

Minority Protection and Language Policy in the Czech Republic

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Abstract

This article gives an overview of the actual situation of national minorities living in the Czech Republic focusing on the State's language policy. Starting from a legally not binding "Concept to Issues Concerning National Minorities in the Czech Republic" in 1994, this new member state developed a largely satisfactory legal framework for the protection of national minorities during the last ten years preparing the accession to the European Union.

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1. Introduction

The Czech Republic is one of the ten new members who joined the European Union on May 1, 2004. Its 10.2 Million inhabitants today form 2.2% of the total number of all EU citizens. After the defeat of the Austro-Hungarian Empire during World War I, the Czechs and Slovaks declared their independence in 1918 and were united as a democratic Federative Republic of Czechoslovakia. Immediately subsequent to the division of the Czech and the Slovak Federative Republic on January 1, 1993 and the creation of two independent unitary states, the Czech Republic started to establish a close relationship to the European Union. The European Association Treaty from 1993 by which the Czech Republic acquired the status as an associated country entered into force on February 1, 1995 and already in January 1996 the State applied for membership in the European Union. One condition for the membership was compliance with the so-called Copenhagen criteria which include the protection of human rights and respect for and protection of minorities.¹ The accession negotiations were successfully concluded in December 2003 and the Treaty of Accession was signed on April 16, 2003. The majority of Czech citizens supported EU membership in the referendum held on 13-14 June 2003.

2. General information: census and settlement areas

In contrast to the strongly heterogeneous ethnic structure of Czechoslovakia, the Czech Republic became an almost homogenous country. According to the most recent Population and Housing Census² carried out by the Czech Statistic Office (CSO) in co-operation with the secretariat of the Council of the Government for National Minorities on March 1, 2001, only 9.9% of the population (1.022.318 persons) declared a national identity other than Czech, but including the Moravian and Silesian ethnicities (392,524 persons, i.e. 3.8%).³ The census sheet and methodology instruction were printed also in the minority languages Polish,

¹ The Comprehensive monitoring report on the Czech Republic's preparations for membership by the European Commission shows the compliance with these conditions.

<http://europa.eu.int/comm/enlargement/report_2003/pdf/cmr_cz_final.pdf>

² Stipulated in Act Nr. 158/1999.

³ Resolution of the Government of the Czech Republic Nr. 600 from June 12, 2002 to the Report on the Situation of National Minorities in the Czech Republic in 2001:

<http://wtd.vlada.cz/files/rvk/rnm/zprava_mensiny_2001_en.pdf>.

German, Roma, Ukrainian and Russian, as well as in English, French, Vietnamese, Arabic and Chinese. The 2001 census featured under the heading "ethnicity" an open question, so that any identity could be expressed.

The representatives of national minorities participated both in the preparation of the census, especially by informing their members publishing regularly in minority periodicals, and the performance as assistants or census commissioners. Nevertheless, the representatives of the Polish minority criticized both the shortage of official information in minority languages published by the Government and the media, which repeatedly underlined the possible misuse of personal data.

The most numerous non-Czech census group are the Moravian and the Silesian national identities. Even so, the citizens of Moravia and Czech Silesia do not form a recognized national minority. These national identities were introduced during the process of social transformation after the change of regime in 1989 and the issue of minority protection was politicized by leaders of the Moravia-oriented movements during a discussion about the so far unresolved status of Moravia and Silesia in the territorial and administrative structure of the Czech Republic. While all data on persons of other than Czech ethnicity are in decrease in comparison to the previous census of 1991, the decrease of these national identities reaches a dramatic 70%: from 1.362.313 Moravians and 44.446 Silesians, in 2001 only 373,294 respectively 11,248 declared these identities.

