**January 2018**

**Replies of the Czech Republic to Questionnaire on Human Rights Council Resolution 35/14 on Youth and Human Rights**

1. **Is there a national law on youth in your country? If yes, please describe it (including how youth is defined within the specific law).**

In the Czech Republic, there is no specific complex law on youth.

The Czech Civil Code (Act no. 89/2012 Coll.) provides for basic rules regulating the legal capacity of children. The concept of legal capacity of the child applied under the Czech civil law is built on the principle of evolving capacities of the child. Section 31 of the Civil Code states that *“any minor who has not yet acquired full legal capacity is presumed to be capable of making legal acts which are, as to their nature, appropriate to the intellectual and volitional maturity of the minors of his age”*.

For certain types of legal issues the Czech law sets forth concrete age limits when the child acquires full legal capacity to act independently before the age of 18 (which is the age of majority under the Czech law). For instance at the age of 15 the child acquires full legal capacity to act independently in matters relating to the employment or to determinate the place where he/she wants to live [which means that at this age the child should not be taken in alternative care against his/her will – a rule that is not respected in practice – see response to question 2)]. Since the age of 14 the child, even if not mature enough to decide about the intervention independently, cannot be exposed to an interference with his/her integrity if he/she seriously objects to the intervention, even though his/her legal representatives consents to it, unless there is a court approval of such an intervention.

At the age of 15 the child acquires as well full criminal responsibility. The criminal responsibility of a juvenile is nevertheless relative – if it is proven in the criminal proceedings that the juvenile is not mature enough to recognize the unlawfulness of his/her behaviour or to control it, he/she will not be found criminally responsible. The Czech Republic has adopted a specific law regulating juvenile justice system (Act no. 218/2003 Coll., Juvenile Justice Act). This law deals with: criminally responsible juveniles; juveniles who, due to their immaturity or due to other reasons, cannot be found criminally responsible; and children who are below the age of criminal responsibility. There are also specific rules requiring that juveniles (children 15 - 18 years of age) are held separately from adults in places of criminal detention and in prisons.

The law regulating the public protection of the development of the child (in Czech so-called “social and legal protection of the child” – Act no. 359/1999 Coll.) is rather vague as to the determination of situations in which the public authorities may intervene with the social and family situation of the child and his/her family even against the will of the child since it does not set forth any age limits in this regard. The Act thus formally allows the authorities to intervene with the situation of the child and his/her family and to provide the child with help and protection they deem to be necessary even against the will of the child until the child acquires full legal capacity. This happens according to the Civil Code either at the age of 18 (which is the most common case), or if the child is emancipated (the child up from 16 years of age will be granted with emancipation if he/she will apply for the emancipation, is able to make his/her living by himself/herself and if the legal representative of the child approves the emancipation, or if the child of the same age enters into a marriage with an agreement of court). Public protection of children who are immature (children below the age of 18) but who have already acquired full legal capacity limits itself to a form of counselling or support when placed either in care or in a penal institution (in the form of visits of the worker of the public authority in the institution).

1. **What are the main challenges that young people face in your country?**

The main challenge that young people face in the Czech Republic is the prevailing paternalism whose roots date back to the era of non-democratic government in the former Czechoslovakia before 1989. In its Concluding Observations on the Third and Fourth Periodic Report of the Czech republic of May 2011, the Committee on the Rights of the Child expressed its concern that traditional perceptions of children as objects rather than subject of rights was widespread in the Czech Republic (CRC/C/CZE/CO/3-4, para. 34).

This paternalism results in practice very often in disproportionate interventions with the right of the child to personal liberty and freedom of movement, his/her right to protection of family and private life as well as to the autonomy of the child. As to the personal liberty, even though the law grants the child up from 15 years of age with legal capacity to decide where to live, the practice of placing these children in care institutions against the will of the child, on basis of a family care order, is still quite common. The Ministry of Labour and Social Affairs of the Czech Republic which is responsible for authorities ensuring public protection of children issued in November 2016 a methodologic handbook which condemns such a practice and currently works on its implementation. In September 2017 the Ministry organised, in connection with Czech presidency of the Committee of Ministers of the Council of Europe, an international conference “Detention of Children in Social Welfare Institutions” whose objective was to point out at the illegitimacy of practice of depriving adolescent children of their personal liberty for social welfare reasons (in words of Article 5 of the European Convention on Human Rights and Fundamental Freedoms for the purpose of educational supervision).

Even though the general rule regulating legal capacity of a child as cited above is built on the concept of evolving capacities, this concept is not respected in all the branches of law. For instance the Act on Education (Act no. 561/2004 Coll.) is built on a concept that makes it impossible for the child to act independently in issues relating to his/her education and that requires the child to be always represented by a legal representative until the child acquires full legal capacity.

Young persons in the Czech Republic are thus very often due to legislation or more frequently due to the approach that adults apply with respect to them in practice, including courts and public authorities, denied the possibility to act by themselves, to decide on important issues that affect them even though the decision would correspond to their maturity and capacities and to actively claim their rights before courts or other competent bodies.

1. **What measures is the Government taking to ensure the full implementation of young people´s rights (civil and political rights and economic and social rights)?**

Young people´s rights are paid attention to in numerous strategic documents adopted by the Czech government even though the document itself is not specifically targeted only on young persons, but on the implementation of rights of the child in general.

