



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

**Racism and related discriminatory practices in
employment in the Czech Republic**

**Pavel Čížinský, Alexandra Dubová, Jakob Hurrle
Multicultural Center Prague**

Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Executive summary

Racism and structural discrimination in employment in the Czech Republic particularly concerns the Roma minority and certain categories of nationals from non-EU countries (hereinafter referred also as “nationals from third countries”). There is, however, generally a lack of reliable data of incidents of discrimination.

The discrimination of Roma in the labour market has a clear structural character. Roma are often not able to fulfil requirements of employers due to lack of qualifications resulting from segregated education. The very difficult situation of the housing market, which led to an increase in the number of highly segregated Roma enclaves and moving of Roma from economic centres to less developed areas with limited employment potentials and the Czech educational system’s insufficient success in integrating children from Roma families are additional factors, which perpetuate and deepen the overall discrimination of Roma in the labour market. One - however problematic - alternative is informal employment.

In 2012, the Ministry of Labour and Social Affairs adopted a series of restrictive policies which were geared towards third-country foreign nationals, such as new obstacles to obtain a work permit, ban on employment of third country nationals through employment agencies and increasing the penalties for irregular work. These policies contributed to a further deterioration of the situation of migrants on the Czech labour market, who were already detrimentally affected by the economic crisis. According to some experts, around 65 000 migrants “disappeared” in the grey economy in this context.¹ The vulnerable position of migrants opens the doors to abusive employer practices, including (but not limited) to work without formal contract, non-payment or informal payment of wages and precarious working conditions².

The government policies are either not specifically directed at tackling discrimination in employment or do not effectively solve the existing discrimination in employment. Victims of discrimination face difficulties in accessing legal remedies, and the relatively new antidiscrimination action³ is used rarely. Labour inspectorates, who are responsible for regulating whether employers comply with rules of equal treatment, do not function well in this regard. As a result, the recourse of action for victims of discrimination is very limited. They might turn to non-governmental organizations which provide assistance to victims of discrimination and eventually sue their former or potential employer. However, legal assistance is not offered everywhere and legal procedures can be very long and costly. Another possibility is to contact the Office of the Ombudsman, which holds in the Czech Republic the role of an equality body. However, the capacities and also the mandate of the Office’s department dealing with discrimination are limited. It offers advice and methodological support, yet cannot initiate legal action on behalf of victims of discrimination or represent victims of discrimination in court.⁴

¹ Rozumek, M., *The Czech "fight" against the illegal employment of foreigners*, MigraceOnline, 24. 1. 2013

² Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 24

³ This remedy has been introduced in 2009 by the Act No. 198/2009 Coll. on equal treatment and on the legal means of protection against discrimination.

⁴ See website of the Public Defender of Rights: <http://www.ochrance.cz/diskriminace/>.

To tackle discrimination against ethnic minorities and migrants in employment, the following recommendations can be made:

- **Improvement of data collection mechanism**

While there are relatively exact data on the employment situation of foreign citizens, there is no systematic way of monitoring the employment situation of Roma. This issue is complicated by the fact that most Roma choose to not identify as Roma in the Census. As the introduction of ethnic criteria in regular statistics that are based on outer identification would be problematic, it seems preferable to work with micro-studies that could be conducted to analyse the representation of Roma in particular sectors.

- **Adoption of the law on free legal aid**

There is no separate bill on free legal aid in the Czech Republic. Whereas it is possible to obtain, under certain conditions, an attorney free of charge in already initiated court proceedings, the access to free legal help before initiating court proceedings is very limited. Free legal aid to victims of discrimination is sometimes offered by NGOs and methodological assistance is offered by the Office of the Ombudsman. The provision of legal help even from NGOs is not guaranteed, depends on capacity and financial resources, and there are big differences between large cities and the countryside in the accessibility of legal help for victims of discrimination. We therefore recommend the introduction of a separate bill on free legal help providing for a feasible and sustainable system of free legal aid to victims of discrimination who could not afford to pay an attorney.

- **Further development of anti-discrimination legislation**

Larger employers should be obliged to carry out efforts in order to represent the ethnic diversity within their workforce. The Public Defender of Rights should be given the right to start their own investigations also against private employers and represent victims of discrimination in court.

- **Adoption of the Act on Social Housing**

The Czech state needs to address the housing needs of poorer households in a systematic way. This *inter alia* means to adopt a comprehensive legal act including a clear entitlement for persons threatened by homelessness to obtain housing with the support of the state and this housing must not be segregated or otherwise stigmatized as “socially excluded”.

It is necessary to stop any form of public support for mass and low quality housing facilities which concentrate people experiencing social and economic problems in one place; for instance, inhabitants of any housing facilities may be entitled to receive housing support only in case that the housing facility they live in fulfils certain criteria.⁵

- **Reversal of restrictive policies towards labour migrants**

For example work permits for low qualified migrants are issued only up to 6 months, loss of work or administrative mistakes of the employer are “punished” by cancelling

⁵ For more information see the separate initiative: <http://socialnibydleni.org/>

the residence permit of a foreign national. These and other restrictive policies towards third country nationals residing in the Czech Republic for the purpose of work must be stopped.

Migrants without permanent residence permits are excluded from unemployment benefits and in cases of loss of employment also from public health insurance, which contradicts Article 12 of the Single Permit Directive.⁶ Labour migrants must be integrated into the public social security schemes.

Labour migrants should be viewed as future citizens of the Czech Republic and not as those who should return to their country of origin. Temporary migration programmes envisaged by the Government in the New System of Economic Migration⁷ in 2011 should not come into force.

- **Provision of work opportunities for Roma and other disadvantaged groups**

Focusing in particular on poorer regions with high unemployment, the government should be more active in offering employment in the framework of its active labour market policies. The current programmes should be modified in ways that would allow to create more permanent types of employment and to realize more training programmes for workers. Particular focus should be on the labour market situation of young people who have no or limited work experience.

⁶ Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:343:0001:0009:EN:PDF>

⁷ Government Resolution No. 48 from 19 January 2011, about measures to the regulation of economic migration, protection of labour migrants and realization of returns.

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1. Introduction

The 2012 ENAR Shadow Report aims to describe and assess the situation in the Czech Republic with regards to racism and discrimination in employment. The report covers the period **from March 2012 to March 2013** and includes a combination of official, unofficial, academic and experimental data. Due to the lack of reliable data on the incidents of racism and discrimination in employment, the report uses input from non-governmental organizations, legal practitioners and the media.

The groups that are particularly relevant to this report are Roma and migrants from third countries. The report includes an assessment of their position in the Czech labour market, and the impact of the economic crisis on their employment. It elaborates on the national legal framework of discrimination in employment and includes a brief assessment of its compliance with the standards of the EU Employment Directive.

The report further includes information of what is known about incidents of discrimination in employment on the grounds of race and/or ethnic origin within the reporting period. The actual situation of the discriminated groups in the Czech labour market is set against the background of recent government policies. The report attempts to identify the main barriers of disadvantaged groups to access employment and describe discriminatory practices of employers towards Roma minority and migrants from third countries.

The report elaborates on the role of the courts, labour inspectorates and equality body in tackling discrimination in employment on the basis of race and/or ethnic origin and includes recommendations in this regard. Public policies in the field of tackling discrimination in employment are described and critically assessed. Civil society initiatives, as well as examples of good practices in the field of tackling discrimination against Roma and migrants in the labour market, are included in the final part of the report.

1.1 Definitions

With reference to xenophobia and the labour market, the two relevant groups in the Czech Republic are **Roma** and **migrants**.

Roma hold the status of a recognized national majority.⁸ However, only a small share of those Czech citizens who are of Roma origin, actually opt for Roma ethnicity in the Census.⁹ The government's strategy for the integration of Roma is defined in the *Concept for the Integration of Roma*¹⁰, and the responsible government body is the Council for Roma Community Affairs within the Government Office. In addition to these ethnically defined approaches, there is a strong tendency in the Czech Republic to tackle the question of Roma inclusion in ethnically-neutral ways. In many policy documents, the target group of activities that concern Roma defined them as being "socially excluded citizens", "citizens threatened by social exclusion" or "inhabitants of socially excluded localities"¹¹. While these definitions do not, of course, exclusively apply to Roma, they are, in

⁸ <http://www.vlada.cz/cz/ppov/rnm/historie-a-soucasnost-rady-15074/>

⁹ Romové v ČR, "ČSÚ: Stále méně Romů se při sčítání lidu hlásí k romské národnosti", Faltýnek, V., 6. 1. 2011

¹⁰ Minister of Human Rights, *Roma Integration Concept for 2010–2013*, December 2009

¹¹ Office of the Government of the Czech Republic, *Strategy for Combating Social Exclusion for the Period 2011-2015*, Prague, September 2011; Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012.

practice, often understood by policy makers to be synonyms for Roma, or as umbrella definition that includes Roma and other groups in difficult social situations.

