



DANISH INSTITUTE FOR
HUMAN RIGHTS

COWI

The social situation concerning homophobia and discrimination on grounds of sexual orientation in Czech Republic

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A. A Summary of the Overall Situation of LGBT Persons

- [1]. In the Czech Republic the right to enter into registered partnership was adopted for same-sex couples in 2005. Surveys show that there is general support in the public for civil partnership yet support decreases when it comes to LGBT couples adopting children and parenthood by LGBT persons in general.
- [2]. The Czech Republic has not yet incorporated the Employment Directive 2000/78/EC into national law and the Anti-discrimination Act (Antidiskriminační zákon) has not yet been adopted. Victims of discrimination can complain to the labour offices if discrimination occurs in relation to access to employment or to labour inspectorates if discrimination occurs at work. How frequently LGBT persons may experience discrimination in the work place is undocumented and there has been just one complaint received regarding discrimination in the labour market.
- [3]. While there is little scientific research data, unofficial data show that homophobia exists and manifests itself in different ways (i.e. hate crime towards LGBT and homophobic bullying in schools). As the Czech Republic is largely a secularised society, religion seems to play only a small role in the debate concerning LGBT issues and rights. However, several churches are not inclusive of LGBT members. Finally, it does appear that Czech media has progressed in terms of representing LGBT issues in a more nuanced way.

B. The Collection of Data

- [4]. The material for this report is taken from four different sources:
 - A legal country report, written by Vera Honuskova and Professor Pavel Sturma, Charles University - Prague.¹
 - A sociological country report reviewing available data on the situation concerning homophobia and discrimination on grounds of sexual orientation, written by Phd psychologist Olga Pechová and lawyer Martina Stepánková.²

¹ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic* . Sociological Country Report.

² V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

- Data collected through an interview held in Czech Republic with the Government Council for Human Rights.
- Data collected through an online questionnaire sent out to the stakeholders mentioned above.

C. Key Findings

C.1. Attitudes Toward LGBT Persons

- [5]. Surveys examining acceptance and attitudes toward homosexuality were carried out across the EU Member States in 2006 and 2008.
- [6]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in Czech Republic was 6.6 compared to the EU average of 7.9. Romania was the lowest with 4.8.³
- [7]. In answer to questions asked as part of the 2006 Eurobarometer survey. Forty-two per cent of EU citizens responded in agreement that same-sex marriages should be allowed throughout Europe; the figure was 52 per cent in Czech Republic (Netherlands scored the highest with 82 per cent and Romania the lowest with 11 per cent). With regard to adoption by same-sex couples the level of acceptance decreased in all EU and in Czech Republic. The figure was 24 per cent in the Czech Republic (the Netherlands scored highest with 69 per cent, while Poland and Malta recorded the equal lowest score 7 per cent).⁴
- [8]. Generally, the public opinion in the Czech Republic is relatively positive towards LGB persons and it is perhaps the most positive opinion concerning LGB persons among all the countries of the former Soviet part of Europe.⁵ Public support of registered partnership has consistently polled strongly in recent years and this was one of the reasons why the Czech Republic was the first country in this part of Europe to legally recognise same-sex partnerships.⁶

³ European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

⁴ Eurobarometer 66 (2006), available at: http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf, pp. 43-46.

⁵ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

⁶ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*.

C.2. Criminal Law - Hate Crime

- [9]. There is no crime of hate speech in the Criminal Code (Trestní zákon)⁷ of the Czech Republic. In contrast to crimes committed on the grounds of race, ethnic group, nationality, political opinion, religion, the Criminal Code does not impose especially severe punishment for crimes committed with homophobic motives, which are also not considered an ‘aggravating circumstance’.⁸
- [10]. There are no official statistics concerning hate crimes against LGBT persons in the Czech Republic. Nevertheless, information given by individuals indicate that attacks motivated by hate towards LGBT persons do occur. Such attacks are usually verbal in form. As such, physical attacks on individuals or organisations are infrequent. The victims often do not report those attacks to the Police and if they do, attacks are investigated like every other attack, without keeping record of their homophobic nature.⁹

C.3. Freedom of Assembly

- [11]. The freedom of assembly is granted by article 19 of the Charter of Fundamental Rights and Freedoms and by the Act¹⁰ on the Right to Assemble. Despite this there are not any regular ‘Pride’ parades held in the Czech Republic.

