

CZECH REPUBLIC

CESCR E/1987/28

150. The Committee considered the second period reports of Czechoslovakia under articles 6 to 9 (E/1984/7/Add.25) and under articles 10 to 12 (E/1986/4/Add.15) at its 12th to 15th meetings, held on 16 to 18 March 1987 (E/C.12/SR. 12-15).

151. In his introduction of the reports, the representative of the State party pointed out the mutually re-enforcing relationship between the realization of economic, social and cultural rights on one hand and the socialist conception of development and of just, centralized distribution of resources on the other. The enjoyment of human rights, the full development of human capacities for all citizens and their active participation in the economic and public life of the country, he said, were guaranteed by the Constitution of Czechoslovakia and in her legislation as well as through the appropriate mechanisms and plans of action for concrete measures to this end. In this context, the representative referred to a document entitled "The Social and Economic Strategy till the year 2000", which the XVIIth Congress of the Communist Party had adopted, establishing the policies for raising the standard of living and improving conditions of work. He also drew attention to restraints imposed, such as the limits of available national resources, as well as external factors resulting from the international political tensions, the arms race and unequal trade relations.

General observations

152. Members of the Committee congratulated the representative of the State party on the quality and thoroughness of the reports, which had been submitted prior to the deadline, and praised the extensive efforts made for implementing Covenant provisions. Members of the Committee noted the absence of any indication of difficulties encountered in fulfilling obligations under the Covenant and observed that reports by the State party which had been submitted to ILO and to which the report of Czechoslovakia referred (E/1984/7/Add.25, para. 14) were not available to the Committee. In response the representative of the State party offered to provide the relevant document references.

153. As to the content of the reports, several members referred to Czechoslovakian accomplishments in the field of economic, social and cultural rights, including information concerning, inter alia, the eradication of illiteracy and unemployment. In discussing the reports as a whole, information of a general nature was requested about equality between the sexes, and about the relative competence of the two constituent republics of Czechoslovakia and of the Socialist Republic in respect of labour and social security legislation.

154. In his reply, the representative of the State Party quoted provisions of the national Constitution stipulating equality before the law of all citizens, regardless of nationality, race or sex. Men and women must enjoy the same conditions in the family, at work and in public activities. With regard to the competences of the Federation and the two constituent republics, he said that this subject is covered by a special chapter of the Constitution of Czechoslovakia which refers to the division of

jurisdiction between the Federation and the republics.

Article 6: Right to work

155. With reference to article 6 of the Covenant, questions were raised concerning assistance given to workers in search of new employment, for example as a result of the introduction of new technologies, the remedies available to workers in the event of summary dismissals or other unjustified termination of contracts; and about workers' freedom of choice, in particular that of women, when seeking, or avoiding, new employment. In connection with some of these questions and those put with regard to article 8, references were made to recent observations by the ILO Committee of Experts on the Application of Conventions and Recommendations with respect to the ILO Convention of 1958 concerning Discrimination in Respect of Employment and Occupation (Convention No. 111), and on the Committee's observations on the provision of the Czechoslovak Penal Code on parasitism. In particular the principles underlying the dismissal of workers who had signed or supported the so-called "Charter 77" declaration were questioned.

156. The representative of the State party, in response, described the training and other assistance provided to workers looking for jobs. As to dismissals, he described the relevant sections of the Labour Code which list the exact reasons for which notices can be given and the procedures leading thereto; in cases of non-compliance, the workers concerned have access to the courts. He stated that his country judged it necessary to protect women from exposure to certain work conditions, because of their social functions as mothers, and that such protection was considered compatible with the principles of sex equality. With regard to systematic avoidance of work, or parasitism, he observed that the Penal Code was being revised and this concept would eventually be redefined.

157. With respect to the 1985 report of the ILO Committee of Experts the representative stressed that the Committee was a technical body of ILO and reflected only one part of the views of the International Labour Office. The appropriate reference document in this regard is the report of the ILO Conference which is the supreme organ of ILO. It was stated that that report contained no indication of violations of Convention No. III by Czechoslovakia.

Article 7: Right to just and favourable conditions of work

158. It was noted that the rate of industrial injuries had dropped from nearly 5 per cent in the 1970s to under 3 per cent in 1983 and an explanation was sought of the higher rate. Similarly, information was requested concerning rest and holiday pay. Clarifications were also sought as to the reasons for the relatively low wages of workers in the cultural, scientific and development sectors who were normally expected to have the highest qualifications; as to the extent of profit-sharing as a form of income; as to the ready availability to workers of wage regulations and the role of workers, unions and management in their formulation; and as to the measures taken to ensure health and safety in the workplace.