The proportion of the non-Czech population varies with districts and regions of the Czech Republic. With exception of numerous but dispersed groups of Slovaks and Roma, no national minority occupies a prominent position in the current ethnic make-up. Most members of the Slovak national minority, as the largest one, but dispersed throughout the entire Czech Republic, live on the territory of the Moravian-Silesian Ústí region, Prague, the South-Moravian, Middle-Bohemian and Karlovy Vary regions. Contrary to their dispersed settlement and due to history, there is a significant concentration of members of the Polish minority along the state border with Poland where, in the districts of Frydek-Místek and Karvina, they amount to more than 8% of the local population. Persons belonging to the German national minority live in the eastern, northern and western border regions, in an environment of former German language islands. Despite territorial dispersion throughout the Czech Republic, the Roma population can be considered as concentrated in industrial cities in Northern Bohemia and Northern Moravia as well as in Prague. In the same way, the less numerous national minorities of Bulgarians, Russians, Ruthenians, Ukrainians, Greek, Bulgarians, Romanians and also Jewish minorities living dispersed throughout the country are concentrated especially in Prague and other industrial cities.

3. Legal framework

National minorities' rights are protected by international law⁴, constitutional laws and domestic laws for some specific areas.⁵ Worth mentioning are bilateral agreements between the Czech Republic and neighboring countries, in particular the Federal Republic of Germany, Poland and Slovakia, which guarantee the protection of rights of persons belonging to the respective national minority. Article 10 of the Constitution of the Czech Republic gives human rights treaties precedence over domestic law.

The basic protection of national minorities is determined by the *Constitution*⁶ and the *Charter of Rights and Freedoms*⁷ as a part of the constitutional order. The Charter confers both collective and individual rights. It differentiates between national and ethnic minorities without defining this difference. In 1994, the Government of the Czech Republic formulated some legally not binding principles of the policy concerning national minorities in the document "Concept to Issues Concerning National Minorities in the Czech Republic".⁸ After a

⁴ For instance, the Framework Convention on the Protection of National Minorities, the International Pact on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination. See V. Týc, "International Agreements in the Legal Orders of the Candidate Countries", in A. Ott, K. Inglis (eds.), *Handbook on European Enlargement*, T.M.C. Asser Instituut, The Hague, 2002, pp. 229-237.

⁵ According to the State Report submitted by the Czech Republic to the Council of Europe in 1999 as one of its obligations under the Framework Convention on the Protection of National Minorities (see Art. 25 § 1), available at <www.coe.int>.

⁶ Act N. 1/1993. At <www.psp.cz/cgi-bin/eng/docs/laws/constitution.html>. See also the electronic data base Minority Rights Information System (MIRIS) at <www.eurac.edu/miris>

⁷ Act N. 2/1993. At <www.psp.cz/cgi-bin/eng/docs/laws/charter.html>.

⁸ Government Resolution No. 63/1994

long period of difficult discussions, in June 2001 a *Law on Ethnic and National Minorities* (Minority Act)⁹ was finally approved by the Czech Chamber of Deputies, entering into force on August 2nd, 2001.

This Minority Act specifies the rights of members of national minorities and the competence of ministries, administrative authorities and authorities of territorial self-administration units in relation to these rights. Although the Act was largely based on the Framework Convention on the Protection of National Minorities¹⁰, it differs in a fundamental way. § 2 Minority Act gives definitions for the basic terms “national minority” and “a member of a national minority”:

(1) A national minority is a community of citizens of the Czech Republic who live on the territory of the present Czech Republic and as a rule differ from other citizens by their common ethnic origin, language, culture and traditions; they represent a minority of citizens and at the same time they show their will to be considered a national minority for the purpose of common efforts to preserve and develop their own identity, language and culture and at the same time express and preserve interests of their community which has been formed during history.

(2) The member of a national minority is a citizen of the Czech Republic who professes other than Czech ethnic origin and wishes to be considered a member of a national minority in common with the others who profess the same ethnic origin.

Furthermore, the Minority Act foresees a Council of the Government for National Minorities as consultative and initiative body headed by a member of the Government. Nevertheless, this law is criticized not only by representatives of the national minorities, but also by NGO's¹¹ since it offers considerably less protection than early drafts and it may have little relevance for Roma, given the 10% threshold for application. Moreover, the UN Commission for Elimination of all Forms of Racial Discrimination repeatedly criticized the lack of legal provisions for the protection of minorities from discrimination, since the Minority Act was restricted to rights related to the development of national minorities without facing the problems of discrimination.