C.4. Family and Other Social Issues

- [12]. The Registered Partnership Act¹¹ was implemented in 2005 after ten years of lobbying by Czech LGBT organizations. It grants same-sex partners several important rights, including the right to inherit, to be informed about the health situation of their partner and to be the next of kin under the Civil Code and Penalty Code. Yet there are rights denied to same-sex couples, including tax and social security rights. Furthermore same-sex couples do not have the right to adopt children and neither the right to adopt the child/children of their partner.¹² There is neither the possibility for lesbian couples to receive medical

⁷ Zákon č. 140/1961 Sb., trestní zákon (Act. No. 140/1961 Coll., Criminal Code), available at http://portal.gov.cz/wps/portal/s.155/701?number1=140_percent2F1961&number2=&name=&text= (Czech only) (opened on February 19, 2008).

⁸ V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX

⁹ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

¹⁰ Act No. 84/1990 Coll.

¹¹ Act no. 115/2006 Coll. on Registered Partnership and on the Change of Certain Related Acts.

¹² O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

services to allow for assisted insemination as this is reserved only for married or unmarried heterosexual couples.¹³

- [13]. There is no law in the Czech Republic recognising parental rights for transsexual persons. Furthermore, at least in one divorce proceeding the office of Social-Legal Defence of Children has sent statements to the courts declaring that transsexual parents are a bad influence on their children.¹⁴

C.5. The Labour Market

- [14]. The transposition of the Employment Directive 2000/78/EC has not yet happened. Similarly, the Anti-discrimination Act¹⁵ (Antidiskriminační zákon) has not yet been adopted. However, an attempt has been made to pass it and, at the time of writing, a draft is before the national parliament.¹⁶
- [15]. The NGO *Gay Iniciativa* conducted a survey in 2002 and 2003 among LGB persons in which 12 per cent of respondents (31 persons) reported discrimination at work, while 25 per cent of respondents reported experiencing harassment in their workplace.¹⁷
- [16]. There is no qualitative data available concerning discrimination against transgender people accessing employment, however there is one illustrative case of this kind of discrimination dating from 2004. The case concerned a transgender woman who was refused employment in the Czech Army. She successfully passed all entry tests, but was denied employment with an explicit reference to her gender identity. A subsequent investigation by the Secretary of Defence confirmed the Army's previous decision but referred to the state of her health rather than gender identity.¹⁸
- [17]. Victims of discrimination can complain to the labour offices if discrimination occurs involving access to employment or to labour inspectorates if the discrimination occurs in the workplace. If the

¹³ Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic*. Government of Czech Republic.

¹⁴ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

¹⁵ Vládní návrh zákona o rovném zacházení a ochraně před diskriminací (Draft Law on Equal Treatment and Protection Against Discrimination – Antidiscrimination Act). The Draft is being debated in the Chamber of Deputies (Lower House of the Parliament) under No. 253, the draft is available at <http://www.psp.cz/sqw/text/tiskt.sqw?O=5&CT=253&CT1=0> (Czech only) (opened on February 19, 2008).

¹⁶ V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX

¹⁷ Prochazka, I., Janik, D., Hromada, J., (2003): *Společenská diskriminace lesbických žen, gayů a bisexuálů v ČR*. Praha. Gay iniciativa v ČR. It can be found at www.gay.iniciativa.cz/www/index.php?page=clanek&id=256

¹⁸ Information about this case is available on www.translide.cz/transsexualka-bouram-predsudky?a=srch

offices or inspectorates decide that a breach of equal treatment has occurred they can impose a fine on the employer.¹⁹

C.6. Education

- [18]. The problem of harassment and bullying of LGBT students in schools is well known in the Czech Republic, yet there is a lack of official data detailing this phenomenon.²⁰ LGBT persons are not mentioned in the general curriculum for elementary schools. In fact references to LGBT persons are limited to a small number of phrases included within sex education curriculum.²¹ Furthermore, the situation for, and experiences of, LGBT teachers in the education system are not documented.