159. In replying to questions raised, the representative of the State party provided up-to-date figures of the rate of industrial injuries and occupational diseases, confirming the downward trend indicated in the report. As to the relative frequency, he explained that all accidents, including minor ones,

leading to more than one day of absence from work were recorded in the statistics. Normally, a working week consisted of 5 working days and a total of 40 to 42 hours. Wages paid during official holidays were 50 per cent higher during ordinary holidays and 100 per cent extra for official holidays. The wage range between various categories of workers was analytically based on criteria relating to skills, knowledge, experience, responsibilities, and physical and mental effort, with wages also reflecting labour market forces so that occupations involving danger, dirty conditions or distance covered brought higher income. There was also a linkage in the economic sector between remuneration and the output of enterprises, as evidenced by the phenomenon of profit-sharing which could reach up to 40 per cent of salaries, with collective agreements; consequently the trade unions played an important role in determining and implementing that policy. As to the publication of wage scales, the representative explained that basic wages were published while the remainder was subject to negotiation between the trade unions and individual enterprises.

Article 8: Trade-union rights

160. With reference to the activities of trade unions, further information was requested about the positive legal basis for the establishment of such unions; the importance of voluntary associations; the right to strike and the frequency of strikes, particularly in light of the relevant ILO Conventions to which Czechoslovakia was a party; and the participation by trade unions in management at the legal and practical levels. It was noted that there was one single trade union in Czechoslovakia and members of the Committee wished to know whether any practical or legal difficulties might be encountered by individuals or groups seeking to establish other unions. With respect to the recent sentencing of the leaders of the Czech Jazz Association on charges of illegal commerce further information was sought as to the criteria by which artistic or commercial activities were judged to be illegal. Further information was also sought as to the level of women's participation in trade-unions.

161. Responding, the representative of the State party stated that workers had full rights through membership in such bodies as, *inter alia*, the Revolutionary Trade Union Movement, co-operative organizations, and sports and cultural associations. Since 1973, the statutes of such organizations did not have to be submitted to the Government for approval. The Movement played a significant role in shaping and implementing national economic, technological and social plans through participation in high-level government meetings and for the purposes of collective bargaining at all stages of the process. Although there were no formal regulations relating to the right to strike, the representative stated that this did not imply that strikes were prohibited, strikes did in fact occur, mostly in connection with remuneration and working conditions, but they did not involve opposing interests as in other countries. In response to the question posed concerning the trial of jazz musicians it was noted that the musicians in question had been prosecuted for the sale of works of art without a licence, which was recognized as an offence in most countries throughout the world.

Article 9: Right to social security

162. With reference to social security, information was requested as to, *inter alia*, the relative role of the State and trade unions in shouldering the burden. The question was also raised whether free medical care was extended, for example, to hospitalization and medicines.

163. The representative of the State party informed the Committee that all social security benefits were financed by the State and that there were no private or independent social security schemes. He explained further that health care was provided free of charge to all citizens, for foreigners working in the country and in some cases to tourists, the only exceptions being treatment for cosmetic purposes or that requiring costly materials.

Article 10: Protection of the family, mothers and children

164. With reference to article 10, questions were raised and explanations sought about laws regulating marriage and the termination thereof, including the rules about the marriages of minors aged 16 to 18; about the importance of State savings banks and of State subsidies in the granting of loans to young married couples; about the employment of minors; and about the levels of benefits for children and the elderly.

165. The representative of the State party confirmed the decline in marriages and increase in divorces, a phenomenon common to many countries, and indicated some of the reasons. He explained that minors over 16 could apply directly to the courts for permission to marry if the contract of marriage was in keeping with its social purpose, that is the foundation of a family. With reference to the inquiry about the employment of minors, the representative observed that there was nothing contradictory in the matter of contracts of employment and compulsory education up to the age of 16, but young workers were subject to especially close supervision with some types of work being expressly forbidden for adolescents. As to the care of elderly persons, it was explained that Czechoslovakia had a low retirement age, 60 for men and an average of 55 for women, which required extensive services already provided by the Government in addition to pension rights. The State representative also provided detailed information about divorce laws, including measures employed to assist couples in such situations, about loans available to young couples; and about the exact recipients of child benefits.

Article 11: Right to an adequate standard of living

166. In connection with the discussion of the report under article 11, explanations were requested concerning the difference between the terms “personal use”, “personal ownership” and “renting” of dwellings (E/1986/4/Add.15, para. 137); as to the classification of dwellings into categories; the criteria and procedures for distribution of State-built apartments, and the availability of State loans or other support to individuals for the construction of their own apartments. With regard to the report’s information on food production and food distribution, disappointment was expressed that, although the report dealt with co-operation with FAO, it did not contain references to bilateral co-operation to overcome poverty in many parts of the world.