Concerning migrants, the Czech legal framework distinguishes between citizens from other EU member states and third country nationals.¹² The latter group can be further divided with reference to the type of resident status (temporary, long-term or permanent) as different types of residence status gives different rights and obligations to its holder.¹³ As the naturalization of foreign nationals is not as yet an important phenomenon in the Czech Republic, there is no specific legal or statistical category for persons who are naturalized, or persons who are children of migrants. Many of the main groups of migrants (e.g. Slovaks, Russians, Ukrainians, and since 2013, Vietnamese) are, however, recognized as national minorities.¹⁴ The total number of foreign nationals holding a residence permit was ca. 434 000 in 2011, which represented around 4 % of the total population.¹⁵ The major immigrant communities are Ukrainian, Slovak, Vietnamese and Russian.

1.2 Statistical overview

The latest Census was carried out in the Czech Republic in 2011.¹⁶ In addition to this, the Czech Statistical Office publishes an annual report with statistics on the number of foreign nationals residing in the country. According to the 2011 Census, the Czech Republic has currently 10 436 560 inhabitants.¹⁷ Around 95 % of these inhabitants hold Czech passports (9 924 044).¹⁸

150 571 persons were reported as being citizens of another EU member state. The largest groups within this category are Slovak citizens (82 251), followed by the Polish (16 800), Germans (14 907) and Bulgarians (7 774).¹⁹

170 353 persons were reported as being citizens from a European country that is not an EU Member State. The largest groups within this category are Ukrainians (116 139), Russians (31 545), Moldovans (8 729), and Belarusians (4 129).²⁰

The largest groups among the non-European countries were Vietnam (52 612), USA (7 432), Mongolia (5 118), China (4 743) and Kazakhstan (4 347).²¹

A detailed overview of each group's structure by age and sex and information on smaller groups of migrants, can be found on the official website of the Czech Statistical Office²².

¹² Act No. 326/1999 Coll. on entry and stay of foreign nationals in the Czech Republic, as amended.

¹³ Ibid.

¹⁴ The legal status of national minorities is regulated in the documents gathered on this website of the Government Office: <http://www.vlada.cz/cz/pracovni-a-poradni-organy-vlady/rnm/dokumenty/vladni-dokumenty/>.

¹⁵ Czech Statistical Office, *Foreigners total: by citizenship as at 31 December 2011*, available at: [http://www.czso.cz/csu/2012edicniplan.nsf/t/CB00457FAE/\\$File/141412_t1-01.pdf](http://www.czso.cz/csu/2012edicniplan.nsf/t/CB00457FAE/$File/141412_t1-01.pdf).

¹⁶ Date available at: <http://www.scitani.cz/>

¹⁷ Czech Statistical Office, *Tab. 614e Obyvatelstvo podle věku státního občanství a pohlaví*, 26. 3. 2011

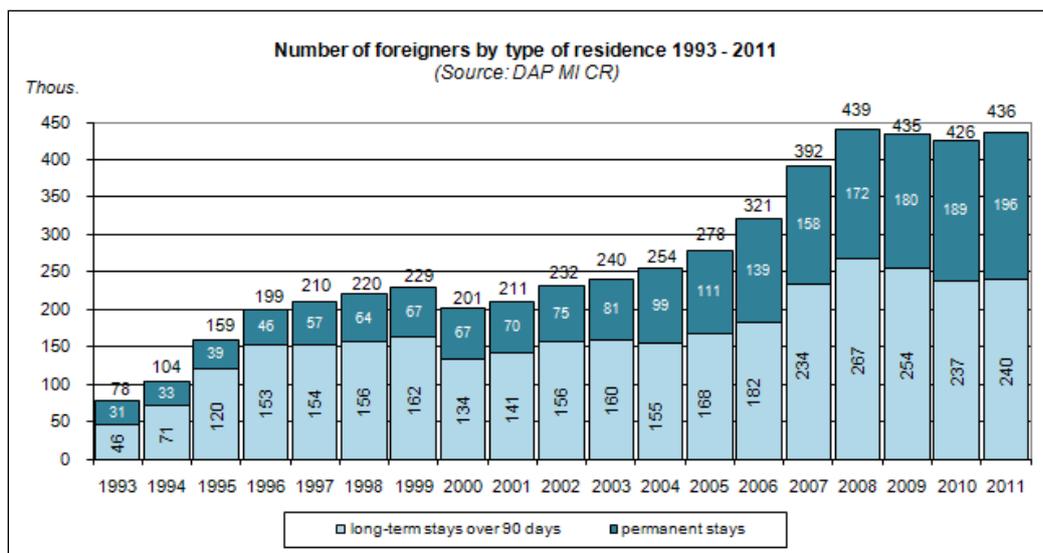
¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.



Originally published by the Czech Statistical Office
(http://www.czso.cz/csu/cizinci.nsf/engkapitola/ciz_pocet_cizincu)

The available statistical information published by the Czech Statistical Office also shows the rapid increase in the number of foreign nationals since the early 1990s. As can be seen in the above table, the number of foreign nationals reached a plateau after 2008 on account of the economic crisis. As a consequence of the crisis, the Czech economy's demand for foreign labour declined and the government introduced new barriers to labour migrants from third countries (such as new conditions to obtain a residence permit, ban on employment of foreign workers by labour agencies, see in more detail Chapter 3.2.) in order to protect the domestic labour force. The table also shows the difference between two types of residence status. In 2011; around 45 % of the foreign nationals living in the Czech Republic had permanent residence status, whereas 55 % had long-term residence status.

Even though data from the Census does not of course include information on the number of undocumented migrants, the existing statistical data could be considered relatively accurate when it concerns foreign nationals. They cannot be given great consideration regarding the Roma, as only a very small number of persons of Roma background were classified to be of Roma origin in the Census. In the 2011 Census, this number stood at 12 279 persons (including persons who indicated to be Czech, Moravian or Silesian *and* Roma). Compared with the results of the first Census compiled after the beginning of the transition of the state and economy in 1991²³, where 33 000 persons claimed to be Roma,²⁴ there has since been a very significant decline in the number of persons who indicated being Roma. Experts explain this decline is due to the fact that many Roma, are both for historical reasons and in view of a societal climate that is increasingly hostile towards Roma, afraid to be registered in any official documents as being of Roma ethnicity.²⁵

Even though the official number of Roma is very low, it is generally accepted that the actual number might be more than twenty times higher. While it is problematic from a philosophical point of view to define someone as Roma on the basis of this person's physiognomy, information on the share of Roma is in some cases very important in order to deal with claims of discrimination. There are some recent studies that were conducted by state bodies that showed that there exist ways how to

²³ The data from previous census are available at: http://www.scitani.cz/sldb2011/redakce.nsf/i/vysledky_minulych_scitani

²⁴ http://notes3.czso.cz/sldb/sldb.nsf/i/seznam_tabulek_obyvatelestvo.

²⁵ Romové v ČR, "ČSÚ: Stále méně Romů se při sčítání lidu hlásí k romské národnosti", Faltýnek, V., 6. 1. 2011; See also: ČT24, "Romové se nehlásí ke své národnosti, ČSÚ to chce změnit", 20. 12. 2010.

approach this issue in an ethically acceptable way. The most important example is the research conducted by the Office of the Public Defender of Rights that developed its own definition of Roma ethnicity when investigating the percentage of children from Roma families in schools for the mentally handicapped.²⁶ This definition focused not on the self-identification or assumed identity of the children in question, yet was rightly based on the assumption that an individuals' chances to be discriminated are influenced by their perception by others. Due to concerns about the protection of personal data and/or for political reasons, most other Czech state institutions avoid collecting data on the ethnicity of Czech citizens that would improve the process of analysing the situation of Roma within Czech society. One valuable source of information concerning the situation of Roma is the 2011 Regional Roma survey that was conducted by UNDP, the World Bank and the European Commission.²⁷ As part of the research seemed to be based on the 2006 Global Mapping of Socially Excluded Roma Localities,²⁸ it seems likely that this survey fails to fully reflect the situation of the more-integrated members of the Roma minority.

Religion is, within the context of employment, probably less of an issue in the Czech Republic than in the case in other countries. As can be seen in the following overview of the religion-related results of the 2011 Census, there are a large number of people in the Czech Republic who are without affiliation, or who chose to not provide information on this part of their personal identity. At the same time, there are only very small groups of people that belong to non-Christian faiths.

Religion according to 2011 Census:

Population total	10 436 560
Believers not identified with a church or religious society	705 368
Believers identified with a church or religious society	1 463 584
Seventh-Day Adventists Church	7 391
Brethren Church	10 865
Czechoslovak Husit Church	39 229
Church of Christian Society	9 377
Greek-catholic church	9 883
Roman-catholic church	1 082 463
Evangelical Church of Czech Brethren	51 858
Protestant Church of Augsburg Confession	6 632
Jehovas Witnesses	13 069
Orthodox Church in the Czech Lands	20 533
Russian Orthodox Church	5 817
Silesian protestant church of Augsburg Confession	8 158
non-specified Christian church	91 894
without religious belief	3 604 095
no information provided	4 662 455

Source: <http://www.czso.cz/slodb2011/redakce.nsf/i/home>

The impact of migration on religious diversity is visible, mainly in the number of persons belonging to Orthodox Churches. Even though there have always been persons adhering to the Eastern Churches in the Czech Republic, a large proportion of these believers are migrants from the Ukraine and

²⁶ Public Defender of Rights, *Popis metody a výsledky výzkumu etnického složení žáků bývalých zvláštních škol v ČR v roce 2011/2012*, Brno, 2012.

