The Policy on Gender Equality in the Czech Republic

In-depth analysis for the FEMM Committee
The Policy on Gender Equality in the Czech Republic

IN-DEPTH ANALYSIS

Abstract

Upon request by the FEMM Committee, this report provides an overview of the existing gender-equality legislation and policies in the Czech Republic, focussing on the recent developments and achievements. It discusses gender equality in employment, reconciliation of work and family life, presence of women in decision-making positions, recent measures to fight violence against women, and sexual and reproductive health and rights. The Czech Republic is still far from reaching real equality between men and women, in spite of a quite satisfactory level of implementation of EU legislation. In practice and daily life, the country has still a long way to go.
# CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIST OF FIGURES</td>
<td>4</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td>5</td>
</tr>
<tr>
<td>INTRODUCTION</td>
<td>6</td>
</tr>
<tr>
<td>1. GENERAL INFORMATION</td>
<td>7</td>
</tr>
<tr>
<td>1.1. Historical background</td>
<td>7</td>
</tr>
<tr>
<td>1.2. An overview of gender equality law and policy</td>
<td>9</td>
</tr>
<tr>
<td>1.2.1. Gender equality: main issues and sources of law</td>
<td>9</td>
</tr>
<tr>
<td>1.2.2. Gender equality machinery</td>
<td>10</td>
</tr>
<tr>
<td>2. THEMATIC DISPOSITION</td>
<td>12</td>
</tr>
<tr>
<td>2.1. Women in the labour market</td>
<td>12</td>
</tr>
<tr>
<td>2.1.1. Employment</td>
<td>12</td>
</tr>
<tr>
<td>2.1.2. Gender pay gap</td>
<td>14</td>
</tr>
<tr>
<td>2.1.3. Social protection - pensions</td>
<td>14</td>
</tr>
<tr>
<td>2.2. Reconciliation of private and professional life</td>
<td>16</td>
</tr>
<tr>
<td>2.2.1. Maternity leave, and paternity and parental leave</td>
<td>17</td>
</tr>
<tr>
<td>2.2.2. Formal childcare services</td>
<td>18</td>
</tr>
<tr>
<td>2.2.3. Flexible working hours</td>
<td>19</td>
</tr>
<tr>
<td>2.3. Equal participation in decision-making</td>
<td>19</td>
</tr>
<tr>
<td>2.3.1. Women in politics</td>
<td>20</td>
</tr>
<tr>
<td>2.3.2. Women in economic decision-making</td>
<td>20</td>
</tr>
<tr>
<td>2.4. Eradication of gender-based violence</td>
<td>21</td>
</tr>
<tr>
<td>2.5. Eradication of trafficking in human beings</td>
<td>22</td>
</tr>
<tr>
<td>2.6. Sexual and reproductive health and rights</td>
<td>24</td>
</tr>
<tr>
<td>2.6.1. Coercive sterilisations and abortion</td>
<td>24</td>
</tr>
<tr>
<td>2.6.2. Day after pill</td>
<td>25</td>
</tr>
<tr>
<td>2.6.3. Assisted Reproduction</td>
<td>25</td>
</tr>
<tr>
<td>2.6.4. Caesarean sections / Epidural anaesthesia</td>
<td>25</td>
</tr>
<tr>
<td>2.6.5. Giving birth at home</td>
<td>25</td>
</tr>
<tr>
<td>2.6.6. Coercive sterilisations of Roma women</td>
<td>27</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>29</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>30</td>
</tr>
</tbody>
</table>
LIST OF FIGURES

FIGURE 1
Gender segregation in the Czech Republic, 2012 12

FIGURE 2
Unemployment rate development in the Czech Republic (1991-2014) 13

FIGURE 3
Difference between employment rates with and without children under 12, men and women aged 25 to 49, 2010 17
EXECUTIVE SUMMARY

The Czech Republic, one of the countries which joined the EU in 2004, is very similar to other European countries as regards gender (in)equality. This is despite the fact that the former Czechoslovakia was a pioneer in guaranteeing equal rights to women and men and introduced the right for women to vote, as well as equality before the law, as early as in 1920. Forty years of communist regime however damaged many aspects of societal life, including in the field of equality between men and women.

Current **Czech legislation in force implements quite satisfactorily EU legislation**, and Czech laws are harmonised with EU directives. This however does not mean that there are no persisting problems in the field of gender equality.

Women are still discriminated against in the labour market, and the **employment gap and gender pay gap remain among the highest in Europe**, even though the relevant labour legislation and Anti-Discrimination Act guarantee equal treatment to all employees.

**Generous social protection for parents with small children** (parental leave can be taken simultaneously by both parents until the child reaches three years of age and a parental allowance can be claimed until the child reaches four) is unfortunately not helping the situation, as it is **almost exclusively women who take maternity and then parental leave**. Most mothers stay at home with their children for three years, as affordable childcare services for children below two years barely exist.

**The position of women in decision-making is also not very good.** In politics, women are of course present in political parties, but they are often put in hardly electable positions on political lists and are also underrepresented in decision-making positions in political parties. As regards the position of women in large companies, women rarely appear in high management positions. Czech society as such is however quite strongly against the idea of quotas for women in the executive boards of big companies.¹

By contrast, the **eradication of domestic violence** has become quite an issue and a topic of wider debate within Czech society, probably thanks to many awareness-raising campaigns launched in recent years. Changes to criminal law and efforts by NGOs could help in near future victims of gender-based violence.

**Trafficking in human beings remains a very serious problem**, although not very often discussed. This phenomenon is seen and considered from the perspective of criminal law much more than within its gender dimensions. Some amendments to criminal law were adopted over the last ten years in order to support victims of trafficking.

In the field of **health and reproductive rights**, the topic of home births has recently been very much discussed and there is also very interesting case law in this regard. The coercive **sterilisations of Roma women** remain a sad reality in Czech practice, even if very rarely carried out. Adequate compensation has never been paid to the victims.

There are still many aspects of gender equality where the Czech Republic has plenty of room for improvement in order to guarantee real equality, including for future generations.

¹ See e.g. a study conducted by KPMG in 2012 - [http://www.kpmg.com/CZ/cs/IssuesAndInsights/ArticlesPublications/Press-releases/Stranky/Povinny-pocet-zen-ve-vedeni-Cesi-rikaji-ne.aspx](http://www.kpmg.com/CZ/cs/IssuesAndInsights/ArticlesPublications/Press-releases/Stranky/Povinny-pocet-zen-ve-vedeni-Cesi-rikaji-ne.aspx), according to which 56% of population are against quotas.
INTRODUCTION

The aim of this report is to provide an overview of existing gender-equality legislation and policies in the Czech Republic, focusing on their recent developments and presenting the most relevant milestones in gender-equality achievements in the last years, notably in relation to gender equality in employment, reconciliation of work and family life, the presence of women in decision-making positions, and recent measures to fight violence against women and trafficking in human beings, as well as to promote health and reproductive rights.

The overall picture which emerges from this report is that, in many fields, the Czech republic is still far from reaching satisfactory results, due in particular to still deeply enrooted gender stereotypes and a lack of courage to bring cases before the courts. At the same time, it can be argued that EU law has played and is still playing a very important role in the struggle for equal treatment of women and men.

The report has been prepared by consulting academic literature, official documents and websites, and studies and analyses by human rights and gender-equality organisations.
1. GENERAL INFORMATION

**KEY FINDINGS**

- As early as 1920, Czechoslovakian women were guaranteed the right to vote under the first Czechoslovakian Constitution. At the same time, many women’s associations became active, aiming for a better position for women in the daily life of society.

