

**PROTECTION AND SUPPORT MEASURES FOR
THIRD COUNTRY NATIONALS STREET CHILDREN
IN THE EU MEMBER STATES**

THE CASE OF PRAGUE

FINAL REPORT

DAPHNE Project



European Commission

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GLOSSARY OF ACRONYMS

CAS	Ceska asociace streetworkers	Czech association of streetworkers
CPP	Cizinecka a pohranicni policie	Foreigners and Border Police
CR	Ceska republika	Czech Republic
CZSO	Cesky statisticky urad	Czech Statistical Office
RS CPP	Reditelstvi sluzby cizinecke a pohranicni policie	Directorate of Foreigners and Border Police Service
ECRE	Evropska rada pro uprchliky a exulanty	European Council on Refugees and Exiles
EU	Evropska unie	European Union
IKSP	Institut pro kriminologii a socialni prevenci	Institute for Criminology and Social Prevention
IOM	Mezinarodni organizace pro migraci	International Organisation for Migration
MCSSP	Mestske centrum socialnich sluzeb a prevence	City Centre of Social Services and Prevention
MPSV	Ministerstvo prace a socialnich veci	Ministry of Labour and Social Affairs
MS	Modra skola	Blue school
MS CR	Ministerstvo spravdnosti (CR)	Ministry of Justice (CR)
MSMT	Ministerstvo skolstvi, mladeze a telovychovy	Ministry of Education, Youth and Sports
MU	Mistni urad	Municipal authority
MV(CR)	Ministerstvo vnitra (CR)	Ministry of Interior (CR)
MZd MH	Ministerstvo zdravotnictvi	Ministry of Health
NBDs	Nezletili cizinci bez doprovodu	Unaccompanied minor foreigners
NGO(s)	Nevladni organizace	Non-government organisation(s)
NROS	Nadace pro rozvoj obcanske spolecnosti	Foundation for development of civic society
OAMP	Odbor azylove a migracni politiky	Asylum and migration policy division
OBP	Odbor bezpecnostni politiky	Security policy division
OPU	Organizace na pomoc uprchlikum	Refugees Assistance Organisation
OSPOD	Oddeleni socialne pravni ochrany deti	Department of socio-legal protection of children
PCR	Police Ceske republiky	Police of the Czech Republic
PP	Policejni prezidium	Police Presidium
PPU	Poradna pro uprchliky	Refugees Advice Centre
SCEP	Program odloucenych deti v Europe	Separated Children in Europe Programme
SUZ	Sprava uprchlickych zarizeni	Refugee Facilities Administration
UMC	Urad mestske casti	Metropolitan district authority
UNHCR	Vysoky komisar OSN pro uprchliky	United Nations High Commissioner for Refugees
UOOZ	Utvar pro odhalovani organizovaneho zlocinu	Unit for combating organised crime
VZP	Vseobecna zdravotni pojistovna	General health insurance company
ZDC	Zarizeni pro deti – cizince	Facilities for foreign children
ZZC	Zarizeni pro zajisteni cizincu	Facilities for detention of foreigners (adults)

PART I - BACKGROUND

1. Phenomenon of third country national street children in Prague

Practically no attention has yet been paid to third country national street children in Prague or the Czech Republic as a whole. This situation is not the consequence of an underestimation of this problem by society (or by the authorities); rather, it is an isolated phenomenon that does not constitute a systemic problem.

Street children are a social group that is hard to define. It can be taken to include minors who spend most of their spare time on the street in gangs of their peers, which can be regarded as part of the subculture of certain social strata, and minors and young people who have run away from home as a response to personal or family problems; but it also includes minors who do actually live on the street because they have no other home. These groups usually teeter on the edge of social pathology; they become members of street gangs headed by adults, and are often homeless, either patently or secretly. The problem of street children is not new, but its depth and the urgent need for systemic solutions has in recent years started to evoke a response from the expert and lay public. This is because it is spreading as a worldwide problem¹.

It is therefore hard to define the set of “street children” precisely; yet one fundamental feature is that these are minors who lack the systematic support of a family or another childcare institution and are at high risk of becoming homeless and criminalized. The crux is that they lack the protection of parents, legal representatives or other childcare institutions. “70% of them are children from children’s homes and dysfunctional families²”. “Obvious problems during re-inclusion into society have children leaving institutional care facilities (total number of inhabitants of these facilities amounts to 20 thousand children³, about 500 to 800 leave these facilities annually⁴. According to estimates only about one tenth of this number are able to function in normal life⁵.

Street children often tend to be associated with sexual abuse and domestic violence (physical or mental abuse).

Our concern is not street children as such, but street children from third countries, i.e. non-EU countries, living in Prague. For the purposes of the study we have taken on the following definition: Thus, by “third country national” we refer to “any person who is not a national of an EU member state” and the term “street children” encompasses “any children or adolescents under the age of 18 who live on the street, and who are homeless for days, weeks, or months and without or with little support from parents or child care institutions”⁶.

The problem of third country national street children is closely linked to illegal stays of foreigners in the country. Illegal migration cannot be viewed narrowly, as merely the unlawful crossing of state frontiers. Minors living independently without the protection of parents, their legal representatives or childcare institutions (whether they entered the country

¹ Street children have become a serious social problem in the former Soviet Union. Throughout the world, approximately 700,000 women and children are sold per year, 120,000 of them in Western Europe; this lucrative business has grown by roughly 50% in the last five years (Uherek and collective).

² Miroslav Fucek, The Chance Project is a Chance for Street Children, www.migraceonline.cz

³ Tomas Fertek, Children’s homes?, <http://www.reflex.cz/Clanek22469.html>.

⁴ Statistical yearbooks of education - performance indicators 2002/2003, 2003/2004, 2004/2005. [online] <http://www.uiv.cz/rubrika/98>

⁵ Tomas Fertek, Children’s homes?, <http://www.reflex.cz/Clanek22469.html>.

⁶ Fatke, Dr. R.; Gabriel, Dr. T.; Stohler, Lic.Phil. R.; and Aeschbacher, B.: "Street Children" and Homeless Juveniles in Switzerland? Pilot Study in the City of Zuerich, 2003.

legally or accompanied) contravenes Czech law. If minors are not registered for stay in the Czech Republic and are not attending school, that constitutes a breach (on the part of the responsible adults or institutions) of the act on the residence of foreigners⁷ and the schools act⁸ at the very least.

Living of youth on the street usually has several reasons; in background there are broken social structures, broken family ties as well as personal failures of individuals. In the case of non-satisfied basic somatic, psychic, emotional, social and mental needs, this usually results in socially pathological behaviour of children. Living on the street may be considered socio-pathogenic phenomenon. Its first phase is truancy when children during day live on the street and come home in the evening. In the second phase children and adolescents do not return home and are left to their own resources. (31)

Authors of the study „Youth on the street of territory of the Capital Prague“ (8) comprise among so called “street children” minor children running away from home or from institution, adolescent homeless, youth living in squats or illegally occupied apartments, addicts, persons doing prostitution for a living and persons after serving their jail sentences. The street is a place where events substantial for their lives occur; a place of subsistence, contacts and a peculiar amusement, as well as occasional lodging house. Each of the above subcultures live in their own way, more or less isolated and do not consider themselves to be „street children“. They are diverse groups mainly in the age bracket of adolescents and young adults (up to 26 yrs) without home in traditional sense. The age of 26 yrs is the age limit up to which the youth receives higher society protection. In Prague it is much easier for street children to hide out compared to other Czech cities. That is why it is difficult to estimate the extent of this phenomenon.

Prague is with over 1.1 mil inhabitants the most populous city in the country and its share on total Czech Republic population exceeds 11%. Prague population is getting older and its growth is attributable only to inner and outer migrations⁹. Average age of Prague population is highest of all regions (41 yrs); children and youth up to 26 yrs make about one fourth of Prague population, share of age group 15-19 yrs¹⁰ on total population is 5.4%. Number of children in Prague is decreasing whereas number of age group 15-59 yrs is increasing. Prague has the biggest regional labour market. Job opportunities are sought here not only by people from different CR regions but also from abroad. Not always they succeed but in belief that this will happen in the future, they settle here. Housing market prices are high and keep growing, therefore to get and maintain housing in Prague for people without income is not easy. In Prague most of homeless persons are living¹¹ and it is also the place with highest concentration of foreigners in the CR. From the total number of foreigners with valid residence permit (278 thousand) almost one third lives in Prague (90 thousand) and one third from 219 thousand foreigners with temporary residence in the CR are employed or do

⁷ Act No. 326/1999 Coll., On the residence of foreign nationals in the territory of the Czech Republic and amending certain acts, as amended by Act No. 140/2001 Coll., Act No. 151/2000 Coll., Act No. 217/2002 Coll. and Act No. 222/2003 Coll.

⁸ Act No. 29/1984 Coll., On the system of primary schools, secondary schools, higher vocational schools hardly mentions foreigners, but the planned amendment lays down conditions for school attendance and study by foreigners.

⁹ Prague has 1,180,610 inhabitants. Its number increased by 9,529 persons due to migration in 2005 (Source: Czech Statistical Office).

¹⁰ There are 145 thousand children under 14 yrs and 140 thousand in the age group 15-24 yrs, from this 63 thousand of youth in the age group 15-19 yrs among Prague inhabitants (data as of December 31, 2005).

¹¹ About 3 thousands homeless were counted in 2004 (12).

business there (72 thousand)¹² (19). In Prague there is also highest number of illegal immigrants (1).

2. State of research/media coverage of the phenomenon

Given the low number of third country national street children in Prague, this problem has hardly been covered by the media or research institutes. The media occasionally spotlight the problem of street children, but they only present it as a major problem in connection with cities in other countries (in the former Soviet Union, Africa, possibly Latin America). A nationality-based viewpoint (that is important for the concept of “third country” contained in the definition) is essentially absent from this media coverage. The media cover individual cases of street children as separate causes, whose main purpose is to arouse public attention. Efforts to describe the problem in greater detail or draw attention to shortcomings in the existing system for working with this group of people are utterly exceptional. Moreover, problem cases occur on a one-off basis and there is practically no systematic or ongoing attention paid to them.

In the area of research, there has so far been little will on the part of Czech government institutions to deal with this problem. The research in this area has so far been initiated by international organisations and institutions. In spite of the fact that in the strict sense of the word there is no research of the phenomenon “street children”, studies and analytical materials for practical needs of field workers have been available for many years.

Awareness campaigns and public relations work by non-governmental non-profit organisations are another way to draw attention to the existing scale of the phenomenon. The role played by these organisations is currently growing. Although they pay greatest attention to other migration-related matters, the problem of third country national children has also been opened by these organisations. In Prague the Chance project exists since 1995. The project aims to launch a “Chance House” for street children, combined with a therapeutic programme¹³.

Targeted government programmes are directed towards combating illegal migration and organised crime. The government of the CR updates every two years the National action plan of combating commercial sexual of children. Major attention in the past was devoted to minor asylum seekers and minor unaccompanied foreigners. IOM together with MV of the CR organised already in 2002 a seminar focusing on: “Current situation and security aspects of minor unaccompanied foreigners: exchange of information, experience and know-how” (16). The PPU¹⁴ issued a publication containing suitable approaches recommended by the UNHCR and Save Children, for protection of minor unaccompanied foreigners. The OPU¹⁵ prepared a monitoring report on minor unaccompanied foreigners for the period September 2003 - June 2004; therein basic legal and institutional aspects of protection of this group are described (6). The NBDs¹⁶ unaccompanied minors – asylum seekers are incorporated in OAMP statistics¹⁷ and development of their numbers can be seen in the time series since 1999 (see Annex 2).

¹² Status at December 31 of 2005.

¹³ For construction of the Sance home a public collection was organised; funds for completion of the planned project are so far insufficient, in spite of a media campaign and support of a number of institutions and renowned public and cultural personalities of the Czech Republic.

¹⁴ Poradna pro uprchliky / Refugee Advice Centre.

¹⁵ Organizace na pomoc uprchlikum/ Refugees Assistance Organization.

¹⁶ Unaccompanied minors.

¹⁷ Odbor azylove migracni politiky MV CR/Asylum and Migration Policy Division of the Ministry of Interior of the CR.

The Institute for criminology published in 2004 a study on trafficking in women from the point of view of the Czech Republic (21). OBP MV¹⁸ elaborated in 2005 the study “Bulgarian girls” containing a series of recommendations and tasks for the state administration institutions active in the area. (15)

An analysis of providers of social services in Prague, aiming at improved accessibility and quality of social services was originated by the MCSSP¹⁹ in 2005 (18). The study “Youth on the street” (8) was instigated by the same institution already in 2000.

3. Statistical data/estimates

The basic source of information on Czech citizens is the Central Population Register. The basic source of information on foreigners is the Foreigners Information System. The population and foreigners’ registers only contain data on persons who are legally registered to be in the Czech Republic²⁰.

3.1 Street children statistics in general

A police report records a case of the commercial abuse of street children roughly twice a year, which is out of line with reality. There is no monitoring of nationality (Czech, EU or third country). Exceptionally, detected cases of street children (regardless of state citizenship) appear in police statistics, but we learn more from the records of non-governmental organisations dealing with drug addicts or prostitution and high-risk groups of young people. These data are neither records nor statistics in the true sense of the words; they are merely informative in nature.

Statistics regarding the target group cannot be derived from existing migration-related statistics and estimates (asylum applicants, legal and illegal migration for work or any otherwise defined groups of foreigners living in the Czech Republic). The only available source of information is currently the statements of experts working in institutions in this area. The data they present, however, are distorted by a number of factors: workers in these institutions come across cases by chance (one person may be recorded several times or listed in the records of more than one organisation; conversely, a number of them are not registered anywhere). It is also very difficult to estimate the age of minors, as they tend to have either no documents or forged documents that declare them adult; in some cases they have fake

¹⁸ Odbor bezpečnostní politiky MV ČR/Security Policy Division of the Ministry of Interior of the CR.

¹⁹ Městské centrum sociálních služeb a prevence/City centre of Social Services and Prevention

²⁰ Registration for residence: The territory of the Czech Republic is divided into 6249 municipalities and 205 municipalities with extended powers (and Prague). Municipalities maintain their own registers of Czech citizens in electronic or paper form. All the information from municipalities is sent in paper form to the second tier – municipalities with extended powers. These municipalities with extended powers have online access to the Central Population Register and input data. Copies of the data from the Central Population Register tend to be sent offline from the second tier to the municipalities’ level. Data on foreigners are transferred to the Central Population Register from the Foreigners Information System. The law does not permit storing in the Central Population Register any information other than that specifically mentioned. In particular, information on ethnicity must not be stored there. Nationals of non-EU countries are first registered when they submit an application for a visa or for permission for residence. Foreigners who are provided with a short-term or long-term visa are requested to report the start, place and expected length of their stay to the local office of the Foreigners Police (at district level), and to do so within 3 days of their entry to the Czech Republic. EU citizens authorised to be in the Czech Republic without a visa (for a period up to 90 days) are obliged to register within 30 days of their arrival, if they intend to stay longer than those 30 days. If EU citizens want to spend longer than 3 months in the Czech Republic, they must apply for a temporary residence permit. Foreign nationals coming in order to settle in the Czech Republic must register for long-term residence at a municipal authority. If EU and non-EU country nationals with a long-term residence permit register for permanent residence, they have to fill in the Population (Obyv.) 5-12 statistical form. Data on foreigners with long-term visas or permits are sent to the Central Population Register.

documents declaring them to be under 18. Besides the language barrier, these organisations' work with this target group is complicated by the fact that they also encounter cases of illiterates.

The precise extent of the phenomenon "street children" in Prague cannot be determined. According to statistical data on utilisation of services of low-threshold facilities in Prague and information of streetworkers it may be assessed that total number of youth living on the street in Prague is increasing, whereby share of foreigners from third countries is about 1%. Estimates²¹ from February 2006 give figure of 1,500 street children in Prague, and new day centre of the Sance project in Prague 1 is presently in contact with 70 clients. During last year totally about 500-600 clients passed through day centre of the Sance o.s. Majority of these children in Prague come from children's homes (70%), remaining part from broken families. From point of view of nationality most of clients are Czech, occasionally there are also Slovaks, Rumanians, Ukrainians and nationality of other countries (31).

Illegal immigrants do not belong to official clientele of Prague facilities working with non-organised youth and homeless. In practice streetworkers come across them, but due to illegality of their stay, they cannot receive the same services like to domestic clients.

There are almost no foreigners from third countries among the Prague homeless. Prague had total about (February 2006) 1,250 beds for homeless available (of this 350 for mothers with children). 200 temporary provisional beds were provided by City council of Prague during severe January frosts²².

According to empirical research organized by several NGOs about 3 thousand homeless were counted in Prague in 2004; 337 males and 102 females aged up to 25 years, e.g. 14% from total counted homeless (12).

3.2 Illegal migration statistics

In accordance with the valid organisational regulations of the Directorate of Foreigners and Border Police Service (DFBPS) of the Police of the Czech Republic, an analysis group maintains and subsequently analyses a state-wide database of persons involved in illegal migration (illegal crossing of the state borders or the attempt to do so, illegal residency, smuggling of human beings) drawing on reports in the Udalost (Incident) information system.

At the present time, this database observes the definitions and methodological standards for monitoring illegal migration and the smuggling of human beings that are set out in EU documents. The database allows the entered data to be analysed according to all defined items. Age is one of the basic items, and it is possible to break down the structure of minor immigrants as children of up to 15 years of age, and juveniles between the ages of 15 and 18, in line with the valid legislation.

Hence, one can say that the FBPS of the Police of the Czech Republic currently have an instrument available for use in the collection, analysis and statistical processing of data in the area of illegal migration, including the monitoring of illegal migration of minors.

However, identifying unaccompanied minors among persons identified by police authorities in the context of illegal migration can be problematic in many cases. There is **no precise definition**²³ of the term with respect to whether an "unaccompanied minor" is a minor

²¹ Laszlo Suemegh (31)

²² Expert of City Centre of Social Services and Prevention, House of training housing (MCSSP, Dum treningoveho bydleni)

²³ The Act No. 326/1999 Coll., as amended by the Act No. 57/2005, Coll., effective of 4 February 2005 introduces a definition of a foreigner considered as a NBD. According to amended § 2 para 9: „minor

travelling absolutely independently, unaccompanied by any other person, or one who is unaccompanied by a parent, family member or some other person who is responsible for him or her²⁴. Another problem relates primarily to the fact that groups of various sizes may be involved in illegal migration. There is substantial difficulty associated with determining which child or juvenile is travelling unaccompanied (whether completely alone or without a legal guardian or other responsible person), particularly with regard to citizens of certain countries, in view of the language barrier, the absence of identification papers and the unwillingness or fear among persons to talk about themselves. In view of these circumstances, the FBPS Directorate does not have access to data about “unaccompanied minors.”