²⁷ See: <http://europeandcis.undp.org/data/show/D69F01FE-F203-1EE9-B45121B12A557E1B>.

²⁸ See: <http://www.esfcr.cz/mapa/index.html>.

Russia. As the number of people belonging to Non-Christian faiths is very small, none of these groups are included in the table. According to the 2011 Census, the largest non-Christian groups are:

Buddhism (various lines combined)	6 101
Islam (various groups combined)	2 358
Višva Nirmala Dharma	1 098
Jewish nominations	1 474
Hare Krishna	673
Hinduism	210

Source: <http://www.czso.cz/sldb2011/redakce.nsf/i/home>

2. The context: labour market and legal framework

2.1 Outlook of the labour market

The Czech economy underwent a profound transformation after 1990 as a consequence of the political and economic transition. Most state-controlled companies were sold to private investors, or ceased to exist. Important aspects of this transformation process were the changes to the country's economic geography and a growing division between economically successful and disadvantaged regions. The most successful economic centre is the capital, Prague, where a strong service sector, the tourism industry, and over the years, the presence of various regional headquarters contributed to the unemployment rates staying way below the national average (in March 2013 4.6 % as opposed to 8.0 %).²⁹ Prague also attracts the largest share of the migrant populations who came to Prague from a variety of countries and are employed in very different kinds of occupations. Currently there are about 160,000 foreigners living in the capital city. This is about 13 % of the city's overall population.³⁰

As outlined in the introduction, the two relevant groups that need to be discussed in this report are labour **migrants** and **Roma**. The first group is considerably large and includes persons in radically different situations. It includes, for example, both foreign managers who are in a much higher social position than most of the Czech workforce and also migrants working in precarious or informal working conditions. The focus of this Report will be on groups that tend to be in difficult situations and particular aspects that tend to be problematic. Where available, the framework of national data³¹ will be referenced as it allows for the estimation of the share of these groups among the total migrant population in the Czech Republic. Even though there are a number of similarities between the labour conditions of migrants working in precarious positions and that of Roma, it is necessary to distinguish between the groups as Roma are dominated by the experience of unemployment than is the case for labour migrants (who, in many cases, have only resided in the country for a short period

²⁹ Czech Statistical Office, *Nezaměstnanost v Jihomoravském kraji k 31. 3. 2013*, available at: http://www.czso.cz/xb/redakce.nsf/i/nezamestnanost_v_jihomoravskem_kraji_k_31_3_2013.

³⁰ Czech Statistical Office, *Foreigners in Prague*, available at: [http://www.czso.cz/xa/redakce.nsf/i/cizinci_v_praze_2000_2011/\\$File/CR_L7_cizinci.xls](http://www.czso.cz/xa/redakce.nsf/i/cizinci_v_praze_2000_2011/$File/CR_L7_cizinci.xls).

³¹ Czech Statistical Office, *Tab. 614e, Obyvatelstvo podle věku státního občanství a pohlaví*, 26. 3. 2011; Ministry of the Interior, *Zpráva o situaci v oblasti integrace a migrace cizinců na území České republiky v roce 2011*. Prague, 2012.

of time, and are therefore not entitled to receive unemployment benefits or other forms of social support).³²

Unemployment has, since the beginning of the economic transformation in 1990s, represented one of the most serious problems for Roma in the Czech Republic. While statistical data on Roma unemployment has never been officially collected, the results of the UNDP/WB/EC Regional Survey can provide us with an insight to the structure of Roma employment and unemployment. The data clearly show that unemployment is a much greater concern for Roma than for non-Roma. While 39% of the Roma in the labour force stated that they were unemployed, only 6% of non-Roma living in physical proximity are in a similar situation. Unemployment is especially serious among young Roma between the ages of 15 – 24. Here, 61% of those already in the labour force stated that they were unemployed. Among their local non-Roma neighbours, this number is almost three times lower (21%). The survey conducted by the Fundamental Rights Agency in 2011 showed that the number of Roma aged 20 to 64 engaged in paid employment is the highest among the monitored countries. The survey also showed substantial differences between the majority population and Roma in relation to having paid employment (42 % of Roma as opposed to 70 % non-Roma respondents)³³.

Table: Employment of Roma and their non-Roma neighbours in 2011

	Male		Female		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Employment rate (15-64)	43%	76%	19%	64%	31%	70%
Employment rate (15-24)	19%	32%	9%	22%	14%	27%
Unemployment rate (15-64)	33%	5%	48%	6%	39%	6%
Unemployment rate (15-24)	59%	20%	64%	24%	61%	21%
Activity rate (15-64)	63%	80%	37%	68%	50%	74%
Last employment experience (15-64)	3,7	2,5	6,6	3,7	5,0	3,1
No employment experience rate (15-64)	32%	21%	41%	20%	37%	21%
No employment experience rate (15-24)	67%	60%	91%	50%	77%	56%
Self-employment rate (15-64)	4%	11%	1%	5%	2%	8%
Self-employment rate (15-24)	1%	0%	1%	0%	1%	0%
Informal employment incidence (15-64)	32%	10%	18%	7%	27%	9%
Informal employment incidence (15-24)	47%	5%	14%	27%	36%	13%

Source: UNDP/WB/EC Regional Roma Survey 2011

The high unemployment rate among Roma cannot be explained by one single factor, such as ethnic discrimination against Roma in the labour market or insufficient skills. While these two factors are extremely important and mutually reinforcing, another very important aspect is the above-mentioned geographical distribution of Roma, who are concentrated in areas with significant

³² The discussion of the position of Roma on the Czech labour market is a revised version of the introduction to the employment chapter: Hurrle, J., Felcmanová, L., Ripka, Š., Otahálová, L., Poláčková, L., Štěpánková, M., Trlifajová, L., Pixová, M., *Civil Society Monitoring Report on the Implementation of the national Roma Integration Strategy and Decade Action Plan in 2012 in the Czech Republic*, Decade of Roma Inclusion Secretariat Foundation, 2013 written by co-author of this report, Jakob Hurrle. The full report can be accessed at: http://www.romadecade.org/cms/upload/file/9270_file6_cr_civil-society-monitoring-report_en.pdf

³³ European Agency for Fundamental Rights, *The situation of Roma in 11 EU Member State – Survey results at a glance*, May 2012, p. 16.

structural problems and older industries, in which Roma were employed during the socialist era. As shown in the above table, Roma less-often work on a self-employed basis. A controversial factor which may contribute to understanding the low employment figures is the financial benefits provided by the state, which can create situations where it becomes economically unviable to accept regular employment at very low wages. In the public discourse, it is often claimed that the reason for this would be too generous welfare payments. In reality, however, the situation is much more complex. As the minimum wage is very low in the Czech Republic (currently 8.500 CZK, ca. 340 euro), working families with children depend in many cases on additional payments from the state to sustain themselves. In many cases the difference between the income gained from a combination of welfare and low wages on the one side and a welfare as the only source of income is almost negligible. Accepting a work offer can even lead to a reduced income if the worker needs to pay substantial amounts for transportation to reach his work place, which is typically the case where people live in peripheral areas with limited local job opportunities.³⁴

An important and often overlooked deterrent to formal employment is personal debt. Czech legislation offers very little protection of debtors and stresses the rights of creditors and other companies specialized in the collection of debt. Without a realistic perspective to ever repay the debt, debtors have often little motivation to work legally, as most of their income would have to be paid to the creditors. While recent legislative changes somewhat reduced the de-motivating impact of payments to executors, widespread debt and the insufficient protection of poorer and less educated citizens from ruthless “loan sharks” remains a very serious problem that can fundamentally alter an individual’s decision of whether or not it at all makes sense to find a regular job.

Connected to these debates is the often-discussed question of informal employment, which the UNDP/WB/EC survey mentioned above sought to address in its questionnaire.³⁵ According to the survey, the number of those who stated that they “work without having a written contract” is significantly higher among the interviewed Roma (32%, respectively 47% among those younger than 24) than among their neighbours from the majority society. On the one hand, this difference certainly reflects Roma’s more limited opportunities in the formal labour market, but on the other hand, when the survey also asked about employment preferences, a relatively large group of Roma (41% as opposed to 17% of surveyed members of majority population) expressed a preference for irregular employment if this allowed them to remain free to manage their own time (see table 3). While this finding might also reveal something about cultural preferences, it can also be seen as a realistic assessment of the low attraction to the kind of jobs, typically physically demanding and badly paid, that might be available for applicants with low qualifications.