- As of February 1948, the “women’s issue” became an instrument of communist propaganda. The communist regime achieved a relatively high level of participation of women in the labour market and families with small children were provided with generous social security benefits, as well as childcare facilities.

- Gender stereotypes and discrimination against women - especially in the labour market - were not eradicated and persisted during the second half of the 20th century. Full equal treatment has been introduced in legislation as part of the process of harmonisation and implementation of EU law.

- Equal treatment is currently guaranteed under many legislative acts, of which the Anti-Discrimination Act is the most important.

- As regards the enforcement of equal treatment legislation, the Ombudsman’s Office (the "Public Defender of Rights"), which works as an equality body in the Czech Republic, plays a significant role. Several NGOs are also very active in promoting equality.

1.1. Historical background

Looking at the history of the Czech Republic entails looking at the history of one of the two presently independent countries of the former Czechoslovakia. The Czechoslovak Republic was established in 1918 as a modern democratic country that declared its independence from the Austro-Hungarian Empire.

The issue of women's rights and equality was an essential part of the concept of democracy. Right from the beginning, the "women’s issue" occupied the thoughts of an important part of intellectuals and of political representatives, which took up already existing emancipation efforts which began in the 1860s. At the beginning of the 20th century, women struggled for their political rights. T.G. Masaryk, the first Czechoslovak president and a professor of sociology, felt there was a profound connection between building a real democracy and supporting women’s participation in societal life. He argued that it was very important to enforce the real equality of women not only in the new Czechoslovak legislation, but also in daily life. As for the legislative part, one of the biggest achievements of the newly built Czechoslovak society regarding the “women’s issue” was approval of the first Czechoslovak Constitution in 1920, which guaranteed, among other

---

2 The common state split into two in 1993. Since 1 January 1993 two independent states have existed – the Czech Republic and the Slovak Republic. Both countries joined the EU as of 1 May 2004.

3 Ženská národní rada (1930), Masaryk a ženy, Prague, p. 14.
rights, equality between men and women, including the right to vote:4 for the first time in Czechoslovakia, a legislative document entrenched women’s rights, starting from the right to vote, which was the most important right creating a modern concept of democratic society. Many women’s organisations started to be active. There were two important streams: the liberal women’s organisations, which gathered under the Women’s National Council (later an active member of the International Women’s Council), and Catholic women’s organisations, which gathered under the Federation of Catholic Women’s Associations.5 They not only strived to enforce the equal treatment of women, but were also active in social and political fields.

The positive developments of a young society which emphasised democracy and therefore also started to promote equality, were abruptly interrupted by the German annexation and occupation, the Second World War, followed by the communist revolution in 1948. Economic necessities related to the events following 1939 drove a new trend of forced participation in the labour force. Low levels of income were introduced in 1946 through the first wage reform. At that time, women were massively entering into the labour market and a ‘two-breadwinner family’ model was being developed.

The historical events of February 1948 represented a milestone in the development of the whole of Czechoslovak society during the next 40 years. Many things changed from that time, among others the routing of further development of the position of women in the society. From the position of women in society being a feature of a developing democratic society, to the economic factors that forced women to enter the labour market, the “women’s issue” ended up as being an instrument of communist propaganda. Communist governments tried to introduce several incentives for women to enter fully into the labour market and at the same time propaganda gradually built an image of socialist women as women who were employed full-time, used institutional, day-long (sometimes even week-long) childcare services, were politically active, and managed to run the household efficiently. As a result, the employment of Czechoslovak women increased during the second half of the 20 century – from 37.4% in 1948, to 46% in 1984.6

The high rate of women's employment during communist times should not be interpreted exclusively as a positive achievement in relation to equality between men and women, as it seemed mainly motivated by the need to overcome poverty.7 On the other hand, the communist regime enhanced women’s participation in the labour market through social and labour measures which supported women's participation in the labour market as well as child care.8 At the beginning of the 1950s a network of nurseries and kindergartens were built and social security for families with children was developed.

---

4 Article 106 of the Constitution stated: ‘Preferences of sex, origin or career shall not be accepted.’4 Furthermore, Article 9 reads: ‘All citizens of the Czechoslovak Republic shall have the right to vote in elections of Parliament, regardless of their sex, providing they have reached 21 years of age and comply with other conditions for voting in elections of Parliament.’

5 For further details of the history of the Czechoslovak feminist movement see Burešová, J. (2001), Proměny společenského postavení českých žen v první polovině 20. století. Univerzita Olomouc, Olomouc.

6 Data published in Bauerová, J., Bártová, E. (2007), Proměny ženy v rodině, práci a ve veřejném životě. Nakladaatelství svoboda, Prague, p. 188. The level of women’s employment was quite high in comparison with the level of women’s employment in other countries at that time. Czechoslovakia had one of the highest levels of women’s employment in the world (only Eastern Germany and the USSR were ahead).

7 There are some studies which were carried out during communist times that presented the results of surveys in which women defined the necessity to contribute to the family budget as their first motivation to work. Sočová, M. (1984), Postavení ženy v socialistické společnosti, Horizont, Prague, p. 64.

8 H. Scott argues in this regard that, “with the exception of the Scandinavian countries, none of the western capitalist countries accompanied the rapid entry of women into employment with comprehensive social and political legislation designed to give them equal rights, all the socialist countries did so, basing their programs for the most part on those measures already tested in the Soviet Union.” Scott, H. (1974), Does Socialism Liberate Women?, Beacon Press, p 84.
By the 1970s, social security for women with small children reached a relatively high level. Up to the age of three years of their child, women were entitled to a maternity allowance\(^9\) and to a child subsidy\(^{10}\), and their job was guaranteed during that period.

All the efforts of socialist governments did not change attitudes in society and did not eradicate gender stereotypes, which became clear especially after 1989 during the process of democratisation and liberalisation of society.

The issue of equal treatment of women and men is a very good example of the difficulty of changing deeply rooted mentalities and behaviours in society as a whole. The equal treatment of men and women was legislated as late as in the second half of the 1990s, encouraged by the need to harmonise Czech law with EU law.\(^{11}\)

1.2. An overview of gender equality law and policy

1.2.1. Gender equality: main issues and sources of law

The concept of equality as such is currently defined in the Art. 3 of the Czech Charter of Fundamental Rights and Basic Freedoms (Act No. 2/1993 Coll.), which is part of the Czech Constitution.

The main concepts of discrimination were defined in the Anti-Discrimination Act (Act No. 198/2009 Coll.), which was adopted very late, following great hesitation by the political representatives of that time. Discrimination is also outlawed under other pieces of legislation, especially the Labour Code (Act No. 262/2006 Coll.), the Employment Act (Act No. 435/2004 Coll.) and also through some special acts, such as the Acts on Professional Soldiers (Act No. 221/1999 Coll.), on the Service Relationship of Members of the Security Corps (Act No. 361/2003 Coll.), on the Service Relationship of Members of the Police of the Czech Republic (Act No. 186/1992 Coll.) and on Civil Service (Act No. 234/2014 Coll.).