C.7. Health Service

- [19]. While research documenting the experiences of LGB persons in the health service is limited, one study from 2003 showed that 7 per cent of LGB respondents felt discriminated in this sector.²² Some evidence also exists, albeit small, illustrating negative or apprehensive attitudes towards LGB patients among health care providers and physicians, in part stemming from minimal experience with this section of society.²³
- [20]. In the case of the experiences and relationship transsexual persons have with health care personnel is often much more problematic.²⁴
- [21]. Instances where gay men have been automatically excluded from giving blood have been identified in the Czech Republic. The 2001 report of the Czech Helsinki Committee on the condition of human rights described as discriminatory the prohibition contained within the Instructions to Blood Donors, issued by the Institute of Hermatology

¹⁹ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

²⁰ Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic*. Government of Czech Republic.

²¹ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report..

²² I. Prochazka.,D. Janik., J. Hromada (2003): Spolecenska diskriminace lesbickych zen, gay muzu a bisexualu v CR. Praha. Gay iniciativa v CR. It can be found at www.gay.iniciativa.cz/www/index.php?page=clanek&id=256

²³ I. Prochazka.,D. Janik., J. Hromada(2003): Spolecenska diskriminace lesbickych zen, gay muzu a bisexualu v CR. Praha. Gay iniciativa v CR. It can be found at www.gay.iniciativa.cz/www/index.php?page=clanek&id=256

²⁴ Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic*. Government of Czech Republic.

and Blood Transfusion, preventing “men having sex with men” from giving blood.²⁵

C.8. Religion

- [22]. The Czech Republic is a largely secularized society. Only about one quarter of the population reports any affiliation to a church or religious denomination, and the percentage of active church members is even lower. Twenty percent of the population belong to the Roman Catholic Church and about five percent are members of other Christian denominations, mostly Protestant making the former the more influential of all the denominations. The Roman Catholic Church claims that the only way for LGBT persons to live is by practicing sexual abstinence (and no hormonal and surgical therapy in case of transsexual persons). Thus the Roman Catholic Church is a strong opponent of the Registered Partnership Act and once maintained a petition against it, which was available in their churches.²⁶
- [23]. It for these reasons, rather than any indications from research data (which have as yet not been collected), that it seems likely LGB Catholics face great problems of acceptance in the church; mostly being excluded from church life or hiding their sexual orientation. Even if not all priests share this official church standpoint, there is no open opposition to it.²⁷
- [24]. While the direct political influence of Roman Catholics is not strong, the *People's Party*, which while small is a coalition party in the Government, has very a close relationship with the Roman Catholic Church.²⁸

C.9. Sports

- [25]. There is no research data detailing the extent of homophobia and experiences of LGBT persons in sports.

²⁵ Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic*. Government of Czech Republic.

²⁶ O. Pechová, and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic* . Sociological Country Report.

²⁷ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic* . Sociological Country Report.

²⁸ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic* . Sociological Country Report.

C.10. Media

- [26]. The Czech media has increasingly begun engaging more with LGBT issues since 1989 when LGBT persons began to appear more often in print and electronic media. In the first half of the 1990s negative stereotyping, sexualisation and comedic or criminal contexts were the dominating factors, but around the turn of the millennium LGBT persons started appearing in the context of “normal” social life in documentaries and television series.²⁹
- [27]. Gay men are largely more visible than lesbian women in the representation of LGBT issues, while bisexual persons are not represented at all.³⁰

C.11. Asylum and Subsidiary Protection

- [28]. The legal protection of asylum seekers in the Czech Republic is provided by the Act on Asylum.³¹ According art. 12 of the Act asylum can be granted to a person who has a well-founded fear of persecution because of his/her race, religion, nationality, political opinion or membership of a particular social group.³² Thus a person who has well-founded fear of persecution because of his/her sexual orientation is likely eligible to be granted asylum as a member of particular social group.
- [29]. The Supreme Administrative Court in 2007 dealt with an asylum case involving these issues. A man from Armenia sought asylum on the basis that he experienced persecution in his home country because of his sexual orientation. In that particular case the Court decided that there was no reason for granting the man asylum unless the persecution is of such intensity that it takes away life perspectives and evokes a situation of despair. Furthermore, Court ruled the persecution must involve State authorities.³³
- [30]. There are no statistics available on the number of asylum grants lodged on the grounds of sexual orientation.