Table: Employment preferences of Roma and Non-Roma

	Male		Female		Total	
	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
Minimum monthly wage for which a person is willing to work full time (16-64)*	59%	69%	59%	63%	59%	66%
Minimum monthly wage for which a person is willing to work full time (16-24)*	57%	63%	59%	71%	58%	68%

³⁴ A detailed analysis on the basis of the situation in one disadvantaged rural region can be found in the employment chapter of: Hurrle, J.; Kučera, P., Trlifajová, J., *Situační analýze Žlutice*. Centrum pro společenské otázky, Prague 2013.

³⁵ UNDP/WB/EC Regional Roma Survey 2011.

Having secure employment but having to be at work 8 hours a day 5 days a week and not having the freedom to manage your time	59%	83%	63%	78%	61%	80%
Having irregular employment but being free to manage your time	41%	17%	37%	22%	39%	20%

Source: UNDP/WB/EC Regional Roma Survey 2011

The survey on employment preferences did not directly address the combination of informal work and the receipt of social benefits. This is, allegedly, a widespread strategy among Roma; in public and political debates, Roma are often accused of abusing the welfare state system.³⁶ The promise to prevent such discriminatory rhetoric is made in every election campaign. The past government of Petr Nečas focused very much on the combating of such misuse. However, many of the introduced measures were highly problematic and criticised by non-governmental organisations and the Public Defender of Rights.

Employment is the second most common reason why migrants come to the Czech Republic (33.5 %) right after family migration.³⁷ In 2011, third-country nationals represented 43% foreign nationals active on the Czech labour market, the rest of the market share took the EU/EEA nationals.³⁸ The available data show the situation at the end of 2011. As of 2012, as a result of on-going changes in the information system used by the labour offices, there has been no data on the employment of foreign nationals, apart from overall “estimates” which have limited predictive value. The number of work permits issued to third-country nationals fell by more than 70 % between 2008 and 2011.³⁹

The table below shows that the unemployment rate of EU nationals in the Czech Republic is lower than the Czech average and further, that the unemployment rate is higher for women in this group. It can be estimated that the unemployment rate for third-country nationals is lower than national average, as only the holders of permanent residency and EU family members can be registered as ‘unemployed’ with the labour offices. On the other hand, the overall unemployment rate in the Czech Republic has been rising in the past years (also due to the restrictive budget policy of the right-wing government of Petr Nečas in the years 2010 – 2013), thus the current unemployment rate for all groups might be higher than indicated in the table below.

All	Czech Republic		EU	
Labour market participation	5257625		180557	
Employment	4904029	93%	174474	97%
Unemployment	353596	7%	6083	3%

Men	Czech Republic		EU	
Labour market participation	2966810		122779	
Employment	2794419	94%	119768	98%
Unemployment	172391	6%	3011	2%

Women	Czech Republic		EU	
Labour market participation	2290815		57778	
Employment	2109610	92%	54706	95%
Unemployment	181205	9%	3072	5%

Source: Ministry of Labour and Social Affairs, Zaměstnávání cizích státních příslušníků, 2008-2011.

³⁶ MediaInfo, “Romové v neklidné době”, Vochodský, I., 27. 9. 2013.

³⁷ Eurostat, *Total number of new residence permits issued by reason*, 2010.

³⁸ Ministry of Labour and Social Affairs, *Zaměstnávání cizích státních příslušníků*, 2008-2011.

³⁹ Ibid.

The table below shows that the proportion of self-employed foreign nationals (is higher than the national average due to the share of self-employed third-country nationals. This might be linked with the fact that it is easier to obtain a long-term residence permit for the purpose of self-employment than it is for the actual work permit necessary to work on the basis of any type of labour contract (full time or part time). The number of self-employed foreign nationals has been rising, especially since 2009, as a reaction to the introduction of restrictive policies⁴⁰ to reduce the participation of third-country nationals on the Czech labour market.

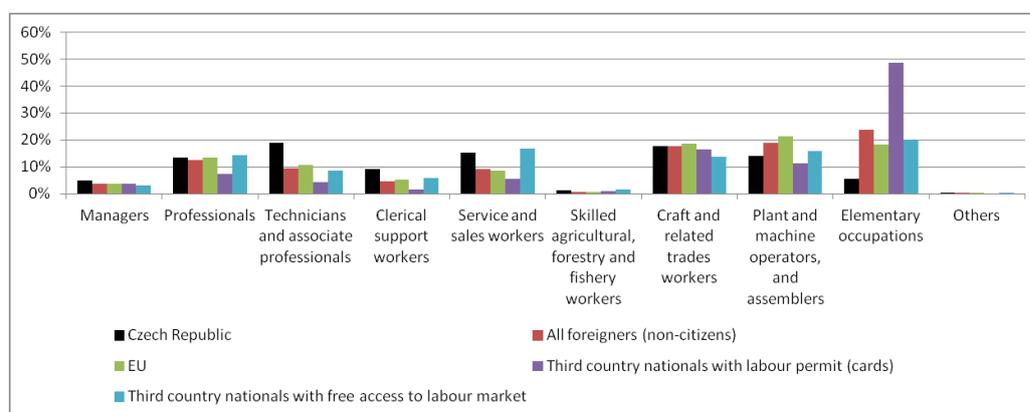
	Czech Republic		Foreigners (non-citizens)		EU		Third country nationals	
Employment	4904029		310921		174474		136680	
Employee	4020486	82%	217862	70%	154560	89%	63302	46%
Self-employment	883543	18%	93059	30%	19914	11%	73145	54%

	Czech Republic		Foreigners (non-citizens)		EU		Third country nationals	
Employment	2794419		205583		119768		85815	
Employee	2182539	78%	141352		104162	87%	37190	43%
Self-employment	611879	22%	64231		15606	13%	48625	57%

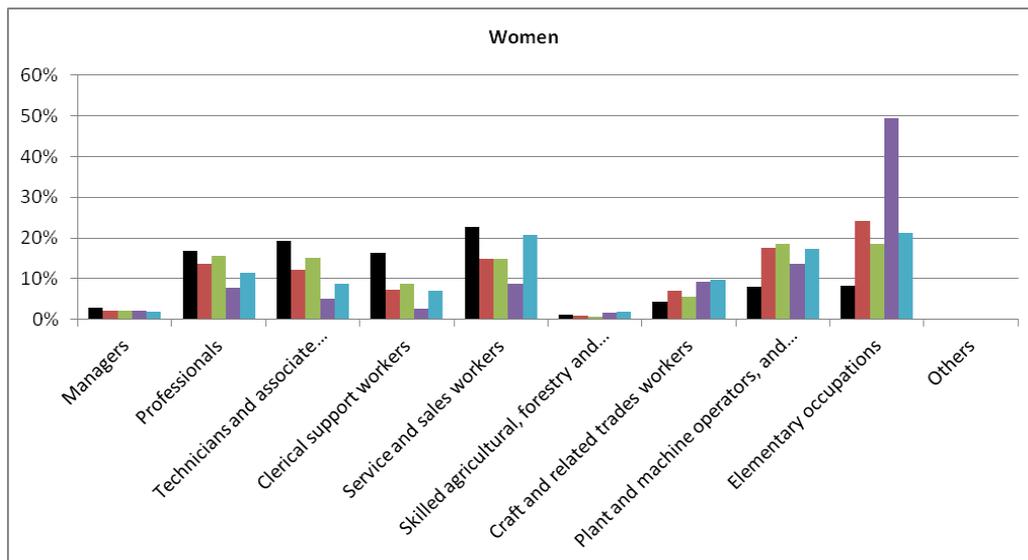
	Czech Republic		Foreigners (non-citizens)		EU		Third country nationals	
Employment	2109610		105338		54706		50632	
Employee	1837946	87%	76510	73%	50398	92%	26112	52%
Self-employment	271663	13%	28828	27%	4308	8%	24520	48%

Source: Ministry of Labour and Social Affairs, Zaměstnávání cizích státních příslušníků, 2008-2011.

The following graph shows the distribution of foreign nationals according to their work position. We can observe a concentration of foreign nationals, especially those who need a work permit, for positions which require lower qualifications. The concentration on the low-skilled jobs is especially visible if we compare migrant women with the overall position of women on the labour market.



⁴⁰ See in more detail in Chapter 3.2.



Source: Ministry of Labour and Social Affairs Zaměstnávání cizích státních příslušníků, 2008-2011.

Even though the obtainment of exact data concerning the informal economy is particularly difficult, findings from interviews carried out for this project and various previous projects, allow the identification of a number of general trends. For migrants from third countries that depend on some form of legal employment (including self-employment), work in the informal economy is in many cases not an attractive option. “Shady zones” between informal and formal employment characterize also the employment gained through labour agencies or intermediaries and other forms of “employment” such as the work of executive directors of legal persons, work of members of cooperatives, work of private businessmen who however carry out dependent work etc. Labour rights for migrants who work through intermediaries or labour agencies are not enforced as strictly as for other types of employment.⁴¹ There have been cases when migrants became undocumented as their employers failed to prolong their work permit or the title of residence (visa or residence permit). Because many migrants have debts in their home countries in order to pay for their travels to the Czech Republic, they are not able or willing to return after failing to renew their documentation. According to experts, around 65 000 migrants “disappeared” in the grey economy as a result of the government policy of pushing migrants out of the labour market in the context of financial crisis.⁴²

There are no data on migrants indicating any particular stratification among migrant groups in accordance with their ethnic or religious background, as of yet. On the contrary, the legal status (EU v. third countries, long-term residence v. permanent residence) seems to be decisive; with the noticeable exception of migrants coming from the “West” (western EU countries, USA etc.; these seem to be in slightly better labour market position than those from the “East”): Migrants from the EU countries have a far better legal position (free access to the labour market, do not have to fear controls by the immigration police so much, have automatically public health insurance and access to all social benefits etc.) than migrants from third countries. The same is the case with migrants with permanent residence compared with migrants who are holders of the long-term residence only).