167. The representative of the State party, in his reply, stated that Czechoslovakia was an active contributor towards both multilateral and bilateral co-operation between countries. He emphasized free technical training and university education offered to students from the Third World. He provided extensive information and statistics about State-owned, locally administered, co-operative and privately-owned housing units and dwellings, as well as about available loans and other assistance. The list of applicants for housing units was drawn up on an objective basis, with priority

being given, inter alia, to people rendered homeless by emergencies and to young couples.

Article 12: Right to physical and mental health

168. The extensive data on health conditions and water resources and pollution control, provided in the report, was said to attest to the scientific approach applied by Czechoslovakia in matters relating to the implementation of article 12.

169. In concluding the consideration of the report, the Chairman thanked the representative of the State party for having co-operated with the Committee in a spirit of constructive dialogue and with the common objective of implementing the rights recognized in the Covenant.

CESCR E/2003/22

68. The Committee considered the initial report of the Czech Republic on the implementation of the Covenant (E/1990/5/Add.47) at its 3rd to 5th meetings, held on 30 April and 1 May 2002, and made public, at its 27th meeting, held on 17 May 2002, the following concluding observations.

Introduction

69. The Committee welcomes the initial report of the State party, which it found to be comprehensive and generally in conformity with its guidelines for the preparation of reports.

70. The Committee notes with appreciation the extensive written and oral replies given by the State party, as well as the candid and open nature of the constructive dialogue with the delegation. The Committee also welcomes the willingness of the delegation to provide further information in writing concerning the questions that could not be answered during the dialogue.

Positive aspects

71. The Committee welcomes the enactment of a number of laws as well as legislative reforms undertaken in the country towards the promotion of economic, social and cultural rights.

72. The Committee welcomes the establishment in 1998 of the Council for Human Rights of the Government and in 1999 of the Office of the Public Defender of Rights.

73. The Committee notes with appreciation the cooperation of non-governmental organizations with the State party in the preparation of the report.

Factors and difficulties impeding the implementation of the Covenant

74. The Committee notes that the State party encountered difficulties in implementing the economic, social and cultural rights contained in the Covenant arising from the process of transition to a market-oriented economy.

Principal subjects of concern

75. The Committee regrets that the Covenant has not been given full effect in the State party's legal order and that most of the rights contained in the Covenant are not justiciable in the domestic legal order, in particular, the right to adequate housing, which the State party considers as merely a declaratory non-entitlement right.

76. The Committee regrets the absence of a national plan of action for the protection of human rights in accordance with the Vienna Declaration and Programme of Action.⁸ Furthermore, the Committee is concerned about the absence of an independent national human rights institution in accordance with the Paris Principles.⁹

77. The Committee is concerned that the inadequacy of the social safety nets during the restructuring and privatization process has negatively affected the enjoyment of economic, social and cultural rights, in particular by the most disadvantaged and marginalized groups.

78. The Committee is concerned about the recent decision of the State party to continue to apply, in violation of its obligations under article 2, paragraph 2, and article 6 of the Covenant, the “lustration” laws.

79. The Committee is deeply concerned about the high level of discrimination against Roma people in the fields of employment, housing and education. In spite of the fact that the State party acknowledges this fact, the administrative and legislative measures undertaken by the State party to improve the socio-economic conditions of the Roma are still insufficient to address the problem. The Committee is also concerned that, despite the affirmative programmes in favour of the Roma undertaken by the State party, no specific legislation has yet been enacted to outlaw discrimination against them.

80. The Committee notes with concern that the State party has not ratified a number of ILO conventions relevant to economic, social and cultural rights.

81. The Committee is alarmed about the increasing rate of unemployment, particularly among women, the Roma and other vulnerable groups.

82. The Committee is concerned that the minimum wage is still not sufficient to provide a decent standard of living for workers and their families.

83. The Committee notes with concern that there continues to be inequality in wages between men and women, with women earning approximately 75 per cent of men’s salaries.

84. The Committee notes with concern that the problem of domestic violence against women is not being sufficiently addressed and about the fact that the Penal Code of the Czech Republic does not contain any specific provision protecting women against domestic violence.

85. The Committee is concerned about the increasing rate of trafficking in women as well as the sexual exploitation of children.

86. The Committee is deeply concerned about the acute shortage of housing and the privatization of some public housing stocks which have resulted in a sharp rise in rents, forced evictions and homelessness.

87. The Committee is also concerned about the inadequacy of measures to ensure a decent life for persons with disabilities, including the mentally ill.

88. The Committee is deeply concerned about the high rate of drugs and tobacco use as well as the high level of alcohol consumption, especially among children and youth.

