the eyes of its clients – the public.

What matters now is the judiciary's inability to reflect critical opinions that in the form of caricatures, news articles, reports, or other means focus on personal indiscretions and structural blunders within the Slovak judiciary. Until judges continue to fight against any further critical commentaries instead of performing as independent and impartial judges, Slovak society will most likely not regain the trust in

judicial institutions.

Transparent and critique-receptive mechanisms help the system to function properly. Opaque and obscure systems that rarely reflect any criticism, on the other hand, are slow to absorb societal feedback, and literally close the door when such feedback comes.

As the 2010 Eurobarometer 74 survey shows, 65 % of respondents consider the Slovak judiciary an untrustworthy institution. Slovak distrust towards the judiciary is alarming, particularly when compared to other European counties where average distrust value came to 48 % [8]. Public confidence towards the judiciary might be reasonably elevated if, first, judges do not take advantage of legal actions in their fight against addressed criticism, but instead reflect this feedback in their daily performance and, second, in a case of flagrant wrongdoing incompatible with the position of an independent and impartial arbiter, the judge will willingly resign from the judiciary.

Instead of Conclusions

Even though the article presents a rather rough image of the Slovak judiciary, the Slovak judiciary is still likely capable of delivering good judicial practice. Every judge should try to foster public confidence in the fairness and objectivity of the justice system on an everyday basis. For the judiciary, this might be the best – or only – way to live up to societal expectations. There certainly are tons of excellent Slovak justices who pursue their vocation outstandingly. These people make great examples of courage and deserve a considerable respect for what they do.

With the strong support of the Slovak public, Zuzana Piussi was relieved from all criminal convictions. The police informed that the criminal infringement notice for breaching the law was suspended due to the non-criminal nature of Piussi's film [9].

Notes:

[1] § 377 of Act no. 300/2005 Coll., Criminal Code, *actus reus*: "Breach of Confidentiality of Spoken Utterance and Other Personal Expression."

[2] A subtitled version of the documentary *Disease of the Third Power* can be viewed at:



<http://www.changenet.sk/?section=kampane&x=689952>.

[3] Jana Dubovcová, former judge and current Slovak Ombudsman, claims that some judicial principals utilize their judicial independence in an abusive way. They build barriers to prevent any external authority from investigating judicial and social indiscretions.

[4] Article 145 of the Slovak Constitution.

[5] In stable democracies, the Judicial Council reinforces the non-hierarchical configuration of the legislative, executive, and judicial branches, while providing significant autonomy to the judiciary in questions of organization and financing.

[6] The list of disciplinary proceedings is available on the website of the Judicial Council: <http://www.sudnarada.gov.sk/databazy/>.

[7] Judicial Pledge on the Constitution under Art. 145 (4) of the Constitution of the Slovak Republic.

[8] Eurobarometer 74: Public opinion in the EU, Autumn 2010, http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_sk_sk_nat.pdf.

[9] Criminal infringement notice against Piusi suspended. 18 January 2013, <http://hnonline.sk/slovensko/cl-59147160-trestne-stihanie-filmarky-piusi-zastavili>.

The Democratic Deficit in the Czech Party System: a Brief Comment on Fees for Getting to the Election List of Candidates

Miroslav Knob

Politically active citizens in the Czech Republic can consider 2013 an unusual year inasmuch as the early elections to the Chamber of Deputies took place in October. One aspect of infra-party democracy raised serious concerns during the campaign – some parties required paying a fee in order to get on a candidate list. Such practices are nothing new in Czech politics, though. The Civic Democratic Party (*Občanská demokratická strana, ODS*) – the leader of the right-wing ruling coalition in the previous government – charged fees for positions in the list of candidates in 2012 regional elections. The fees were set by a regional

party council and differed according to electoral districts, ranging from 20,000 Czech crowns (€800) to 200,000 Czech crowns (€8,000) for a top spot. Information about the practice was kept nearly unnoticed, and it appears that Czech political leaders consider it normal.

In October 2013, the Czech Republic witnessed early elections to the Chamber of Deputies after the resignation of the right-wing coalition led by Prime Minister Petr Nečas (ODS). By the end of August the media reported that another former government party - TOP 09 - planned to charge fees for the positions on their candidate list. The party posted a “price offer” for positions on the list with highest fees reaching 50,000 Czech crowns (€2,000) on its website.

The basic requirements for the creation of a party's candidate list in the Czech Republic are set by the Election Act. General principles include inter alia the principle of democracy inside parties. The fee requirement for the position on the list of candidates is not strictly illegal; however, it might constitute a violation of infra-party democracy. While low fees might not be discriminatory, and express solidarity with the party which paid for the election campaign, nearly €10,000 for a top position may discourage many potential candidates.