The Czech Republic has an extremely low naturalization rate: compared to the relatively high number of officially long-term or permanently residing foreigners (about 430 000 persons), only about 1 000

⁴¹ Blahoutová, T., *Práva migrantů na pracovním trhu – ve slepé uličce?*, MigraceOnline, 26. 3. 2013.

⁴² Rozumek, M., *The Czech “fight” against the illegal employment of foreigners*, MigraceOnline, 24. 1. 2013.

or 2 000 applicants obtain the Czech citizenship per year⁴³; the situation has been slightly improving during the last few years. Due to these small numbers, it is not possible to make any definitive conclusions about the effects of naturalization.

The impact of the crisis on migrants seems to be very different depending on the different legal categories:

Date	Work permits	Third country nationals needing no work permit	EU citizens	Business licences
31.12.2008	128 934	14 516	141 101 (100 223)	77 158
31.12.2009	73 663	17 680	139 315 (98 129)	87 753
31.3.2010	64 113	18 367	136 962 (96 985)	87 651
31.5.2010	60 336	19 154	138 811 (97 950)	
31.12.2010	49 244	22 126	143 997 (100 727)	90 983
31.12.2011	36 792	26 510	154 560 (106 425)	93 059

Source: Czech Statistical Office, 2011⁴⁴

It is clear that there is a striking difference between third-country nationals (only ¼ of the pre-crisis number remained) and EU citizens (their numbers have increased). This difference could be interpreted – as least in part – as a result of the state policy deliberately pushing immigrants out of the (legal) labour market.

Macro-level (supply of jobs)

The availability of jobs and their distribution is influenced by a large variety of factors, such as the legal framework, economic policy and geography. Regarding the legal framework that regulates migration, it can be said that, generally, the Czech Republic has been trying for many years to accommodate the needs of its economy by being more open to labour migration from non-EU countries in Eastern Europe and Asia. The support of foreign-direct investments in the manufacturing sector through state support, tax holidays, and other types of incentives, led to massive investments that were mostly concentrated in easily accessible areas. Even though unemployment continued to be a problem in less prosperous parts of the country, this development resulted in the most-attractive regions being faced with considerable shortages of labour, especially manual labour, and this problem was largely solved by importing manual labour migrants. This development points to another relevant factor, which is the relatively low geographical mobility of the Czech work force. Czechs tend to be less willing to move, for work reasons, to another region or country than is the case in other Central and Eastern European countries. The low mobility rate is certainly also a crucial obstacle for Roma who seek employment. Concentrated in areas with less employment opportunities, Roma face huge obstacles on the housing market.

Meso-level (local/regional)

On the local level, the only available form of legal employment for Roma is, in many cases, **public work programmes**. Financed by the labour offices, such programmes are offered only by those municipalities (and NGOs) that express an interest in setting them up. Workers are paid the minimal wage and the job is limited to a maximum period of one year. Even though the programme's official objective is to support unemployed persons' transition into the regular labour market, in the case of

⁴³ Drbohlav D. and coll., *Migrace a (i) migranti v Česku*, Prague 2010, pp. 85 et seq..

⁴⁴ Czech Statistical Office, *Vývoj cizinců evidovaných ÚP - měsíční počty podle pohlaví, typu registrace a vybraných zemí, 31.1.2006 - 31.12.2011*, available at : [http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/\\$File/c05r01.pdf](http://www.czso.cz/csu/cizinci.nsf/t/8F005D7FB9/$File/c05r01.pdf).

many Roma with lower qualifications who live and work in areas with limited employment opportunities, this objective is reached only in exceptional cases. More often than not, public work programmes are accessed between periods of public work and periods of unemployment.

Micro level (human capital, education level)

The lower educational background of most Roma is often seen as the underlying reason for the Roma minority's exclusion. As demonstrated in the results of the UNDP/WB/EC 2011 Roma survey, the educational profile of the surveyed Roma differs fundamentally from the profile of the surveyed members of the majority population.

		No formal education		Primary education - ISCED 1		Lower secondary education - ISCED 2		Upper secondary education - ISCED 3		Post-secondary education - ISCED 4+	
		Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma	Roma	Non-Roma
1.	Highest completed education (25-64)	5%	0%	11%	0%	54%	11%	30%	79%	0%	10%
	Male	5%	0%	11%	0%	51%	9%	33%	79%	0%	11%
	female	5%	0%	12%	0%	57%	13%	27%	79%	0%	8%
2.	Highest completed education (20-24)	1%	0%	7%	0%	62%	15%	30%	79%	0%	7%
	Male	2%	0%	7%	0%	64%	13%	27%	77%	0%	10%
	female	0%	0%	7%	0%	61%	17%	32%	80%	0%	3%

Table: Education of Roma and their Non-Roma neighbours 2011⁴⁵

2.2 Legal framework

Discrimination in employment is dealt with by the Act on Equal Treatment and Legal Means of Protection against Discrimination (the Antidiscrimination Law), No. 198/2009 Coll. Since its adoption in 2009, no relevant amendments in the sphere of discrimination in employment have been adopted. The Antidiscrimination Law provides for complex protection against discrimination and covers:

- 1) All 6 main discrimination reasons according to the Directive 2000/78/EC⁴⁶ (age, sexual orientation, disability and religion), as well as sex and race/ethnicity,⁴⁷
- 2) All fields (e.g. employment, education, health system and provision of services including housing) according to the Directive 20⁴⁸00/43/EC, and
- 3) Defines the terms direct and indirect discrimination, harassment, sexual harassment, instruction to discriminate, victimization and positive action (measure); shift of the burden of proof is regulated in Section 133a of the Civil Procedure Code.

The Antidiscrimination Law also provides for the role of the Czech Ombudsman in the field of equal treatment⁴⁹: the Public Defender of Rights is entitled to give "methodical" help to victims of discrimination, carry out research or publish reports and recommendations.⁵⁰

⁴⁵ <http://europeandcis.undp.org/data/show/BC65A1E7-F203-1EE9-B78AE561E9A8B48F>.

⁴⁶ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:EN:HTML>

⁴⁷ Antidiscrimination Law, Section 2 para. 3.

⁴⁸ Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:en:HTML>

Directive 2000/78/ES is fully implemented with certain gaps concerning the engagement of NGOs (Art. 9 para 2). For example, NGOs may represent the victims of discrimination (see Section 26 of the Civil Procedure Code), but not to take part in the court proceedings independently.

3. Manifestations of racism and structural discrimination in employment

3.1. Perceptions of discrimination in employment

Public polls show that the majority of the Czech population believes that some groups are discriminated against within the employment sector in the Czech Republic.⁵¹ Experts confirm that the public are becoming more sensitive to the issue of discrimination, in particular with respect to age discrimination,⁵² Race or ethnicity, in the opinion of the public, is placed fourth of the most common discrimination grounds.⁵³

The media tend to downplay labour market discrimination on racial or ethnic grounds, especially with respect to the Roma. To illustrate the point, a study on perception of Roma in the Czech media shows that journalists do not pay much attention to issues perceived as concerns of Roma minority, such as employment, debts or usury, as opposed to “popular” problems associated with the Roma minority, such as criminality, security, or housing issues.⁵⁴ The media tend to simplify the problem of discrimination of Roma in employment, and contribute to the stereotypes, rarely showing positive examples of Roma working.⁵⁵

The general attitude of the majority of the population towards Roma is worrying (only 4% of respondents expressed sympathy towards Roma).⁵⁶ Around three fifths of respondents in the recent public opinion poll agreed that Roma have worse prospects of gaining employment than the majority of the population.⁵⁷ Responding to the question, ‘how should Roma and non-Roma population contribute to a better mutual coexistence?’ more than 20% of respondents replied that Roma should work.⁵⁸ Only 6% replied that job opportunities should be secured to Roma.⁵⁹

Employment and the labour market receive more attention with respect to foreign nationals residing in the Czech Republic. Recent polls showed that around half of Czechs support the employment of

⁴⁹ Antidiscrimination Law, Part II.

⁵⁰ Act No. 349/1999 Coll. on the Public Defender of Rights, Section 21b.

⁵¹ STEM – Středisko empirických výzkumů, “Jsou v zaměstnání diskriminovány některé skupiny obyvatel? 85 % Čechů si myslí ano.” 2. 5. 2012.

⁵² Linda Sokačová, sociologist, Counselling Centre for Citizenship, Civil and Human Rights, interview of 12. 8. 2013, Prague.