The Anti-Discrimination Act is currently the only piece of legislation that incorporates legal definitions of basic concepts such as direct and indirect discrimination, instruction to discriminate, harassment and sexual harassment. The Anti-Discrimination Act follows the definitions given in EU law (it implements the whole body of antidiscrimination directives) and does not go further than what EU law requires. Acceptable forms of different treatment are defined in Section 6 of the Anti-Discrimination act. Positive action is permitted in national legislation under certain conditions. Section 7(3) of the Anti-Discrimination Act defines what type of action does not constitute discrimination.\(^{12}\) The Anti-Discrimination Act defines as legal instruments of protection against discrimination the right of a person who has been affected by discriminatory behaviour (i.e. not only the

---

\(^9\) According to Act No. 54/1956 Coll., on sickness insurance for employees, the maternity allowance was 90% of the previous net earnings of the mother.

\(^10\) There was a lump-sum allowance after the birth of the child and a flat-rate universal allowance for every child up until the age of 15 years.

\(^{11}\) The historical development of the equal treatment legislation and policies in the Czech Republic are described in more detail in Koldinská, K. (2007), ‘Gender Equality: Before and After the Enlargement of the EU: The Case of the Czech Republic,’ European Law Journal 13: 238-252

\(^{12}\) It states that ‘[M]easures targeted at preventing or reducing disadvantages resulting from being a member of a group of people who may be discriminated against on the ground of their race, ethnic origin, nation, sex, sexual orientation, age, handicap, religion, faith or world opinion shall not be considered as discrimination.’
victim) to demand through the courts a distancing from such behaviour, the removal of the consequences of this violation, and appropriate redress, including financial compensation.

The burden of proof has been shifted onto the employer under Section 133a of Act No. 99/1963 Coll., on Civil Procedure.

1.2.2. Gender equality machinery

The Czech Ombudsman (Public Defender of Rights) was made the equality body when the Anti-Discrimination Act entered into force, and this office works very well in this regard. The office publishes a large number of reports and issues public opinions. In December 2014, the Czech government supported a proposal from the Minister for Human Rights to extend the competences of the Ombudsman’s office in the field of equal rights and enable it to present proposals to the Constitutional Court regarding those pieces of law which are contrary to the principle of equal treatment and also to present public claims before Czech courts.

The Anti-Discrimination Act makes it possible for legal entities which have been established in order to protect victims of discrimination to provide information and assistance in the drafting of claims for protection against discrimination. Such entities are also competent to propose checks on or the monitoring of a public authority overseeing equal treatment legislation. These private legal entities do not have a direct right of access to the courts, however.

As regards social partners, these hardly play any real role in promoting gender equality in the Czech Republic. Not even collective agreements are used very often as a means to implement EU gender equality law.

Case law is also still very sparse in the Czech Republic, due especially to the fact that victims of discrimination are discouraged from enforcing their rights due to the length of procedures and possible complications, as well as general public opinion, which still maintains gender stereotypes and prejudices, so that it is more often the discriminator who is seen as the victim.

As regards gender equality policy, there are several governmental bodies and councils, as well as non-governmental organisations, dedicated to equal treatment of men and women. The Governmental Council for Equal Opportunities of Men and Women, the president of which is the Minister for Human Rights, and also the Department for Equal Opportunities of Men and Women, working within the Ministry of Labour and Social Affairs, coordinate governmental action in the area of gender equality. As regards non-governmental organisations, there are many working in the field of equal treatment of men

---

15 As a significant legal entity established in order to provide legal help to victims of discrimination, the Pro Bono Alliance can be mentioned. http://www.probonoalliance.cz/en/W
16 It was seen quite clearly in one of rare cases of sexual harassment presented to courts. The victim was presented quite negatively by the media and also the court did not find that the behaviour of the boss of the victim was sexual harassment, even if it was found inappropriate. See news on Štorkánová case http://zpravy.idnes.cz/sexualni-obtezovani-soud-nevidel-dia-/domaci.aspx?c=A030121_185526_praha_krimi ton.
and women. Among the most important are: Gender Studies\textsuperscript{19} and Forum 50\%\textsuperscript{20}. Academia has also entered into the public discussion on equal opportunities and anti-discrimination policies.\textsuperscript{21}

\textsuperscript{19} http://www.en.genderstudies.cz/.
\textsuperscript{21} Within the Faculty of Human Studies at Charles University in Prague, there is for example a Department of Gender Studies (since 2004), http://gender.fhs.cuni.cz/KGSENG-1.html.
2. THEMATIC DISPOSITION

2.1. Women in the labour market

KEY FINDINGS

- Discrimination, gender segregation and a pay gap still persist in the Czech Republic, even though equal treatment is guaranteed under the current legislation in force. This leads to a still unsatisfactory position of women in the labour market.

- The gender pay gap remains one of the highest in the EU. This is due to several factors, among which is the low number of cases brought before the courts.

- The social security system is one of the most generous in the EU. In the field of pensions, a real and complex reform is still awaited. There is still unequal treatment of men and women as regards the pensionable age within the obligatory pension scheme.

- In occupational pension elements, the equal treatment of men and women is guaranteed by law.

2.1.1. Employment

Following the events of 1989, women were the first group to be affected by unemployment, although in the first years of the 1990s general unemployment increased very slowly.22 Women are still generally disadvantaged in employment due to labour market discrimination; vertical and horizontal gender segregation is still present in different sectors of the labour market.23

Figure 1: Gender segregation in the Czech Republic, 2012

The gender employment gap still represents 18 percentage points and remains one of the highest in the EU.25 The unemployment rate has historically remained higher for women than it is for men, as the following figure reveals.


The above-mentioned phenomena persist, even though the legislation in force prohibits any form of discrimination based on gender. The Anti-Discrimination Act regulates equal access to employment and includes a general obligation for employers to provide for equal treatment in this regard. Protection against discrimination applies to all natural persons who fall within the legal relations covered by the act (the right to employment and access to employment, access to vocational training, entrepreneurship and other self-employment activities, labour relations and relations of civil servants and other dependent activities, and membership of and activity in trade unions, works councils and organisations of employers, professional chambers, etc.). The Czech legislator used the right provided in Directive 2006/54 to determine that a difference in treatment which is based on a characteristic related to sex shall not constitute discrimination under specific conditions and for certain kind of jobs.

The Labour Code in some parts also regulates the prohibition on discrimination within labour relations. Employers are obliged to ensure the equal treatment of all employees as regards their working conditions, remuneration for work and the provision of other monetary considerations and considerations of a monetary value, professional training, and the opportunity to be promoted or other advancement in employment. The Labour Code makes a link to the Anti-Discrimination act, which is the main legal instrument of implementation of the whole body of anti-discrimination directives.

---


26 Since 2004 there was a change in methodology of the calculation of the unemployment rate. This had been based on the job applicants register, but this was, from 2013, replaced by the share of unemployed persons (aged 15-64 years) in the population of the same age.

27 Section 5(3) of the Act No. 198/2009 Coll.

28 A general exception as stipulated in EU law is regulated in the Sec. 6 of Anti-Discrimination Act or e.g. in the Act on the Service Relationship of Members of the Security Corps, which states that if a substantial reason is given, a difference in treatment (in general, not just related to sex) shall not constitute discrimination, where the aim of such an exception is legitimate and the requirement proportionate. – Sec. 77(7) of the Act No. 361/2003 Coll.

