



Note No. 1222-1/2019-ZENE

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and is pleased to hereby submit the response of the Czech Republic to the joint letter of the Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, dated 22 March 2019, ref.: OL CZE 2/2019.

The Permanent Mission of the Czech Republic would be grateful if this response could be transmitted to the above mentioned Special Procedures mandate holders.

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations at Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 17 May 2019

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Legal framework and policies of the Government of the Czech Republic in the field of housing

The Czech Republic wishes to thank the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms Leilani Farha, and the Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Mr Surya Deva, for their joint communication dated 22 March 2019. The communication has been transmitted to the Ministry of Regional Development of the Czech Republic as the body in charge of housing policies at the national level, including social housing. The Czech Republic's response to the issues raised in the joint communication prepared by the Ministry of Regional Development of the Czech Republic is provided below and in the annex. It contains information on housing policies in the Czech Republic aimed, inter alia, at the realization of the right to an adequate standard of living as set out in the International Covenant on Economic, Social and Cultural Rights.

Fulfilment of international obligations and commitments

The Czech Republic fulfils all obligations under the relevant international human rights instruments relating to housing. Being a ratified international treaty, the **International Covenant on Economic, Social and Cultural Rights** is a part of the legal order and has precedence over the Czech national law. According to the Constitution of the Czech Republic, the Courts are bound in their decision-making by international treaties including the Covenant. In specific cases the Constitutional Court cited the right to an adequate standard of living or adequate housing (Art. 11 par. 1) when assessing the regulation of rents for flats or the character of dignified housing. The Supreme Administrative Court cited e.g. the right to an adequate standard of living or adequate housing (Art. 11 par. 1) when assessing the legality of tax concessions for some flat transfers or the general principles of solidarity and development and upholding of the ideal of free human beings enjoying freedom from fear and want pursuant to the Covenant's Preamble. The Supreme Court also focused on the right to an adequate standard of living or adequate housing (Art. 11 par. 1) when assessing the regulation of rents of flats and the right to education as well as the issue of discrimination in access to education. The decisions of lesser courts are also bound by the Covenant and other international treaties and must respect them in their decision-making. The Covenant is also often used for argumentation by parties in court proceedings.

International obligations of the Czech Republic do not mean that the Government has a specific duty to provide or secure apartments. The Czech Republic is committed to create housing conditions in order to ensure certain standard of living. Hence, the right to housing means the right to measures and conditions of the Government that would allow all citizens - based on their own personal activity or in conjunction with non-governmental organizations or other civic initiatives - to obtain decent housing. It is possible to deduce that the Government is committed to take real measures aimed at this goal, but concrete steps towards the fulfilment of these measures anticipate the activity of the individuals or families concerned. On the other side, the state should not be completely inactive and should not take any measures clearly inadequate in relation to the stated objective. The activity of the state itself can take various forms, like the financial support enabling to ensure housing, or supported development of new housing, etc. **The right to housing is a social right, so the level of its fulfilment depends on the state's capacities, and it is therefore the task of the Government to specify the extent to which this right will be exercised and progressively realized.**

In the Czech Republic, the core strategic document in this regards is **“Housing Policy in the Czech Republic until 2020 (revised)”**, approved by the Government in its Resolution No. 673 on 27 July 2016. The main idea is that securing housing is individual's own personal responsibility, and the fundamental state's mission is to provide a stable environment to strengthen this individual responsibility and to motivate citizens to meet their housing needs on their own. However, in line with the principle of solidarity, the Government pays special attention to vulnerable people or to people who are unable to provide housing for themselves.

Anti-discrimination Act, approved in 2009, was designed to strengthen the protection against discrimination in all major areas of social life like employment, social protection, health care, housing and education. The Anti-discrimination Act defines the subject matter of the regulation, i.e. the right to equal treatment and non-discrimination in respect of, among others, access to goods and services, including housing, if they are offered to the public or in the delivery thereof. The Anti-discrimination Act deals with housing in general without distinction. **According to the principle of equality, all legal conditions**

for housing ownership as well as for housing tenancy are applied for all persons - regardless the legal status of persons owning or renting dwellings and buildings. According to the Czech legislation, housing is constituted by the principle of people's equality, regardless the racial or ethnic origin. Therefore, all people, including foreigners, have the same rights to rent a flat in the Czech Republic. Tenancy is established by a written agreement and is a result of negotiations of two free contractual parties acting in freedom and autonomy. Both parties can agree on termination of the concrete lease.