4. The use of language

Language and the ability to use the own minority language freely, in private as well as public life, serve for most minorities as a means of unity of the group and a source of self-identification for the individual.

4.1 In communication with authorities

Neither the Constitution does contain any specific mention of an official or state language nor does any other Czech law define the official language or the one of official communication. The status of the Czech language as the official one is, however, implicit in some legal regulations.¹² German, Polish, Hungarian, Ukrainian, Romany, Slovak and Croatian are spoken in the Czech Republic, though only the first four are recognized as official minority languages.

The right of ethnic and national minorities to use their language in communication with authorities is primarily based on the Constitution, Article 25/2/b. In addition, some legal regulations provide that every person who states that he does not speak Czech has the right to use his or her mother tongue before the court and before the bodies involved in criminal proceedings.¹³ The expenditures connected to the service of an interpreter are covered by the state. However, the Government notes that “in respect of the Romani national minority, an unresolved problem is an entirely insufficient number of Romani interpreters”.¹⁴

⁹ Act on rights of members of national minorities and amendment of some acts N. 273/2001, at <www.minelres.lv/NationalLegislation/Czech/Czech_Minorities_English.htm>.

¹⁰ See at <<http://conventions.coe.int/Treaty/EN/Treaties/Html/157.htm>>.

¹¹ See the Report Monitoring the EU Accession Process by the Open Society Institute (<www.eumap.org>) and the Report on Ethnic and National Minorities, May 28, 2002, by the International Helsinki Federation of Human Rights (<www.ihf-hr.org>).

¹² The Defence Act, some registries, the judiciary, the Law on Acquisition and Loss of Citizenship of the Czech Republic.

¹³ e.g. §18 of the Civil Procedure Code, §7 of the Law on Courts and Judges and §2 of Act on judicial criminal proceedings.

¹⁴ See <www.eumap.org/reports>.

4.2 Names and topographical signs

According to §7 of the Minority Act the members of minorities are allowed to use their names and surnames in their language. Since there are strict conditions determined by a special Act on registers, names and surnames¹⁵ in practical terms only female citizen of the Czech Republic or the parents of a female child under legal age can ask for the entry of an unchanged surname into a register, if they make an affidavit of their membership in a national minority. Although all representatives of national minorities basically embraced this new Act on Registers, they underline that practical problems are not sufficiently reflected. For instance, they criticize the administrative fee of 1,000 CZK¹⁶ for the change of an entry, especially for seniors.

In addition, the Minority Act stipulates that bilingual geographical names, as e.g. for communities, streets, public places, buildings of government bodies and territorial self-governing units, can be used.¹⁷ But in practice, as stated by the Government's Report on the Situation of National Minorities from June 2002¹⁸, the right to inscribe communities, streets and public places with names in the minority language has not been exercised yet. This arises probably from the fact that this right can be exercised only if 10% of the local citizens acknowledge membership in a national minority and 40% of adult citizens of them ask for this by petition. In September 2003, the Polish-speaking minority living in the region of Silesia started to collect signatures for bilingual signs. The largest town, called Ěeský Tisín/Czeski Cieszyn, was divided into a Polish and a Czechoslovak part after the collapse of the Austro-Hungarian Empire in 1918. The percentage of the Polish-speaking citizens nowadays stands only at 16.1% based on the last census. Furthermore, they entered into negotiations with the Czech Interior Ministry to introduce bilingual documents as e.g. birth, marriage and death certificates.¹⁹

4.3 Media

Broadcasting media and language-related regulations have a strong impact on the life of persons belonging to minorities.²⁰ While members of minorities have freedom of access to the media, at the same time, the broadcasters²¹ have the right, guaranteed by law, to broadcast their programmes freely and independently. Therefore, interference with these broadcasters is only permitted on the basis of the law and within its limits.

The Law on Czech Television of 1991²² (CT) states that among the main tasks of CT is the creation and transmission of programmes and the provision of a balanced selection of programmes to all sections of the population with regard to their ethnic or national background and national identity and the development of the cultural identity of the population of the Czech Republic, including members of national minorities. But in practice, minority languages are still not used in public television. Because of the severe criticism by representatives of national minorities, the Council of Government for National Minorities launched initiatives for the improvement of co-operation between CT and national minorities.