⁵³ Přeferová Š., *Rise in age-related discrimination at work*, Research Institute for Labour and Social Affairs, 2012.

⁵⁴ Křížková, M., *Analýza mediálního zobrazení Romů v českých médiích od začátku července 2011 do konce května 2012*, Agency for Social Inclusion, 2013, p. 120.

⁵⁵ *Ibid*, pp. 123, 125.

⁵⁶ Public Opinion Research Centre, “Vztah Čechů k národnostním skupinám žijícím v ČR – březen 2013”, Červenka J., 15. 4. 2013.

⁵⁷ Public Opinion Research Centre, “Romanies and Coexistence with Them in View of Czech Public – April 2013”, Červenka J., 21. 5. 2013, p. 4.

⁵⁸ *Ibid*, p. 6.

⁵⁹ *Ibid*, p. 6.

foreign nationals.⁶⁰ However, negative attitudes prevail. Around 80 % of respondents think that a foreign, cheap labour force poses a threat to the employment of Czech citizens, and that employment of foreign nationals should be limited to regions with high unemployment rates.⁶¹ Two thirds of respondents also agreed that foreign nationals should be employed only in positions where no Czech applicant could be found.⁶² The public opinion is split on the question of whether foreign nationals should settle in the Czech Republic for the purpose of employment; a claim supported by around half of the respondents.⁶³ More than two thirds of Czechs also think that foreign nationals settled in the Czech Republic contribute to rising unemployment, whereas only one quarter agree that foreign nationals contribute to the economic development.⁶⁴

Anti-discrimination measures are perceived negatively, mostly as a burden for companies and other employers.⁶⁵ According to public opinion, employers should have the unlimited right to choose their employees.⁶⁶ The notion of discrimination is generally considered to have been imported from Western countries. Anti-discrimination measures are often mistaken for positive discrimination, which is perceived as discriminatory and disadvantageous for the majority of the population. Most political parties are reluctant to tackle discrimination and believe that anti-discrimination measures are unnecessary.⁶⁷ Illustrative is the quote of former Czech president Vaclav Klaus after his veto of the Antidiscrimination Act:

*"The act is unnecessary, contra-productive and of a poor quality and its impacts are problematic (...) Nobody is discriminated against in the Czech Republic, and therefore it is not surprising that the act is not about discrimination. (...) The act attempts to remove inequality which is a natural phenomenon. Whenever we decide, we decide based on our subjective preferences or our subjective experiences."*⁶⁸

General perception of ethnic minorities in the labour market

As indicated earlier, Roma are generally perceived as unemployed or unwilling to work, and who abuse the social security system. This quotation, taken from an article in a mainstream online journal, is illustrative:

*"The state is trying to save money where possible but, on the other hand, allows leaking a huge amount of money through social benefits. These go in fact to the wealthy but socially inadapted families with numerous children who are obviously unwilling to work and in many cases do not need to work at all."*⁶⁹

This stereotypical view is completely unfounded. According to the analysis of the state Agency for Social Inclusion, most people from socially excluded areas (i.e. mostly Roma) do not abuse the state

⁶⁰ Public Opinion Research Centre, "Postoje české veřejnosti k zaměstnávání cizinců – březen 2013", Červenka J., 23. 4. 2013.

⁶¹ Ibid, p. 3.

⁶² Ibid, p. 3.

⁶³ Public Opinion Research Centre, "Public Opinion on the Settling of Foreigners in the Czech Republic - March 2013", Červenka J., 17. 4. 2013, p. 4.

⁶⁴ Public Opinion Research Centre, "Názory občanů na přínos cizinců pro ČR – březen 2013", Příběžská, A., 22. 4. 2013.

⁶⁵ Fialová, E., Koldinská, K., Sokačová, L., Štěpánková, M., *Neviditelný problém. Rovnost a diskriminace v praxi*. Gender Studies, 2010, pp. 28-29.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Quoted in Fialová, E., Koldinská, K., Sokačová, L., Štěpánková, M., *Neviditelný problém. Rovnost a diskriminace v praxi*. Gender Studies, 2010, p. 29.

⁶⁹ Novinky.cz, „Sociální dávky zneužívají i majetné romské rodiny“, Ginter, J., 9. 4. 2012.

social system; on the contrary they are often deprived of benefits due to errors of municipality officers.⁷⁰

From the government's perspective, the main problem is the inactivity of Roma on the labour market. According to the data provided to the media by the Head of the Department for Social Inclusion at the Governments Office, around 56 % of Roma at productive age (ca. 70 000 persons) stay completely outside the labour market; they are neither employed nor registered as unemployed.⁷¹ The data also showed that almost 40 % of Roma at productive age are employed, but 12 % are only employed on a temporary and irregular basis. The Department sees the main causes of discrimination as being low education and insufficient work experience.⁷² The report also states that the average Roma worker earns around 40 % of the national average wage, i.e. a little above the average minimal wage.⁷³

Migrant workers (in particular from former Soviet republics, Vietnam, Mongolia, Bulgaria and Romania) are generally viewed by the Czech society as a cheap labour force and willing to work without the required documentation or in an informal economy. The picture is more positive for foreign nationals from Western countries (US, Canada, Western Europe), who are perceived as highly-skilled workers.

The perception of migrants from the employers' point of view is generally positive, which can, to a great extent, be explained due to the fact that a majority of migrants in the Czech Republic are first generation labour migrants.⁷⁴ They are usually described as hardworking, flexible, and willing to accept overtime and tougher labour conditions.⁷⁵ On the other hand, some employers, based on negative experiences, describe certain groups of migrants as lazy, always creating problems and unreliable.⁷⁶ Stereotypes persist towards the Muslim community. Recent media reportage uncovered that some employers fear that Muslim women will not work properly due to their religion.⁷⁷ They also considered the wearing of a headscarf as problematic.⁷⁸

Whereas it is not true that migrants take jobs from Czechs,⁷⁹ according to some experts, it has been suggested that migrants take jobs from Roma.⁸⁰ The reason is that migrants are often employed in low profile positions traditionally occupied by Roma, and that employers are generally more willing to employ migrants than Roma applicants. However, the recent report states that a ban on hiring third-country migrants through employment agencies might improve the access of Roma to low qualified positions.⁸¹

⁷⁰ Novinky.cz, "Většina Romů dávky nezneužívá, tvrdí vládní úřad", Ginter, J., 7. 6. 2012.

⁷¹ Novinky.cz, "Většina Romů, kteří by mohli pracovat, si zaměstnání nehledá", Ginter J., 19. 10. 2012.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Sokačová, L., *Jaké je postavení trvale usazených migrantů a migrantek v České republice?*, Counselling Centre for Citizenship/Civil and Human Rights, research conducted from May 2012, preliminary results based on 128 interviews and 190 questionnaires (not yet published).

⁷⁵ Ibid.

⁷⁶ Lucie Trlifajová, Multicultural Center Prague, interview, 20. 8. 2013.

⁷⁷ Český rozhlas, "S šátkem do práce?", Oljača G., 29. 6. 2013.

⁷⁸ Český rozhlas, "S šátkem do práce?", Oljača G., 29. 6. 2013.

⁷⁹ Lynch, C., Pfohman, .S., *Hidden talents, wasted talents? The real cost of neglecting the positive contribution of migrants and ethnic minorities*, ECRE.

⁸⁰ Mladá fronta DNES, "V České republice se dnes nosí anticikánismus, říká aktivista", 12. 3. 2013.

⁸¹ Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012, pp. 65 et seq.

As a result of the economic crisis, a rise in anti-migrant and anti-Roma sentiments can be observed. These are mostly related to competition in the labour market in the context of growing unemployment (especially in certain regions). The aversion of the majority population towards Roma increased from 60 to 75 % in the last ten years.⁸² Although anti-migrant and anti-Roma sentiments are not officially supported by any public movement, in March 2011, the Council of Europe Commissioner for Human Rights noted that racist and anti-Roma discourse in the Czech Republic was still common among mainstream politicians, at both national and local levels.⁸³

Since 2011, in many Czech cities demonstrations have been organized that dealt with topics usually connected with the Roma minority. These protests had various names (against “black racism”, against “Roma criminality”, against the “maladapted” or “non-adaptive” persons etc.), and were led and attended partly by members of extreme right wing political groups and partly by non-affiliated local people.⁸⁴ The participation amounted up to several thousand in some cases and their official or unofficial part had always been an attempt to directly attack the localities where Roma people live (often some low-cost housing localities where socially excluded people are concentrated after they lose their previous housing). So far, the Police has always managed to protect the Roma, which results in accusations of “police brutality” from the participants of the anti-Roma marches. These events raised some attention to the urgency of the situation of the Roma, however more so in the respect of the housing segregation than of the discrimination on the labour market.

As for anti-Roma sentiments, it should be also noticed that in 2012 the right-wing government, after an extended discussion, succeeded, in passing the Act No. 494/2012 Coll. introducing an administrative penalty of interdiction of residence on the territory of the commune in which an offence was committed. Such interdiction of residence can be issued for a time period up to 3 months. This Act was politically aimed against the groups of people who would commit minor offences, which usually included Roma people.