29 See Labour Code, sec. 16 and 17.
2.1.2. Gender pay gap

The gender pay gap in the Czech Republic remains one of the highest in Europe. While the EU average represents ca 16%, in the Czech Republic it is 22%.\(^\text{30}\) The highest differences are among employees with a university degree and employees having a secondary school education without completing a “maturity” exam.\(^\text{31}\)

Equality in pay is guaranteed under the current legislation. The Anti-Discrimination Act defines pay using the term remuneration.\(^\text{32}\) In the Czech Labour Code pay is defined as a wage, salary or remuneration which is a monetary consideration or an in-kind consideration provided to an employee for work done. Section 110 of the Labour Code regulates the equal pay obligation. All employees are entitled to receive equal pay for the same work or for work of an equal value. The same work or work of an equal value is taken to mean work of the same or comparable complexity, responsibility and strenuousness, which is performed under the same or comparable working conditions and which is of equal or comparable work efficiency and produces equal or comparable work results. The Labour Code covers almost all basic principles and elements of remuneration, including the principle of equal pay. However, the principle of equal pay for men and women is not explicitly mentioned.

The Anti-Discrimination Act does not further specify the equal pay principle, so that for purposes of equal pay, the Labour Code is the more relevant Act in Czech legislation.

The problem of equal pay is rather complex in the Czech Republic. Even though there are apparent differences in earnings, there is almost no relevant case-law. Employees are in general quite timid and hesitant to sue their employers; moreover it is rather difficult to obtain proof of pay discrimination, as employees normally refrain from informing their colleagues about the amount of their salary, as it is a social habit not to speak about one’s own earnings (sometimes not even within the family or among close friends). This is generally accepted, as it is a social habit not to speak about one’s own earnings (sometimes not even within the family or among close friends).\(^\text{33}\)

2.1.3. Social protection - pensions

The Czech social security system is one of the most generous in Europe\(^\text{34}\). The current statutory schemes of social security apply to the entire working population and provide protection against all risks mentioned by Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. The conditions of the Czech social security systems are not normally linked to gender and in general the Directive is well implemented.

Mandatory pensions, which are, according to settled CJEU case law, regarded as part of pay, used to be a very generous system based on a pay-as-you-go model. Due to a quite dramatic ageing of the population recent governments have tried to adopt some pension reforms. These however often fell victim to political battles and the Czech Republic is thus still waiting for a proper and complex pension reform.


\(^{32}\) Remuneration ‘shall mean any performance, whether monetary or non-monetary, recurring or one-off, which is directly or indirectly provided to a person in paid employment’ – Sec. 5(1) of the Act No. 198/2009 Coll.

\(^{33}\) Havelková, B. (2007), Rovnost v odměňování žen a mužů, Auditorium, Prague.

\(^{34}\) This will be examined in more detail also in the next chapter, regarding maternity and parental leave and benefits.
The obligatory pension system still allows access to more generous benefits for women, due to the legal definition of pensionable age. Whereas there is one pensionable age for men, which is gradually being increased, there are differences in the pensionable age for women depending on the number of children they have raised. This does not apply to men, even if a man has raised his children alone. The pensionable age will be equal for men and women in 2044, when people born in 1977 will have reached 67 years of age. Until then, the current discrimination against men seems to be maintained by legislation. This practice has not changed following the ECtHR ruling in Andrle, or even following the CJEU ruling in Soukupova case.

The Anti-Discrimination Act guarantees equal treatment in occupational schemes (Section 8). All exceptions allowed in Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) have been included in the Anti-Discrimination Act. Whole parts of the directive (chapter 2) have been adopted literally and in their entirety, and copied into Sections 8-9 of the Anti-Discrimination Act. In this regard, implementation does not seem to be satisfactory as the directives have not been transposed in the real sense of the word, but have simply been copied. The obligation to implement this part of EU law has been formally completed but without any real legislative consideration as regards concrete issues.

In January 2013, the Act on Retirement Savings entered into force. This Act established a new pension scheme. However, the scheme includes almost no aspects of occupational pensions, even though it was declared a ‘second pillar’ system. This means that the relevant provisions of the Directive 2006/54 (chapter 2) can hardly be said to have been implemented through establishing this system. The current government is working hard to

The Policy on Gender Equality in the Czech Republic

36 Andrle v the Czech Republic [2011] (Application no. 626B/08). Following his divorce Mr. Andrle obtained custody of his two minor children. He sought to retire at the age of 57, but his request was refused on the grounds that he had not attained the pensionable age, which at the time was 60 for men. The age for women was 57 or lower, depending on the number of children they had raised. The applicant appealed on the grounds that the fact that he had raised two children should have been taken into account in calculating his retirement age, but his appeal was dismissed after the Constitutional Court ruled in separate proceedings that the legislation was not incompatible with the Constitution. He did not challenge the difference in pensionable age between men and women in general. The Court accepted that the measure at issue pursued the legitimate aim of compensating for factual inequalities and hardship arising out of the specific historical circumstances of the former Czechoslovakia, where women had been responsible for the upbringing of children and for the household, while being under pressure to work full time. In such circumstances, the national authorities were better placed to determine the moment at which the unfairness to men began to outweigh the need to correct the disadvantaged position of women by way of affirmative action. The Czech Government had already made the first concrete move towards equalising the retirement age by legislative amendments in 2010 which had removed the right to a lower pensionable age for women with one child and directed the reform towards an overall increase in the pensionable age irrespective of the number of children raised. The Court further ruled that in the specific circumstances of the case that approach continued to be reasonably and objectively justifiable until such time as social and economic changes removed the need for special treatment for women. The timing and the extent of the measures taken to rectify the inequality in question were not manifestly unreasonable and so did not exceed the wide margin of appreciation afforded to the States in this area.
37 Case C-401/11 Blanka Soukupová v Ministerstvo zemědělství [2013] ECR nyr. Mrs Soukupová was a farmer who has raised two children. In 2004, she reached the age at which she became entitled to an old-age pension. In 2006, she filed with the State Agricultural Intervention Fund an application for registration under the support scheme for early retirement from farming. Her application was refused, because at the time at which that application was made, Mrs Soukupová had reached the age entitling her to an old-age pension. Mrs Soukupová challenged that decision by bringing an action before the court, claiming that the condition laid down was discriminatory on the ground that the age required for entitlement to a retirement pension, under that paragraph is determined differently for men and women and that, furthermore, it varies for women according to the number of children raised. She maintained that, under Czech legislation, women who have raised more children objectively enjoy a shorter period in which to submit an application for registration under the support scheme for early retirement than that granted to men or women who have raised fewer children. The CJEU ruled that it is incompatible with European Union law and the general principles of equal treatment and non-discrimination for ‘normal retirement age’, as defined by the national legislation in question.
abolish this system by 1 January 2016. By that date, all the money shall be transferred to the third pillar – individual savings.\(^3^8\)

There are some other elements of the Czech occupational schemes to be mentioned: for example, there is the possibility for employers to contribute to the individual pension schemes of employees who are insured under a scheme of supplementary pension savings, and at the same time of writing a prohibition on discrimination is in place within this scheme.\(^3^9\)

### 2.2. Reconciliation of private and professional life

**KEY FINDINGS**

- The *impact of motherhood* on the employment of Czech women is among the greatest in the EU, due to **limited access to affordable childcare facilities**.

- The *protection* of workers on maternity or parental leave is quite **generous**, and maternity benefits and parental allowance are also provided for a relatively long time and are of a reasonable amount.

- **Affordable childcare facilities** are lacking. Facilities for children under two years of age hardly exist. The situation might improve slightly in the future, as an *act on children’s groups* has been adopted.