Housing policy in the Czech Republic until 2020

Within the main vision of the approved Housing Policy "**Housing Affordability, Stability and Quality**", the Government has defined **three strategic objectives**:

- Ensuring adequate affordability of all forms of housing;
- Creation of a stable environment in the fields of finance, legislation and institutions for all players of the housing market;
- Reducing housing investment debt, including improving the quality of the outside environment of the residential areas.

These objectives should be achieved through the tasks set out in concrete areas formulated in **eight priorities**:

1. Increasing housing affordability;
2. Housing investment support with a focus on the social housing segment;
3. Financial stabilization of housing support;
4. Consistent definition of responsibilities and coordination of state activities in the area of housing policy;
5. Increasing protection of the associations of housing units' owners and of housing cooperatives;
6. Implementing the principles of "universal design";
7. Systemic revitalization of prefabricated housing estates;
8. Addressing the impacts of energy efficiency measures on housing expenditures of households.

Social housing subsidy programmes

The Government implements - through the Ministry of Regional Development, which is responsible for housing policy, and through the State Housing Development Fund under this Ministry - several subsidy programmes designed for building and renewal of rental apartments aimed at social housing of people with difficult access to housing for various reasons, such as seniors, disabled persons, low-income families, socially excluded people or groups facing the social exclusion. **These subsidy programmes enhance the rental housing affordability through flats with rents at the cost level - i.e. lower than market rents. Between 2003 and 2018, more than 24,000 housing units have been subsidised from the state budget for the above socially defined target groups of people (since 2014, social rental housing construction has been also subsidised from the European Funds through the Integrated Operational Programme).**

The Government subsidises social housing from national and EU budgets; social housing is also supported from municipal budgets. The provision of social housing is carried out at the local level by municipalities, who - according to the Act on Municipalities - take care, inter alia, of the housing policy for their citizens. More than 6,000 Czech municipalities represent local self-government and, according to the principle of subsidiarity, are obliged to take care of the overall living conditions of their citizens. State subsidies are provided to municipalities, as well as non-governmental organizations and other entities, including private ones. The target group for social housing is defined in all measures by social criteria of a given household - i.e. age, low income, unfavourable social situation, etc.

In April, 2019, the Government approved a **new subsidy-loan programme named "Construction"**, prepared by the Ministry of Regional Development. The programme will contribute to increase housing affordability. In the following years, up to 2,000 social and affordable apartments could be built in municipalities each year. The State Housing Development Fund is now preparing a call for applications. This program is reaction to the critical situation in some regions and the need to come up with a fast, straightforward solution. The purpose of model of financing is the possibility of combining a subsidy and a favourable loan, which does not have to be a green-field construction, but it is also possible to purchase individual apartments as units that can be used for social housing after the reconstruction. Social apartments will be aimed at people in need, and the possibility of using affordable housing will depend on

a given municipality and the local situation. The new programme will be used by municipalities for investment projects in the area of construction of municipal rental apartments; both social apartments reserved for households, where there is a market failure in the area of housing; and affordable apartments intended for medium-income households and households with persons in publicly beneficial professions (doctors, teachers, police officers, etc.) according to the needs of a given municipality, so that the quality of public services is maintained, and social mix in a locality is guaranteed. For 2019, the State Housing Development Fund has one billion CZK (of which CZK 650 million for subsidised social housing and CZK 350 million for loans for affordable housing). In the case of social housing, the programme expects direct subsidies of up to 100% of eligible costs. In the case of available flats for medium-income and other persons, the program will allow a combination with a low-interest loan from the housing fund, a commercial loan or the municipality's own money. In the years to come, up to 2,000 social and affordable apartments could be built in municipalities every year.