This practice has caused no response from political representatives; party leaders have neither found it harmful nor questionable. However, it seems to be bad news for the Czech political culture. It is therefore questionable whether the Czech infraparty democracy is strong enough to keep the practice within acceptable boundaries to a degree that would prevent it from becoming an institutionalized instrument of political corruption. I am afraid that Czech political parties are on the way to become “political supermarkets”...



Chamber of Deputies of the Czech Republic. Author: Ervinpospisil, Wikimedia Commons

Segregation of Roma in Czech Special Schools

Miroslav Knob

In February 2013, Nils Muižnieks, The Council of Europe's Commissioner for Human Rights, issued a critical report on his recent visit to the Czech Republic. [1] His criticism focused on the continued segregation of Roma children in "Special Schools" intended for children with mild mental disabilities. The situation led the Commissioner to a statement that he was "deeply worried that five years after the Court's judgment [D.H. et al. v. Czech Republic], the situation of Roma children remains essentially the same." The report criticized the Czech Republic for deficiencies in the systematic collection of ethnic data, which are the primary tool for the identification of problems experienced by the Roma community. On the other hand, Muižnieks appreciated the research in that area conducted by the Czech Ombudsman.

In the commissioner's opinion, promising activities previously started by the Czech Republic (such as, for example, the 2010 National Action Plan for Inclusive Education), were interrupted due to a lack of political will. In this context, the report mentioned that a similar project in the United Kingdom, focusing on the inclusion of Czech Roma pupils in British schools has been successful. The action plan named "Equal Opportunities" (Rovné příležitosti), while criticized by non-governmental organizations, could bring some positive changes. The road to de-segregation will, however, not be an easy one, because as the Commissioner noted, segregation in the Czech education



Roma Children. Author Marc Swenker, Wikimedia Commons.

system has the support of the public as well as educational professionals.

Finally, the Commissioner recommended a comprehensive reform of the Czech primary education system, especially with regard to the issue of special education services. According to the report, there is a need to adopt long-term measures that will lead to the creation of an inclusive education system providing an appropriate education for all.

Notes

[1] The report is available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2324044&SecMode=1&DocId=2037440&Usage=2>.



Roma Children. Author US Embassy, Wikimedia Commons.

Business and Human Rights

Not Only States Should Respect Human Rights

Tereza Doležalová

Many years ago, states have accepted the Universal Declaration of Human Rights and the covenants derived from it. Since that time, they have been criticized for not respecting their human rights obligations. However, the expansion of multinational corporations, particularly in the early 1990s, affirmed that states and international organizations were no longer the only actors on the international scene, and that a decision made by the management team of a large corporation could influence human lives far more than some diplomatic negotiations. A logical, although somewhat slower reaction to the undisputed loss of states' power has been to ensure that companies were also to be endowed with certain duties and obligations, be it in the area of environmental protection or respect for human rights. States thus began to establish "close cooperation" and "constructive dialogue" with corporations in order to transfer some responsibilities to them.

By which human rights standards is business bound?

Human rights of employees have been, due to the existence of the International Labour Organization (ILO) and the national implementation of the labour standards, protected for quite a long time. However, one idea that has recently emerged is to accept social responsibility not only in some carefully selected areas (which was common in the *Corporate Social Responsibility* concept [1]), but in all areas where corporate activities might directly or indirectly interfere with human rights. This idea was, probably for the first time, expressed in the *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy* adopted by the ILO in 1977. The goal of the Declaration, which was then amended in 2000 and 2006, was to "encourage the positive contribution which multinational enterprises can make to economic and social progress and to minimize and resolve the difficulties to which their various operations may give rise" [2].

Modifications of the Declaration reflected what was happening in the United Nations (UN), where a draft of the *Standards of Corporate Responsibility and Accountability for Transnational Corporations and Other Business Enterprises with Regard to Human Rights* was introduced at the UN Commission on Human Rights in 2003. Even though the Commission did

not adopt the draft, at least it helped to promote the creation of the UN Secretary-General's Special Representative for Business and Human Rights position held by law professor John Ruggie [3]. Results of his work were summed up in the framework *Protect, Respect and Remedy*, which was later supported by the UN Human Rights Council's adoption of the *Guiding Principles on Business and Human Rights* in Resolution 17/4 [4]. Ruggie's concept is based on three pillars – a state duty to protect against human rights abuses by third parties, corporate responsibility to respect human rights, and greater access by victims to effective remedies, both judicial and non-judicial. Among the fundamental principles crucial for the implementation of the framework, Ruggie names the recommendation that all companies adopt and make public human rights policies and take them into account when creating internal guidelines and regulations and when assessing the impact of their business. By adopting the abovementioned resolution the Council also created a Working Group which carried on the mandate of the



Factory in China. www.flickr.com.