Cases of illegal migration from the point of view of the state citizenship of illegal migrants need not correspond with cases of “third country national street children”.

Cases of illegal migration by foreigners recorded by the Foreigners and Border Police of the Czech Republic²⁵ show an decrease of the total number of detected cases of illegal border crossings, which fell from 43,000 in 1993 to 10,695 in 2004; in 1993, it was 41,765 of foreigners and in 2004 it was 9,433 foreigners (see Annex 2).²⁶

The majority of detected cases of illegal migration of foreigners across the border were from Russia and China in 2004 (3,725 and 1,009 respectively). According to Status Report on Migration in the CR in 2004 Ministry of Interior (1) most foreigners with illegal stay (violation of residence rules) were discovered in Prague (6,889). Total 16,696 of foreigners unlawfully stayed in the CR were discovered in 2004, it was about 4,654 less than in 2003 (1).

3.3 Statistical data on unaccompanied minors among illegal migrants

In relation to **illegal migration** across the CR state border, according to border protection bodies of the CR and neighbouring states there were total 3,783 foreigners from third countries registered in 2005, out of which 343 were children aged up to 15 yrs and 195 persons in the age group 15-18 yrs. From children total (343) only one child was identified beyond any doubt as a „minor unaccompanied person“ - a citizen of Russia (from Dagestan region). Otherwise majority of children were accompanied by parents making allowance for the fact that for some groups of foreigners it is sometimes difficult to positively determine relation of a minor to an accompanying person. Department of border and foreigners police points out how problematic it is to identify unaccompanied minors among intercepted illegal immigrants and does not hold data on their numbers as reliable.

Among 9,474 foreigners from third countries discovered in 2005 by Police of the CR as **illegally residing** in the CR territory there were 68 children aged under 15 yrs and 154 persons in the age group 15-18 yrs.²⁷ Total 760 minors were detected in 2005 among illegal immigrants, from which 411 were aged under 15 yrs, and 349 were in the age group 15-18 yrs.

unaccompanied person is a person aged under 18 years, who arrived in the territory unaccompanied by a major person responsible for it in accordance with a legal system in force in the territory of the state, citizenship of which such person aged under 18 years has, or in case it has no citizenship, in the territory of the state of its last residence, for the period it is in care of such a person; minor unaccompanied person is also a person aged under 18 years, who was left unattended after arriving in the territory.“

²⁴ The applicable wording of the Act on the residence of foreign nationals does not contain a definition of an unaccompanied minor. This absence should be eliminated by an amendment of the act, which should enter into force on 1.1.2006. Regarding asylum seekers, a definition of an unaccompanied minor was introduced in Act No. 57/2005 Coll.

²⁵ The concept of “illegal migration across the border of the Czech Republic” includes cases of illegal crossings of the state border.

²⁶ Foreigners in the Czech Republic, 2005, Czech Statistical Office

²⁷ Source: Police of the Czech Republic, Directorate of Foreigner and Border Police Service, Analysis Group.

3.4 Asylum seekers statistics – unaccompanied minors

In the period 1999 - 2005 total 1,518 unaccompanied minors (NBD) without legal representatives applied for asylum in the CR, one fourth was girls.

Minor asylum seekers started to appear in the CR since early nineties. Then its occurrence was one to three cases a year, in late nineties their numbers shot up. It culminated in 1999 and it keeps decreasing since then (see table attachment). Experts explain decline in asylum seekers numbers including NBD by two factors - first CR accession to EU and by introduction of Dublin system and introducing the EURODAC system. The dactyloscopy prevents identity changes and repeated asylum procedures. In experts opinion identity changes are frequent for NBDs and it is one of the reasons why they cannot be found when they leave of their own will homes for foreign children.

According to data of the Ministry of Interior's Asylum and Migration Policy Division, there were a total of 106 unaccompanied minors among asylum applicants in 2005 (23.6% of girls/females); 99 of them were aged 15-17 years (93.4%). Mostly they came from India (32) and China (30)²⁸.

According to Czech Statistical Office Data in 2004 between 5,307 asylum seekers 594 asylum seekers were aged 0-14 (50.5% girls/females), 291 aged 15-19 (33.3% girls/females), and 91 of them were unaccompanied.

3.5 Countries of origin of unaccompanied asylum seekers

In the period 1999-2005 highest number of minor asylum seekers came from Afghanistan (240), India (240) and China (215). Countries of the former Soviet Union were another source region of this migration type: 51 unaccompanied minor asylum seekers came from Ukraine, 48 from Georgia, 46 from Armenia 49 from Moldova, 40 from Russia, 34 from Russia-Chechnya, and 10 from Belarus. Numerous were also the following groups: 89 unaccompanied youth came from Sri-Lanka, 85 from Vietnam, 63 from Rumania and 53 from Slovakia.

Bulgaria was not significantly represented among source countries (8 persons in the period 1999-2005) even though in the period 1998-2001 exactly Bulgarian girls made use for street prostitution and thievery in Prague by organised crime. Police estimate there are still 50-80 staying here. Both education and age of these girls keep decreasing, but they are not minor. Mostly they come from underprivileged Roma or Turkish families, which sold them to organised gangs. That makes their repatriation much more difficult, because return to their family does not guarantee that they would not be sold again (15).

3.6 Unaccompanied minors from third countries in Prague

„The Czech Republic is a key transit country for East West migration. Whereas number of minor asylum seekers is exactly recorded, number of other foreign minors is not exactly recorded. However, if more than 100 unaccompanied minors apply for asylum, 75% of them will get lost afterwards. Considering their low age and lack of experience, it can be assumed that they got in contact with criminal environment, including activities relating to human trafficking“²⁹.

²⁸ Source: Directorate of Foreigners and Border Police; Ministry of Interior of the CR

²⁹ Source: Refugee Advice Centre, Report on Activities for 2004

In January 2006 there were total 52 minor foreigners placed in special facilities designated for youthful unaccompanied foreigners in Prague and its environs. According to experts NBDs are only exceptionally found outside MV and MSMT facilities designated for them³⁰.

Numbers of minor unaccompanied foreigners are changing quickly, because most of them are leaving for countries with family or ethnic background. Some of them are without protection of adult legal representatives only temporarily, after return of parents from abroad they return to their care (cases of Vietnamese children at the beginning of this year).

3.7 Statistics on crime committed by foreigners

During last years there were in the entire CR 15-20 persons convicted of the crime of trafficking in women annually (21). In 2004 total 103 foreigners were convicted of evasion of alimony payments, 19 of rape, 14 of endangering the morale of juveniles, 14 of sexual abuse, 7 of pandering, 4 of cruelty to a charge, 2 of endangering public morals, 2 of trafficking in humans for sexual intercourse, 2 of absence without leave, and 1 of undue influence (2). In 2003, 8 foreigners were convicted of the crime of pandering (9 in 2002 and 5 in 2001) and 10 foreigners were convicted of corrupting minors (13 in 2002 and 8 in 2001).

3.8 Reasons for arrival of „street children“ from third countries to Prague

Minor foreigners from third countries are coming into the CR legally (based on tourist visa) and illegally. Illegally they enter either: a) by illegal border crossing; b) by legal arrival from a country with visa-free travel and extend permitted period of visa-free stay; c) by legal arrival on either short-term or long-term visa but continue to stay after validity of visa expires; d) as refused asylum applicants continuing to stay after asylum procedure is finished; e) as victims of trafficking in humans. Among foreigners with permanent residence in the CR „street children“ have not so far been identified, at least none of experts reports on them, nor are they referred to in professional publications and mass media.

Humanitarian reasons of arrival of minor foreigners unaccompanied by legal representatives are among most relevant. Here belong war orphans, refugees fleeing military service and war, but also victims of organised crime. Cases of trafficked or abducted minors are not exceptional. Cases of minors sent by their parents abroad for economic reasons are more frequent, whereby one of reasons is to ensure education to gifted children. Highly intelligent children sometimes become victims of brain trafficking.

³⁰ Experts interview information.

PART II - RESULTS OF EXPERT INTERVIEWS

Under framework of this project total 15 interviews were held with experts of governmental, city and non-governmental institutions and organisations, who work with a target group. These interviews form a basis for this part of the report. The list of institutions and organizations is given in Annex 4.

1. Legal framework

A detailed description of the legal framework of child protection and youth protection in the Czech Republic gives Annex 1. Below we sum up only basic information, facilitating to understand an issue of protection of “street children” and its complexity.

Children and juveniles from third countries unaccompanied by legal representatives (so called “street children”) can be seen in the territory of the capital city of Prague *de facto*, but they do not exist *de iure*. Category „street children”³¹ is not to be found in the legal system of the Czech Republic. Legal and institutional protection is linked to a category unaccompanied minor foreigner (NBD) and this category is also recorded in statistics.

Children and juveniles are a group of persons entitled to protection under the law³². Socio-legal protection covers in full extent children of the CR citizens as well as children-foreigners with permanent residence in the Czech Republic, but also children with permitted residence over 90-days³³. In full extent it is granted also to children staying in the CR illegally³⁴.

Reporting duty refers to each natural or legal person to report to locally competent a minor without protection of legal representatives (both citizens and foreigners). Locally competent municipal authority is obliged to inform municipality with extended competencies which shall undertake further steps for protection thereof.

This protection however is not granted to majors of third countries foreigners (post-minors), which do not have residence permit (major asylum seekers who arbitrarily left asylum facility and are in position of persons without shelter, prostitutes, homo-prostitutes, drug addicts, etc.). Illegal residence blocks an access to existing tools of protection of children and juveniles (day centres, low-threshold facilities and other organizations for children and youth) in Prague. For illegal migrants these facilities are *de iure* inaccessible, *de facto* some of them use their services.

The Act No. 326/1999 Coll. as amended defines (since February 2005) unaccompanied minor foreigner (NBD) as follows: „For purposes of this act an unaccompanied minor foreigner is the foreigner aged 15 to 18 yrs, which arrived in the territory unaccompanied by an adult person responsible for him according to the law governing in the state whose citizenship has the foreigner aged under 18 yrs, or in case he is a person without citizenship, in the territory

³¹ “The term foreigner from third country relates to each person, who is not a citizen of any EU member state, the term „street children“ relates to any child or adolescent aged under 18 yrs and at the same homeless for days, weeks, months and receives either small or none support of children or institutions intended for protection of children“.

³² The Act No. 359/1999 Coll. On socio-legal protection of children.

³³ The Act No. 326/1999 Coll. On residence of foreigners, § 87 - entrusted to substitute care by a decision of the respective body Coll. entitles to permanent residence provided that at least one natural person, to which the foreigner is entrusted, is registered to permanent residence, or in the respective territory a facility to which a child was placed, is located.

³⁴ Who are not having residence permit in the v CR (permanent or temporary one), are not registered for residence under 90 days, are not applying for asylum, and are not entrusted to substitute care. If they stay in the territory of the CR and are minors, a protection and care must be provided to them corresponding to their age (the Act No. 359/1999 Coll. On socio-legal protection of children, § 37, § 42.

of the state of his last residence, and for such time during which he really is not in care of such a person; unaccompanied minor foreigner is also such foreigner aged under 18 yrs, which was left unaccompanied after his arrival in the territory³⁵.

The Czech Republic is obligated to grant to NBDs corresponding care and protection. Care of NBDs is performed by the cooperating state institutions, above all Ministry of Interior, Ministry of Labour and Social Affairs, Ministry of Education, Youth and Sports, and Ministry of Health. Due to absence of a legal category of „street children“, institutional care is based on a target group from legal definition of NBD³⁶.

Foreigners (both major and minor) detained by the CPP of the Police of the CR for illegal entry or residence in the CR are in most cases correctly expelled. Decision on an administrative expulsion does neither prevent to submit asylum application nor continuation of the foreigner´ stay in the territory until its processing, it does however prevents these foreigners to legalise their residence in the CR achieving age of 18 yrs or after finishing asylum procedure.

For children placed into ZDC for purpose of providing services by the facility a fiction of permanent residence remains valid. It means that in the moment the court decides on their placement into a facility they are for purpose of providing health care considered as s foreigners having permanent residence. In the framework of this fiction only children having valid travel and other documents and not subject of administrative expulsion may relatively easily arrange their residence. These children immediately after achieving the age of 15 yrs have to submit to police for inspection birth certificate, authorisation permitting permanent residence in the territory and photographs. Following submission of the required documents police will issue them a permanent residence permit. This fiction however does not affect residence arrangements after achieving the age of 18 yrs or finishing asylum procedure for post minors not having proper documents or subject to administrative expulsion. Amendment of the act on residence of foreigners, should it be passed in the same wording as approved by the House of Deputies of the Parliament, introduces however option of ZDC or OSPOD (closely cooperating) to influence possibility to legalise a residence of post minors in the territory by issuing a certificate on integration and efforts by a foreigner to achieve integration; such a certificate becomes a part of application to abrogate the administrative expulsion. When a juvenile achieves the age of 18 yrs or asylum procedure is finished and juvenile is not a student, such an application for permanent residence cannot be submitted.

Minor asylum seekers placed in the homes for children-foreigners “Modra skola” and “Permon” (ZDC) have permanent residence permit in accordance with the Act No. 326/1999 Coll. (in the sense of the above) as amended, Part 3, § 87 - Residence of a foreigner entrusted to a substitute care by decision of the respective authority.

On the basis of a written contract on accommodation with the ZDC Permon a residence permit of those who attain majority may be repeatedly extended by one year until preparation of such a person for professional life is finished (maximum up to age 26 yrs). So far a procedure for issuing personal documents to these posts minors has not been determined and it will have to be handled on an individual basis, which substantially complicates possible integration of such foreigners.

Asylum seekers (both majors and minors) cannot ask their embassy for issuing a substitute travel document. They must not be returned to a country where there is a danger for them.

³⁵ Amendment to the Act No. 428/2005 Coll. On residence of foreigners.

³⁶ The Convention on child’s rights understand under a child each person younger than eighteen years, unless a legal system applicable to the child does not set forth its maturity at lower age. The Czech legal provisions correspond in this with the international convention.

They can be accommodated in facilities of the MV and await processing of their asylum application. In case their application is refused but the so called obstacle for leaving the territory is acknowledged, they may be issued a residence permit for purpose of sufferance. On the basis of such a permit they can be employed like other foreigners under same conditions like other foreigners subject to work permit procedure.

Amendment to the Act No. 326/99 Coll. on residence foreigners 428/2005 Coll. which entered into force in November 2005 sets forth the obligation to determine a guardian for each NBD in accordance with the Act on foreigners, § 124, para 3; § 124, para 4, shortens an attachment period to a maximum 90 days (§ 125, odst. 1, 2, § 180c) and specifies definition of NBD. Guardian is present to all administrative procedures with a juvenile. At interview with juvenile **asylum seeker** a representative of OAMP, interpreter and **asylum** guardian are present. A standard form like with other **asylum seekers** must be filled in with NBD, in which a NBD states his reasons for applying for asylum in the CR. After period of 90 days in ZZC he is transferred to ZDC-MS. A transfer may take place earlier, period of 90 days is maximum, depending on the ZDC capacity.

In the currently drafted amendment to the Act No. 326/1999 Coll. which is to be passed by the Parliament it is proposed that applicant attaining majority would not have to attach proof of financial means to their application for permanent residence. Problematic issue is that of confirmation of an ensured accommodation for an indefinite period.

2. Institutional framework

Specification of the target group of the project (street children from third countries) is to considerable extent predetermined by some problems in institutional arrangement of care of this group of foreigners. Particular aspects of this issue are handled in mutual coordination of different ministries (MPSV, MVCr, MSMT, MZd or respective departments of regional governments) and also rather wide spectre of institutions are active in this area (Police of the CR, specialised facilities of the education sector, respective departments of municipal authorities, non-profit, non-governmental organisations).

2.1 Government bodies and institutions

2.1.1 Ministry of Interior

In the Ministry of Interior competencies with respect to unaccompanied minor foreigners are split as follows:

Asylum and Migration Policy Division (OAMP) is responsible for asylum application procedure, and leads interviews with minors in presence of their guardians appointed by a court. Keeps statistics of asylum applicants; OAMP appoints a guardian for the first phase of the asylum procedure prior to appointment of a guardian for residence by a court.

Refugee Facilities Administration (SUZ) maintains operation of receiving, residence and integration asylum facilities, provides necessary services to asylum applicants, is responsible for access of children to education, information and leisure activities. It organises programme of their voluntary return to country of origin. Unaccompanied post minors asylum seekers are placed in protected accommodation with round the clock supervision³⁷.

³⁷ There are the following types of refugee facilities in the Czech Republic:

- a) Reception centres, where a person is identified and a visa is issued to her (Foreigners police), asylum proceedings are opened (Asylum and migration policy division), reception medical examinations and obligatory quarantine, and other necessary procedures.
- b) Residence centres – after entry procedures are over, asylum seekers are transferred from reception centre to the residence one. In this centre their living needs are ensured until asylum proceedings are finished. This type of

Security Policy Division (OBP) deals with cases of commercially sexually abused children. It is training the staff of OSPODs and drafts expert materials facilitating to workers protecting children or guardians guidance in the area of minor foreigners.

2.1.2 Police of the Czech Republic

Police of the CR is entrusted by the act on residence of foreigners with rather extensive competencies in protection of state borders, granting entry and residence of foreigners as well as surveillance of residence. Police is also responsible for crime and organized crime area.

Police presidium

Detection Taskforce for Crime by Youth, Crime on Youth and Vice. This unit deals with organized crime related to migration of foreigners.

Directorate of the Foreigners and Border Police (CPP) of the Police Presidium (PP)

Foreigners and borders police is responsible for surveillance of entry and residence of foreigners, identification of persons, search for people, issuing visa and residence permits to foreigners. Foreigners police is responsible for identification of children and youth unaccompanied foreigners, issuing visa, operation of facilities for detention of adult foreigners (ZZC) and keeps information system on foreigners.

CPP Prague, Regional Directorate manages detention centres for foreigners and keeps databases of foreigners having residence permits and of illegal migrants.