Housing benefits

In general, an important instrument securing the right to adequate housing is the system of housing benefits. In the Czech Republic, housing benefits belong to basic pillars of the State housing policy. They represent a functional support of citizens provided by the State in relation to affordable housing as well as the most common financial measure aimed at low-to-middle income groups that helps persons and families to get or keep housing. Social housing benefits are administered by the Ministry of Labour and Social Affairs.

State protection in housing and access to affordable housing are guaranteed by two different benefits from two benefit schemes:

- Housing Allowance from the State Social Support System,
- Supplement for Housing from the System of Assistance in Material Need.

Housing Allowance is a recurrent benefit provided monthly to families that spend for their appropriate housing in units having administrative approval of technical quality more than 30% (in the capital city of Prague 35%) of their incomes. Property owners or tenants registered as permanently resident in that property are entitled to Housing Allowance if 30% (in Prague 35 %) of family income is insufficient to cover housing costs and at the same time this 30% (in Prague 35 %) of family income is lower than the relevant prescriptive costs set by law. The prescriptive housing costs are set as average housing costs based on the size of the municipality and the number of members of the household. They include a rent and similar costs for residents of cooperative units and unit owners. They also include the cost of services and energy. Prescriptive housing costs are calculated based on reasonable sizes of units for the number of persons permanently residing in them. The level of Housing Allowance is set as the difference between prescriptive housing costs and the relevant family income multiplied by a coefficient of 0.30 (in Prague 0.35).

Housing Allowance is a relatively simple benefit that keeps large group of population in rental and privately owned units. In 2018, average number of recipients was 168,000 households per month. Within the total number, there were about 76,000 of households with one member, out of which 55,000 were lone seniors. Within the total number, there were about 79,000 households with dependent children, out of which 56,000 were single parent households.

Supplement for Housing is a recurrent benefit that helps persons in material need to cover housing costs. Supplement for Housing tackles cases where the income of the person or family, including the entitlement to Housing Allowance, is insufficient to cover justified housing costs (i.e. rent, services related to housing and energy costs). The benefit is very important namely if beneficiaries live in non-standard forms of housing, as it is provided not only to unit owners or tenants but in exceptional cases also to a person using a form of housing other than rental. About 20% of payments go to lodging houses, quarters, non-residential space, social care institutions, etc. The amount of Supplement for Housing is determined in such a manner that after the payment of justified housing costs the recipient is left with the amount of living as set by the Act on Assistance in Material Need.

Supplement for Housing is a more complex benefit as several conditions are assessed and re-assessed: income, social circumstances, property, assets, claims, real coexistence, other housing possibilities, housing costs justification, housing costs usual in the location. In 2018, average number of recipients was 37,000 households per month. Within the total number, there were almost 6,000 households of pensioners and 16,000 households with dependent children, out of which 9,000 were single parent households.

Parametric alterations of housing benefits are to be prepared according to the Governmental Legislative Plan. At present, the relevant institutions are working intensively on this task.

The above-mentioned benefits effectively protect low-income households and people threatened by social exclusion against human right abuse and help them secure living in dignity. Housing benefits promote an inclusive housing system and ensure access to adequate housing for all minorities and vulnerable groups without discrimination, as all eligibility conditions stipulated by law are set as equal.

Apartments rented by RESIDOMO Company

According to the Czech legal framework, everyone has the right to own a property and the property rights of all owners have the same legal content and protection. On one hand, the owner may be subject to certain restrictions or obligations related to the ownership, but on the other hand, such restrictions cannot deprive or limit the owner from the benefits of the ownership.

The relation between a landlord and a tenant is regulated by the Civil Code (Act No. 89/2012 Coll.). The housing rent is conceived as a contractual relationship between the contractual partners, bearing in mind that a tenant enjoys a higher level of protection due to his or her weaker position. In particular, the lease termination is strictly regulated. The landlord may terminate the lease only on the basis strictly defined by and in accordance with the procedure specified in the Civil Code. The lease terminates (except for the agreement and expiry of the fixed-term contracts) **only on the basis of a notice that the landlord is entitled to give only for reasons stipulated by law. The tenant can be evicted only on the basis of a binding enforcement order decided only by court.**

In general, forced eviction is only possible in the Czech Republic, when a person is using a real property without any legal reason. This practice is in line with the **judgement of the European Court of Human Rights, Yordanova and Others v. Bulgaria, No 25446/06, of 24 April 2012**. This Court considered that it was legitimate to try to recover land from people who occupied it unlawfully. There was no doubt that the authorities were in principle entitled to remove the applicants who occupied municipal land unlawfully.