3.2. Incidence of discrimination in employment

Roma are the most discriminated against ethnic minority in the Czech Republic. **Negative attitudes** towards Roma and their low social status, all contribute considerably towards their discrimination in the labour market. The high unemployment rate of Roma population is a huge stigmatizing factor, and this influences the attitudes of the majority population towards Roma. The majority of the population sees the causes of high unemployment among Roma as their perceived unwillingness to work.⁸⁵ At the same time, the public is unwilling to admit the existence of systematic barriers to accessibility to employment, or discrimination of Roma on the labour market.⁸⁶ The general stigma is also reflected in the attitudes of employers who tend to automatically pre-judge Roma applicants based on stereotypical views that they will be unwilling to work or unreliable, rather than giving them an equal chance to determine whether they would be qualified and suitable for the position.

The discrimination of Roma in the labour market has a clear **structural character**. Roma job applicants are often not able to fulfil requirements of employers due to a lack of qualifications and

⁸² Ceskenoviny.cz, “Helsinský výbor: averze k Romům stoupla za 10 let z 60 na 75 procent”, 26. 4. 2013

⁸³ Amnesty International Report 2012, *The State of the World's Human Rights*, United Kingdom, 2012, p. 144-145.

⁸⁴ European Roma Rights Centre, *Czech Republic: Protect Roma at risk of violence ahead of far-right demonstrations*, 2. 8. 2013.

⁸⁵ Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012, pp. 65 et seq.

⁸⁶ Ibid.

education, resulting from segregated education.⁸⁷ Housing and social exclusion are additional factors in the overall discrimination of Roma in the labour market. The unemployment rate in socially excluded areas is estimated at between 70 to 100 %.⁸⁸ The chance of finding a job in these areas is virtually non-existent. As a result, unemployed Roma depend on the social welfare system, public works or supported work positions. Unemployment among young Roma is particularly worrying. The statistics show that 77 % of **young Roma** (aged 15 – 24) have no previous work experience.⁸⁹ The unemployment rate within this category is 61%.⁹⁰ Limited job possibilities, huge debt, and the welfare system led many Roma to **informal employment**. Recent research showed that 36% of Roma respondents have experience with informal employment, which is three times more than non-Roma respondents.⁹¹ From a gender perspective, Roma **women** face multiple discriminations due to the traditional perception of women as household keepers.⁹²

In 2012, the Ministry of Labour and Social Affairs adopted or initiated a number of restrictive policies towards third-country foreign nationals (those requiring a work permit). As a result of these policies, the situation of third-country migrants on the Czech labour market substantially deteriorated. The restrictive policies are in particular:⁹³

1. New obstacles to obtaining a work permit. A new methodical guidelines issued by the Ministry of Labour and Social Affairs, in 2012, introduced a series of new rules the labour offices must follow before issuing a work permit⁹⁴. These are:

- obligation to submit formally recognized documents on education,
- obligation for family members of the EU citizens to obtain a temporary residence permit before applying for a work permit,
- the work permit can only be issued upon assumption of a serious economic danger for the employer,
- validity of the work permit based on the level of education of its holder.

The new rules were strictly opposed as having no legal basis by NGOs⁹⁵ and experts⁹⁶. The impact of these rules proved to be substantial. The NGOs working with migrants confirmed that employers gave up on applying for or prolonging the work permits for their foreign employees, and chose not to employ foreign nationals at all (even if they did not need a work permit). The new rules not only brought chaos to the system, but were also extremely costly for employers (e.g. Škoda auto calculated that the process of recognising the education documents of their foreign employees would cost CZK 2.6 Million)⁹⁷.

2. The ban on employment of migrants requiring work permits through employment agencies. Although the idea of this measure was to increase legal certainty of migrants, and ensure greater

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Interview with social worker assisting Roma families in excluded areas, 20. 8. 2013, Prague

⁹³ Czech Helsinki Committee, *Report on Human Rights Conditions in the Czech Republic 2012*.

⁹⁴ Ministry of Labour and Social Affairs, *Metodické pokyny k realizaci politiky zahraniční zaměstnanosti*, 25.1.2012 and 8.3.2012; Labour Office of the Czech Republic, *Směrnice generálního ředitele ÚP č. 19/2012 Postup a pokyny k realizaci politiky zahraniční zaměstnanosti*, 17.8.2012.

⁹⁵ Consortium of Migrants Assisting Organizations in the Czech Republic, *Stanovisko k nové strategii MPSV zásadně zpřísnit vydávání pracovních povolení cizincům na pozicích s nízkou kvalifikací*, 9.5.2012, Prague.

⁹⁶ Rozumek, M., *Closing job market, closing eyes*, MigraceOnline, 26. 2. 2013.

⁹⁷ Aktualne.cz., "Drábek usnadní zaměstnávání cizinců. Ale jen vzdělaných", Toman, K., 21.8.2012.

protection of labour law regulations, the result was that certain categories of migrants (in particular domestic workers) ended up in an informal economy, as it proved impossible for them to negotiate a work contract directly with the employer⁹⁸.

3. The ban on business trips for migrants requiring work permits. Although this measure is not laid down directly by law, the Ministry of Labour and Social Affairs chose to rigidly interpret the relevant provisions in the Employment Act and as a result foreign nationals are not allowed to exercise work in any other place than specified in the work permit. This measure has been widely disputed by employers and NGOs, as well as the Committee for the Migrants Rights operating under the Government Human Rights Council⁹⁹.

4. Higher penalties for irregular work. In 2012, the amount of possible penalties to be imposed on employers illegally employing foreign nationals increased substantially (penalties range from CZK 25.000 to 1 Million). As a result, employers are more cautious when hiring foreign nationals, which again worsened their position on the labour market, as opposed to Czech applicants.

These restrictive policies, together with the general unwillingness to issue or prolong work permits, put third-country foreigners in particularly vulnerable positions as their dependency on employers increased substantially. They cannot afford to lose their employment because they would automatically lose their residence status and risk the threat of being expelled from the country.

It is questionable how accessible the labour market is for **migrant women**. The data show that the number of women migrating to the Czech Republic is constantly rising (by 0.5 – 1% on yearly basis).¹⁰⁰ Around a quarter of them come for the purpose of employment and around half for the purpose of family reunification.¹⁰¹ The experience of NGOs working with migrant women shows that those having children have fewer choices when it comes to employment.¹⁰² They often have problems finding a place for their children in state kindergartens due to overcrowding, whereas private institutions are too costly. Most migrant women work in the secondary labour market which is characteristic of low wages, short-term employment, uncertainty, low prospects for promotion and almost no employee benefits.¹⁰³ Among other discriminatory factors are their non-Czech nationality and difficulties with recognition of their foreign education or low qualifications, as it is harder for women to complete their education if they have a lower social or economic standing or have children.¹⁰⁴ Particularly vulnerable, are the group of migrant women who are **domestic workers** who live in the same household with their employers.¹⁰⁵ The ongoing project of NGOs shows that violations of labour law regulations are frequent, in particular non-payment of overtime.¹⁰⁶ Domestic workers are vulnerable to degrading treatment, social isolation, physical and psychological violence, whereby control and law enforcement are limited.¹⁰⁷ Especially vulnerable is the position of irregular domestic workers.¹⁰⁸

⁹⁸ Czech Helsinki Committee, *Report on Human Rights Conditions in the Czech Republic 2012* (not yet published).

⁹⁹ Čížinský, P., *Podnět Výboru pro práva cizinců Rady vlády ČR pro lidská práva k otázce zákazu pracovních cest cizinců zaměstnaných na základě povolení k zaměstnání*, Multicultural Center Prague 2012. Please note that the measure has been struck down by the Supreme Administrative Court in August 2013 (decision no. 1 As 67/2013 of 28 August 2013).

¹⁰⁰ Popović, D., *Slaďování rodinného a pracovního života migrantek v ČR*. Organization for Aid to Refugees, 2013, p. 3.

¹⁰¹ *Ibid.*, p. 2.

¹⁰² *Ibid.*, p. 3.

¹⁰³ *Ibid.*, p. 4.

¹⁰⁴ *Ibid.*

¹⁰⁵ People in Need, *Czech Republic Debate: Employment of Foreign Child-minders in Czech Republic*, 18. 10. 2012, Prague.