For Czech women, recent data shows that the *impact of motherhood on employment* is among the greatest in the EU, due to **limited access to affordable childcare facilities** and a comparatively **low take-up of part-time work**. Access to childcare facilities remains among the lowest in Europe: only 5% of children under three years of age are cared for in formal childcare, compared with 30% in the EU as a whole. Long spells out of work and difficulty returning to work adversely affect women’s career progress, as evidenced by a large gender-employment gap and pay gap (both the fourth largest in the EU24).\(^4^0\)

---

\(^3^8\) The pension savings system (Act No. 426/2011 Coll.) was a voluntary system, which could have been joined by opting out of the first pillar with a 3% obligatory contribution and at least another 2% from individual savings. The system was administered by private subjects, called pension companies.

\(^3^9\) Sec. 1(3) and 10(1) of the Act No.1 427/2011 Coll., on supplementary pension savings.

Figure 3: Difference between employment rates with and without children under 12, men and women aged 25 to 49, 2010

The figure above shows clearly that women with small children often do not return to work, at least until the youngest child reaches three years. After several years of a break from work, employers often hesitate to enable them to proceed in their career or to entrust them any decisive work tasks. This affects almost exclusively women, as they are almost exclusively carers. Women are in 98% of cases the claimants of parental allowance, which can be provided until the youngest child in the family reaches four years of age. Such a high percentage is due not only to gender stereotyping, but also due to the above-mentioned gender pay gap, which results in it being financially more convenient to a family for the woman to remain at home with children.

2.2.1. Maternity leave, and paternity and parental leave

Czech law has traditionally paid particular attention to pregnant women, and guarantees mothers and fathers special protection regarding their employment relationship until their child reaches the age of three.

Under certain provisions of the Labour Code, pregnant women are protected against having to carry out unsuitable work. If a pregnant woman’s job involves tasks which, according to medical opinion, might endanger her pregnancy then her employer must temporarily transfer her to more suitable work for an equal wage. Pregnant women who carry out night work may request to be transferred to day work and the employer must not refuse such a request. Similar rules apply to mothers for nine months following the birth of their child, and to breastfeeding women. An employer must also allow a female employee who is breastfeeding her child special breaks for breastfeeding. Breaks

---


42 See http://www.mpsv.cz/cs/10543

43 Moreover, public childcare services for children under three years of age barely exist (private services are often not affordable for a young family) and kindergartens for children over three years of age tend to be full, so that if for example there is another, younger child in the family, a child of for example four years of age will rarely find a place on the basis of the argument that the mother is at home anyway with the younger one, so there is no need for kindergarten.

44 Sec. 239-241 of Act No. 262/2006 Coll.
for breastfeeding are counted as working hours and a compensatory wage or salary equivalent to the amount of average earnings is paid for such breaks.\(^{45}\)

If a pregnant woman, a parent looking after a child younger than 15, or a person looking after a bedridden person requests that his/her working hours be reduced, or that some other suitable adjustment be made to the prescribed weekly working time, the employer is obliged to comply with this request, provided that the employer is not prevented from doing so for serious operational reasons.

Parental leave shall be granted to the mother of a child at the end of her maternity leave (the general duration of maternity leave is 28 weeks; the period can be extended to up to 37 weeks if the woman gives birth to two or more children at the same time) and to the father of the child from the day that the child is born, for the amount of time applied for, until the child reaches the age of three.\(^ {45\text{a}}\) The parents of the child are entitled to take maternity and parental leave concurrently, but only one is entitled to the parental allowance provided under Act No. 117/1995 Coll., on state social support.\(^ {47}\)

Pregnant women and parents looking after children under three years of age who are on parental leave are protected against dismissal. Czech law thus guarantees a return to the same job not only after maternity leave, but also after parental leave, which may last until the child reaches the age of three.

2.2.2. Formal childcare services

The Czech Republic is one of the EU countries with the lowest use of childcare services for children aged 0-2 years – only 2% of parents of small children use them, due to the lack of such facilities, notably at an accessible price.\(^ {48}\) For older children there are not enough places in public childcare facilities. This situation has been criticized for a long time, as it is a serious problem for the parents of small children, especially in big cities, if they wish to return to work. As explained above, this particularly affects women.

In response to the lack of places in childcare facilities, the Ministry of Labour and Social Affairs prepared and recently adopted Act No. 247/2014 Coll., on providing childcare in a children’s group. The proposal and also the adopted law were much debated, as already existing alternative childcare facilities (such as so-called “forest kindergartens”) feared that they would find it nearly impossible to fulfill the conditions envisaged by the law for the provision of childcare. The law however creates less demanding conditions for establishing private children’s groups (which are to be established especially by employers for the children of their employees) as compared to those for public childcare facilities, and introduces tax incentives to provide and to take up this form of care.\(^ {49}\) This measure was meant to enable parents of small children to return to the labour market, if they so wish. The effectiveness of the law has however been subject to debate. Indeed, monitoring the quality of service and quite demanding legal requirements for the space where the childcare services are to be provided might influence the effective

\(^{45}\) Sec. 242 of Act No. 262/2006 Coll.
\(^{45\text{a}}\) Sec. 195-198 of Act No. 262/2006 Coll.
\(^{47}\) Sec. 32 and following of Act No. 117/1995 Coll.
\(^{49}\) More detail available in Czech language at http://www.mpsv.cz/cs/13500
application of the new legislation and the further development of so much needed childcare services.\textsuperscript{50}

In the very near future, the availability of childcare services should be improved. The authorities plan to provide municipalities with additional resources, partly co-financed by EU funds, to enable them to build additional childcare facilities. While the outlines of such measures are yet to be specified in detail, if implemented with an adequate level of ambition they have the potential to improve the rate of participation of women with young children in the labour market.

\subsection*{2.2.3. Flexible working hours}

Czech employees have the possibility to use flexible working hours. In applying a flexible schedule of working hours, the employee chooses himself the start and end of his working hours for each day within certain time periods fixed by the employer. There are core hours however when the employee is obliged to be at his workplace.\textsuperscript{51} This type of flexible working is used quite frequently.

Czech legislation as such is quite generous as regards the possibility to work part time, especially for people with caring responsibilities. Nevertheless, the reduction of working time to a part-time job is not used very frequently in the Czech Republic.\textsuperscript{52} Employers do not like to agree to a reduction of working hours on the one hand, while on the other hand employees do not ask for such a reduction very often. Full-time work is historically rooted. If part-time work is taken up, one of the main reasons is that the entitlement to parental leave until a child’s third birthday has been used (especially by mothers) to its maximum extent - after which women try to return to a full-time job and use childcare facilities (kindergartens). As regards care for the elderly, it occurs even less frequently that an employee asks to reduce his/her working time in order to care for an elderly family member (homes for the elderly are often used instead), even though the legislation in force allows for this\textsuperscript{53}. Provisions on working time are gender neutral.

\section*{2.3. Equal participation in decision-making}

\textbf{KEY FINDINGS}

- **Women are underrepresented in politics in the Czech Republic.** Women represent some 20\% or less of politicians. They are disadvantaged especially when compiling party lists. In politics, horizontal and vertical gender segregation can be observed.

- The situation is even worse as regards the representation of women in economic decision-making. The average percentage of women in the statutory bodies of large companies does not even reach 10\%. Horizontal gender segregation is at stake as well.

\textsuperscript{50} \url{http://www.parlamentnilisty.cz/politika/politici-volicum/Lesni-skolky-nezaniknou-poslanci-pripavili-novelu-zakona-o-detskych-skupinach-348598}.