2.1.3 Ministry of Labour and Social Affairs (MPSV)

The key regulation governing situation of minor persons in the CR territory is the Act on socio-legal protection of children. In practical implementation of its procedures vis-à-vis the target group, substantial competencies are entrusted to the Ministry of Labour and Social Affairs, mainly to the division of family policy and social work (with its socio-legal protection, family policy, and substitute family care departments). Considering specific characteristics of the target group in question as well as existing requirements on organisation (conceptual, methodological, management, etc.) the issue of street children from third countries however extends competencies of the above division and at the MPSV the multidisciplinary cooperation of different divisions is being applied. Among those are division of social services (department of policy of social services in public administration) and legislation division (departments of social and general legislation). MPSV has at its disposal basic records relating to this area (very close cooperation with Police CR and MSMT resulting from legislation), scope of recorded data is however rather limited.

The division of family policy and social work is staffed with skilled personnel who are responsible for unaccompanied foreigners, curators for youth and experts in area of abused and neglected children. The department is responsible for methodology to be applied by staff

facility also has an open centre. Children and juveniles are placed into specialised diagnostic and educational facilities for foreigners, managed by the MSMT;

c) Integration centres serve for temporary accommodation of persons who were granted asylum in the CR. Here recognised refugees are incorporated into the state integration programme; they attend Czech language courses and wait for assignment of integration flat from regional authorities offers. Youth who were granted asylum after attaining majority may be placed here (asylum from humanitarian reasons was granted so far to only one NBD person after attaining majority).

d) Closed guarded facility for detention of foreigners (ZZC) in Velke Prilepy, which as the only facility can place foreign children and minors unaccompanied by legal representatives for a maximum period of 90 days. Since January 2006 it is managed by the Refugee facilities administration (SUZ) of the MV. Children and youth have access to education, leisure facilities and information.

of regional authorities who come across this target group in the field activities work they perform.

2.1.4 Ministry of Education, Youth and Sports (MSMT)

MSMT has established the Home for foreign children, into which unaccompanied foreign children are being placed. No other programs guaranteed and implemented by MSMT relate directly to the target group of street children from third countries, number of MSMT activities is however oriented towards more widely defined target groups, whereby these activities, situations or measures are closely linked to our target group.

MSMT manages an extensive network of facilities specialized in work with children development of which is jeopardised by socio-pathological phenomena (centres of educational care and specialized pedagogic centres). Services of these facilities may be utilised by street children from third countries, however probability of the contact with this target group is very low; the reason is that these facilities do not perform depistage oriented towards this target group and street children from third countries generally are lacking motivation and/or real possibility to establish contact with facilities of this type of facilities of their own will. The ministry is further active in the area of crime prevention and socio-pathological phenomena, and guarantees and implements fully or in cooperation integration programmes, specialised pedagogical activities with children of foreigners or asylum seekers and programmes multicultural education. In terms of methodology it is responsible for preparation of special teachers or social workers for work with this target group.

Division of special and institutional education took part in drafting of the conception of placing and education of children of foreigners, children with language barriers, including unaccompanied minors asylum seekers into institutional care facilities. Establishment of Home for foreign children was instigated by government committee for rights of foreigners and NGOs. In 2002 the CR government commissioned MSMT to operate the Home for foreign children. In February 2002 the act on facilities for execution of the institutional and protective education and preventive-educational care became effective, and § 2, para 5 specifies operation of the Home for foreign children.

The Home for foreign children consists of four parts, operation of which is in terms of organisation split in two separate units – Blue school in Prague 11, which operates Diagnostic institution and Centre for educational care, and Permon facility, which operates Children's home and Children's home with school. The Prague unit Blue school is responsible for a comprehensive admission diagnostic procedure of children and unaccompanied youth. This usually lasts two months. After completion of this period children and unaccompanied youth are moved to Permon facility located outside Prague. Both facilities have nation-wide jurisdiction and all unaccompanied minor foreigners unaccompanied including asylum seekers pass through them.

2.1.5 Ministry of Justice (MS CR)

Ministry of Justice is the central body of the state administration for courts, public prosecution and prison service. It is responsible for activities of courts deciding in matters relating to unaccompanied minors. It is not in direct contact with either this issue or the target group (this is in jurisdiction of district courts) or facilities of substitute care (under competency of the MSMT).

Problems of street children are not recorded separately by the MS, because there is no legal category „street children“. Statistical data are based on delimitation of merits of considered cases (records are kept of used means of socio-legal protection of children).

District courts decide on entrusting of a child to a substitute care and appoint a guardian of a foreign child for residence in the CR. Such a guardian is either a relative (which is rare, as mostly these children are unaccompanied by legal representatives) or (more often) a department of socio-legal protection of children (OSPOD) of locally competent public administration authority. The court also determines prospective guardian for administrative or penal proceedings.

2.1.6 Ministry of Health (MH)

Ministry of Health is responsible for approach of children and minors legally staying in the CR territory to medical and health care. Health insurance for unaccompanied foreign children having permanent residence permit is covered from the state budget. After a court issues a precaution on the basis of which the child is placed into a specialised Home for foreign children, such a child acquires all rights and obligations of a health insured in the CR. In such a way the financing of the health care is handled during a stay in respective facility.

Foreigners having other country citizenship are participants of the Czech system of public health insurance only provided that they have a permanent residence permit in the CR. They are granted permanent residence only in case, when they are placed into a Home for foreign children, where children from 3 to 18 yrs are being placed.

The health insurance system of asylum seekers has been changed in 2005. Until that year the SUZ guaranteed concluding of contracts between certain doctors and health facilities, to which only VZP (General health insurance company) reimbursed costs of services rendered to asylum seekers. Since October 2005 asylum seekers may contact any doctor and health facility. The range of health insurance companies which are permitted to conclude insurance contracts with doctors and health facilities rendering services to asylum seekers is no more limited to the VZP. The contract between MV and VZP has been annulled and presently the entire system of health care for asylum seekers is undergoing changes.

2.2 Local government bodies and institutions established by self-governing bodies

Metropolitan district authority (UMC) Prague 1 – Department of socio-legal protection of children (OSPOD)

Among organisations implementing provisions of the act on socio-legal protection of children the key role play departments of socio-legal protection of children of municipal (city) authorities. In accordance with this act the pertinent for foreign children is such a body of socio-legal protection in local competence of which the child is staying. Taking into account that other Prague districts - with exception of UMC Prague 11 (see below) – are not sufficiently staffed with appropriately skilled personnel, under jurisdiction of the OSPOD UMC Prague 1 belongs besides care of children endangered by socio-pathological phenomena on the territory of Prague 1 also care of foreign children detained for criminal activities on the entire territory of the City of Prague. These children are mainly coming from Bulgaria, substantial is also the share of Slovak children aged less than 15 yrs old (99% of detained cases are Roma children). The department is staffed with 6 people who cover department activities in full extent (i.e. including care of children – CR citizens).

Municipal authority (MU) Cernosice – Department of socio-legal protection of children (OSPOD)

The department besides standard scope of duties (children endangered by socio-pathological phenomena on the territory of municipality) specialises in work with foreign children, because on its territory (Velke Prilepy) there is a detention facility where minor foreigners from the whole CR are placed. The MU Cernosice OSPOD staffs are authorised guardians by

the court decision with respect to children staying in the municipality territory, i.e. their activities comprise also the ones relating to foreign children placed in the detention facility. OSPOD therefore monitors residence their in the facility and represents them vis-à-vis court proceedings and dealings with other authorities. Guardians also carry out other activities to benefit of a child as specified in the act on socio-legal protection of children. This OSPOD is also a member of the expert group comprising representatives of state institutions and non-governmental organisations, and as such reviews amendments to respective legal regulations and closely cooperates with other institutions and organisations active in this area (OSPODs of other Prague metropolitan districts, cities or municipalities, Foreigners and border police, detention facilities Velke Prilepy, Permon, Modra skola, OPU, PPU) and ministries (MPSV, MSMT, OAMP MVCR). The two OSPOD staff with special training concentrate mainly on problems of foreign children, two employees can alternate them in these activities; all of them also care for other children – CR citizens.

Since mid-year 2004 the MU Cernosice OSPOD handled cases of total 110 children who were subject of either the asylum proceedings or administrative proceedings on their expulsion. Majority of them were children from China, Vietnam, India and former Soviet Union area, aged 17 or 18 yrs. This OSPOD handles almost exclusively cases of children in the age group 15 - 18 yrs, younger foreign children usually stay in the CR territory with family (and are therefore placed into residence centres for foreigners together with their parents).

Metropolitan district authority (UMC) Prague 11 – Department of socio-legal protection of children (OSPOD)

The department besides standard scope of duties (children endangered by socio-pathological phenomena in the territory of the district) specialises in work with foreign children, because on its territory there is a diagnostic institute and childcare centre Modra skola (see below) for foreign children. The range of activities of this OSPOD is similar to that of the MU Cernosice OSPOD. One employee handles this area (spending about one third of his scope of work).

40 foreign children (asylum seekers unaccompanied by parents or other legal representatives and children unaccompanied by parents who do not apply for asylum and are placed in the diagnostic institute of the Home for foreign children, most frequently from India, Ukraine and Bulgaria, but also from Syria, Liberia or Mongolia).

Municipal authority (MU) Dobris – Department of socio-legal protection of children (OSPOD)

The department besides standard scope of duties (children endangered by socio-pathological phenomena on the territory of the town) specialises in work with foreign children, because on its territory there is a specialised facility Permon (educational institution, children's home with school and practical school). The range of activities of this OSPOD is similar to those of the OSPOD MU Cernosice and UMC Prague 11. For this issue one employee is responsible, besides other areas (curator for youth and adults).

City Centre of Social Services and Prevention (MCSSP) is a contributory organisation of the Capital City of Prague, under which fall all specialised Prague workplaces for persons in state of difficult social and life situations. It offers to its clients social, therapeutic and health services, psychological and legal advice, temporary accommodation and basic information service. It is oriented towards work with individuals and families in difficult social and life situations or threatened by social exclusion. The centre provides a wide spectre of social services and covers a series of target groups. From the point of view of the studied target group street children we may view as relevant two groups - persons without shelter and children. Jurisdiction of this organisation is limited to Prague. MCSSP was established by the

Municipal Authority of the City of Prague and is financed primarily from its own funds, grants called for by the Municipal Authority and the European Social Fund.

A specialised consultancy advises persons without shelter (2 employees), winter dormitory and accommodation facility (8 employees). Persons without shelter may also utilise services of facilities not directed at this target group. These are emergency centre RIAPS (14 employees), information centre of social aid KONTAKT (5 employees) and a network of 9 consultancies for family and interpersonal problems (total 27 employees). They only exceptionally get in touch with children seeking help after fleeing from family or institutional care facilities; as for street children very rarely. The MCSSP is not performing field social work, it is however mapping situation of persons without shelter in Prague as well as services which can be rendered to them in Prague.

Children clientele is provided consultancy services (family, psychological – above all with accent on experimenting with addictive substances). Among other key activities destined for this group are primary anti-drug prevention and alternative programmes for group of persons in conflict with law. Here belong also efforts for rescue and prevention of splitting of families resulting from placement of a child into institutional facility.

In Prague there are total 22 streetworkers, 17 low-threshold facilities for youth and 10 open clubs for non-organised youth. (11)

2.3 Non-governmental organisations

2.3.1 Organisations working with street children in general

Citizen association Chance (o.s. Sance)

The Sance project originated in the year 1995 and strives for a systematic and professional help to young people who for various reasons are on the street. About 70% of such cases are youth who fled from children's homes. The citizen association Sance performs three main types of activities: a) operation of day care „Streetcentrum“ and streetwork; b) PR (public relations) activities and public collections; c) charity events. All are aiming at improving conditions of the target group and gradual integration thereof into society. Access to the target group is difficult and this makes field work problematic. PR activities, public collections, etc. should improve awareness of general public on issue of “street children” and (according to expert's opinion) alarm respective authorities to efforts in solving this issue.

„Streetcentrum“ should provide background to clients and enable them to satisfy their basic living needs. Field activities are targeted at depistage, providing consultations, facilitating other services and contacts to organizations active in the area including exchange of experience.

List of activities of the o.s. Sance: a) community and leisure programmes; b) psychotherapeutic and psycho-social aid; c) possibility of satisfaction of social and cultural needs of clients (TV, video, organization of events for clients – concerts, leisure activities, visits to various cultural facilities; d) consultations in area of employment and accommodation possibilities; e) assistance in search for employment and accommodation; f) ensuring access to internet; g) essential catering service (tea, soup); h) hygienic facilities; ch) possibility of washing/obtaining clothes; i) HIV/AIDS and hepatitis testing; j) possibility of access of target group to normally accessible medicines (head ache, etc.); k) cooperation with external doctors (neurologist, venerologist, dentist, psychiatrist, psychologist, general practitioner).

The planned „House of Chance“, for funding of which the association organises public collection should provide to clients more permanent background, to satisfy a need to “belong

somewhere“ and create prerequisite for more systematic and effective work with clients in area of psycho-social and re-socialisation activities. House of Chance should in the future offer to clients accommodation, catering, hygienic facilities (there was no shower in existing facility), new options of leisure activities (workshop, computer workplace) and re-socialisation programmes (including long-term working programmes).

The target group of this project are children, minors and young adults living in the street including those coming from third countries. The organisation activities are limited to Prague, and definition of the target group is according to an interviewed expert rather problematic, because group of street children „officially does not exist“.

The organisation is financed by a wide range of individual donors and sponsors (depending on the activity type), funds from state sources are rather complementary. Currently, there are seven employees plus coordinator, whose scope of work includes also streetwork, social work and psychotherapy plus an assistant for fundraising and five peer activists (trained by State health institute). There are also several volunteers (currently 4, previously 10) cooperating with the organisation (social work, web sites, art workshop etc.).

The capacity of the organisation is generally perceived as insufficient, except for area of cultural and social activities, in which participate mainly private donors and sponsors. The most pressing problems are associated with efforts to create a stable background for the target group.

Possible cooperation with other field organisations is aggravated by unwillingness on their part to handle a problem of commercial sexual abuse of youth, which „officially does not exist“. Cooperation with state bodies (above all the MV) is therefore rather weak; on the contrary it is good with IOM.

„Streetcentrum“ is visited by about 30 clients daily. Streetworkers contact about 600 persons annually (CR citizens and foreigners) and communicate with about 50% of them.

Prior to the change of system of protection of unaccompanied minor foreigners a streetworker met 15-20 street children from third countries per one round. Currently, contacts with them are virtually impossible. Minor foreigners from third countries comprise about 1% of total number of contacted clients. As for country of origin, Rumania, Ukraine, Bulgaria prevail, minimum 10 children have African roots. Most clients have no documents, i.e. their status is illegal and they are not registered, except for exceptional cases in a way (eg. client with the sufferance status).

Passion without Risk

Organisation concentrates on prevention of HIV/AIDS among women rendering paid sexual services. It operates low-threshold centres (possibility of medical examination and treatment, possibility of contact with social workers – establishing contact with family, institution which they left, finding a substitute accommodation, programmes for drug addicts, for homeless people, basic catering and hygiene service, possibility of obtaining clothes). Field programmes and consulting services perform field teams in Prague, Brno and border regions of the CR. Organisation cooperates with similar field programmes for prostitutes or other risk programmes in other towns. The Prague branch has seven employees (executive director, psychologist, 3 social workers, nurse and office manager), the Brno branch two (branch manager and nurse). All employees carry out a field social work besides respective specialised activities.

Among clients younger than 18 yrs the following main groups may be identified: citizens of the CR fleeing their families or, more often, state institution (children’s homes or institutions),

girls living independent already at this age, earning for studies or livelihood, foreigners younger than 18 yrs and children younger than 15 yrs, usually children of clients - prostitutes. For these children a special programme is being implemented. Persons younger than 18 yrs are only a fraction of the clientele.

Centre for prevention and treatment of drug addictions - DROP IN o.p.s.

The Drop In o.p.s. with a general benefit corporation legal status is a registered non-state health facility focusing on an ambulatory contact, first aid, consultations and therapy of drug problems using so called harm reduction approach. One of priorities of the organisation is also prevention of HIV infection among persons applying drugs intravenously. Other priorities of Drop In comprise various types preventive activities. Drop In strives since it was established to enforce a pragmatic view with regard to dealing with a drug issue and tries to influence society approach to drug issue in direction of a realistic approach. Organisation showed interest in cooperating on this research project, due to limited time schedule the interview could not take place. As important can be assessed the statement that in their activities this organisation gets quite often in contacts with our target group.

Sananim o.s.

The Sananim o.s. is the largest non-state organisation in the CR providing services in the area of care and treatment of addiction on non-alcoholic drugs. Currently the association runs eight main programmes and a series of complementary programmes, one of them being work in prisons. Other programmes are implemented primarily in areas of education, primary prevention, publication activities and international cooperation. The association has more than 95 employees and 40 external associates.

The organisation aims at: a) providing professional help and treatment to persons endangered by drug addiction and operation of network of programmes and services creating a comprehensive system of prevention and treatment of drug addictions; b) making provided services more professional and development of a system of specific services; c) extension of cooperation on local and central levels in planning and implementation of anti-drug policy, including international cooperation and change of attitudes of public vis-a-vis drug addictions; d) education of laymen, professionals and paraprofessionals in area of drug addictions.

According to a statement of the employee of the department for the field social work, there are no contacts with the target group of our project. The Sananim o.s. is the largest non-state organisation in the CR providing services in the area of care and treatment of addiction on non-alcoholic drugs. Currently the association runs eight main programmes and a series of complementary programmes, one of them being work in prisons. Other programmes are implemented primarily in areas of education, primary prevention, publication activities and international cooperation. The association has more than 95 employees and 40 external associates.

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According to a statement of the employee of the department for the field social work, there are no contacts with the target group of our project.

2.3.2 Organisations working with foreigners, asylum seekers and refugees

Refugees Advice Centre (PPU)

The Refugees Advice Centre, o. s. was established in 2002 as a successor to the Refugees advice centre of the Czech Helsinki committee (established in 1993). It provides free legal, social and psychological help to persons, who for various reasons had to leave country of their origin and ask protection in the territory of the Czech Republic. Further it consults and advises foreigner in matters concerning acts on asylum and on residence of foreigners, regulations pertaining to social and health insurance, possibilities of employment and education. It is also engaged in influencing public opinion where it strives to achieve tolerance and combat xenophobia and racism. In its conceptual work it tries to affect legislation in the area of migration and refugees law. PPU is a founding member of the Consortium of non-governmental organisations dealing with refugees and a member of the international organisations: European Council on Refugees and Exiles (ECRE) and Separated Children in Europe Programme (SCEP).

