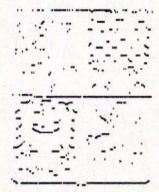


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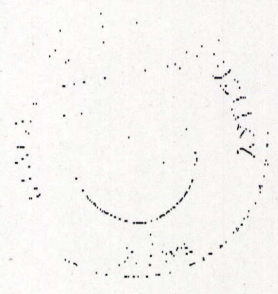


No. 855/2012

The Permanent Mission of the Czech Republic to the United Nations and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the questionnaire submitted to States by the Special Rapporteur on the situation of human rights defenders on 11 September 2012 (ref: G/SO 214 (107-9), it has the honour to enclose the response thereto.

The Permanent Mission of the Czech Republic avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration. *W*

Geneva, 15 October 2012



Enclosure: 3 pages

Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Geneva
Fax: 022.917.90.06
e-mail: defenders@ohchr.org

OHCHR REGISTRY

15 OCT 2012

Recipients : *SPD*
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1. a) Please provide a brief overview of the legislative framework adopted to establish a National Human Rights Institution in your country. Please cite the names of any such laws or regulations in full.

No institution was accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights the status of a NHRI in the Czech Republic (Accreditation status as of August 2011 - http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf). However, the Office of the Public Defender of Rights ("the Office") may be regarded as partly complying with the Paris Principles.

The Office was established pursuant the Public Defender of Rights Act of 1999. Further powers were conferred on the Office by the Antidiscrimination Act of 2009 and by the Act on the Residence of Foreigners.

b) Please indicate how these laws and regulations comply with international human rights standards, and in particular, the Paris Principles.

These laws reflect the international human rights standards. The Public Defender of Rights Act gives the Office the power to examine administrative deficiencies of certain public bodies including ministries and to inspect the places of detention in line with the OP to CAT. Furthermore, the Office is empowered to monitor forced returns under the Act on the Residence of Foreigners.

2. a) Please provide details outlining the mandate adopted by the Institution in relation to the protection and promotion of human rights in accordance with the range of competences and responsibilities specified in the Paris Principles

The Office does not have powers over the whole range of human rights. Its mandate is limited primarily to the above mentioned fields. In these areas the Office has the responsibilities listed in the Paris Principles under Article 3 (a)-(g).

b) Please indicate whether the Institution is mandated to consider and/or adjudicate individual complaints of human rights violations.

Yes, it is mandated to consider and hear individual complaints regarding administrative deficiencies of certain public bodies and matters relating to discrimination.

c) If relevant, please indicate whether the mandate is limited to specific rights or whether complaints against the Government, the police and/or the military are permitted and how they are dealt with.

Complaints against the Government, the police and the military are allowed when it comes to administrative deficiencies and discrimination issues.

d) In this regard, please indicate whether the Institution is empowered to carry out protection related functions including providing remedies to victims of human rights violations, witness protection mechanisms and conducting visits to detention facilities.

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The Office is allowed to conduct visits to detention facilities. The Office is not empowered to provide remedies as such, however it may propose the examined Authority to award damages to the complainant.

3. a) Please indicate what specific activities and programmes the Institution carries out in relation to the protection of human rights defenders.

b) Please indicate what mechanisms, if any, are in place within the Institution to ensure that human rights defenders at risk are protected (e.g. through protection programmes, early warning systems or by submitting complaints to regional/international bodies on specific cases).

N/A

4. a) Please indicate whether any member of the Institution has ever been the victim of threats or harassment as a result of work carried out on behalf of the organisation.

To our knowledge no employee of the Office has been the victim of threats or harassment.

b) Please specify what mechanisms, if any, are in place to protect Institution members investigating human rights violations. If applicable, please specify what mechanisms at the institutional, national, regional and international level have been employed to protect Institution member.

All employees of the Office are protected by both the civil and public law regulation, including the Labour Code and the Criminal Code. The Defender is subject to the Labour Code, unless the Act on the Public Defender of Rights provides otherwise.

5. a) Please indicate the main source of funding for the Institution.

Costs related to the activities of the Defender and his Office are covered by a separate chapter in the state budget. In 2011, The Office of the Public Defender of Rights functioned with an approved budget in the amount of CZK 93,800 thousand. Effective from 23 March 2011, the budget was raised by CZK 1,464 thousand to the total amount of CZK 95,264 thousand in connection with the extension of the mandate of the Public Defender of Rights to include duties following from an amendment to Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic. Of the above amount, CZK 79,292 thousand was used in 2011, i.e. a total of 83.23 % of the adjusted budget.

b) In this regard, please indicate whether any challenges exist, particularly in relation to the functional autonomy of the organization and how this impacts on the work of the Institution.

To our knowledge there are no challenges to the functional autonomy of the organisation.

6. a) Please describe the procedures in place relating to the selection and appointment of members of the governing body.

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The Defender is elected by the Chamber of Deputies for a term of office of six years, from among candidates, of whom two are nominated by the President of the Republic and two by the Senate: identical proposals are admissible. He/she may be elected for a maximum of two consecutive periods. Conditions concerning the Defender apply *mutatis mutandis* to the election of his/her deputy.

All those who are eligible for election to the Senate (i.e. all Czech nationals older than 40 years old with legal capacity who are not legally deprived of their freedom due to the protection of the health of the people.) may be elected as Defender. The Defender may not be a member of a political party or a political movement. The office of Defender is incompatible with the office of President of the Republic, Member of Parliament, senator and judge, as well as any activities in public administration. The discharge of the office of Defender is incompatible with other profit-making activities, with the exception of the management of his/her private property and activities of a scientific, educational, publishing, literary or artistic nature, as long as this is not to the detriment of the discharge of his/her office and its dignity, and does not threaten trust in independence and impartiality in the discharge thereof.

b) Please indicate what mechanisms are in place to ensure independent scrutiny of candidates and security for members of the governing body.

The election of the Defender described above is an open and transparent process that is among others covered by the media and is a subject to a public debate. With regard to the fundamental rights and freedoms, the process of the election might be a subject to the review before the Constitutional Court (e.g. in 2010, the Constitutional Court examined the election of the Defender in its decision ref. no. Pl ÚS 35/10 in the light of the right to the access to the public function).

With regard to the security of the Defender, he/she is protected by civil and public law. Furthermore, he/she may not be criminally prosecuted without the consent of the Chamber of Deputies. If the Chamber of Deputies denies consent, criminal prosecution of the Defender is impossible during the term of performance of mandate of the Defender.