\textsuperscript{51} Sec. 85 of the Act No. 262/2006 Coll.

\textsuperscript{52} Among part-time workers, women represent some 5\% of employees (mostly workers in services and shops), while men only represent 2\% (mostly professionals). Data available at \url{http://www.czso.cz/csu/2014edicniplan.nsf/t/B6003EA170/$File/3000024416.pdf}.

\textsuperscript{53} Sec. 240-241 of the Act No. 262/2006 Coll.
2.3.1. Women in politics

In the Czech Republic, women are still underrepresented in politics. Currently, they represent just 23.8% of the Czech members of the European Parliament, 17.65% of the members of the Czech government, 20% of the members of Chamber of Deputies, 18.5% of senators, 19.7% of regional deputies, and 27.1% of local deputies.\(^{54}\)

The current political system still disadvantages women, especially when compiling party lists – women are often placed in positions on party candidate lists where they are hardly expected to be elected. This applies to all types of elections. The only way for voters to support women candidates is through preferential votes, the usage of which is quite popular.\(^{55}\) According to a recent study, women are under-represented not only in elected public offices at all levels, but they generally have a low share of decision-making power within political parties with which they are affiliated - such as the composition of the party leadership and choice of candidates for political posts. The "high politics" of the Czech Republic is consequently gender segregated. While men are associated with so-called “power departments,” especially in the field of economics, women at the level of parliament and government are rather associated with humanistic and social spheres, which are generally perceived as less powerful and prestigious. Vertical segregation can be observed: the more senior the position, the lower the fewer the women.\(^{56}\)

Currently there are no legislative proposals to increase the representation of women in politics. An NGO called Forum 50% engages in very good awareness raising and the monitoring of the representation of women in politics. The Czech social democratic party could serve as an example of good practice, as it has inserted in own internal rules quotas for women. According to the internal rules of the party, 25 percent of those elected by the party must be women.\(^{57}\) If a local party organization has failed to nominate 25 percent women among its top candidates, then the Social Democratic Women's Organization has the right to nominate extra women. Until recent times, the Social Democrats were facing difficulties to respect own rules, including in representative organs of the party. Only the last gathering of the party nominated and confirmed enough women in the presidency of the party and it also amended the current status of the party, according to which, in future elections all the candidate lists for elections to Chamber of Deputies and to regions will include at least 40% of women.\(^{58}\)

2.3.2. Women in economic decision-making

While the average percentage of women in the statutory bodies (the boards of directors and statutory executives) of the 100 largest companies in the Czech Republic is 9.14%, roughly a quarter (25.5%) of managerial posts in healthcare institutions are held by women. A comparison of the total share of women in supervisory boards, which are non-executive bodies, shows that the largest share of women is found in telecommunications

\(^{55}\) Thanks to the change in electoral law and increasing the weight of preferential votes in elections to the Chamber of Deputies in 2010, the proportion of women unexpectedly rose to its highest ever level - 22%. In the regional elections in autumn 2012 however, preferential votes functioned mildly to the detriment of women, and the same was strongly reflected in the early elections to the Chamber of Deputies in 2013; in the European Parliament elections in 2014 preferential votes for elected women and men had no effect. See http://padesatprocent.cz/cz/zeny-v-politice.
20% and health care (20%), followed by the construction industry (16.9%), and retail (14.8%). The smallest proportion of women in supervisory boards is found in financial institutions, banks and insurance companies. While 8.4% of the supervisory bodies of banks are women, they make up only 7.4% of insurance company supervisory bodies. In the energy sector, the ratio of women to men is approximately 1:10 (a 9.2% share of women); this also applies to marketing, PR and the media (10.9%). The total proportion of women in companies that are listed on the stock exchange dropped from 7.38% to 6.14% in the last years.  

There has been quite some discussion in this regard concerning the Commission’s proposal for quotas in the statutory bodies of big companies. The current government has changed the originally negative official position of the Czech Republic in this regard and seems willing to support the proposal for a new directive.

2.4. Eradication of gender-based violence

**KEY FINDINGS**

- Czech legislation provides for the crime of cruelty to a person living in the same household. In 2007 some important changes were adopted, among which the introduction of the institute of expulsion of the violent person from a common household.

- There are many organisations that provide assistance to victims of domestic violence, gathered under a joint association.

In 2012, the Police of the Czech Republic recorded a total of 603 cases of the crime of cruelty to a person living in the same household. In connection with this offense, 463 people were prosecuted, including 13 women. A number of organisations that provide professional, social, psychological and legal counselling to victims of domestic violence are active in the Czech Republic. Many of these important non-profit organisations are gathered under an association named KOORDONA, dealing with women’s rights in the context of violence against women and domestic violence.

Currently, protection against domestic violence is regulated by Act No. 135/2006 Coll., amending some acts in the field of protection against domestic violence. This legislation is built on three interrelated pillars, namely the Czech police, intervention centres, and courts adjudicating on civil matters. As of 2007, when Act No. 135/2006 Coll. entered into force, the Czech police was entrusted with new powers in the form of the institute of expulsion of a violent person from a common household. Such preventive measure is designed to protect an endangered person against another possible attack by a violent person and can be applied repeatedly - or also combined with other criminal law measures - shall further manifestations of domestic violence occur.

---

The new legislation cannot unfortunately eradicate domestic violence completely, but victims of this type of crime can at least be better protected.

2.5. Eradication of trafficking in human beings

**KEY FINDINGS**

- **Trafficking in human beings is a serious problem:** according to estimates, there are some 13,000 prostitutes in the Czech Republic. However, trafficked people often do not consider themselves as victims. In 2013, only 57 people, mainly women, were declared victims of trafficking in human beings.

- The issue of trafficking in human beings is tackled by **criminal law** under the Criminal code, which defines the crime of trafficking in human beings, as well as a relatively new Act on Corporate Criminal Liability, which implements Directive 2011/36/EU on trafficking in human beings.

- **Policy** for preventing and combating trafficking in human beings falls within the responsibility of the Ministry of the Interior, which issues strategic documents and also annual reports on the state of affairs.

- Several **NGOs** play an important role in assisting trafficked persons and also in influencing the development and implementation of the legislation in force.

Trafficking in human beings is a serious problem in the Czech Republic. Each year, some 25-30 persons are prosecuted for the crime of trafficking of human beings, while ca 15-20 crimes are the subject of court proceedings. In this area of crime there are more women prosecuted than in other areas (20-30% of persons prosecuted are women). According to recent statistics of the Czech Police, in 2013 there were 57 victims of trafficking of human beings.

As regards prostitution, this occurs mainly at night sex clubs, at private homes, in the form of “escort services,” and also on the street. Prostitutes come mainly from the Czech Republic, Slovakia, Ukraine, Romania, Russia, Poland, Moldova, Hungary, and Lithuania. The majority of female prostitutes are of Czech or Slovak nationality. According to estimates, in the Czech Republic some 13,000 women offer themselves for prostitution. From the investigations carried out, it is clear that prostitution is dedicated to a wide range of people in terms of social level, age and education. Findings also confirmed that, due to the large number of people providing sexual services, prostitution is in almost all cases voluntary.