PPU employs for work with foreigners total 20 people from following professions: experts on various legal areas, social affairs, sociology, psychology, pedagogic, social work. Funding sponsors include: Czech catholic charity, European Commission, European Council on Refugees and Exiles, Municipal authority of the capital city of Prague, Metropolitan district Prague 1, MLSA CR, MV CR, Foundation for development of civic society (NROS), Foundation Vize 97, Open Society Fund Prague, Czech brethren evangelic church, UNHCR, Government Office CR. It cooperates with volunteers and for its activities raises financial and material contributions.

The following projects are linked to the target group „street children from third countries“:

Project “Minors in facilities for detention of foreigners: Assessment of current situation, legal and psycho-social consultations to minors and capacity building” was supported by UNHCR in cooperation with IOM in 2004. The project was targeted at two target groups: minors at detention centres Velke Prilepy and Balkova, and representatives of the state administration active in this area. Primarily it was oriented towards providing a qualified consultancy to minors and juvenile asylum seekers and minor foreigners detained in these facilities.

The PPU staff (lawyer and social worker) visit on a regular basis detention facilities for detained foreigners and give legal and social consultations to unaccompanied minors and juveniles. They strive for providing in an adequate manner and via interpreter information, explain their situation and mutually find a suitable solution. They monitor situation of this group of clients and jointly with state and public administration (Police CR, MPSV, MSMT) look for the best solution. On the basis of such cooperation the system of protection of the unaccompanied children and juvenile foreigners in the CR was changed.

Refugees Assistance Organisation (OPU)

The Refugees Assistance Organisation is a non-governmental non-profit organisation, which is since it was established in 1991 active in free legal, social and psychological aid to refugees and other foreigners in the CR territory. In its activities it gives special attention to endangered groups among refugees, i.e. children, juveniles, women in vulnerable position, disabled and ill persons. Besides activities taking place in the OPU premises, where skilled staff advises foreigners during working days, the OPU staff visit on a regular basis asylum and detention facilities for foreigners, and help them to solve their legal and other problems. The OPU also participates in organising leisure activities of asylum seekers in asylum

facilities. It helps not only to asylum seekers but also to recognised refugees, foreigners with permanent residence etc., organising leisure activities in residence centres of the MI, cooperates with the home for foreign children and the facility for unaccompanied minors in Velke Prilepy.

The OPU financing is based on projects supported from the following sources: public budgets, projects financed by the EU including Structural Fund, and funds of foundations. The OPU has two branch offices: in Prague and Brno and employs full time 19 staff. Special groups among them are experts on work with youth – unaccompanied minors: 2 lawyers, 1 social worker, and 2 coordinators of volunteers (there are about 70 of them).

Among OPU clients are: a) adults (men, women), b) children of asylum seekers and recognised refugees (accompanying their parents), c) unaccompanied minors (NBD) - split roughly into asylum seekers (1/2), NBD with permanent residence (1/4), and victims of trafficking in humans (1/4) NBD, 1 recognised refugee.

The OPU cooperates with the home for foreign children which is routinely visited by its employees and offer to foreigners placed there consultations from legal and social area, and also specific leisure activities. Under framework of an Equal project also an individual assistance is being offered by university students.

The OPU staff accompany asylum seekers and above all juveniles to authorities during processing of necessary documents, fill in applications for permanent residence permit, for school attendance, coordinate activities of collaborating university students, and are involved in solving essential problems of asylum applicants, mainly juveniles, recognised refugees, and other foreigners associated with their life and integration in the CR. The OPU cooperates with other non-government organisations and initiatives associated in the Consortium of non-governmental organisations for work with refugees.

Juvenile asylum seekers and unaccompanied juveniles, non-asylum seekers, are incorporated into a special project. Other projects work with adult asylum seekers, recognised refugees and foreigners in general. In the period 2003-2004 the OPU worked on the project „Separated refugee children project“ supported by the Dutch Embassy to Prague. The Equal project „Support of unaccompanied minor asylum seekers“ comprises presently about 55 children and juveniles. (In the Permon educational facility there are 35 persons, in the diagnostic facility in Prague 11 total 12 persons, in the detention facility Velke Prilepy 8 persons).

Main social work instrument the OPU provides to its clients is an assistance in dealings with authorities, mainly in the process of obtaining necessary documents for application for permanent residence permit of those who attain shortly majority and do not wish to stay till the age 26 yrs in the Permon facility. Assistance is also provided in dealings with embassies, OSPOD departments of municipal authorities. Those who do not leave the diagnostic facility (do not run away) welcome a help offered by the OPU. With the Permon they conclude voluntarily contracts specifying that they may live there provided they will get education and prepare and professional preparation. On this condition they may live there until achieving the age of 26 yrs.

2.3.3 Inter-governmental and international organisations

IOM (International Organisation for Migration)

IOM Prague branch was founded in 1997 to deal with serious problems linked to migrations. It helps to vulnerable groups, among which are above all unaccompanied minor foreigners. IOM programmes are focused mainly on a) voluntary returns, b) international development aid to the CR, c) integration of foreigners, d) prevention and combating trafficking in humans,

e) information campaigns. IOM took part in years 2001-2002 on creation of low-threshold centres for street children in Rumania (Bucharest). Priorities are is help provided on the spot and prevention of illegal migration. Founding of low-threshold and open centres, which provide to street children a dignified place for accommodation and boarding, basic hygiene and direct their activities right on the spot where they are, is the best solution. IOM strives for repatriation of NBDs, and at the same time tries to prevent repeated trafficking. A system which would help to locate NBDs runaways from the homes for foreign children or other asylum facilities (not only in the EU area) could increase their security.

UNHCR (United Nations High Commissioner for Refugees)

UNHCR is focusing mainly on legal matters, solving further aspects of situation of these persons is subject of interest of other organisations and institutions active in this field, which are in such cases contacted. UNHCR and SCEP³⁸ support a joint European project - Separated Children in Europe.

3. Co-operation/networking between institutions

Organisations working with unaccompanied minor foreigners intensely cooperate and coordinate their activities. Under framework of a PPU project an expert group originated in October 2004, and it was gradually extended both in terms of members and handled topics. In meetings of the expert group representatives of the following institutions are taking part: MSMT, MPSV, MS CR, MV (OAMP, SUZ, OBP), Police CR, RSCPP, UOOZ, OSPOD (MU Cernosice, UMC Prague 1, UMC Prague 11, occasionally MU Dobris, UNHCR, IOM, OPU, PPU, ZZC Balkova and Velke Prilepy, Institute of pedagogic education, Centre for integration of foreigners and Justice academy. Meetings are held on a monthly basis in the Modra skola diagnostic facility.

Cooperation of partners is limited by differing targets and approaches. This is revealed primarily in solving a situation of NBDs in the CR after attaining majority. A consistent government policy is missing, which would be clearly oriented towards either their integration or expulsion. This results in situation when MSMT and MPSV work on an integration of NBDs, whereas police are rather inclined to their expulsion after they attain majority.

Problematic is in certain aspect a cooperation with CPP, social and health committees of district metropolitan districts, where foreigners are accommodated (payments of health insurance, child allowances and social allowances, etc.). Cooperation of particular organisations is complicated by not clearly defined competencies.

Low level of cooperation between organisations working with endangered youth groups and those working with NBDs weakens institutional capacity applicable to solving this issue. A natural obstacle to cooperation of both types of organisations is different clientele and primarily different legal status of clients; unorganised youth versus unaccompanied minor foreigners. In case of Sance project is an alternative approach to clients based on trust between a streetworker and a client an apparent obstacle to cooperation with other organisations and above all it is in a fundamental conflict with reporting duty of natural and legal persons should they come across cases of child abuse or neglect (e.g. duty of a citizen or police to report to municipal authority detected cases). O.s. Sance does not consider placement of clients to detention facilities or institutional care ones as a suitable solution. Systems of socio-legal protection of a child and procedures of detention of illegal migrants and asylum seekers in the CR are concentrating exactly on institutional care forms. As a result

³⁸ International Save the Children Alliance

the Sance encounters unwillingness to cooperation and is not considered mostly as a relevant partner; good experience record is however with the IOM.

Organisations working with NBDs do not cooperate very much with organisations focusing on field programmes of social work with “street children” in broader sense of meaning. Under framework of programmes for specifically endangered groups contacts with target group cannot be excluded. Organisations working with „unorganised youth on the street“ or with „street children-foreigners“ get in contact with foreigners only exceptionally, except for the o. s. Sance and o. p. s. Drop-In, contacts of which with this group are more frequent³⁹. Social work with NBDs is performed by specific oriented organisations PPU and OPU.

4. Identification and presentation of good practices

Care of NBDs has radically changed in 2004, when two specialised facilities with nation-wide competency started operation; Home for foreign children consists of four parts split for operational purposes into two separate work places - **Modra skola** in Prague (operates Home for foreign children facilities (ZDC), i.e. Diagnostic institute and Centre of educational care), and Permon near Pribram (operates Children’s home and Children’s home with school). The above facilities are managed by the MSMT.

There may be asylum seekers among NBDs from third countries, but not all NBDs belong to that group. ZDC MS and Permon facilities serve for both NBDs groups.

NBDs detained by the foreigners and border police - CPP (mostly during illegal crossing of the state border) are usually placed to the Detention facility for foreigners (ZZC) in Velke Prilepy. Within 90 days they are transferred to facility for foreign children (ZDC) Modra skola (MS) to undergo a comprehensive diagnostic. In case they maliciously leave ZDC and are again detained by the CPP, they are returned back to ZDC. ZZC in Velke Prilepy serving for accommodation of NBDs is managed by the OAMP of the MV since January 2006, whereas earlier it was managed by the CPP.

Changes in the system of care of NBDs, mainly ensuring legal assistance in the course of asylum proceedings and improved cooperation between ministries with respect to health care, social protection, in creating adaptation, education, integration, repatriation and other programmes took place already in 2004 and still continue. Non-governmental organisations took over substantial part of responsibility in utilisation of leisure of asylum seekers.

Among important changes there is a duty of the locally competent court to appoint a guardian to children and unaccompanied minors: for administrative proceedings, for residence and for criminal proceedings. The guardian may be a relative or a legal representative. Most often a guardianship is entrusted with a department of socio-legal protection of children (OSPOD) of the locally competent municipal/district authority. According to experts’ opinion (MS, SUZ) are different types of guardianship (for detention, asylum, residence, criminal proceedings, administrative expulsion) in a certain conflict, because legal regulations and goals of institutions are not always identical.

Opening of specialised facilities for foreign children and youth which are managed by the MSMT is one of most substantial improvements in the area of protection of unaccompanied minor foreigners. Children and youth have now ensured access to education and preparation for professional life. They have a place for living; their material needs are taken care of. For the care and education of accompanied children in residence camps for asylum seekers and recognised refugees is ensured by the SUZ of the MV.

³⁹ O.s. Sance – children on the street, Passion without risk - victims of a commercial sexual abuse; Sananim, Drop-In - addictive substances users. These organisations coordinate their activities via CAS.

Validity period of residence permit of those who have already attained majority and are studying is in case they are accommodated in the ZDC limited only by duration of the ongoing study. In the ZDC these post minors may be accommodated till they attain the age of 26 yrs and the residence permit is cumulatively linked with the ongoing study. The ZDC pays for accommodation of those who are studying at secondary schools or universities (boarding school, university hostel fees). So far such cases are very exceptional.

Legalisation of residence by placement into ZDC is of an utmost importance not only in the area of education and preparation for profession, but also of social care and health insurance benefits. Now it is possible to ensure to children placed to ZDC claims to reimbursement of services covered by public health insurance by means of legalising residence status (they are often in poor health condition, there were recorded cases of tuberculosis or hepatitis E).

Duration of residence in a detention facility for foreigners (ZZC) has been shortened for children and youth to maximum 90 days (effective since November 2005). During this period they have ensured access to education, leisure activities information.

A MPSV expert assessed as good practice an implementation of conceptual activities (grant schemes enabling support of non-state, non-profit organisations active in this area) drafted by the MPSV and cooperation with the MV and MSMT in drafting concepts relating to this target group). According to this expert the national CR legislation reacts well on a problem of unaccompanied children and youth. **The Czech legislation is in many aspects better than the European one, however permanent efforts to harmonise it with European law complicate work in this area in the CR.**

Possibilities of work with target group expand (from the point of view of protection children and youth) with differentiation by the age threshold under 15 yrs and specification of the specific status of persons in the age group 15 -18 yrs. Differently from some EU member states this youth category does not get into a legal vacuum and a whole range of suitable tools of social and pedagogic work may be utilised for its protection.

Very appreciated was close cooperation with regional authorities, improvements could be made in cooperation with non-profit organisations working with street children; stimuli should come from both sides, i.e. non-profit organisations as well as state institutions).

An expert from the City centre of social services and prevention highly evaluated cooperation with departments of socio-legal protection of children (OSPOD), curators and social workers of particular municipal district authorities, especially in areas of education and supervision. Legislative provisions create sufficient preconditions for mutual cooperation of institution working in areas of active employment policy, services sector and school facilities; their utilisation however is not sufficient.

Positive was also evaluation of unaccompanied children and youth in legislation on foreigners. In spite of that there is only a weak link to laws governing protection of children and youth in the CR.

As a result of insufficient links between legal regulations in the area of protection of children and legislation on foreigners, an expert group comprising representatives of state institutions and non-governmental organisations (Foreigners and border police, detention facilities Velke Prilepy, Permon, Modra skola, OPU, PPU, representatives of the police, Prague metropolitan districts where minor foreigners are accommodated, particular OSPODs). Very close cooperation among many organisations active in this area is gradually bringing results. Establishing such a group per se can be assessed as a success and a step towards strengthening capacity in tackling this complicated issue. Besides informing others on own activities,

education and exchange of experience, these expert group drafts amendments to respective legislation and strives for their acceptance.

Well proven is a close cooperation with the embassy if the country of origin, which enables return of children to their original families. This refers mainly to children transported in the CR by middlemen in trafficking with children (Bulgaria, until recently Rumania, currently numbers of these cases decrease) who are not asylum seekers.

The programme for protection of victims of trafficking in humans for purpose of sexual exploit is under way, which covers major foreigners. The Czech Republic approved in 2000 the National plan for combating commercial sexual abuse of children which is updated bi-annually.

5. Descriptions of problems/shortcomings in the respective cities

Currently the most pressing is an issue of residence status of youth which will soon attain majority. If an occurrence of a minor unaccompanied is reported by police, a minor is placed into a ZZC which usually issues a decision on expulsion. In spite of the fact that a minor is then placed into diagnostic facility of ZDC, after attaining majority he cannot legalise his residence.

Situation of minor foreigners is markedly complicated by attaining his majority. To be able to apply for permanent residence permit, they must have identity documents. An essential drawback is also that unless they want to live in a ZDC, their accommodation for an indefinite period is not guaranteed and financial means not ensured.

National legislation of social protection of youth according to e.g. a MPSV expert saturates specific needs of street children, field social workers argue it is not the case. They perceive above all a need of system changes leading to solving both accommodation and employment of homeless youth simultaneously. Also financial means for such solutions are lacking.

Reporting duty is a key institute in the area of socio-legal protection of children. Its drawback is that it makes more difficult for foreign children and youth to establish contact with field workers, thereby limiting possibilities of effective help for this group. Work of streetworkers is based on trust, loss of anonymity and reporting duty vis-à-vis minor foreigner to a municipal authority and subsequent placement in a ZDC divests a streetworker of an option to help to minor foreigners directly in the field. A conflict with professional role is taking place.

Authorities of socio-legal protection of children are usually appointed by court as guardians of unaccompanied minors for residence. In places where facilities for unaccompanied minor foreigners are located, their clientele extremely expanded. Problem-solving and assistance to unaccompanied youth foreigners requires a lot of time and professional qualification. OSPODs appointed by court as guardians of unaccompanied minor foreigners were not with respect to staff strengthened and their personnel were not sufficiently trained. According to opinion of more experts (OSPOD Cernosice, ZDC MS, SUZ, OAMP) training of staff working with this target group is a serious problem. Common social and pedagogic staff in locations of ZDCs are lacking special capabilities such as greetings in child's language (e.g. Vietnamese, Chinese), thus making establishment of contact more difficult and decreasing motivation of a child to cooperate.

Currently staff of some municipal district authorities is undergoing a training to become professionals in the area of protection of unaccompanied children and minor foreigners. So far they proceed in accordance with the act on socio-legal protection of children, which is however not quite compatible with foreigners legislation. Foreigners issue is complicated; law reacts quickly by means of many amendments, which need special interpretation. State

administration personnel at all levels, who come in contact with unaccompanied minors including police and judges need therefore a thorough continuous training.

Problematic is also a care of foreign children aged under 3 yrs, which is to be performed by the Ministry of health.

Many foreigners detained without documents in the territory of the Czech Republic state their age under 18 yrs in an effort to evade placement into guarded detention facilities for foreigners. Thus they can gain both better protection granted to minors and greater freedom, which enables them to leave without any problem to leave such a detention facilities for youth if they decide to do so. Changes of a system of care of unaccompanied minor foreigners, changed system of protection of on socio-legal protection and establishment of facilities for children and youth resulted in misuse of such a better standard care and protection by adult foreigners. Examination of a factual age of foreigners without documents is unreliable and costly, and therefore it is done only exceptionally (6).

Certain problems occur during field activities. The MV cooperates with only some NGOs working in this area. Such organisations operate without problems in bigger cities, where issue of street children occurs more often and non-profit organisations are already well established; in smaller towns organisations capable of tackling problems of unaccompanied minors do not exist. In case of more pronounced escalation of this problem insufficient capacities are felt. According to an employee of the MPSV who is in close contact with organisations active in field social work there are no foreign children among street children.

Main drawbacks of the current legislative framework (from the point of view of practical needs) are according to an expert from the o.s. Sance the following:

“There are no rules for this area, or it is difficult to enforce them („anarchy“). This limits possibility of adequate reaction to illegal residence and results in concentration of unaccompanied children and youth in the CR. Foreigners policy in the CR is generally not very effective with respect to existing problems with foreigners.

Position of a streetworker working with this „officially non-existing“ clientele is in no way institutionally covered; neither with regard to clients, nor with regard to police. This fact further limits possibility of work with a client.

At the MV no full scale preventive activities are being implemented due to the fact that this institution is oriented primarily towards repression. Division of prevention at the MV is subordinated to functioning of this organisation and this results in substantial limitation of its activities and possibilities of communication.

Repressive steps immediately erode positive results of preventive activities achieved by long-term efforts.

Problematic is insufficient delimitation of responsibility between administration staff and politicians. Activities of respective departments dealing with prevention at different ministries (MZ, MZd, MPSV, MV) is not efficiently coordinated.