Special Representative and whose goal was to further promote the framework by, among others, organizing an annual Forum on Business and Human Rights [5].

Subsequently, the *UN Guiding Principles* were also embraced by the Organization for Economic Cooperation and Development that (inspired by the principles) amended the *Guidelines for Multinational Enterprises*, originally issued in 2000 [6]. In addition, the European Commission announced that it would, in the cooperation with the Institute for Business and Human Rights, elaborate guidelines for the implementation of human rights emphasized in the *UN Guiding principles* in three areas – employment and recruitment agencies, information technologies and communication, and oil and gas refining.

However the *Protect, Respect and Remedy* framework is still not the most successful step taken by the UN. In fact, the most crucial has been an initiative of UN Secretary-General Ban Ki-moon, called the *Global Compact* and introduced in 2000. This voluntary initiative is based on ten principles relating to the protection of human rights, particularly the right to freedom of assembly, the right to the prohibition of discrimination, prohibition of child and forced labour and corruption, and a right to the environmentally sustainable conduct of business. As of February 2013, 7,189

companies and 3,664 other organizations participated in the initiative. Since the birth of the initiative 4,086 companies were also excluded, as they did not submit the annual Report on progress made while implementing the ten principles [7].

The most concrete step was then taken by the International Organization for Standardization, which created an international standard ISO 26000:2010. By acquiring this certification, a company proves that its business is “socially responsible” and that it respects human rights [8].

Why companies would allow themselves to be bound by human rights standards?

It is, from the perspective of universal human rights, obviously desirable that companies are to be bound (although so far not legally) by international declarations they joined and that are relevant to their activities all over the world. However, why do companies voluntarily go beyond their legal duties and why do they acknowledge wider human rights standards? The answer can be really straightforward: their image. While in 1968, more than 70 % of responding Americans thought that companies act responsibly, in 2011 the same answer was given just by 10 % of respondents. According to another survey, the trust in companies has further de-



creased since 2012 [9]. The lack of trust in the business sector, or a bad corporate reputation, does of course have a significant impact not only on the quantity of products or services sold, but also on the quality of job applicants and the work of current employees.

Multinational corporations as well as smaller companies try to cope with the lack of trust in the business sector for a longer time. So far, they have worked to create a “green” image, offering recycled bags or entirely natural products. In a few years, human rights could become another advertising slogan. After all, companies can be also punished for infringing human rights – corporations have been sued for not preventing their property from being misused by armed groups, or from being sold to those who used it for perpetrating violence [10].

Where to find out more?

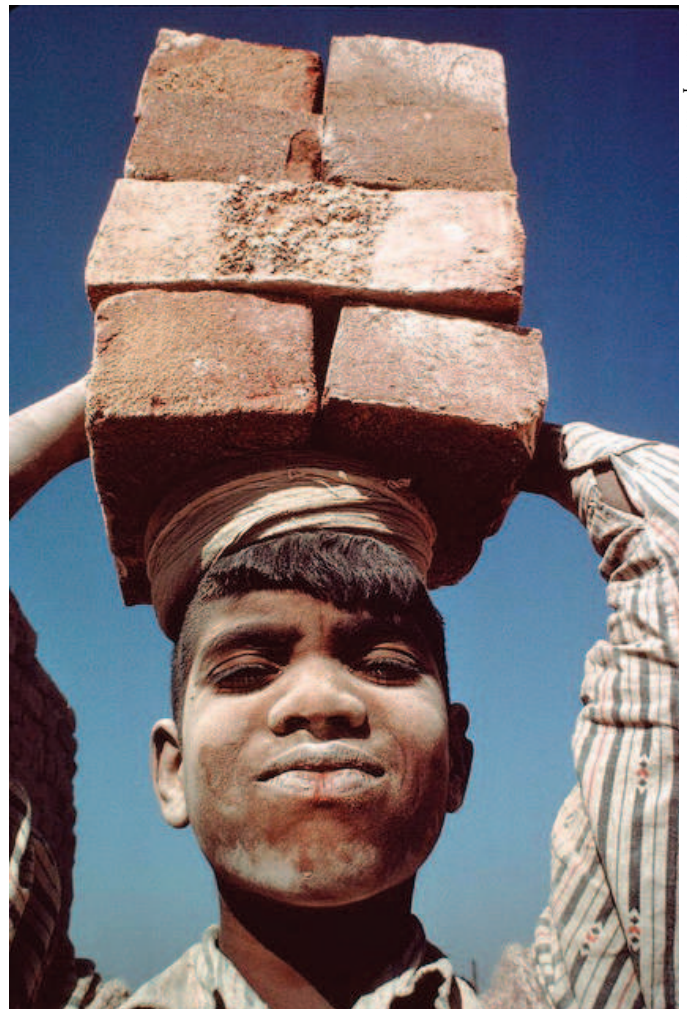
There are many organizations, initiatives, specialized research centres, and publications focusing on the issue of corporations and their respect towards human rights. However, by far the best source of information related to the business and human rights topic is the web site of the *Business and Human Rights Resource Center*. This is an online library that categorizes links to academic articles, international declarations, organizations focusing on the topic, key companies and their human rights policies, or to open positions for those who specialize in business and human rights. The organization also monitors and publicizes news related to human rights violations perpetrated by corporations. The Center also contacts the concerned companies with a request for comment. For more than 5,100 companies, information regarding their participation in the *Global Compact* initiative and also their reactions to the requests is made available. The concerned companies have reacted, so far, in 75% of cases brought to their attention [11].