In 2010 new Act No. 40/2009 Coll., the Criminal Code, entered into force. Within this act, the offense of trafficking is defined in § 168. In the new definition several changes were incorporated: the definition of sexual exploitation, "sexual intercourse or other forms of sexual abuse or harassment," has been modified to include also "or to produce pornography." The main piece of law which implements Directive 2011/36/EU of 5 April


2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA, is Act No. 418/2011 Coll., on Corporate Criminal Liability and Related Proceedings. The Corporate Criminal Liability Act includes an exhaustive list of approximately 80 different offenses that may be committed by companies, including certain offences of negligence. Among others, there is also the crime of trafficking in human beings and other crimes related to sexual exploitation of human beings.65

The policy for preventing and combating trafficking in human beings falls within the responsibility of the Ministry of the Interior. The ministry itself dates the beginning of any formalised effort regarding this issue back to 2003, when it drew up the National Strategy for Combating Trafficking in Human Beings into Sexual Exploitation, in collaboration with other ministries. Annual reports on trafficking in human beings offer an overview of the situation and current trends in the field, as well as data provided by the individual ministries and NGOs. A special section of these reports is devoted to the assistance provided to trafficked persons.

The co-ordination of individual activities and the exchange of up-to-date information is ensured through the Inter-institutional Coordination Group for Combating Trafficking in Human Beings, set up in 2008. This group consists of permanent representatives appointed by public authorities and specialised non-governmental (the most important are La Strada, Catholic Caritas, and Diacony, of the evangelical church) and governmental organisations.

Generally, the existing institutional framework is considered formally to be adequate. Multi-disciplinary national strategies have been put in place, and regular meetings of the stakeholders are held. Trafficked persons have recourse to various forms of assistance, including to assistance which, in theory, gives priority to the human rights dimension in addressing the problem. At the same time, a recent study states that "the policy for preventing and combating trafficking in human beings does not have a financial budget of its own that could be used for financing systematic steps and for their evaluation. The tasks proposed by the national strategies are very often only vaguely defined: fulfilling them very often depends on the individual initiatives of motivated workers at the ministries. External evaluation of the results and impacts of the individual policy measures is lacking. The measures implemented by the national authorities aimed at identifying trafficked persons and those to which trafficked persons have recourse seem to prioritise criminal law over the interests of specific individuals. Other measures are formally not accessible to those who would need to make use of them (e. g. social services for people with irregular status)."66

The same study points out that the gender dimension of the issue has, however, not been given much attention in the strategies or annual reports issued by the Ministry of Interior.67 A gender dimension in the area of identifying trafficked persons is also absent. It can be deduced from the available data that the proportion of men among trafficked persons identified outside the sex industry is markedly lower than the proportion of women.

65 Sec. 7 of Act No. 418/2011 Coll.
Therefore, the measures that have been designed and implemented cannot be regarded as gender-balanced.

A series of issues complicate the effective tackling of trafficking in human beings: the lack of case law in the area; the lack of sufficient and expert staff in the police; the fact that the victims of this crime do not consider themselves as such; differences in the understanding of what is trafficking in human beings; the difficulties in enquiring and identifying the crime of trafficking (which is often disguised behind a legal business); the low social sensitivity to labour exploitation; and the fact that less usual forms of trafficking in human beings are overlooked.68

2.6. Sexual and reproductive health and rights

KEY FINDINGS

- The number of abortions in the Czech Republic was reduced considerably in last 20 years. The law foresees that they have to be requested in written until the 12th week of pregnancy. Assisted reproduction is one of the health services provided on the basis of the Act on special health services. Caesarean sections and epidural anaesthesia are commonly provided during delivery, with the consent of the woman or in case of epidural anaesthesia on her request. There are no specific problems connected with the above-mentioned health services.

- Home births recently provoked a very emotional debate in the Czech society. This was caused by some cases recently decided by the Czech Constitutional Court and the European Court of Human Rights, in which women who had been denied professional assistance while giving birth at home claimed remedies, as they felt their right to private and family life had been breached.

2.6.1. Coercive sterilisations and abortion

Coercive sterilisations are a very painful topic connected with health and reproductive rights. In the Czech Republic this affected Roma women and maybe also women with disabilities, especially during the communist regime, but there have also been some recent cases. The government is currently preparing a law on remedies for these coercively sterilised women.

In the Czech Republic, detailed abortion statistics are published since 1958. These include spontaneous abortions ectopic pregnancies and other abortions. The conditions for undergoing abortion have changed over time and have progressively become more liberal. For instance, in 1986 the so-called "abortion committee" assessing the woman's request for abortion was dissolved. These developments, combined with the age structure of women in reproductive age, are reflected in the annual number of abortions.

The highest number of abortions was recorded in 1988, when the Institute of Health Information and Statistics of the Czech Republic registered almost 130,000 abortions. Since then, the number has decreased steadily. In 1990, 126,000 abortions were recorded and

by 1995 their number decreased by half. In subsequent years, the reduction was gradual. In 2006, the annual number of abortions has dropped below 40 thousand. In 2013 there was a slight reduction in the absolute number of abortions, from 37,734 in 2012 to 37,687 in 2013. The annual number of abortions never exceeded the annual number of births in the history of the Czech Republic. Abortions involve unmarried women in particular, women with secondary education and women with two children. Foreigners accounted for 5.8% of the total number of abortions (2,171 female foreigners).

Abortions involve unmarried women in particular, women with secondary education and women with two children. Foreigners accounted for 5.8% of the total number of abortions (2,171 female foreigners).69

Abortion is legal in the Czech Republic on any ground provided that the pregnant woman requests it by written until the 12th week of pregnancy; it is also legal until the 24th week of pregnancy if genetic testing shows a high probability for the child to have a serious handicap. Such abortion is possible only on the basis of recommendation of a specialized physician (genetic).

2.6.2. Day after pill

The day after pill is available in any pharmacy in the Czech Republic, without the need of a doctor’s receipt. There is not much discussion on this topic. Since 2013, specialized health care centres, which provide also an in-house care, are allowed to prescribe also an abortion pill. Gynaecologists consider it as a more gentle form of abortion for the woman’s body.

2.6.3. Assisted Reproduction

Assisted reproduction is regulated by the Act No. 373/2011 Coll., on specific health services. In 2005 the National register of assisted reproduction was founded in order to monitor and coordinate the assisted reproduction technologies. According to the above cited act, assisted reproduction is available to women until 49 years of age.

2.6.4. Caesarean sections / Epidural anaesthesia

Caesarean sections and epidural anaesthesia are very common in the Czech Republic, but they are used only if needed according to the doctor who conducts the delivery. The epidural anaesthesia is provided only on request of a woman and if the doctor sees it as needed.

2.6.5. Giving birth at home

Health and reproductive rights are currently much disputed in the Czech Republic, especially as regards delivery and the rights of young mothers. Czech legislation is quite strict in this regard, as in practice it does not enable Czech women to give birth at home or anywhere else except in hospital. The health care provided during delivery is legislated in the Act No. 372/2011 Coll., on health services and in ministerial decrees No. 55/2011 Coll., on activities of health care workers and other specialized workers and No. 92/2012 Coll., on minimum requirements for technical and substantive healthcare facilities and home care contact centers. This legislation currently does not provide for an authorisation to midwives to provide professional assistance to a woman who decides to

give birth outside hospital and also, the health care insurance does not cover costs of health care provided during a home birth. Moreover, midwives who decide to provide their services during a home birth risk heavy fines for providing health care services without authorisation. **Since 2014, it became possible to give birth in a hospital with a midwife**, where the doctor shall be called only in case of unexpected complications. Some women complain that their right to decide about their private life is thus breached, while gynaecologists argue that giving birth outside hospital is too risky for both the mother and the child.