Media approach to this issue like to a „curiosity“; more systematic approach could themselves unnecessary conflicts with different institutions. This further contributes to „official non-existence“ of the problem.

Differentiation of persons under 15 yrs and 18 yrs old in statistics causes problems. Besides that for children from third countries this division is an excuse of competent authorities not to treat children from third countries in the age group 15 - 18 yrs in the same way as the same age group - CR citizens. This problem confirms also UMC Cernosice. Such a division enables authorities evade solution of problems of this group by providing help and authorises

repressive approaches. This group thus in fact not only receives no help but it is even criminalised.

Other specific problems, practical experience and observation concerning current practice were mentioned: As a result of „philosophy“ of repressive bodies „invisible does not exist“ clients are dispersed through entire city, often on outskirts of Prague. It is therefore very difficult to approach them even when their whereabouts are known; during field rounds it is possible to contact only a small part of the target group due to extensive area of the city, which is especially the case of children from third countries.

Clients from third countries are getting „lost“, Prague is only a transit point on their way. They do not concentrate in Prague, tens of people stay here for 3-4 days. Similar figures were observed for persons leaving children's homes. There are good possibilities for establishing closer contacts with clients from Slovakia (they stay in Prague), whereas clients from third countries go on in migration, they are not interested in contacts.

Not even close cooperation with an embassy of country of origin does not guarantee success in efforts to solve a situation of a child, who was sold to middlemen by his parents (about 80 children since 2000). Cases were recorded of a repeated occurrence in the CR of such children, and these cases cannot be solved in the CR territory. Problem is primarily a situation in the country of origin, mainly insufficient legislation and material capacities that would enable to solve causes of problems in countries of origin (criminal justice).

Competencies of the foreigners police vis-à-vis target group of foreign children are not sufficiently defined. It is very difficult to create an atmosphere of trust between a child detained in connection with a criminal activity and an institution where police transfers the child - they are afraid and defiant.

Children with illegal residence detained in connection with a criminal activity are usually instructed there is no possibility of getting a legal residence, they refuse to cooperate and concentrate on escaping from a facility into which they were placed, and often they succeed.

For some children detained in connection with a criminal activity in a facility into which they were placed on the basis of a precaution, persons arrive to the facility stating that they are their parents and require that a child be handed over to them or that they have been authorised by its parents to take over a child. There is no assurance that such persons are real parents who can ensure a care of a child. Practical experience shows that in majority of cases they are not parents of a child.

On the basis of a power of attorney a child cannot be handed over to an authorised person, because legislation does not know such a legal reason (regardless of the citizenship of a child, CR or of another country), in practice however such cases occur. In spite of the facts indicating that a child would not receive a proper care, courts on the basis of proposals of such persons annul precautions on placement of children and entrust them to these persons. This happens even in cases when identity of such persons was not verified. Courts receive copies translated in the CR of birth certificates whereby some of them do not contain certification of the document. It is not surprising that a child appears repeatedly in such a situation. Cases were recorded when a child was handed over to a person, who stated not to be child's parent.

Insufficient are capacity and profiling (from point of view of setting targets and above all target groups) of facilities, into which detained children are placed. Placing of absolutely different groups of foreign children (minor prostitutes and minors committing crimes) together with children, development of which was not substantially corrupted) limits possibility of taking into account the best interest of a child. Equally insufficient is capacity

and preparedness of OSPODs to handle this situation; this is symptomatic not only for OSPODs of metropolitan districts and municipal authorities with concentration of foreign children, therefore specialised in these issues, but also other municipal authorities.

In case when place of residence of a foreign child changes, OSPOD entrusted with its guardianship changes too. Newly assigned body of the socio-legal protection receives however an original file of such a foreign child in complete extent only from some original OSPODs. Therefore a newly assigned OSPOD only has at its disposal newly created (and usually not sufficiently describing entire situation of a child) file, and this largely limits scope of child's representation.

Capacities of non-government organisations working with foreigners were mostly assessed as satisfactory viewed from present viewpoint but as insufficient when viewed from future viewpoint.

The Czech legislation does not take into consideration in adequate manner specific needs of the group of foreign children and this situation is currently in practice solved by an intensive cooperation of organisations. It is a very positive trend; however problem situations are thus solved ad hoc, without sufficient legislative and methodological preparation. One respondent argues this is attributable mainly to the quality of cooperation between legislators (or executive respectively) and universities. Training of pedagogues (both of those teaching at schools – who are already coming across children of immigrants, and experts specialising in work with this group of children) cannot be assessed as sufficient. Problem is primarily in an obsolete perception of multiculturalism concept, when general theoretical knowledge is stressed, which cannot be utilised in practical pedagogic work.

Another problem is how to determine the age of youth. Protection of young foreigners is being misused, adult foreigners declare themselves as minors so that they reach an offered help. After a short time they usually escape from facilities for youth. However legal assessment of majority is usually based on medical testing, which is costly and health insurance companies do not reimburse them.

Essential issue to be solved is future of minor asylum seekers. The state invests into their education and it is a pity that it does not facilitate their integration. Thereby it loses a group of people, who could well integrate into the Czech society. The most important is a legalisation of residence, where granting of residence after attaining majority and documents problem still remain to be solved.

6. Need for action/recommendations for improvement at the local level

Problem of street children is not tackled appropriately according to some experts and respective authorities are not willing to accept its existence. To recognise the issue would lead to a substantial increase of costs of its solution (it is obvious when comparing it with attention devoted to illegal drug use and financing appropriated to combating it) - o.s Sance.

As a major perceived drawback is an unsure legal status of minors with respect to their future. **The policy toward unaccompanied minors should have explicit declared targets: whether to integrate them into the Czech society or to prepare them for repatriation after attaining majority.**

In the acts on residence of foreigners, on asylum and on socio-legal protection of children and youth an age threshold of protection should be unified; 19 yrs value is considered by experts from NGOs working with unaccompanied minors as an optimum. Softer conditions are in force for youth aged under 26 yrs.

It is necessary to create rules enabling legalisations of residence of those who do not have personal and travel documents and are unable to obtain them from country of origin.

As a drawback also an insufficient attention devoted by authorities to issues of asylum accommodation and leisure activities in calls for grant scheme is perceived

Granting an asylum is assessed in different way for children and adults⁴⁰. Differentiated approach can be generally considered as substantiated; unfortunately it is misused by some major asylum seekers. This problem is further aggravated by only perfunctory character of establishing age performed on the basis of “age testing”. It would be desirable to unify conditions for evaluation of the age testing, which is of decisive importance in such situations.

In deciding on granting an asylum it is necessary to use more differentiated approaches especially towards children; legislative provisions are rather general and do not enable adequate reaction to particular situations.

It is necessary to enlarge capacities and number of facilities into which detained children are placed, as well as to differentiate their structure (with regard to target of the facility and the target group). Desirable is also strengthening of capacity and professional background of departments of socio-legal protection of children’s staff.

Regarding issue of street children in general, closer cooperation would be desirable as well as an exchange of experience in teaching special pedagogic, social pedagogic and social work at universities. Closer mutual cooperation should take place among Ministry of education, youth and sports, Ministry of labour and social affairs and Ministry of health. Possibilities of capturing these children into the current social net are so far rather limited. Very desirable would be therefore establishment of an institution that would handle the issue of street children in an interdisciplinary way in collaboration with all the above ministries. Its scope of activities would comprise: a) tackle poor health condition of street children; b) strive for integration and provide care to this target group; c) educate these children and ensure for them better quality education.

Ideal solution would be to establish more low-threshold social facilities for emergency cases, half-way homes and so called SOS villages and thus support inclusion of unaccompanied foreign children and youth into the Czech society. Important is that they have contact with their contemporaries like other children and are not isolated from normal life.

Current solution is good. In the first phase of life in the CR it is desirable that NBDs live together with other foreign youth, because they have common or similar experience and problems. After certain time they should get a chance to emancipate from these problems and to start thinking about how to arrange their future. Establishment of a special facility for foreign children is a good solution; in perspective it should however be more open and should be located in a city, so that youth can really integrate into the Czech society. It would be more suitable to locate in the countryside a diagnostic facility, currently locate in Modra skola, Prague, and a facility for long-term residence to locate in the city with more schools and other options for professional preparation.

⁴⁰ Reasons for granting or rejecting of asylum are assessed in the same way, only care and accommodation are different.

CONCLUSIONS

Children and adolescents, conditions of which could be comparable to those of „street children“ in Guatemala, Russia, Vietnam, Kazakhstan and Ukraine, which really live and sleep on the street, the only home they have, do not occur either in Prague or in the CR. Number of those, however, who live on the street, primary purpose being to spend their leisure, but for some of them also as a source of subsistence, and exceptionally also as an occasional dwelling place. Among these „street children“ belong above all young drug addicts and prostitutes (8).

Definition of the „street children from third countries“ is too vague and does not reflect legal and institutional framework valid in the CR. „Street children“ as a statistical unit do not exist, therefore the extent of the phenomenon cannot be quantified.

Definition of the „street children“ according to experts' opinion does not reflect situation in European big cities. Expression „youth on the street“ reflects better an existence of a different, mutually independent youth subcultures with no marked social links and contacts, occurring in big cities.

Prague has not become a target place for unaccompanied minors from third countries so far. They quickly move to other countries where they have either family or ethnic background. It still remains to be answered whether a situation like this will prevail also in the future.

According to experts' opinion the most important issues are:

- insufficient possibility to verify documents of not only of unaccompanied minors, but also of those claiming to be their legal representatives and collecting them from institutions for alien children;
- impossibility to legalise a residence of persons without personal documents after achieving maturity. Majority of unaccompanied minors have an administrative expatriated person status and their residence cannot therefore be legalised even in cases when they are partially integrated and wish to stay in the CR;
- consistent government policy is missing, which would differentiate between those, integration of which is sought, and those, which are intended for repatriation. In practice steps of government institutions are acting in opposite directions.

According to expert's opinion the following should be improved:

- groups of minors should be purposefully prepared, taking into account their intention and interest, either for their integration in the CR, or for the fact that they will be expatriated after reaching their maturity;
- cooperation between states should be improved with respect to searching for people which „left no traces“, by e.g. creating contact telephone numbers or web sites, through which those who of their own will left facilities for foreign children could inform responsible staff of these facilities that they are alive and OK;
- legal regulations of offences like pandering and endangering public morals should be unified; in some countries it is not a criminal offence, therefore repatriation of minors does not guarantee that their parents would not sell them again to international gangs (e.g. Bulgaria);
- legal position of streetworkers is not consistent with respect to minors and adolescent foreigners; on the one hand they should help them, on the other hand they should report them, thus being exposed to conflict of interests.

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ANNEXES

ANNEX 1

Legislation (regulations as contained in the respective foreigners / immigration law and national child protection law)

General overview of legislation covering foreigners' stays and cares for unaccompanied minors in the Czech Republic:

Act No. 94/1963 Coll., on the family, as amended

Act No. 359/1999 Coll., on the socio-legal protection of children, as amended

Act No. 99/1963 Coll., Civil Court Procedural Rules, as amended

Act No. 109/2002 Coll., on the exercise of institutional care or protective care in educational facilities and on preventative care in school facilities and amending other acts, as amended

Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic, as amended

Act No. 97/1963 Coll., on private and procedural international law, as amended

Act No. 325/1999 Coll., on asylum, as amended

Act No. 57/2005 Coll., amending Act No. 325/1999, on asylum

Act No. 29/1984 Coll., on the system of primary schools, secondary schools and higher vocational schools

Definition of minority

The Convention on the Rights of the Child, which is binding for the Czech Republic (promulgated in the Collection of Laws as Communication of the Federal Ministry of Foreign Affairs no. 104/1991) defines children as persons under the age of 18, unless majority is attained earlier. Section 8 (2) of the Civil Code provides that majority is attained upon the attainment of 18 years of age; prior to this age, a person can attain majority solely by entering into marriage, whereby the thus attained majority is not forfeited even if the marriage ends or is declared invalid. The concept of "child" is used in other legal instruments governing the legal status of children in the Czech Republic (the Charter of Fundamental Rights and Freedoms, the family act, the act on the socio-legal protection of children, in penal law the act on misdemeanours but not the Penal Code). In accordance with the meaning of the term "minor" in the Civil Code, in these laws it is usually taken to mean "minor child".

Normative regulations concerning the status of children or minors from third countries are contained chiefly in legislation governing asylum proceedings and the conditions of the residence of foreign nationals in the territory of the Czech Republic. The act on the socio-legal protection of children defines the set of persons which this act applies to in full (a child with permanent residence, a child with permanent or long-term residence under a permit, a child who has applied for asylum, a child with an authorisation for permanent residence). Assistance under this act may be provided to other minors in special cases or under the provisions on immediate assistance. Other legislation concerning the legal status of children is dominated by anti-discrimination regulations that are formal and more broadly applicable. The generally formulated provisions of the international Convention on the Rights of the

Child may enable even certain very specific situations to be covered, yet its sense is essentially that the signatory countries sign up to the appropriate commitments, not that these are actually put into practice. For these reasons, it is asylum and migration policy legislation that is decisive for third country national children; the act on the residence of foreign nationals displays particularly evident shortcomings.¹

In certain aspects the act on the residence of foreign nationals is totally contrary to the sense of the Czech Republic's cited international commitments: they treat as fit to perform acts in law a "foreigner over the age of 15 who is able to express his will and act independently", unless the act states otherwise. The author of the cited document believes that this provision lacks any cogent justification.²

Despite the fact that the status of children or minors from third countries is not differentiated significantly from the status of adults, the applicable legislation clearly tends towards placing caught unaccompanied foreign children in facilities for foreigners³. That is a reflection of the restrictive legislation, which also imposes very stringent detention on adults from third countries who have violated the rules governing stays in the Czech Republic. This fact can probably be regarded as one of the key reasons for the non-existence of the phenomenon of third country national street children in the Czech Republic and Prague. In Czech law, the definition of children or minors from third countries is derived from the legal status determined by age and citizenship. The current legislation takes into account specific situations that may apply to underage asylum seekers; for those not seeking asylum the amendment on the residence of foreign nationals introduces (as of 1.1.2006) a special regime.

To summarise, a number of the Czech Republic's international commitments are taken into consideration merely formally in the current legislation and their practical implementation is markedly limited and, in many respects, completely prevented even. It is evident that this situation applies also to the legal status of minors from third countries in the territory of the Czech Republic.

Children who are Czech citizens

Within the meaning of the family act full responsibility for a child (Section 31) is held equally by both parents (Section 34). If one of the parents dies, or if one of the parents' fitness to perform acts in law is withdrawn by a court or one of the parents' parental responsibilities is restricted or withdrawn by a court, this responsibility passes to the other parent. If the interests of the child so require, a court may decide to place the child in the care of a natural person (Section 45) other than the parents. In that case, the court has to define the extent of rights and obligations that this person has vis-à-vis the child. If it is in a child's interests, a court may place it in foster care. To assess the suitability of a natural person to provide foster care the court demands the opinion of the body exercising socio-legal protection of children. The foster parent has the same rights and obligations in respect of a child as parents. The foster parent does not have the duty to maintain the child or the right to represent the child – these rights are retained by the child's legal representatives. Foster parents have the right to administer only a child's everyday affairs; if they believe that a decision by the child's legal representative is not in the child's best interests, they make seek a court ruling.

¹ A Comprehensive Analysis of the Asylum System in the Czech Republic, pp. 7-18.

² Ibid., pp. 11-12.

³ This situation has been widely criticised by non-government organisations active in this area, as the capacities designated specially for children from third countries are insufficient and detention facilities for foreigners were insufficiently adapted to the needs of this group (see Section 5, Recent tendencies and developments).

If a child's upbringing is seriously jeopardised or seriously disrupted, or if for other serious reasons the parents are unable to bring up a the child, a court will order institutional care or will decide to place the child in the care of facilities for children needing immediate assistance (Section 42 of the act on the socio-legal protection of children⁴).

Within the meaning of the act (Section 42 (2)), facilities for children needing immediate assistance provide children with protection and assistance (Section 2 (3) of the act on socio-legal protection⁵) for such time until a court rules on a petition, submitted by a local authority with extended powers, for a preliminary measure (Section 76a of the Civil Court Procedural Rules⁶).⁷

The court is subsequently obliged to monitor the exercise of the care measures that it ordered and to assess their effect. The court may ask a municipality or district authority to monitor the care measures. The court cancels the institutional care if the reasons for ordering institutional care cease to exist or if the child can be provided with surrogate family care.

Guardianship and custodianship

Courts appoint a guardian, who brings up and represents a child and administers the child's property in place of its parents, for children whose parents have died, divested or their parental responsibility by a court or the exercise of whose parental responsibility has been suspended or who are not fully fit to perform acts in law. The court appoints as guardian a suitable person with regard to the child's interests⁸. Until such time as a guardian is appointed, the body exercising the socio-legal protection of children performs the necessary acts in the child's interest.

Guardians answer to the court for the proper discharge of their function and are obliged to provide the court with regular reports on the ward. Guardians have the same rights and obligations in respect of the child as parents, but guardians are not obliged to maintain the child. Only a court can decide to dismiss a guardian or divest a guardian of his function.

A court appoints a guardian in cases where there is conflict between the interests of a child and its legal representatives or between children of the same parents, as well as in cases where the child's property interests are jeopardised, where parental responsibility is restricted or adoption proceedings are being conducted, or for other reasons if it is in the child's interests⁹. In its ruling, the court defines the extent of the guardian's rights and obligations from the point of view of the purpose for which the guardian was appointed, so that the minor's rights are given the full protection.

⁴ Facilities for children needing immediate assistance provide protection and assistance to children who are uncared for or whose life or development is seriously at risk, if the child is physically and mentally abused or if a child finds itself in an environment or situation where its fundamental rights are substantially jeopardised. The protection and assistance for such children consists in satisfying their fundamental needs, including accommodation, and providing medical care through healthcare facilities, psychological or equivalent necessary care.

⁵ Socio-legal protection is also provided to children who do not have a permanent residence permit or are not registered to reside in the territory of the Czech Republic for at least 90 days under a special legal regulation governing the residence of foreign nationals in the territory of the Czech Republic and are not authorised under a special legal regulation to reside permanently in the territory of the Czech Republic.

⁶ See below, Procedure.

⁷ By law municipalities and regions may establish facilities for children needing immediate assistance. In practice, Czech children are placed in facilities for children needing immediate assistance. These are facilities like "Klokánek" ("Kangaroo") and others.

⁸ Preferentially a person who was recommended by the parents or, if no one was recommended, a person who is a relative or another natural person.

⁹ This is done, for example, in administrative proceedings on the award of asylum, see below.