A few final remarks

How human rights standards emerged and why the companies embrace them are questions that could be, although not exhaustively, answered. However, what does the growing emphasis on human rights obligations of companies mean for the concept of human rights as such? In other words, which further areas will human rights penetrate and who will be bound by them? One can imagine that human rights could be taken even one level lower and that they could bind individuals directly. Is it, in this context, realistic to expect that morality enforceable not by the fear of hell but of the temporal punishment will arise?

Notes:

- [1] This concept relates rather to voluntary activities like charitable contributions or corporate volunteering.
- [2] The whole text of the Declaration is available at <http://bit.ly/W1Wq4f>.
- [3] All the materials and information related to his work can be found at <http://bit.ly/W1YSYo>.
- [4] The wording of the principles is available at <http://bit.ly/W1ZIob>.
- [5] The first forum was held in December 2012. The summary of discussions held is available at: <http://bit.ly/W20UYG>.
- [6] Guidelines for Multinational Corporations are available at <http://bit.ly/W21NjM>.
- [7] See <http://www.unglobalcompact.org>.
- [8] Further information on the ISO 26000:2010 standard can be found at <http://bit.ly/WAfoK6>.
- [9] The first survey was conducted by the Gallup Institute for CNN/USA Today and the second one is the outcome of the Edelman Trust Barometer project, whose result can be found at <http://bit.ly/ITTtCy>.
- [10] Individual cases are described at <http://bit.ly/Xh5ZOZ>.
- [11] The web site of the organization with the list of cases and companies' reactions can be found at <http://bit.ly/Xh4wYW>.



Illustrative photo. www.staticlickr.com.

The Center's ENAR Shadow Report on Racism and Discrimination in the Czech Republic 2011-2012: A Worsening Situation for the Roma Minority

Zuzana Melcrová

In 2012, the Czech Center for Human Rights and Democratization was chosen to draft the ENAR Shadow Report on Racism and Related Discriminatory Practices in the Czech Republic in the period from March 2011 to March 2012.