89. The Committee notes with concern that the incidence of HIV/AIDS is increasing, especially among young people.

90. The Committee is deeply concerned about the over-representation of Roma children in so-called “special schools” which are primarily designed for mentally retarded children, resulting in discrimination, substandard education and the stigma of mental disability.

91. The Committee is concerned about a constant decrease in the budget expenditure allocated to education and the consequences thereof on the enjoyment of the right to education.

Suggestions and recommendations

92. The Committee urges the State party to take appropriate steps to give full effect to the Covenant in its legal system, so that the rights covered by it may be directly invoked before the courts.

93. The Committee strongly recommends that the State party adopt a national plan of action for human rights and within this framework the creation of a national human rights institution, to deal with the protection and promotion of all human rights, including economic, social and cultural rights.

94. The Committee strongly recommends to the State party to integrate the provisions of the Covenant into its privatization programmes and provide for social safety nets in carrying them out.

95. The Committee urges the State party to repeal the “lustration” laws.

96. The Committee urges the State party, in line with “The concept of Roma integration”, approved by the Government on 23 January 2002, to take all necessary measures, legislative or otherwise, to eliminate discrimination against groups of minorities, in particular Roma.

97. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action¹⁰ when implementing the Covenant in the domestic legal order, in particular in respect of article 2, paragraph 2, of the Covenant and that it include in its next periodic report information on action plans or other measures it has taken to implement the Durban Declaration and Programme of Action at the national level.

98. The Committee encourages the State party to provide statistical data in its second periodic report, in particular on the enjoyment of economic, social and cultural rights by women, Roma and people with disabilities.

99. The Committee recommends that the State party ratify, in particular, ILO Conventions No. 2 (1919) concerning unemployment, No. 81 (1947) concerning labour inspection in commerce and industry, No. 117 (1962) concerning basic aims and standards of social policy, No. 118 (1962) concerning equality of treatment of nationals and non-nationals in social security, No. 138 (1973) concerning the minimum age for employment, No. 174 (1993) concerning prevention of major industrial accidents and No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

100. The Committee calls upon the State party to take effective action to reduce the unemployment rate, in particular among Roma people, women and other vulnerable groups.

101. The Committee urges the State party to re-examine on a periodic basis the level of minimum wages in order to secure a decent standard of living for all workers and their families.

102. The Committee urges the State party to intensify its efforts to address the gender inequality and to take the effective measures, legislative or otherwise to ensure that women enjoy full and equal participation in the labour market, particularly in terms of equal pay for work of equal value.

103. The Committee calls upon the State party to enact specific legislation on domestic violence.

104. The Committee urges the State party to adopt effective measures against the trafficking in women as well as the sexual exploitation of children.

105. The Committee urges the State party to take effective measures to address the problems of: (a) the housing shortage by adopting housing programmes, especially for the disadvantaged and marginalized groups; (b) forced evictions and homelessness by respecting the Committee's General Comments No. 4 (1991) on the right to adequate housing (art. 11, para. 1, of the Covenant) and No. 7 (1997) on forced evictions and devising a comprehensive plan to combat homelessness.

106. The Committee encourages the State party to adopt a comprehensive National Health Strategy.

107. The Committee recommends that the State party adopt effective measures to ensure more appropriate living conditions for persons with disabilities. The Committee requests the State party to report in its second periodic report on the laws and measures adopted by the State party with regard to people with disabilities, including the mentally ill, in particular on the number hospitalized, the facilities made available to them and the legal safeguards put into effect for the protection of patients.

108. The Committee calls upon the State party to adopt effective measures to reduce tobacco smoking, drug abuse and alcohol consumption, especially among children.

109. The Committee recommends that the State party comply with the standards of the *International Guidelines* on HIV/AIDS and human rights.¹¹

110. The Committee recommends that the State party consider increasing the budget allocation for education.

111. The Committee urges the State party to take immediate and effective measures to eliminate discrimination against Roma children by removing them from "special schools" and integrating them into the mainstream of the educational system.

112. The Committee encourages the State party to provide human rights education in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights,

among State officials and the judiciary.

113. The Committee requests the State party to inform the Committee, in its second periodic report on steps taken to implement its concluding observations. The Committee also encourages the State party to continue involving non-governmental organizations and other members of the civil society in the preparation of its second periodic report.

114. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2007.

8/ Adopted by the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993 (A/CONF.157/24 (Part I), chap. III).

9/ Principles relating to the status of national institutions for the promotion and protection of human rights (see General Assembly resolution 48/134 of 20 December 1993, annex).

10/ Adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001 (A/CONF.189/12, chap. I).

11/ *HIV/AIDS and Human Rights: International Guidelines. Second International Consultation on HIV/AIDS and Human Rights, Geneva, 23-25 September 1996* (United Nations publication, Sales No. E.98.XIV.1).