Adoption

Courts rule on adoption based on a petition submitted by the adopter. Adopters' status in respect of a child is the same as parents'; the adopters' relatives become the adopted child's relatives. Adoption requires the consent of the child's legal representative; if the child is capable; its consent is also required. If the adopted child's legal representatives are its parents, their consent is not required if: 1) for a period of at least 6 months they systematically showed no genuine interest in the child, especially if they did not visit the child regularly, did not discharge their maintenance duty regularly and voluntarily and made no attempt to adjust, within the bounds of their capabilities, their family and social situation so that they could personally take care of the child; or 2) for a period of at least 2 months following the birth of the child they show no interest in the child, even though they are not hindered from doing so by any serious obstacle.

The court decides whether these conditions are satisfied or not.

The consent of the parents who are the adopted child's legal representatives is not required if the parents give prior consent to adoption by adopters in general. Such parental consent must be given in person and in writing by parents present in court or before the appropriate body exercising socio-legal protection of children. This consent may be given at the earliest 6 weeks after the birth of a child and can only be revoked until such time as the child is placed in the care of future adopters.

Before the decision on adoption is made the future adopter must care for the child for at least 3 months. This period is not required if the child was in the care of a foster parent who proposes adopting the child and the foster care previously lasted at least 3 months. Similarly, this period of care is not required for guardians who care for the child and when the adoption is proposed by a natural person who is not the parent and in whose care the child has been placed.

Upon adoption, the mutual rights and duties between the adopted child and its original family cease to exist. Only children over the age of 1 may be adopted.

Adoption can be annulled at the petition of the adopted child or adopter on serious grounds. Non-annullable adoption may not be annulled (Section 74 et seq. of the Family act¹⁰).

In the case of the children of foreigners, adoption is regulated by Act No. 91/1963 Coll., on private and procedural¹¹ international law. Under this act, the adoption regime is governed by the law of the state of which the adopter is a national. If an adopting husband and wife have different nationalities, the conditions of the law of both countries must be satisfied. The requirement for the consent of the child and other persons or of the authorities in ruling on adoption is governed by the law of the state of which the future adoptee, i.e. the child, is a national.

Socio-legal protection of children

The concept of the socio-legal protection of children within the meaning of Act No. 369/1999 Coll., on the socio-legal protection of children, means:

- protection of the child's right to favourable development and proper upbringing;

¹⁰ Adoption can be made non-annullable if a court decides at the petition of the adopter that the adopter be entered in the population registry in place of the adopted child's parent. This kind of adoption is only possible with married couples or a husband/wife living with one of the child's parents. In exceptional cases a single person may also perform this kind of adoption.

¹¹ Sections 26 and 27 of Act No. 97/1963 Coll., on international private and procedural law.

- protection of the legitimate rights of the child, including the protection of its property;
- measures to renew the disrupted functions of the family.

Socio-legal protection is provided to a child who, in the territory of the Czech Republic:

- has permanent residence;
- has, under a special regulation¹² governing the residence of foreigners in the territory of the Czech Republic, a permanent residence permit or is registered for residence in the territory of the Czech Republic for a period of at least 90 days;
- has submitted an asylum application;
- is authorised for permanent residence¹³;
- is residing with a parent who has submitted an application for the award of an authorisation to reside for the purpose of the provision of temporary protection in the territory of the Czech Republic¹⁴ or resides on the basis of an awarded authorisation to reside for the purpose of the provision of temporary protection in the territory of the Czech Republic under this special regulation.

To a limited extent (Section 37 of the act on the socio-legal protection of children¹⁵), socio-legal protection of children is also provided (Section 2 (3) of the act on the socio-legal protection of children): “to a child that does not have permanent residence in the territory of the Czech Republic or is not registered for residence in the territory of the Czech Republic for a period of at least 90 days under a special legal regulation¹⁶ governing the residence of foreigners in the territory of the Czech Republic and is not authorised under a special legal regulation¹⁷ for permanent residence in the territory of the Czech Republic”.

The bodies of socio-legal protection are regional authorities, municipal authorities with extended powers, municipal authorities, the Ministry¹⁸ and the Office¹⁹. The socio-legal protection of children is also ensured independently by municipalities and regions, the commission for the socio-legal protection of children and other legal and natural persons entrusted with the socio-legal protection of children.

Procedure

Under the act on the socio-legal protection of children (Section 10) it is the duty of a municipal authority to seek out children at which socio-legal protection is particularly targeted (Section 6 (1)²⁰) and to notify the municipal authority with extended powers of any circumstances that indicate that the child requires socio-legal protection.

¹² Act No. 326/1999 Coll., on the residence of foreign nationals in the territory of the Czech Republic, as amended.

¹³ Act No. 326/1999 Coll., on the residence in the territory of the Czech Republic, as amended.

¹⁴ Act No. 221/2003 Coll., on the temporary protection of foreign nationals.

¹⁵ A municipal authority is obliged to take measures to protect life and health and ensure the satisfaction of fundamental needs in the most essential scope including healthcare for a child mentioned in Section 2 (3), if the child found itself without any care or if its life or development are seriously jeopardised or disrupted.

¹⁶ Act No. 326/1999 Coll., on the residence of foreign nationals in the territory of the Czech Republic, as amended.

¹⁷ Act No. 326/1999 Coll., on the residence of foreign nationals in the territory of the Czech Republic, as amended.

¹⁸ Ministry of Labour and Social Affairs.

¹⁹ Office for the International Legal Protection of Children, which exercises the socio-legal protection of children in respect of foreign countries (Section 35 of the act on the socio-legal protection of children).

²⁰ Socio-legal protection is particularly targeted at children: a) whose parents have died, do not discharge their parental duties, or do not exercise or misuse their parental rights; b) who were placed in the care of another

The municipal authority with extended powers is then obliged to monitor the adverse influences that affect the child, to ascertain their reasons and to take measures designed to reduce the effect of these adverse influences on the child.

The municipal authority decides on care measures²¹ and sends a copy of the decision to the municipal authority with extended powers.

In general, the primary duty to ensure a child is cared for is split between the powers of the municipal authorities of municipalities and the municipal authorities of municipalities with extended powers, and in some cases the courts; the municipal authorities of municipalities with extended powers have the power to inspect and keep records on actions taken by municipal authorities or courts (if the court so requests). The municipal authorities of municipalities with extended powers may submit the following petitions to a court:

- petition for a decision on satisfaction of the conditions of adoption consisting in the fact that parents do not show any interest in their child;
- petition for restriction or divestment of parental responsibilities or suspension of their exercise;
- petition for the ordering of institutional care;
- petition for the extension or annulment of institutional care;
- petition for the issue of a preliminary measure (if a child finds is not cared for at all or if its life or favourable development are jeopardised or disrupted²²).

The municipal authorities of municipalities with extended powers also exercise the function of guardian and custodian²³ and may be appointed a child's guardian in respect of a foreign country. For the period before a child is appointed a guardian or until the appointed guardian assumes his function, they perform all urgent actions in the child's interests. In proceedings regarding the placing of a child in foster care or adoption, the municipal authority of a municipality with extended powers submits its opinion to the court, with the exception of cases where the placing in foster care or the adoption were mediated by a regional authority, which then submits its opinion, or the ministry, which then submits its opinion. In the context of foster care or adoption, the act on the socio-legal protection of children precisely sets out the duties of each body. It is not the purpose of this overview to provide a detailed description of these tasks.²⁴

natural person than the parents, if this person does not fulfil the duties stemming from the placing of the child in his care; c) who lead an indolent or immoral life, i.e. in particular do not attend school, do not work even though they do not have a sufficient source of subsistence, use alcohol or other addictive substances, make a living as a prostitute, have committed a crime or, if the child is younger than 15, have committed an act that would otherwise be a crime, repeatedly or systematically commit misdemeanours or are otherwise a threat to society; d) who repeatedly run away from their parents or other natural persons or legal persons responsible for the child's upbringing; e) on which a crime jeopardising their life, health, human dignity, moral development or property has been committed, or if there is a suspicion of such a crime; if these circumstances endure for such a period of time or are of such an intensity that they have an adverse influence on the child's development or can be the cause of adverse development in the child.

²¹ Section 43 of the family act

²² In that case the municipal authority of a municipality with extended powers is obliged to submit a petition for a preliminary measure under Section 76a of the Civil Court Procedural Rules.

²³ E.g. under Section 79 of the family act (see footnotes above) or under Sections 45 and 292 of Act No. 141/1961 Coll., on penal proceedings, as amended, or under Section 16 of Act No. 71/1967 Coll., on administrative proceedings, as amended.

²⁴ The act on the socio-legal protection of children, Sections 20-27.

The municipal authority of a municipality with extended powers also arranges the time and place at which the child will be accepted into a facility for the exercise of institutional care and supervises the exercise of institutional care through the responsible employee of the municipal authority of the municipality with extended powers.²⁵

Court proceedings

The Civil Court Procedural Rules allows for two types of proceedings on a preliminary measure.²⁶ The fundamental differences in relation to the child (here we refer to a preliminary measure for the placement of a child in suitable facilities) is the maximum possible period of time during which a decision on a preliminary measure may be issued. Under Section 75c of the Civil Court Procedural Rules the presiding judge should issue a decision on a preliminary measure without delay. If there is no danger of delay, the presiding judge may decide on a petition for a preliminary measure under Section 76a of the Civil Court Procedural Rules within 24 hours of the submission of the petition, and may decide on a petition for another preliminary measure (Section 76 of the Civil Court Procedural Rules) as much as 7 days after submission of the petition.

In relation to the child Section 76a is fully consistent with the provision of Section 16 of the act on the socio-legal protection of children, so that they both impose a duty on the municipal authority of a municipality with extended powers to submit a petition for a preliminary measure pursuant to Section 76a (accelerated proceedings – the duty to issue a decision without delay or within 24 hours), in cases where a child finds itself without any care or a child's life or favourable development are seriously jeopardised or disrupted²⁷. In order to ensure that the court's decision is issued promptly, the bodies exercising socio-legal protection of children are informed about the courts' "emergency regime" for holidays and outside working hours.

Foreign children

Under Section 10 of the act on the socio-legal protection of children all the state authorities have a duty to report to the municipal authority of a municipality with extended powers the incidence of a child requiring socio-legal protection. Although the act on the residence of foreign nationals sets the minimum age for fitness to perform acts in law at 15, this reporting duty must be discharged by the foreigners police in the case of all persons below the age of 18.

The reporting duty must be discharged without unnecessary delay as soon as personnel of the foreigners and border police learn about such a child. The municipal authority of a municipality with extended powers in the place where the child is staying then becomes the appropriate body of socio-legal protection. Under the act on the socio-legal protection of children it is the task of the staff of the body of socio-legal protection of children to judge whether in the case at hand it is suitable to submit a petition for a preliminary measure under

²⁵ Section 29 of the act on the socio-legal protection of children.

²⁶ Preliminary measure pursuant to Section 76 or 76a.

²⁷ In practice the procedure by bodies of socio-legal protection of children is such that the provisions of Section 76a of the Civil Court Procedural Rules are used in cases where a child ends up on the street: there is no one to care for the child and the child is directly jeopardised by the absence of any available help; in the case of foreign children or children who are asylum seekers a "slower" procedure is usually used, i.e. a preliminary measure under Section 76 of the Civil Court Procedural Rules.

Section 76a²⁸ of the Civil Court Procedural Rules, on whose basis the child could be placed in a specialised educational facility²⁹.

In the petition for the issue of a preliminary measure the municipal authority of a municipality with extended powers designates both the person (facility) into whose care the child should be placed and all the details about the child ascertained by the foreigners and border police that are necessary to judge whether this is a case of “urgent need”, see above.

The court rules on the petition for a preliminary measure by means of a resolution that it delivers to the participants. With cases under Section 761 of the Civil Court Procedural Rules it is delivered with the exercise of the ruling, i.e. the decision on the exercise of the preliminary measure – placing a child in a specialised facility – is delivered at the same time as the enforcement of this ruling, i.e. when the child is placed in a facility.

In practice, the procedure used for foreign children is usually as follows. A foreign child found to be unaccompanied in the territory of the Czech Republic and without a valid residence permit is placed in a detention facility for foreigners. Subsequently (in practice the foreigners and border police does not discharge its reporting duty immediately after detaining such a child) the relevant body of the socio-legal protection of children is contacted, which contacts the child in the facility and submits a petition for a preliminary measure to place the child in a specialised facility of the Ministry of Education, Youth and Sports, usually under Section 76 as the child is not in any immediate danger at that particular moment (when the petition is submitted) and is being provided with basic care. The enforcement exercise of the court’s decision depends on the capacity of Ministry of Education facilities. (See the section on facilities). Under the act on the residence of foreign nationals in the territory of the Czech Republic foreigners may be placed in detention facilities for up to 90 days.

The procedure in the case of children detained by the police and residing in the Czech Republic with a valid residence permit is similar, with the exception that the bodies of socio-legal protection of children submit a petition for a preliminary measure under Section 76a, as at the given moment the child is in urgent need and needs to be placed in a facility without delay.³⁰

Foreign children who are asylum seekers

The authority that is competent to process all asylum applications is the Asylum and Migration Policy Division of the Ministry of Interior of the Czech Republic. Asylum applicants tend to include children and juveniles who are not accompanied by their parents or other legal representatives. Since these children and juveniles are not fit to act on behalf of themselves, a guardian is appointed for them for the asylum proceedings. The act on asylum contains specific provisions on guardianship for minors in asylum proceedings. The guardian “for residence” is the body of socio-legal protection of children of the appropriate municipality with extended powers³¹. (For more details, see below.)

Seeing that the vast majority of unaccompanied minors seeking asylum display an intention to submit an asylum application in detention facilities for foreigners³², the procedure in practice is the same as the procedure described above. The amendment of Act No. 325/1999 Coll., on

²⁸ Within the meaning of Act No. 326/1999 Coll., the foreigners and border police may decide to detain a child over the age of 15 in a detention facility for foreigners.

²⁹ Ministry of Education, Youth and Sports facilities “Blue School” and “Permon”, see below – facilities for foreign children

³⁰ In that case it is not possible to place a foreign child in a detention centre for foreigners.

³¹ Bela Hejna, Who Should Be the Guardian of Minor Asylum Applicants? www.migrace.cz

³² This is true of 80%-90%.

asylum, which was implemented by Act No. 57/2005 Coll., already introduces and defines the concept of “unaccompanied minors”³³ and regulates the placement of an unaccompanied minor asylum seeker as follows in Section 81 (2): “After completion of the actions pursuant to Section 46 (1)³⁴ the unaccompanied minor is, on the basis of a court decision, placed in an educational facility for the exercise of institutional care or in the care of a person specified in the court decision.”

The aforementioned amendment of the asylum act also reworks the institute of guardianship for unaccompanied minor asylum seekers, setting out (Section 89 (1) of the asylum act): “If the applicant for asylum is an unaccompanied minor, the court shall appoint a guardian for the unaccompanied minor under a special legal regulation³⁵ to protect its rights and its legally protected interests associated with its residence in the territory. With regard to the protection of an unaccompanied minor the court designates a guardian at the instigation of the ministry without undue delay by means of a preliminary measure. No special legal regulation covers proceedings to appoint a guardian.”³⁶

In practice, the exercise of guardianship for unaccompanied minor asylum seekers is performed in such a way that the administrative authority submits a petition for appointment of a guardian by court on the basis of a preliminary measure. Until a decision is reached on this petition, the administrative authority appoints a guardian for the minor by its own decision³⁷, which is annulled as superfluous at the moment when the court decision is issued. The administrative authority usually appoints staff of non-government organisations working with refugees as guardians; in the petition for a preliminary measure the administrative authority usually proposes that the relevant body of socio-legal protection of children is appointed guardian. Seeing that the bodies of socio-legal protection of children do not yet have all the necessary experience of caring for this specific category of children³⁸, a system of “informal” cooperation has been introduced between the court-appointed guardian and the guardian appointed earlier for administrative proceedings by the administrative authority who has formally been annulled.

The role of the appointed guardian is to provide the minor with assistance during the minor’s residence in the territory of the Czech Republic. In administrative proceedings on the granting of asylum the guardian is obliged to attend all events and actions that the administrative body (the Asylum and Migration Policy Division of the Ministry of Interior) performs during the proceedings and to help the minor perform its actions during these administrative proceedings.

³³ Section 2 (9) of the asylum act adds: “An unaccompanied minor means a person below the age of 18 who arrives in the territory unaccompanied by an adult who is responsible for the child under the law applicable in the territory of the state of which the under-18 is a national, or, if the person has no nationality, in the territory of the state of the child’s last residence, and for such a period of time as that during which it is actually in the care of such person, unaccompanied minor also means a person below the age of 18 who was left unaccompanied after arriving in the territory”.

³⁴ Asylum applicants may not leave the admission centre until: a) identification actions have been performed; b) a medical examination designed to ascertain whether the asylum seeker has an illness threatening his or others’ life or health is performed; c) a residence visa for the purpose of asylum proceedings or an asylum seeker’s ID card is issued; d) quarantine or other public-health measures are completed, if this can be performed in the admission centre.

³⁵ Act No. 94/1963 Coll., on the family, as amended.

³⁶ Act No. 97/1963 Coll., on international private and procedural law, as amended.

³⁷ Section 16 of Act No. 71/1967 Coll., on administrative proceedings, as amended.

³⁸ This practice has been applied by the administrative authority for a relatively short amount of time, around one and a half years.

One practical problem for the bodies of socio-legal protection of children that are proposed as guardians by an administrative authority is the fact that the courts in their decisions do not define the extent of rights and duties that the bodies of socio-legal protection of children have in their function as guardian³⁹.

Unaccompanied minors have a specific status in administrative proceedings on asylum; this status is currently fully consistent with EU legislation – partly because a guardian is always appointed, also because the law does not permit asylum applications submitted by unaccompanied minors to be rejected as manifestly unfounded (Section 16 (3) of Act No. 325/1999 Coll., on asylum), i.e. to be decided on in accelerated procedure. Provisions governing the assessment of obstacles of departure also contain specific treatment of unaccompanied minors; these provisions in the Czech asylum act *de facto* replace the institute of other forms of protection (subsidiary protection) (Section 91 of the asylum act), and provide that the duty to terminate residence in the territory shall not apply if the country of origin or a third country willing to accept the unaccompanied minor cannot provide a suitable reception and care for the needs of the unaccompanied minor with regard to its age and degree of independence (Section 91 (1) (c) of the asylum act). This last institute tends to be used by the administrative authority very sporadically, however⁴⁰.