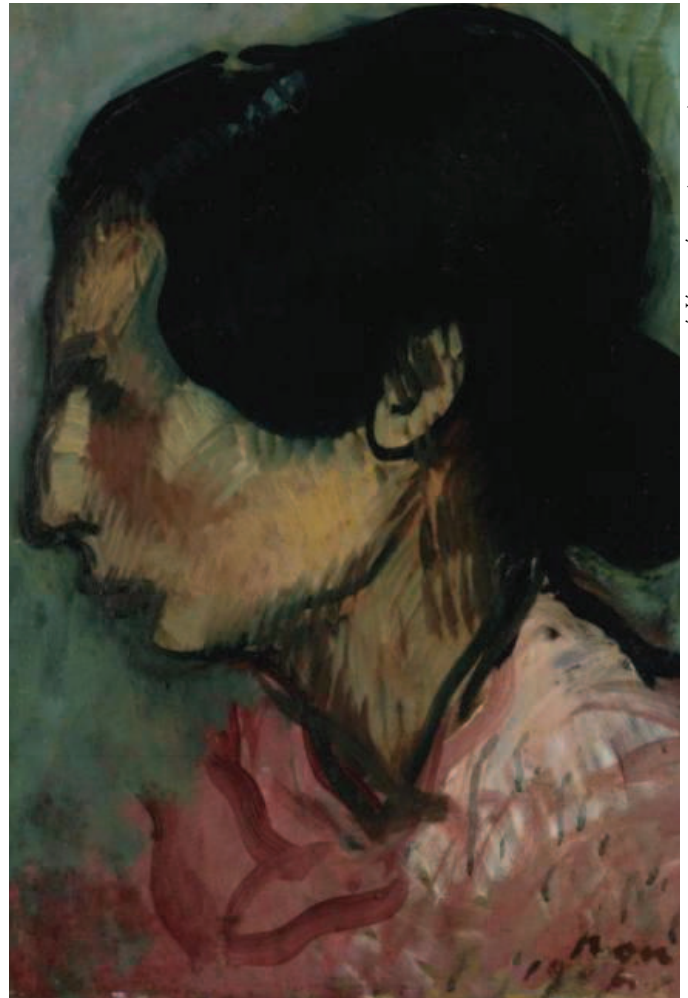
The European Network Against Racism (ENAR) is an EU-wide network of NGOs combating racism, racial discrimination, xenophobia, and related intolerance, and promoting equal treatment between EU citizens and third-country nationals. Every year, it publishes shadow reports on racism and discrimination in all EU member states which are drafted by national organizations and provide information about the situation in the EU countries from an NGO perspective.[1]

Our report revealed that the Roma persisted as the minority most frequently subjected to racism and discrimination in the period under review. Anti-Roma hatred increased especially in regions with a high concentration of their socially-excluded communities which at the same time suffer from high unemployment and lower level of economic development. The public and the media have criticized state authorities



for an inadequate response to the problems; however, short-term solutions (such as the deployment of specialized police units, anti-conflict teams etc.) have proven to be reasonably successful, and the situation has not escalated into large-scale violent conflicts.

Additionally, the report outlined the problems the Czech Republic has had, and for which has continuously attracted international criticism, regarding insufficient implementation of the D.H. et al. v. Czech Republic judgment by the European Court of Human Rights. This judgment concerned the overrepresentation of Roma children in "special schools" that have a substandard curriculum. The Government introduced



Isidre Nonell (1872-1911) - Study of a Gypsy. Wikimedia Commons.

a plan of inclusive education in 2010, but progress on the ground has not been significant to date.

The Roma have also remained the most vulnerable group on the Czech labour and housing market, as the report documents. They have not been often able to enter into standard rental contracts because of their ethnicity, irrespective of their ability to pay the rent. Therefore, the Roma have been pressured to rent rooms in lodging houses on a long-term basis, even though the rent often dramatically exceeds the local market rent for apartments. Moreover, the facilities in lodging houses are poorer. This situation has only deepened the social exclusion of Roma, especially in the most vulnerable localities.

The report clearly showed that the prejudices and negative attitude to the Roma were still strongly present in Czech society. In order to change the unsatisfactory situation, the Roma communities should participate in a long-lasting policy program solution. In this respect,



Diversity Photo courtesy of USDA NRCS, Wikimedia Commons.

the government adopted several conceptual documents (e.g. the Conception for Roma Integration for 2010-2013 and the Strategy Combating Social Exclusion); however, it is still too early to judge their effectiveness.

The 2011-2012 ENAR Shadow Reports specifically focused on Islamophobia in EU member states. In the Czech Republic, Islamophobia does not register among significant social and political issues, mainly due to the small size and composition [2] of the Muslim community. Muslims do not face systemic problems such as a high unemployment rate, social exclusion, or violent attacks. However, a latent level of Islamophobia in the Czech society is rather high, which is fuelled by fragmented, often biased and negative reporting on Islam and Muslims by the Czech media. In general, problems

encountered by the Muslim community in the field of discrimination and racism are far overshadowed by the problems faced by the Roma.

To learn more, see the ENAR Shadow Report 2011-2012 on the Czech Republic, which is available on the ENAR website. [3]

Notes:

[1] European Network Against Racism website: <http://www.enar-eu.org/>.

[2] The Muslim community in the Czech Republic consists largely of students and university-educated people.

[3] See: <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202011-12/Czech%20republic.pdf>.



**Czech Centre
for Human Rights
and Democratization**

Bulletin is published by The Czech Center for Human Rights and Democratization | **Address** Hubert Smekal, Joštova 10, 602 00 Brno, Czech Republic | **e-mail** info@center4hrd.cz | **tel.** 549 498 264 | **web** www.center4hrd.org | **Editors** Monika Mareková and Hubert Smekal | **Graphic editor** Tomáš Janků | **ISSN** 1804-2392.