In the Czech Republic, for rented housing, legal grounds may be proprietary, right of easement or contractual relationship. **If a person resides in a real property or an apartment without legal grounds, the landlord has the right to bring a legal proceeding to court.** Depending on the court's decision, the person may be ordered to vacate a real property or an apartment within a reasonable time. If the person using the real property fails to comply with the judgment, the owner may apply for the legal enforcement. After the decision becomes final, the person who is using the property without any legal grounds can be evicted. Typically, the landlord is interested in evicting the tenant after the lease terminates. The obligation to provide housing compensation is no longer valid according to the Civil Code, as the conditions for terminating the lease beyond the strictly defined reasons would lead to inadequate protection of the tenant. Housing compensation was justified during the period of strict rent regulation; in 2003 the Czech **Constitutional Court** decided (IV. ÚS 524/03) that housing compensation for the apartment with regulated rent was not another rent-regulated apartment, but any other housing apartment with market rent; hence this institute has lost its justification. According to the Constitutional Court, the sense of the housing compensation was not to provide a lease with the same conditions but to enable a tenant to find a possibility of housing paid by the tenant; the existence of housing compensation did not bring any increased social protection. Court concluded that at the time when housing rental market worked and there was possible to find rented housing (in bigger municipalities), the housing compensation measure was completely unnecessary and disproportionate. **Czech citizens are provided with standard social support and social work, according to the respective individual measures of the state or municipalities.**

Opinion of the Union of Tenants of the Czech Republic

The Union of Tenants of the Czech Republic (SON) is an important **non-governmental and not-for-profit membership organisation with the main aim to protect rights and interests of tenants** living in rental apartments in residential building, belonging either to municipalities, or to private natural and legal persons. The SON works on the principles of human solidarity and non-profit functioning. The SON is a member of the International Union of Tenants (IUT), a global tenants' organisation. The SON provides legal and other professional advice - free of charge - for both natural and legal persons. The purpose of the SON free consultations is to provide legal information on individual cases so that the client is aware of his / her rights, duties and options for further action. The provision of free counselling is organized by regional centres whose contact details can be found at www.son.cz.

The SON has sent to the Ministry of Regional Development an opinion containing, inter alia, the following points on RESIDOMO:

- We have been intensively following the issues of rental housing provided by RESIDOMO (formerly RPG Byty) since 2010, when we managed to negotiate a gradual rent deregulation spread over a number of years and many other important measures in rental contracts etc. The Joint Memorandum, which is still valid, confirmed these agreements and its performance is continuously monitored. Thanks to the Memorandum, RESIDOMO established the Housing Fund (helping seniors over 60 years of age), through which tenants received 51 million CZK. In addition, the so-called Rescue Fund was established to support tenants in a difficult life situation which has already helped hundreds of tenants by providing 2 million CZK in total.
- The SON continually monitors the activities of RESIDOMO; we are informed of all significant actions concerning tenants. We are regularly invited to participate in the events organized by RESIDOMO for non-profit organizations.
- The SON also continually addresses a number of operational issues directly related to tenants (e.g. agreements on the distribution of service costs, billing rules, changes resulting from the amendment of the Civil Code and rules relating the protection of personal data). Every year, we are informed about the repair plans and their implementation.
- The SON annually receives dozens of complaints and suggestions from RESIDOMO tenants. We discuss these issues with the company's representatives on a regular basis. We do not have any information about illegal terminations of tenancy agreements.
- RESIDOMO is the largest owner of rental apartments in the Czech Republic.

Annex: Housing in Figures (2018) – relevant statistical data on housing in the Czech Republic