Schools act

The applicable schools act no. 29/1984 Coll., on the system of primary schools, secondary schools and higher vocational schools, does not sufficiently reflect the presence of foreigners in the Czech Republic. Nevertheless, primary education is made available to all children of foreigners residing in the territory of the Czech Republic, including those here illegally⁴¹.

Ministry of Education facilities

The operation of Ministry of Education facilities for unaccompanied minors was launched in June 2004. At present there are two facilities, one of which (“Blue School”) is conceived as a diagnostic school. This facility’s capacity is 12 places + 4 (quarantine).

The second facility (“Permon”) serves as accommodation for foreign minors. Its capacity is currently 24 places, with an enlargement to 48 places planned.

“Blue School” is conceived as a “diagnostic institute”. Children are placed in this facility on the basis of a preliminary measure, see above, and stays are restricted to 2-3 months. The child is then placed in the “Permon” facility.

Children are placed in a diagnostic institute on the basis of a court decision on a preliminary measure. The child’s subsequent stay in Ministry of Education facilities is then resolved either on the basis of a court decision on institutional care (this decision is made until such time as the child attains majority, whereby institutional care can be extended up to the age of 19 on the basis of a petition) or on the basis of an agreement on accommodation between the child and the facility. In this way accommodation in a facility may be extended if the child is systematically preparing for future employment and up to a maximum age of 25.

In practice, the procedure is as follows. The majority of children placed in a diagnostic facility are between 16 and 18 years of age, and most of them are nearly 18. Once they reach the age

³⁹ As mentioned above in the section on guardianship, the court should define the extent of the guardian’s rights and duties in its decision. In Czech law there is no definition of or set of rights and duties, so the bodies of socio-legal protection of children have no legal framework for the exercise of guardianship.

⁴⁰ According to the experiences of the author (Běla Hejná), this institute was not used once during her 5 years’ experience in the field.

⁴¹ Instruction of the Ministry of Education, Youth and Sports no. 21836/2000 – 11.

of 18, remaining in the facility requires either a court decision ordering institutional care or the signing of an agreement between the child and the facility. The issuing of a court decision ordering institutional care is considerably difficult⁴². Nor is an agreement signed with the facility in all cases, as upon attaining majority minors in a facility decide to stay in an ordinary facility for asylum seekers – these facilities are administered by the Refugee Facilities Administration of the Ministry of Interior of the Czech Republic⁴³.

Subsequent stay in the territory

The current wording of the act on the residence of foreign nationals makes it possible for a child who has been placed in the care of a natural person who is permitted to reside permanently in the territory or in the care of a legal entity that has registered office in the territory of the Czech Republic upon attaining majority to submit a request for permission for permanent residence “on humanitarian grounds or other grounds worthy of special attention”. This option cannot be used in a number of cases, chiefly for the following reasons:

- as said above, unaccompanied minors usually pass through detention facilities for foreigners where they were placed by decision of the foreigners and border police that detained them. Seeing that they are placed in such facilities in cases where the foreigner is detained in Czech territory without a valid residence permit, proceedings on administrative deportation are also commenced – under these proceedings a penalty is imposed for illegal residence in the territory in the form of administrative deportation (prohibition of residence) lasting 1-10 years – this decision effectively makes it impossible that the application for permission for permanent residence will be accepted;
- most minors come to the Czech Republic without a valid travel document, but a valid travel document must be presented when an application for permission for permanent residence is submitted.

In individual cases there are further obstacles that prevent the child applying for permanent residence upon attaining majority. In most cases, therefore, it is effectively impossible to successfully apply for a permanent residence permit upon attaining majority.

Here it should be stressed, however, that the Ministry of Interior of the Czech Republic is working on a conceptual solution for this category of foreigners; this endeavour has already been reflected in the form of an amendment of the act on the residence of foreign nationals that is currently being discussed by the Senate of The Czech Parliament. If the amendment will pass, a number of system shortcomings would be eliminated and the situation of this specific category of foreigners would be systematically resolved in Czech law.

⁴² Part of the problem is that most of the children are nearly 18 when they arrive in the Czech Republic and the duration of the court proceedings makes it unrealistic for the court to order institutional care, or extend it beyond the 18th year of the child’s age, before the child becomes of age. Another problem is the provision Section 38 (3) of Act No. 97/1963 Coll., on international private and procedural law, as amended, which states that, “In matters of minor foreigners living in the territory of the Czech Republic a Czech court shall take only such measures as are essential to protect their person and property and shall notify the authority of their home state thereof. Should the authority of the home state fail to remedy the situation of the minor within a reasonable period of time, a Czech court shall do so.” Based on this provision, certain courts refuse to issue a decision ordering institutional care, referring to the fact that this decision is not an “essential” measure and to the fact that it is not possible to contact the authorities in the child’s country of origin, especially in the case of asylum seekers.

⁴³ It was agreed with the director of the Refugee Facilities Administration that the Havirov Stay Centre of the Ministry of Interior would be the facility where these “young adults” are placed.

Recent tendencies and developments

Foreigners act

The Ministry of Interior is planning a further extensive amendment on the act on the residence of foreign nationals. Among other things, this amendment should:

a) change the regulations on detention facilities in Title XII of the foreigners act, i.e. facilities in which foreigners may be interned prior to deportation; the decision on whether to detain such foreigners for a maximum of 180 (adults and 90 days minors) days is not taken by a court but by the police. Under the amendment these facilities are to be operated by the Refugee Facilities Administration.

There will be a fundamental change in the new amendment in that the operator of detention facilities for foreigners will no longer be the foreigners police; the facilities will be operated by the Refugee Facilities Administration of the Ministry of Interior of the Czech Republic. (The practice is already so) The intention of the new legislation on detention facilities for foreigners is to “humanise” these facilities. Schooling and free-time activities etc. will be provided for unaccompanied minors and children in general;

b) implement the directive on the right to family reunification, which must be implemented by 3 October 2005;

c) empower the Ministry of Interior to decide who should pay the costs of administrative deportation of foreigners and to what amount.

Non-governmental organisations lodged a number of suggestions regarding this amendment⁴⁴. The Ministry of Interior, which attended the talks as the representative of the author of the legislation – the government – did not agree with the comments and the committee ultimately accepted just 2 proposed changes:

1) restriction of the length of detention to 90 days for unaccompanied minors (adults remain up to 180 days)

2) the inviter need not furnish the invited foreigner with health insurance at the time of invitation but must do so later when the invited foreigner is issued with a visa. The extensive and complicated amendment of the act on the residence of foreigners constitutes a substantial improvement in the legal status of foreigners.

The act also redefines an unaccompanied minor. A new provision of Section 180c states that for the purposes of the act on the residence of foreigners unaccompanied minor foreigner means a foreigner aged from 15 to 18 who arrives in the territory unaccompanied by an adult responsible for it according to the law of the territory of the state of which the foreigner aged under 18 is a national, or, in the case of a stateless person, of the territory of its last residence, and for such a time during which it is actually in the care of such person; unaccompanied minor foreigner also means a foreigner aged under 18 who was left unaccompanied after arriving in the territory.

Schools act

Section 20 of the planned amendment of the schools act states that “persons who are not nationals of the Czech Republic and reside lawfully in the territory of the Czech Republic have access to primary, secondary and higher vocational education on the same conditions as

⁴⁴ The Citizenship, Civic and Human Rights Advice Centre, People in Need and the Prague Multicultural Centre, a consortium of non-governmental organisations working with refugees composed of the Refugees Advice Centre, Integration Advice Centre, Citizens’ associations dealing with emigrants, Refugees Assistance Organisation, Centre for Migration Affairs.

nationals of the Czech Republic, including education during the exercise of institutional care and protective care.” The lawfulness of the foreigner’s presence in the Czech Republic must be demonstrated to the school principal before the foreigner starts school. This condition does not apply to nationals of EU member states, whose children are covered by compulsory education in the Czech Republic. Compulsory education, to which Czech nationals and EU nationals and their family members, and foreigners residing in the Czech Republic on the basis of a special residence permit⁴⁵, recognised asylum seekers and participants in asylum proceedings are subject, does not apply to those who do not reside legally in the Czech Republic, i.e. are not registered for permanent or temporary residence in the Czech Republic. If someone wants to avoid compulsory schooling, that can be done by not registering.

Under the planned amendment of the schools act foreigners in general do not have the right to free pre-school education and cannot make free use of “school services” (advice centres, educational and accommodation facilities, facilities for special-interest learning, catering facilities etc.).

It follows from the above that under the amendment of the schools act “street children” from third countries do not have access to education (not even primary education), and cannot make use of advisory services or social and therapeutic services offered free of charge to other children. Under the amendment the condition of equal access to education and discrimination ban do not apply to third country nationals; they apply only to Czech and EU nationals. Not even children detained in detention facilities of the Ministry of Interior (see point 5) neither have the right to education, nor children whose residence in the territory of the Czech Republic cannot be legalised for some reason or other.

Ministry of Education, Youth and Sports facilities

The operation of Ministry of Education facilities for unaccompanied minors was launched in June 2004. At present there are two facilities, one of which (“Blue School”) is conceived as a diagnostic school. This facility’s capacity is 12 places + 4 (quarantine).

The second facility (“Permon”) serves as accommodation for foreign minors. Its capacity is currently 24 places, with an enlargement to 48 places planned.

“Blue School” is conceived as a “diagnostic institute”. Children are placed in this facility on the basis of a preliminary measure, see above, and stays are restricted to 2-3 months. The child is then placed in the “Permon” facility.

Children are placed in a diagnostic institute on the basis of a court decision on a preliminary measure. The child’s subsequent stay in Ministry of Education facilities is then resolved either on the basis of a court decision on institutional care (this decision is made until such time as the child attains majority, whereby institutional care can be extended up to the age of 19 on the basis of a petition) or on the basis of an agreement on accommodation between the child and the facility. In this way accommodation in a facility may be extended if the child is systematically preparing for future employment and up to a maximum age of 25.

In practice, the procedure is as follows. The majority of children placed in a diagnostic facility are between 16 and 18 years of age, and most of them are nearly 18. Once they reach the age of 18, remaining in the facility requires either a court decision ordering institutional care or the signing of an agreement between the child and the facility. The issuing of a court decision

⁴⁵ Heading IV and Section 30 of Act No. 326/1999 Coll., on the residence of foreigners in the territory of the Czech Republic and amending certain acts, as amended by Act No. 140/2001 Coll., Act No. 217/2002 Coll., and Act No. 222/2003 Coll.

ordering institutional care is considerably difficult⁴⁶. Nor is an agreement signed with the facility in all cases, as upon attaining majority minors in a facility decide to stay in an ordinary facility for asylum seekers – these facilities are administered by the Refugee Facilities Administration of the Ministry of Interior of the Czech Republic⁴⁷.

Subsequent stay in the territory

The current wording of the act on the residence of foreign nationals makes it possible for a child who has been placed in the care of a natural person who is permitted to reside permanently in the territory or in the care of a legal entity that has registered office in the territory of the Czech Republic upon attaining majority to submit a request for permission for permanent residence “on humanitarian grounds or other grounds worthy of special attention”. This option cannot be used in a number of cases, chiefly for the following reasons:

- a) as said above, unaccompanied minors usually pass through detention facilities for foreigners where they were placed by decision of the foreigners and border police that detained them. Seeing that they are placed in such facilities in cases where the foreigner is detained in Czech territory without a valid residence permit, proceedings on administrative deportation are also commenced – under these proceedings a penalty is imposed for illegal residence in the territory in the form of administrative deportation (prohibition of residence) lasting 1-10 years – this decision effectively makes it impossible that the application for permission for permanent residence will be accepted;
- b) most minors come to the Czech Republic without a valid travel document, but a valid travel document must be presented when an application for permission for permanent residence is submitted.

In individual cases there are further obstacles that prevent the child applying for permanent residence upon attaining majority. In most cases, therefore, it is effectively impossible to successfully apply for a permanent residence permit upon attaining majority.

Here it should be stressed, however, that the Ministry of Interior of the Czech Republic is working on a conceptual solution for this category of foreigners; this endeavour has already been reflected in the form of an amendment of the act on the residence of foreign nationals that is currently being discussed by the Czech government. If the amendment is approved by government and passed by parliament, a number of system shortcomings would be eliminated and the situation of this specific category of foreigners would be systematically resolved in Czech law.

⁴⁶ Part of the problem is that most of the children are nearly 18 when they arrive in the Czech Republic and the duration of the court proceedings makes it unrealistic for the court to order institutional care, or extend it beyond the 18th year of the child’s age, before the child becomes of age. Another problem is the provision Section 38 (3) of Act No. 97/1963 Coll., on international private and procedural law, as amended, which states that, “In matters of minor foreigners living in the territory of the Czech Republic a Czech court shall take only such measures as are essential to protect their person and property and shall notify the authority of their home state thereof. Should the authority of the home state fail to remedy the situation of the minor within a reasonable period of time, a Czech court shall do so.” Based on this provision, certain courts refuse to issue a decision ordering institutional care, referring to the fact that this decision is not an “essential” measure and to the fact that it is not possible to contact the authorities in the child’s country of origin, especially in the case of asylum seekers.

⁴⁷ It was agreed with the director of the Refugee Facilities Administration that the Havířov Stay Centre of the Ministry of Interior would be the facility where these “young adults” are placed.

Current changes of legal regulations:

Act No. 326/1999 Coll., On residence of foreigners

Act No. 326/1999 Coll., On residence of foreigners as amended enables to issue to a foreigner a residence permit for purpose of sufferance. In this manner a residence of refused asylum seekers who cannot return to country of origin. As long as an obstacle preventing their return is removed, the police shall issue a document for the purpose of leaving the territory, which enables them to leave the territory of the CR⁴⁸.

The act on residence of foreigners deals with cases of entrusting a child or juvenile to a substitute institutional care. According to § 87 „Residence of a foreigner entrusted to a substitute care by decision of the respective authority” is a foreigner entrusted to a substitute by decision of the respective authority authorised to a permanent residence in the territory up to the age of 15 years **without a travel document**.

Act No. 325/1999 Coll., On asylum

To all foreigners aged under 18 years, who applied for asylum in the CR and unaccompanied by parents or other legal representatives, the Division of asylum and migration policy of the Ministry of Interior pursuant to § 89 of the Act No. 325/1999 Coll., On asylum and on amendments to the Act No. 283/1991 Coll. On Police of the Czech Republic, as amended, (asylum act), as amended, provides an administrative protection.

According to drafted amendment to the asylum act asylum proceedings are changed to proceedings on granting an international protection. The change consists in the fact that a foreigner applies for granting an international protection (not for granting asylum like at present). The protection may be granted to an applicant either in the form of granting asylum or in the form of a subsidiary protection (subsidiary protection replacing existing obstacles to leaving the territory).

Defined reasons for granting asylum are *de facto* identical with present ones. A list of specified facts that may cause justified applicant’s fears of persecution. The existing reasons, i.e.: race, religion, nationality, membership of certain social group or allegiance to certain political ideas, were amended for gender.

Reasons for granting asylum pursuant to § 12 now are:

„Asylum shall be granted to a foreigner, in case it was established in the course of proceedings on granting an international protection that a foreigner:

- a) is prosecuted for applying political rights and freedoms;
- b) has justified fears of persecution for reasons of race, gender, religion, nationality, membership of certain social group or allegiance to certain political ideas in the state, citizenship of which he has, or in case that he has no citizenship, in the state of his last permanent residence.

Handling the asylum applicants pursuant to § 13 – for purpose of family reunion remains the same like in present wording, the same goes for asylum for humanitarian reasons.

New section is introduced: § 14a – Reasons for granting subsidiary protection, which are as follows:

A subsidiary protection shall be granted to a foreigner, which does not fulfil reasons for granting asylum, in case it was established in the course of proceedings on granting an

⁴⁸ Act 326 on stay of foreigners as amended

international protection that a foreigner has justified fears that should he be returned to the state, citizenship of which he has, or in case that he has no citizenship, to the state of his last permanent residence, a real danger of serious injury would be threatened to him pursuant to para 2, and he is not able or willing for reasons of such a danger to utilise a protection of the state, which citizen he is, or of the state of his last permanent residence.

As serious injury is considered according to this act:

- a) death penalty was inflicted;
- b) torture or inhuman or humiliating handling or punishment of an applicant for international protection;
- c) serious threat to his life of human dignity for reasons of malicious violence in situations of international or internal armed conflict, or
- d) in case that leaving the CR territory would be in contradiction with international commitments of the Czech Republic.

Pursuant to § 14b a subsidiary protection may be granted to a family member of a person to whom a subsidiary protection was granted also in cases when such a person itself does not fulfil conditions for its granting.

It is necessary to mention with respect to unaccompanied minors, that the proposed amendment of the act derogates „obstacles to leaving the territory” and introduces instead „subsidiary protection“. New provisions do not include former explicitly stated obligation of an administration body to scrutinise living conditions of the minor should he be returned to the country of origin. Former provision of the § 91 of asylum act - obstacles to leaving the territory – was: Obligation of a foreigner to terminate residence is not valid, if in the country of origin or in third country willing to accept an unaccompanied minor, there are not available adequate acceptance and care after its entry therein, corresponding to its age and degree of independence.

According to the new wording, these cases shall be considered as cases, in which a return would be in contradiction with international commitments of the Czech Republic, in this case with the Convention on the Rights of the Child.

Amendment to the Act No. 325/1999 Coll., On asylum, in wording of the Act No. 350/2005 Coll., passed on 5 August 2005 and becoming effective 5 September 2005 introduced with respect to minor foreigners also the following changes:

1. V § 81 para 1, letter b) the right of minor foreigners (both accompanied and unaccompanied) placed in reception or residence facilities of the Ministry of Interior on their free boarding was extended; original provision was: a foreigner placed here is entitled to free boarding corresponding to principals of proper nourishment and health condition of the foreigner, three times per day, for children under 15 years five times per day. Newly the right for provision of such a boarding is guaranteed to children aged under 18 years.

2. Pursuant to new § 89a: "The ministry shall ensure to minor foreigners applying for asylum school requisites necessary for compulsory school attendance". Also this provision relates to all minors, both accompanied and unaccompanied.