The Broadcasting Act on radio and television of 2001²³ deals with the rights and duties concerning the programme content. As well as insisting in objective and balanced news and current affairs programming, it imposes additional responsibilities on the statutory broadcaster by requiring in Article 31(4) a preparation of a programme structure "so as to provide, in its broadcasting, a well-balanced portfolio offered to all the population with respect to their age, gender, color of the skin, faith, religion, political or other opinions, ethnic, national or social origin, and membership of a minority". Nevertheless, minority

¹⁵ Act N. 301/2001.

¹⁶ \$ 1=27 CZK ca. on March 16, 2004.

¹⁷ § 29/2 of Act N. 1128/2000 Coll. on communities.

¹⁸ At http://wtd.vlada.cz/files/rvk/rnm/zprava_mensiny_2001_en.pdf.

¹⁹ For further information see

<www.usenglish.org/foundation/research/olp/viewResearch.asp?CID=18&TID=6>.

²⁰ For general information and as an overview about all OSCE countries see the study commissioned by the OSCE High Commissioner on National Minorities on *Minority-Language Related Broadcasting and Legislation in the OSCE*, at <www.ivir.nl/publications/mcgonagle/minority-languages.pdf>.

²¹ In December 2003, there is one national public television operator (with two channels), two private television operators, 12 regional television operators, 16 local television operators, 10 satellite operators and 11 cable operators.

²² Law N. 483/1991 as subsequently amended by Law N. 39/2001, at <www.mvcr.cz/sbirka>.

²³ Law N. 231/2001, at <www.rtv.cz/zakony_en/broadcasting_act2001.html>.

languages are used only in programmes prepared by minority editorial boards (German, Polish, Roma and Slovak).

According to the Press Act of 2000²⁴, members of minorities can exercise their right on dissemination and reception of information unlimitedly. As a consequence, own press by the organizations of national minorities is one of the preferred activities for the development of their culture and their national identity. So many periodical and non-periodical papers are published, supported by subsidies from the State Budget.

The Council for Radio and Television Broadcasting²⁵ is the administrative body supervising the observance of legislation regulating radio and television broadcasting and thus also the composition of programmes. In its Opinion on the Czech Republic²⁶, the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities criticizes this practice and recommends measures. In particular, they noted the dissatisfaction expressed by the small minorities represented in the Government's Council for National Minorities with regard to the time and length of programmes broadcasted in minority languages on the Czech radio.

5. Minority Education

Article 25 of the Charter provides for education in minority languages and the Minority Act guarantees the right to be educated in the minority language from nursery school level through to secondary schools.

For the practical application of the legal rules, the Ministry of Education, Youth and Sports established a *Consultative Group of the Minister of Education for the Affairs of Minority Education* whose members were recruited in 2001 from the representatives of Polish, German, Roma, Slovak, Hungarian and Ukrainian minorities living in the Czech Republic as well as the Jewish community.

Although the Minority Act does not give any minimum of threshold for minority children necessary to establish a class in the minority language, according to the Government's Report²⁷ the education in minority languages within the system of state education is possible only in the case of more numerous minorities which allow a sufficient number of pupils in their domicile. Therefore, this right is fully exercised only for the benefit of Polish children. The Polish national minority disposes of a network of schools in the districts Karviná and Frýdek-Místek which includes kindergartens, primary schools, grammar schools and secondary modern schools with Polish as the only teaching language.

The dispersed settlement complicates minority education for the small Bulgarian, Croatian, Ruthenian, Russian, Greek and Ukrainian minorities and even for the more numerous German, Hungarian, Roma and Slovak minorities. Thus the system of state education supports the education of members of the Polish, German and Roma minorities while other national minorities are educated only within the framework of additional educational programmes by means of grants for out-of-school activities. The representatives of the German minority acknowledge that the establishment of German schools is not realistic. Nevertheless, a part of their members have invoked the establishment of bilingual schools, with the predominance of German as teaching language.