²⁹ Working Group for the Issues of Sexual Minorities of the Minister for Human Rights and National Minorities (2007) *Analysis of the Situation of Lesbian, Gay, Bisexual and Transgender Minority in the Czech Republic*. Government of Czech Republic.

³⁰ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

³¹ Act no. 325/ 1999 Cool. on asylum, as amended

³² V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX

³³ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

C.12. Family Reunification

- [31]. In accordance with Council Directive 2003/86/EC, the Aliens' Act. Section 180f of the Aliens' Act stipulates that, with reference to family reunification issues, the norms which apply to 'marriage', 'spouse' and 'child' also apply to a couple with a registered partnership.³⁴
- [32]. There is no data available on the experiences of LGBT persons seeking family reunification.

C.13. Transgender Issues

- [33]. Czech law provides for the possibility of sex reassignment. The Health Care Act³⁵ stipulates that surgery on transsexuals is performed at the request of the individual concerned, following approval by a commission. The commission is composed of five persons: a lawyer, two physicians specialising in this field and two physicians who do not participate in the surgery.³⁶
- [34]. There is no case law on transgender issues and it is not possible to say whether transgender discrimination is likely to be classified as discrimination on the grounds of gender or of sexual orientation. Likewise, is it not clear how many transsexual and transgender persons live in the Czech Republic, however a study carried out in 2007 reported that 331 sex reassignment surgeries (77 female to male, FtM), 254 (male to female, MtF) had been carried out and 761 patients had been diagnosed with gender identity disorder.³⁷
- [35]. While the research illustrating the experiences of transgender persons is not available, according to Pechová and Stepánková, transgender persons face multiple problems, inter alia, access to the labour market and administrative problems with changing birth certificates in private and public databases. Custody rights of children are also highlighted as a significant problem.³⁸
- [36]. Data suggest that in the past it was required that transsexuals renounce their parenting rights in writing and were pressured to give up their parenting rights and/or have only limited contact with their children in

³⁴ V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX

³⁵ Zák. č. 20/1966 Sb., o péči o zdraví lidu (Act. No. 20/1966 Coll., Health Care Act), available at http://portal.gov.cz/wps/portal/s.155/701?number1=20_percent2F1966&number2=&name=&text= (Czech only), (opened on February 19, 2008).

³⁶ V. Honuskova and P. Sturma (2008) *Legal study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX

³⁷ The data have been published by Fifková, Jarolím and Weiss at the end of 2007 and it will part of a new publication proposed in 2008.

³⁸ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.

order to get their sex reassignment surgery approved by the medical advisory boards. While this practice largely appears to have been abandoned, one case exists of the Department of Social and Legal Protection of Children played some part in the pressuring of a transsexual person male to female (MtF) to give up custody of her child.

- [37]. The affected person succumbed to the pressure and relinquished a right to appeal. She only later found out that she was the victim of discriminatory behaviour. Court proceedings dealing with another case are currently being held, in which the Department of Social and Legal Protection of Children is demanding that the children in question not be entrusted to their transsexual parent FtM, despite the fact that their biological father can't take them into their care. In both described cases, the Department of Social and Legal Protection of Children interfered in these cases, even though an agreement existed between the parents.

C.14. Multiple discrimination

- [38]. There is no research data on LGBT groups at risk of experiencing multiple forms of discrimination.
- [39]. The Czech Republic is generally an ethnically homogenous society with the Romani persons constituting the largest ethnic minority group. Even though not fully researched it is likely that LGBT Romani persons might face great barriers to expression of their sexual orientation in their own communities.³⁹
- [40]. The problems faced by LGBT youth with bullying was outlined in the chapter on education. There is no further data available on the experiences of LGBT youth.
- [41]. The LGBT elderly are an invisible group in Czech society and there is no scientific data available on this group. Neither is LGBT disabled a visible group in the Czech society and similarly there is no data available on this group either.

D. Good Practice

- [42]. No good practices are identified in the Czech Republic.

³⁹ O. Pechová and M. Stepánková (2008) *The Situation concerning homophobia and discrimination on grounds of sexual orientation in the Czech Republic*. Sociological Country Report.