ANNEX 2

Table 1 Unaccompanied minors in the Czech Republic

Unaccompanied minors	0-14 years	15-17 years	Total
2000	13	51	64
2001	36	203	239
2002	17	172	189
2003	23	106	129
2004	7	84	91
2005	7	99	106

Source: Asylum and Migration Policy Department, Ministry of Interior of the CR, in Foreigners in the Czech Republic, CZSO

Table 2 Asylum seekers in the Czech Republic

Asylum seekers	0-14 years			15-19 years			Total 0-19 years		
	Men	Women	Total	Men	Women	Total	Men	Women	Total
2000	733	670	1 403	842	194	1 036	1 575	864	2 439
2001	662	595	1 257	581	349	930	1 243	944	2 187
2002	762	730	1 492	613	342	955	1 375	1 072	2 447
2003	1 545	1 418	2 963	491	282	773	2 036	1 700	3 736
2004	294	300	594	194	97	291	488	397	885

Source: Asylum and Migration Policy Department, Ministry of Interior of the CR, in Foreigners in the Czech Republic, CZSO

Table 3 Illegal migration across the state borders of the Czech Republic

Persons total	1993	1999	2000	2001	2002	2003	2004
		43 302	32 325	32 720	23 834	14 741	13 206
Foreigners:	41 765	30 377	30 761	21 090	12 632	11 125	9 433
Inflow of	41 327	26 951	27 586	16 978	9 232	9 406	7 476
Across the border							
CR-Germany	40 133	20 170	20 745	11 510	4 941	2 950	2 359
CR-Austria	1 663	5 146	4 126	4 538	3 463	3 371	4 446
CR-Slovakia	243	2 737	1 875	2 661	1 884	4 876	695
CR-Poland	1 245	3 142	4 726	3 976	3 412	1 145	1 571
CR airports	18	404	342	222	144	153	258
Inland	.	726	906	927	897	711	104

Source: Police Headquarters of the CR, in Foreigners in the Czech Republic, CZSO

T a b l e 4 Numbers of asylum applications of unaccompanied minors

Year	New arrivals of unaccompanied minors
1999	329
2000	298
2001	280
2002	216
2003	194
2004	95
2005	106

Source: Asylum and Migration Policy Department; Ministry of the Interior of the Czech Republic

Table 5 New arrivals of unaccompanied minors by citizenship 1999-2005

State citizenship	1999	2000	2001	2002	2003	2004	2005	Total
Afghanistan	147	63	24	2	1	3	0	240
Algeria	5	1	2	0	0	1	0	9
Angola	1	0	0	0	0	0	0	1
Armenia	0	10	18	16	0	1	1	46
Bangladesh	25	3	0	0	0	1	1	30
Belarus	0	0	2	3	1	2	2	10
Bosnia-Herzegovina	0	0	1	0	0	0	0	1
Bulgaria	2	3	2	0	0	0	0	7
Chine	17	27	14	38	54	35	30	215
Ethiopia	0	1	0	0	0	0	0	1
Eritrea	0	1	0	0	0	0	0	1
Ghana	1	0	0	0	1	2	0	4
Georgia	0	0	25	16	4	3	0	48
India	26	61	27	50	39	5	32	240
Iraq	9	4	7	12	11	1	3	47
Iran	0	3	0	1	0	0	0	4
Yugoslavia	10	2	0	0	0	0	0	12
Kazakhstan	0	1	1	0	1	1	0	4
Congo Democrat. Republic	1	1	0	0	0	0	0	2
Kyrgyzstan	0	2	1	1	0	1	1	6
Liberia	0	0	0	0	1	0	1	2
Lithuania	0	0	0	0	1	0	0	1
Macedonia	0	0	1	0	0	0	0	1
Morocco	1	0	3	0	0	0	0	4
Moldova	5	11	18	9	2	3	1	49
Mongolia	0	0	7	1	1	4	2	15
Nepal	0	0	1	1	0	0	0	2
Nigeria	0	0	8	4	1	0	2	15
Pakistan	9	0	2	0	0	0	0	11
Palestine	1	0	0	0	0	0	0	1
Ivory Coast	0	0	1	0	0	0	0	1
Poland	0	0	0	1	0	0	0	1
Romania	0	8	53	1	0	0	1	63
Russia	4	14	10	3	1	4	4	40
Russia(Chechnya)	0	0	0	0	26	7	1	34
Sierra Leone	3	2	4	0	0	0	0	9
Slovakia	0	12	6	11	15	0	9	53
Somalia	0	0	0	0	3	2	3	8

State citizenship	1999	2000	2001	2002	2003	2004	2005	Total
Sri Lanka	52	29	0	4	4	0	0	89
Sudan	0	1	0	1	0	1	1	4
Syria	2	0	0	0	0	0	2	4
Turkey	6	9	2	0	0	0	0	17
Ukraine	0	3	19	13	9	3	4	51
Uzbekistan	0	0	1	0	0	0	0	1
Vietnam	1	24	19	10	12	15	4	85
Zimbabwe	0	0	1	0	0	0	0	1
State-less	1	1	0	18	6	0	0	26
State unknown	0	1	0	0	0	0	1	2
Total	329	298	280	216	194	95	106	1518

Source: Asylum and Migration Policy Department; Ministry of the Interior of the Czech Republic

T a b l e 6 Foreigners holding residence permit at 31 December, 2005

Residence	Permanent	Per cent	Long-term	Per cent	Total	Per cent
Prague	25 414	22.98	64 497	38.46	89 911	32.31
Czech Republic	110 598	100.00	167 714	100.00	278 312	100.00

Source: Directorate of Alien and Border Police; Ministry of the Interior of the Czech Republic

T a b l e 7 Economic Activities of foreigners as at December 31 2005

Economically Active Foreigners	Employed	Per cent	Entrepreneurs	Per cent	Total	Per cent
Prague	50 912	33.55	21 405	31.83	72 317	33.02
Czech Republic	151 736	100.00	67 246	100.00	218 982	100.00

Source: Ministry for Labour and Social Affairs/Employment Service Administration, Ministry of Industry and Trade

ANNEX 3

Overview of Prague institutions focused on protection of children and youth

- a) **local authorities/departments of city governments working on issue of children, youth and families; organisations providing aid and assistance to “classical” street children, usually with the nationality of the CR citizens**

1. Organisations with field programmes and/or crisis help with nation-wide competency (including Prague)

Czech Association Streetwork (CAS) is a professional association. It gathers workers in this field, supports professional education and development of professional activity in compliance with international trends. CAS has issued the Register and address book of institutions working with non-organised children and youth in the Czech Republic. The register was developed under the Gabriel project under support of NROS - Foundation for civic society development by means of questionnaire inquiry. There are low-threshold clubs (NZDM), open clubs, school clubs, community clubs and other facilities focused on the target group listed in this publication which is not for sale. Nine out of stated facilities operate in Prague (Salesian youth centre, Community centre KROK, Club Garage, Community centre "Jizni pol", Club "Na dne", Child club, Open child club Arcus, Child club Leonardo and Czech Association Streetwork Prague). Address book contains name of the institution, founder, address of a facility and grantor, telephone, e-mail, name of facility manager and date of start of operation. It informs on operation hours, rooms and equipment, personal setting, offered activities and services and whether it is an open facility with free entrance and departure without registering.

The Safety Line (Linka bezpeci) is a civic association operating for 11 years. It helps to youth, children and adults in crisis situation. It operates telephone lines for crisis calls for 24 hrs a day. Clients can stay anonymous. The Line has a nation-wide competency. It mediates further contacts with pedagogic-psychological counsellors, asylum houses, crisis centres.

The White Circle of Safety (Bily Kruh Bezpeci) provides since 1991 professional, free and discrete help to victims and witnesses of crimes, including moral and emotional support. It has a nation-wide competency. It works with home violence including research. It induces legislation changes related to crime victims and witness protection. BKB drafted and in the Republic committee for children, youth and family vindicated a proposal for legislation modifications and measures related to home violence. BKB works in six advice centres in the Czech Republic and has 142 volunteers - counsellors and assistants, and three employees.

The Children's Crisis Centre (Detske krizove centrum) works since 1992 in the whole republic (formerly called Association against violence on children). Main target is CAN (Child Abuse and Neglect) syndrome in field of prevention, diagnosis and therapy. The work team is composed of psychologists, social workers and psychotherapists. It provides long-term professional care. It has legal counselling service and medical department.

Foundation Our child (Nase dite) has worked in the Czech Republic since 1994. It has been securing background including financial support for nation-wide Safety line, Internet line, Parent line and Line "Message home". Since 2005 it has broadened its operation scope for additional support to abused, neglected and violated, handicapped and abandoned children. Professional

estimates state that there are 20 000 - 40 000 children abused in CR annually and around 50 per year of them die as a consequence of child abuse. In 2004, police investigated over 1 000 cases of child sexual abuse, including commercial one. There are about 20 000 in residential care facilities such as nurseries, child homes, diagnostic institutions, and social care institutions. According to data of the Medical information institute and statistics, there are about 1 900 children accepted into nurseries annually, out of which more than half for social reasons.

2. Organisations with field programmes and/or crisis help in Prague

Educational care centre Modrany is a school facility with whole-republic scope for crisis, individual and preventive stays of minors in crisis situations. It is the only crisis sleeping institution in Prague. Age of clients is mostly between 15-18 yrs. Causes are home - escapes, event. thrown out children by parents. Minors stay here for one to three days, up to the time till centre staff contacts their families (8).

Educational institute and centre of educational care Klicov - is a state contributory organisation ensuring residential social care. **TRIGON** is an ambulatory department with daily centre of the state facility Centre of educational care Klicov. The main aim of its operation is to ensure efficient comprehensive help to children - youth with behaviour disorders and their families. Trigon is focusing on work with children and youth aged 3-18 yrs (or till completion of education) with difficulties in relations to parents, peers, pedagogues etc.

Municipal centre of social services and prevention is a contributory organisation of the capital city of Prague. It associates professional facilities in Prague for persons in difficult social and life situations. It offers social, therapeutic and medical services, psychological and legal counselling, transitional accommodation and basic information service.

3. Overview of low-threshold institutions for youth in Prague

Teen Challenge – Contact centre Prague of the International Christian organisation, Prague 10

Project Chance - preventive and humanitarian programme for commercially sexually abused children and youth living on the street in Prague 1

Street centre for commercially sexually abused children and youth living on the street in Prague 1

Streetwork Prague 5, (help with accommodation, job-seeking, medical treatment, search for self-expression, club meetings, discussions, trips, art-therapy)

Project Chance House (Dum Sance) Prague 5 (sheltered living with assistance for commercially sexually abused children and youth living on the street)

DOM (House of open possibilities) – Half-way house, Prague 8

Educational youth institute, crisis department for youth, Most

Preventive educational department **KRUH**

Department for youth endangered by drug addiction **CESTA**

Department for youth experimenting with drugs **ALTERNATIVA**

Preventive educational care department **TRIGON**

CA Sananim

b) organisations working with migrants

Refugees Advice Centre (PPU)

Refugees Assistance Organisation (OPU)

Advice Centre for citizenship and human rights

Centre for Integration of Foreigners

Advice centre for migrants and refugees within asylum house of St. Theresa Archdiocese Charity

Czech Catholic Charity

Association Hope (Nadeje)

Foundation "People in need" (Clovek v tisni)

International Organisation for Migration (IOM), projects of development help and prevention of illegal migration. Assisted voluntary returns.

Office of the United Nation High Commissioner for Refugees (UNHCR) in Prague

c) organisations helping victims of trafficking in human beings

Security Policy Division of the Ministry of Interior. It solves cases of commercially sexually abused children. It trains workers of OSPODs and prepares professional materials facilitating orientation in foreigners area issues to people working with minor foreigners or workers entrusted with child protection or guardianship.

Police Presidium, Detection Taskforce for Crime by Youth, Crime on Youth and Vice. This group is focused on organised crime connected with foreigners migration, business with people.

IOM – see further – institutional framework

UNHCR – see further – institutional framework

d) organisations and institutions providing help to unaccompanied minor migrants; MPSV, MV/OAMP, MSMT, MZV, Police, CPP, PPU, OPU

Institutions for foreign children, established by the Ministry of Education, Youth and Sports (MSMT) - Modra skola and Permon

OAMP MV CR - Asylum and Migration Policy Division, Integration of Asylum Seekers and Compatriots – responsibility for migration policy and asylum facilities

SUZ – Refugee Facilities Administration of Ministry of Interior CR – facility operation for minor foreigners detention in Velke Prilepy, accepting, residence and integration institutions for asylum seekers and recognised refugees

PPU – Refugees Advice Centre – special project for help to minor without assistance

OPU – Refugees Assistance Organisation - special project for help to minors without assistance

IOM – International Migration Organisation - low-threshold centres for minors in Bucharest

Office of the High Commissioner for Refugees (UNHCR)

e) organisations aiding persons of both sexes working (both legally and illegally) in prostitution

Passion without Risk (Rozkos bez rizika), Prague 1

La Strada - prevention of trafficking in women, Prague 1

IOM

f) institutions providing help to the homeless

Advice service for persons without shelter Prague 1

Daily centre of Salvation Army (Armada spasy), Prague 7

Arch-diocese Charity, Prague 8

Mother Theresa's Love Missionaries, Prague 8

New Space (Novy Prostor) Daily centre, Prague 1

St. Vojtech Church, Prague 1

St. Joseph Church, Prague 1

St. Thomas Church, St. Augustin Order, Prague 1

Prague Baby - Jesus Cloister of barefoot Carmelites, Prague 1

Convent of Dominican sisters, Prague 1

St. Ursula (Vorsila) Cloister, Prague 1

Brevnov Cloister, Prague 6

g) institutions providing help, therapy, substitution therapy etc. to the drug or alcohol addicted individuals

Drop-In, low-threshold centre, Prague 1

Daily psychotherapeutic centre Ondrejov, Prague 4

Eset-Help o.s., Advice centre for addicts, Prague 4 - motivation programme, counselling, therapy

Advice centre for addicts, Prague 4, motivation programme, counselling, therapy

AT advice centres (mainly state) providing advice for gaming machines, non-alcoholic drugs and alcohol addicts in Prague districts 1, 3, 5, 6, 7, 8, 9, 10.

ANNEX 4

Institutions/Organisations/Interviewed experts

Ministry of Labour and Social Affairs (MPSV)

Division of Family Policy and Social Work, Socio-legal Protection Department/Odbor rodinne politiky a socialni prace, oddeleni socialne pravni ochrany deti (OSPOD)

Ministry of Interior (MV)

Asylum and Migration Policy Division, Integration of Asylum Seekers and Compatriots/Odbor azylove a migracni politiky/Integrace zadatelu o azyl a krajanu

Refugee Facilities Administration/Sprava uprchlickych zarizeni (SUZ)

Security Policy Division/Odbor bezpecnostni politiky (OBP)

Police of the Czech Republic (PCR)

Police Presidium, Detection Taskforce for Crime by Youth, Crime on Youth and Vice/Skupina pro odhalovani kriminality mladeze, na mladezi a mravnostni kriminality Policejního prezidia

Directorate of the Foreigners and Border Police (CPP) of the Police Presidium (PP)/Reditelstvi sluzby cizinecke a pohranicni policie Policejního prezidia

Police of the Czech Republic, Foreigners and Border Police, Prague Regional Directorate/Oblasni reditelstvi CPP Praha, Velke Prilepy Detention Facility for Foreigners/Zarizeni pro zajisteni cizincu (ZZC)

Ministry of Education, Youth and Sports (MSMT)

Division 24

Facilities coming under the Ministry of Education, Youth and Sports

“Home for Foreign Children” Diagnostic institute and Centre for educational care, “Blue School” Modra skola (MS) and “Permon” facilities

Ministry of Justice (MS)

International Division

Public Administration - Bodies of socio-legal protection of children

Prague 11 Metropolitan District Authority (UMC), Prague 1 Metropolitan District Authority, Cernosice Municipal Authority, Dobris Municipal Authority (MU)

Intergovernmental organisations

International Organisation for Migration (IOM)

International organisations

Office of the UN High Commissioner for Refugees (UNHCR)

Non-governmental organisations

Refugees Advice Centre (PPU)

Refugees Assistance Organisation (OPU)

Organisation for Foreigners' Integration

Local organisations

Mestske centrum socialnich sluzeb a prevence/City Centre of Social Services and Prevention

Lists of interview with experts (and interview minutes):

1. Full Interview

Organizace na pomoc uprchlikum/Refugees Assistance Organisation; Petra Novakova

Poradna pro uprchliky/Refugees Advice Centre; Magda Faltova, 2 hours

IOM /International Organization for Migration; Lucie Sladkova, 1.5 hours

OAMP/Asylum and Migration Policy Department, Ministry of Interior of the CR, in Foreigners in the Czech Republic; Bela Hejna, 4 hours (2 x 2 hours)

Zarizeni pro deti – cizince (ZDC) “Home for Foreign Children” facilities: Diagnostic institute and Centre for educational care - “Blue School” and “Permon” - Education facility for unaccompanied minors; Zuzana Vuckova, 2 hours

Mestske centrum socialnich sluzeb a prevence/City Centre of Social Services and Prevention, 2 hours

SUZ Sprava uprchlickych zarizeni/Refugee Facilities Administration; Miluse Dohnalova, Klara Filipova, 2 hours

o.s. Sance/ Chance; Lazslo Suemegh, 2 hours

MPSV/Mnisterstvo prace a socialnich veci, MLSA/Ministry for Labour and Social Affairs; 1 hour

MSMT/Ministerstvo skolstvi, mladeze a telovychovy; MEYS/Ministry of Education, Youth and Sports; 45 min.

Dum treningoveho bydleni/Training living house; Vaclav Lintymer, 2 hours

2. Partial interview, relevant information

Ceska asociace streetwork/Czech Association Streetwork (CAS)

MU Cernosice Municipal Authority – 20 min, minutes 20 min.

MU Dobris – 20 min, minutes 10 min.

UMC Praha 1 – 20 min, minutes 20 min.

Informacni centrum MCSSP/Information Centre, 30 min.

Kontaktni centrum - Mestske centrum socialnich sluzeb/Contact Centre of Social Services; 45 min.

3. Communication via-e-mail, phone, supplementary information

Drop In – 10 min, minutes 15 min.

Sananim – 10 min, minutes 15 min.

MS SR (Ministry of Justice of the Slovak Republic) – 10 min.

La Strada – 10 min.

UNHCR – 10 min.

Rozkos bez rizika/Passion without Risk – 10 min, minutes 30 min.

UMC Praha 11 – minutes 30 min.

Permon - prof. Kusy – interview refused

Centrum pro integraci cizincu, o.s./Centre for Foreigners Integration, does not work with third country street children in Prague – phone contact – 5 min.

Kontaktni centrum, Palackeho nam., Prague 2 – one visit, 30 min.

Mestske centrum sluzeb a prevence, Prague – 20 min, Petra Kosova - phone contact 10 min.

UMC Praha 16, Radotin, Petr Syrovy – phone interview 30 min.