6. The Roma national minority

The Roma minority holds an exceptional position within the general situation of national minorities in the Czech Republic. They were recognized as national minority for the first time by the Constitution of 1993. Although Roma ethnicity was declared by 11,716 persons during the last census, it is well known that these data do not correspond to the real number of Roma living in the Czech Republic. In general it is presumed that their number oscillates between 150,000-200,000 persons. Of this number 20,000 are Vlax Roma whose culture and language is substantially different. More than 95% of Roma moved to the Czech Republic from Slovakia after the Second World War or are descendants of these migrants. Experiences with the persecution during the Fascist period and daily discrimination due to the aversion of

²⁴ Law N. 46/2000, at <www.uvdt.cz/dokumenty/tzann.doc>.

²⁵ For further information see <www.rrtv.cz/en/index.html>.

²⁶ Adopted on 6 April 2001, at <www.coe.int/T/E/Human_rights/>.

²⁷ See reference 17.

the majority towards Roma result in the low number of declarations as "romipen" (ethnic and cultural Roma identity).

Roma still to date suffer disproportionately from poverty, unemployment, interethnic violence, discrimination, illiteracy and disease.²⁸ In 1997, the Inter-Ministerial Commission for Roma Community Affairs²⁹ was established as an advisory authority which addresses problems experienced by the Roma minority. Their aim is, in particular, to advance the integration of Roma and to inform the majority population about the Roma minority. In June 2000, the Government adopted a policy for Roma, the "Concept for Roma Integration", funded by the State Budget, and updated in January 2002. The main priorities for the future include not only anti-discrimination measures and ensuring the security of the Roma, but even more affirmative actions in education, employment, social and health care and housing. Although the National Plan on Employment for 2002 and also various activities of the Committee for Long-term Unemployed for the most disadvantaged groups on the labour market could slightly improve the situation for Roma, widespread discrimination continues.

A number of Roma media initiatives exist, as for instance a weekly one-hour program by the Czech Radio and four Roma periodicals funded from the Ministry of Culture. Nevertheless, the most problematic field is still the educational system. It is estimated that between 75% and 85% of all Roma children do not complete their education in the "mainstream" school system. Many Roma students drop-out or end up in "special schools" for children with disabilities. These schools offer a lower quality level of education and students progress at a slower rate, leaving them hopelessly behind students in "mainstream" schools. The result has been the creation of an unofficial segregated school system in which some special schools have a majority of Roma and others are all Roma. The Government approved a set of measures dealing with the education of Roma children. Approving the above mentioned policy for Roma, the Government reacted to the recommendations of the UN Human Rights Committee, which deplored the segregation of Roma children in special schools. The measures include the dissemination of information material, a voluntary full-time schooling pilot project in five primary schools, and the continuation of the preparatory classes' scheme.

As a result of the low educational standards and even more due to the fact that some employers refuse to hire Roma and even ask local labor offices not to send Romani applicants for advertised positions, the rate of unemployment is disproportionately high. Roma face discrimination also in housing and other areas of everyday life, e.g. access to restaurants.³⁰ Moreover, the pattern of violent abuse of Roma at the hands of police officers and private actors persists and the authorities often fail to investigate and prosecute such crimes.³¹

7. Political Representation and Institutions for the Protection of Minorities

There are no special rights ensuring parliamentary participation for minorities, and today a single Roma MP sits in the Czech Parliament.³² The Czech Republic's only political party of Roma, the "Romani Civil Initiative" has not succeeded in winning seats since 1992 and Roma candidates rarely top the five percent threshold for election, also because there is no

²⁸ See as example for this general opinion towards the Roma's situation the Country Report on Human Rights Practices 2003, released by Bureau of Democracy, Human Rights and Labor on February 25, 2004, available at <www.state.gov>.

²⁹ Now called the Council for Roma Affairs, it has 14 Roma regional representatives and an equal number of officials from the ministries.

³⁰ On May 28, 2002, the High Court of Justice in Prague decided that denial of access of Mr Jan Kovác, a Romani man, to the Drago Inferno club in the western Czech city of Karlovy Vary constituted a gross violation of human dignity and that Mr Kovác was entitled to non-pecuniary damages. See Roma Rights 2/2002, at www.errc.org/rr_nr2_2002/snap6.shtml. See the ridiculous letter of apology, as ordered by the Regional Court of Plzen, at <www.errc.org/rr_nr1-2_2003/noteb8.shtml>.