In this regard, some interesting case law is worth mentioning: one case of the Czech Constitutional Court and two cases recently decided by the European Court of Human Rights.

The Czech **Constitutional Court** overturned a verdict against a midwife who had been given a two-year suspended sentence for a fatal mistake during a home birth, due to a lack of evidence and doubt about her guilt. The **midwife assisted in a complicated home birth** though she did not hold any authorisation to do so, as it was not possible to obtain one according to the legislation in force. The newborn baby suffered irreversible brain damage due to a lack of oxygen during the delivery. The baby was transported to a maternity hospital in a critical condition and survived only with the aid of medical apparatus. He died later aged 20 months. The midwife appealed the verdict saying she had not made any professional mistakes, and she had always accepted only women without health troubles while the mother in question had not told her about her previous complications. The Constitutional Court did not discuss home births as such, but only confirmed the freedom of the decision of a mother regarding where to give birth to her baby and invited the legislator to consider appropriate legislative changes. The Constitutional Court held that when this freedom is exercised by a mother, a midwife cannot be automatically penalised if the child dies due to unexpected complications.\(^{70}\)

In the case of **Dubská and Krejzová**\(^{71}\) both applicants wished to give birth at home. Ms Dubská decided to give birth at home, given her experience during the birth of her first child in a hospital when she had been urged to have various medical interventions against her wishes and had been ordered to stay in hospital longer than she wished. Upon making enquiries she was informed that a home birth is practically not allowed by the Czech legislation. Ms Dubská eventually gave birth to her second child at home alone. The Czech **Constitutional Court dismissed her complaint** about being denied the possibility to give birth at home with the assistance of a health professional. Ms Krejzová gave birth to her first two children at home, with midwives who assisted her without having any authorisation from the state. When she was pregnant with her third child she could not find a midwife. She ended up giving birth in a hospital which had a reputation for respecting the wishes of mothers during delivery. The European Court of Human Rights ruled that there had been **no violation of Article 8** (right to respect for private and family life) of the European Convention on Human Rights, also on consideration that there is no European consensus on whether or not to allow home births and that consequently States had a wide margin of appreciation in regulating the issue. The Court also considered that the applicants did not have to bear a disproportionate burden on account of the fact that they could only be assisted by a medical professional if giving birth in a hospital.\(^{72}\)

\(^{70}\) Case No. 1.ÚS 4457/12 of 28 August 2013.

\(^{71}\) Case of Dubská and Krejzová v. the Czech Republic of 11 December 2014 (Application No.s 28859/11 and 28473/12).

\(^{72}\) The European Court of Human Rights considered that the impossibility for the applicants to be assisted by midwives when giving birth at home had effectively amounted to an interference with their right to respect for
On the same day as the above-mentioned case was decided, the case of *Hanzelkovi* was also decided by the European Court of Human Rights. In that case, a few hours after the birth the mother and her child (none with any health problems) left the hospital, despite the disapproval of doctors. Subsequently, the hospital staff contacted the competent authority for child protection with a medical report from the hospital which stated that, given the short time following the birth of the infant until he departed hospital care, he faced a health threat, possibly for life. On that basis, the authority applied to the district court for a preliminary injunction ordering the delivery of the infant into the care of the hospital, which the court granted immediately. The complainant was transported along with the infant by police back to the hospital. She and the child spent the next two days in the hospital without any medical procedures being executed, and then, upon another request, were sent home. The European Court of Human Rights judged in this case that there had been a violation of Article 8 (right to respect for private and family life) and of Article 13 (right to an effective remedy) of the European Convention on Human Rights. The Court stated that the taking into care of a new-born baby at birth is an extreme measure and that there have to be unusually compelling reasons for it, notably on the basis of a procedure which does not involve the parents. The judges highlighted that the national authorities should have taken into consideration less extreme possibilities. It then underlined that such serious interference with the applicants’ family life and the conditions of its implementation were disproportionate and could not be regarded as necessary in a democratic society.

As of 2014, the Czech legislation enables mothers, who wish to do so, to leave the hospital immediately after delivery. A so called “ambulant delivery” was included in the legislation in force.

### 2.6.6. Coercive sterilisations of Roma women

In connection with health and reproductive rights, a painful area of recent practice in the Czech Republic shall be mentioned – the coercive sterilisation of Roma women. Unfortunately, in recent times, Roma women were coercively sterilised when undergoing a second birth by caesarean section. Usually, these women did not take their cases to court and even if they did they were not provided any, or only very limited, remedies. In one exceptional case, a victim of coercive sterilisation, Ms. Cervenakova, represented by Czech NGO the League of Human Rights and supported by the European Roma Rights Center, was awarded compensation of 500,000 Czech crowns. However, this decision has been appealed and the Supreme Court in Brno, in violation of victims’ legitimate expectations and contrary to well-established case law, followed the opinion of the High Court, which ruled that a claim for immaterial damages which occurred more than three years...
ago is time-barred. This means that it is almost impossible for victims of coercive sterilisation to obtain compensation before the Czech courts.\textsuperscript{76}

It is therefore very positive that the Czech Minister for Human Rights is currently preparing a \textit{bill of law on remedies for coercively sterilised women}.\textsuperscript{77} Compensation of ca 300,000 Czech crowns shall be provided to women who were sterilised without giving their informed agreement. The proposal shall be presented in the spring of 2015, so it is hard to predict the final wording of the future law.

\textsuperscript{76} On coercive sterilizations of Roma women in the Czech Republic see in more detail Koldinská, K. (2009), \textit{Multidimensional equality in the Czech and Slovak Republics: The case of Roma women}, in: Schiek, D., Chege, V. \textit{European union non-discrimination law}, Routledge-Cavendish, Oxon, p. 249-278

\textsuperscript{77} There is serious suspicion that coercive sterilisations did not only affect Roma women, but also women with disabilities. - \url{http://llp.cz/2013/10/nedobrovolnou-sterilizaci-si-krome-romek-nejspis-prosly-i-postizene-zeny/}
CONCLUSION

National legislation seems to be fully harmonised with EU law and people who feel themselves to have been discriminated against have all legal instruments at their disposal to defend themselves. Still, the Czech Republic faces problems very similar to other European countries.

As has been shown in this analysis, there are still many gaps in daily life and practice and discrimination based on gender still occurs. Women are still discriminated against in the labour market, and the employment gap and gender pay gap remain among the highest in Europe. Generous social protection for parents with small children is unfortunately not helping the situation, as it is almost exclusively women who take maternity and then parental leave.

Women are also relatively underrepresented in decision-making, be this in politics or on the boards of big companies. While Czech society is aware of and concerned about gender-based violence, especially domestic violence, there is almost no debate regarding trafficking in human beings. Criminal legislation has however been quite substantially amended in order to improve the position of victims. There are also some important political documents aimed at monitoring and improvement of the situation.

A very emotional debate has been observed on the topic of home births, as several cases were recently brought to courts.

EU law and the implementation of the equality directives has moved Czech legislation and policies forward and, particularly in recent years, a sincere struggle to attain a better position for women in social, private and working life can be observed.
REFERENCES


• Ženská národní rada (1930), *Masaryk a ženy*, Prague
DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS’ RIGHTS AND CONSTITUTIONAL AFFAIRS C

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

- Constitutional Affairs
- Justice, Freedom and Security
- Gender Equality
- Legal and Parliamentary Affairs
- Petitions

Documents