This is the case of the National Strategy to Protect Children´s Rights – Right to Childhood (which is available in English from: <https://www.mpsv.cz/files/clanky/13456/strategy.pdf>), which sets as its sub-objectives, inter alia:

* increasing the general awareness of children´s rights among adults as well as children (sub-objective no. 2);
* creation of opportunities for children and young people to participate in the decisions on matters that concern and influence them (sub-objective no. 3);
* ensuring equal opportunities for children and young people from disadvantaged social environments (sub-objective no. 4);
* ensuring equal opportunities for children and young people with disabilities (sub-objective no. 5);
* setting the legislative conditions to safeguard positive benefits and to ensure that the needs of children and young people are met (sub-objective no. 13).

The specific strategy dealing with young persons is the Youth Strategy 2014 – 2020 (the Strategy is available in English from: <http://www.msmt.cz/areas-of-work/sport-and-youth/youth-strategy-2014-2020?lang=2>). The Strategy is built on three pillars:

* facilitating the transition of young people into independent individuals responsible for their own lives, their family, community and society;
* a focus on real needs and opportunities of young people;
* promoting young people´s potential for societal development.

The horizontal priorities of the Strategy are:

* equal opportunities;
* inter-ministerial and cross-sectorial approach;
* support for non-formal education (including leisure-based education) and quality youth work;
* involving young people in the decision-making processes and participation;
* intergenerational solidarity.

The strategic goals of the youth policy of the Czech Republic for 2014-2020 are:

* to facilitate equal access of children and youth to rights;
* to facilitate equal access of children and youth to information;
* to create favourable and sustainable conditions for the participation of children and youth in leisure-based and non-formal education;
* to expand and make more attractive the offer of leisure activities and to motivate children and youth to actively participate in them;
* to support the cross-border mobility of young people;
* to improve conditions for employment and employability of youth;
* to promote holistic and harmonious development of children and youth with emphasis on their physical and mental health and moral responsibility;
* to promote active involvement of children and young people in decision-making processes and in influencing the social and democratic life;
* to create favourable conditions for volunteering for young people including valuation and recognition of voluntary activities;
* to facilitate the inclusion of children and young people with fewer opportunities;
* to motivate children and youth towards a life based on the principles of the sustainable development and to develop their environmental literacy;
* to encourage the development of competencies of children and young people for safe and creative use of media;
* to offer children and young people a variety of paths to culture, arts and traditions.

The Strategy further elaborates concrete steps in order to fulfil these strategic goals.

For the implementation and realization of rights by young people the first strategic goal seems to be one of the most important goals of the Strategy. The goal has two sub-objectives:

* to strengthen effective inter-ministerial cooperation in the provision of information for young people and about young people and
* to facilitate equal access of children and youth to information.

In order to implement the first sub-objective the Ministry of Labour and Social Affairs of the Czech Republic organised a nation-wide campaign “Right to childhood” as a part of a systemic project realized by the Ministry from 30 April 2015 to 31 October 2015. In 2014 an information website [www.pravonadetstvi.cz](http://www.pravonadetstvi.cz) was designed as a part of this campaign. The website focuses on dissemination of information about the rights of children as they are guaranteed in the UN Convention on the Rights of the Child and is still periodically actualised. There are three categories of addressees of the information on the website – general public, children and experts so that the information obtained is as comprehensible and as relevant as possible.

1. **Could you please give examples of policies and programmes adopted to support and empower young people in the exercise of their rights?**

See answer to question 3).

1. **How are youth organisations or youth-led structures involved in developing, implementing, monitoring and/or evaluating policies and programmes on youth in your country?**

In 2014 a National Working Group for Structured Dialogue with Youth was established. The Group is led by the Czech Council of Children and Youth and according to the Youth Strategy 2014-2020 represents an instrument for “the effective involvement of young people in the decision-making process in the areas of implementation and evaluation of Strategy 2020”. The National Working Group for Structured Dialogue with Youth describes themselves as “a process enabling young people to be involved in the shaping of policies that affect them, through continuous cooperation among youth representatives and decision-makers.” (more information about the National Working Group may be found in English from: <http://www.strukturovanydialog.cz/en> and from: <http://www.kecejmedotoho.cz/english>).

The Ministry of Education, Youth and Sports established a Youth Chamber (Komora mládeže) which is an advisory body to the Minister. The Youth Chamber consists of:

1. representatives of all ministries that are responsible for the fulfilment of different tasks set forth by the Youth Strategy 2014-2020, i. e. Ministry of Education, Youth and Sports, Ministry of Regional Development; Ministry of Environment; Ministry of Labour and Social Affairs; Ministry of Industry and Trade; Ministry of Health; Ministry of Culture; Ministry of Interior; Ministry of Agriculture);
2. representative of the National institute for children and youth;
3. representative of the Association of workers of Houses for and Youth
4. representative of the Czech Council of Children and Youth;
5. representatives of regional offices, departments for youth;
6. representatives of local governments;
7. representative of employers;
8. representatives of churches and religious communities.

The Youth Chamber should be involved in the implementation of the Youth Strategy 2014-2020 as well as in the monitoring of this implementation.