³¹ The United Nations Committee Against Torture, *Conclusions and Recommendations concerning the compliance of the Czech Republic with the Convention Against Torture*, 14 May 2001. See <www.errc.org/rr_nr2-3_2001/snap4.shtml>

³² Monika Horakova was elected in 1998 national elections as a candidate of the Union of Freedom party. See e.g. Romano Hangos, "I don't want to associate with people who I don't understand", Vol. 1. No. 5, 29 April 2000; as well as Mahulena Hosková, "Die Rechtsstellung der Minderheiten in der Tschechischen Republik" in Georg Brunner, Boris Meissner (eds.), *Das Recht der nationalen Minderheiten in Osteuropa*, Berlin Verlag Arno Spitz, Berlin, 1999, pp. 91-112.

common representative for Romani positions in issues that affect the minority as a whole.³³ § 15 of the Minority Act provides the possibility of creating municipal minority councils in areas where minorities reach at least ten percent of the population. In practice, as noted, there are few areas where national minorities are concentrated and reach this proportion of the population.

There is no independent body specifically monitoring racial equality in the Czech Republic. A newly formed Ombudsman's Office formed to defend the rights of citizens may provide some protection from racial discrimination. A number of bodies fulfill an advisory function to the government on Roma and other minority issues. A few civil society organizations are working on behalf of Roma rights.

8. Conclusion

While the situation of non-Roma minorities in the Czech Republic, i.e. essentially Slovaks, Poles, Germans, Hungarians and Ukrainians, is largely satisfactory, Roma still suffer from widespread discrimination in all fields of everyday life. In February 2002, the Committee of Ministers of the Council of Europe concluded that the Czech Republic had made commendable efforts to support national minorities and their respective cultures.³⁴ Also the European Commission declared the conditions for accession as in most parts successfully completed according to their comprehensive monitoring report on the Czech Republic's preparations for membership of 2003.³⁵ The European Commission against Racism and Intolerance stated in the third report on the Czech Republic made public on June 8, 2004 that a notable progress had been made in a number of fields since the second report from 1999.³⁶

But it is worth mentioning that the Czech Republic is the only country to have recognized the Romani nation in April 2001, through contacts between the International Romani Union (IRU) and the Czech Foreign Ministry. A memorandum between the two parties calls for further cooperation, improvement of living conditions for Roma within the Czech Republic, and support for "Europeanisation" of the Romani issue.³⁷

Since the application for membership in the European Union in January 1996, the Czech Republic has adopted a number of laws and Government's policies helping the integration as well as the cultural development of national minorities. Some efforts, as e.g. the introduction of pedagogical assistants for Roma in schools in 1997 that advanced the use of the Romani language in schools, were successful, others instead were not. All proposals on establishing an independent Office for the Rights of National Minorities for ethnic equality and integration or the strengthening of the advisory Council for National Minorities were rejected.

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³³ Eva Sobotka, *Roma in politics in the Czech Republic, Slovakia and Poland*, Roma Rights 4/2003, European Roma Rights Centre, at <http://www.errc.org/rr_nr4_2003/noteb2.shtml>.

³⁴ Resolution ResCMN(2002) on the implementation of the Framework Convention for the Protection of National Minorities by the Czech Republic, at <http://cm.coe.int/stat/E/Public/2002/adopted_texts/resCMN/2002xn2.htm>

³⁵ <http://europa.eu.int/comm/enlargement/report_2003/pdf/cmr_cz_final.pdf>.

³⁶ See at <www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Czech_Republic/>.

³⁷ *Memorandum on understanding and cooperation between the International Romani Union and the Ministry of Foreign Affairs of the Czech Republic*, January 2001, Emil Scuka (IRU), Martin Palous (Ministry of Foreign Affairs). The move has generated criticism from Czech Roma leaders as offering superficial international publicity for the government without providing solutions for Czech Roma. OSI Roundtable, Prague, 22 March 2001.

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