¹⁰⁶ www.pracovnicevdomacnosti.cz

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

3.3 Patterns of inequality over the course of time

According to some experts, the impact of the economic crisis on the employment of migrants in the Czech Republic has been one of the most dramatic in Europe:

*“Nearly 78,000 migrants came to the Czech Republic in 2008, which represented a fall of 24 per cent in the annual migratory flow as compared to 2007 (this was the second highest relative decline in the OECD countries, surpassed only by the unparalleled decline in Spain). Even at the end of 2008, there were 128,934 workers from third countries who possessed work permits, but by mid-2010 this was reduced to less than half (a mere 59,007 persons). During this 18-month period the number of Vietnamese nationals with valid work permits issued by the Czech labour offices decreased from 16.254 to 3.329 and concerning Mongols from 12.990 to 3.354 persons. During approximately the same period unemployment in the Czech Republic doubled from 4.4 per cent to 8 per cent, while the number of employees from EU and EEA countries remained almost the same. Since even in this situation there was an increase in average wages and the widening of wage differentiation thus continued, it is clear that the decline in employment was concentrated in the group of lower paid workers (including migrants). Some Czech regions with high concentrations of migrants (e.g. Pilsen) were exposed to a situation where thousands of migrants lost their jobs and ended up completely destitute on the streets. Even prestigious newspapers such as *Hospodářské noviny* spoke in this context of social collapse.”*¹⁰⁹

The most visible effect of the economic crisis on the labour market is the growth of irregular forms of employment. Many employers switched from offering employment contracts to a form of trade certificates. The so-called “Švarcsystem”¹¹⁰ is widely popular among small and medium size companies who seek to lower their costs in the workforce. Frequently, employees were given no other choice but to switch to a trade certificate (or to lose their job). This type of “employment” puts them outside the protection of labour law and leads to breaches of labour regulations (mostly in terms of working hours, holiday and security conditions) and labour exploitation. It should be noted, however, that these developments concern the mainstream population as well as migrants and ethnic minorities. Moreover, migrants (especially those requiring work permits) are more sensitive to labour exploitation because of their dependence on the employer, as well as cultural and language differences, meaning they have a lesser ability to defend their rights. The “Švarcsystem” also proved to be the only way to legalize the residency of migrants in the Czech Republic who were affected by the restrictive government practices in the labour market, a result of which makes it nearly impossible to obtain a work permit.

The economic crisis also severely influenced the situation of Roma on the labour market. Due to economic uncertainty, employers were very cautious about hiring new staff. At the same time, the employers’ requirements, with respect to the qualifications of their employees, have increased. Employers seek workers who are flexible and possibly qualified to work in different positions. During difficult economic times, employers generally firstly lay off unqualified staff, i.e. primarily Roma workers from socially excluded areas.¹¹¹

¹⁰⁹ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 24.

¹¹⁰ Finexpert, „Jak poznat Švarcsystém“, Doležálek, V., 9. 5. 2008.

¹¹¹ Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012.

3.4 Discrimination in access to employment

The data on discrimination and unfair practice with respect to access to employment on the basis of race, nationality or ethnic origin are scarce. Some information can be drawn from the **research conducted by the Office of Ombudsman**, published in 2011, which aimed to map the situation in the area of jobs offered in the Czech Republic with respect to the right to equal treatment.¹¹² The results of the research confirmed that the occurrence of discriminatory job offers is not a rare phenomenon in the Czech Republic. The analysis of 12,044 offers of employment showed that 16.9% of the offers examined contained one or more unjustified requirements. Offers were discriminatory most often on the grounds of age (11%) and gender (7%).¹¹³ To a smaller extent, discrimination occurred in the areas of state citizenship, health and family status (less than 1%).¹¹⁴ The research also showed that these job offers included more direct discrimination for unjustified reasons. Almost all of these violations appeared in advertisements for full-time positions and discrimination appeared more frequently in offers for positions requiring secondary education than in offers for positions requiring a university education.

The Ombudsman's research recorded very little about the real scope of the discrimination regarding access to employment on the basis of race, ethnic origin or nationality. The 0.3% of discriminatory advertisements¹¹⁵ with respect to state citizenship does not mean that discrimination on these grounds is non-existent; it just does not simply occur in the form of discriminatory job advertisements.

There is usually no evidence of discriminatory recruitment policies. According to interviewed expert, some migrants believe that having a name which sounds Czech may improve the chance of being invited to the interviews (the Russian and Ukrainian communities especially tend to change the spelling of their names in this regard).¹¹⁶ According to social workers assisting Roma families from socially excluded areas, it might be difficult to find a job for a person with a typical Roma-sounding surname.

The Prague based academic institute CERGE-EI conducted an experiment exploring the existing ethnic discrimination in regards to accessing the Czech labour market. It consisted of sending out 274 email job applications with either Czech or ethnically identifiable names (using the most statistically frequent names for each ethnicity: Czech, Roma and Vietnamese). Each application was identical in respect to education, experience, skills, hobbies and references. The experiment examined to what extent the applications were considered, and tracked to see whether the hyperlink to the respective professional CV was followed up or not. Furthermore, it was also determined whether the "Learn more" button, which appeared on the CV's page and which would provide additional information, was clicked on afterwards.¹¹⁷

The results, which were measured in terms of a call-back or an invitation to a job interview, showed that the discrimination against applicants from ethnic minorities is significant. An applicant with a majority-sounding name is 180% more likely to be invited to a job interview compared with an

¹¹² Public Defender of Rights, *Research of the Public Defender of Rights – manifestations of discrimination in job offers*, Brno, 2011.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, p. 27.

¹¹⁵ *Ibid.*, p. 22.

¹¹⁶ Linda Sokačová, sociologist, Counselling Centre for Citizenship, Civil and Human Rights, 12. 8. 2013, Prague

¹¹⁷ Bartoš, V., Bauer, M., Chytilová, J., Matějka, F., *Attention Discrimination: Theory and Field Experiments*, CERGE-EI, Prague, 2013, pp. 18 et seq.

applicant with an Asian-sounding name, and 75% more likely compared to an applicant with a Roma-sounding name.¹¹⁸ The applicants from the majority population were called back twice as often as the minority applicants, while the gap in respect to getting an invitation to a job interview was even greater (14 % of the majority applicants got an invitation, while only 6.3 % of the minority applicants were invited, making a difference of 133 %). When it comes to the invitation rate between applicants with Roma-sounding and Asian-sounding names, the Roma applicant has to send out only 12.5 applications as opposed to the Asian applicant, who needs to send out at least 20 to receive one invitation. Regarding the opening of the resumes, it was found that 63.3 % of the employers want to get more information about a majority applicant, while only 47.5 % do so when it comes to the Asian applicant. Interestingly, the likelihood of following up on the Roma applicants resume was the same as for the majority applicant. In addition, the researchers learned that the “Learn More” button was mostly ignored when it came to Asian applicants. It was observed that 16 % of the employers wanted to know more majority applicants as opposed to only 6 % regarding the Asian applicants.

Table IV
Labor Market – Invitation Rate and Information Acquisition by Ethnicity, Regression Analysis

	(1)	(2)	(3)	(4)	(5)	(6)
Panel A: Employers' response						
Dependent variable:	Callback		Invitation for a job interview			
Sample:	All		All			
Ethnic minority name	-0.23***		-0.09***		-0.08**	
	(0.06)		(0.04)		(0.036)	
Asian minority name		-0.24***		-0.08**		-0.07**
		(0.05)		(0.03)		(0.03)
Roma minority name		-0.16**		-0.06*		-0.05*
		(0.06)		(0.03)		(0.03)
Opening applicant's resume					0.08***	0.08***
					(0.03)	(0.03)
Observations	274	274	274	274	274	274
Panel B: Information acquisition						
Dependent variable	Opening applicant's resume		Acquiring more information about qualification		Acquiring more information about other characteristics	
Sample:	All		Employers who open applicant's resume			
Ethnic minority name	-0.08		-0.07		-0.01	
	(0.06)		(0.06)		(0.064)	
Asian minority name		-0.16**		-0.10*		-0.00
		(0.07)		(0.05)		(0.08)
Roma minority name		0.03		-0.03		-0.02
		(0.08)		(0.06)		(0.07)
Observations	274	274	160	160	160	160

Notes: Probit, marginal effects (dF/dx), robust standard errors in parentheses. *** denotes significance at the 1% level, ** at the 5% level and * at the 10% level. In Panel A, the dependent variable is the callback (Columns 1-2) and the invitation rate (Columns 3-6). In Panel B, the dependent variable is a dummy variable indicating whether an employer opened applicant's resume (Columns 1-2), whether he/she uncovered additional information about applicant's qualification – education, experience, or skills (Columns 3-4), and whether he/she uncovered additional information about hobbies and contacts (Columns 5-6). In all columns of both panels, the omitted variable is the White majority name and we control for dummy variables indicating required high school education, required previous experience, application being sent during a holiday period (August), and application in the sector of sales and services.

¹¹⁸ Ibid

Postal addresses do not seem to be an issue in the selection of candidates. However, it cannot be excluded here that some employers avoid selecting candidates from a distant or poor and socially excluded areas, or “bad neighbourhoods”¹¹⁹ within bigger towns.

Discrimination on the basis of appearance and clothing is perceived as very sensitive by young people. It is quite usual that employers ask for a photo in the job advertisement. It is however very difficult to prove any clear discriminatory practices in this regard.

Some migrants encounter racist or improper statements from individual employers (or their employees) during the job interviews. One of the respondents of a recent sociologist survey stated that he had been denied promotion with the explanation that it is not yet time for a black person to work in a management position. Such incidents are however scattered, based mostly on individual attitudes of employers.¹²⁰

One’s religion could potentially influence the choice of candidate for the position. Some migrants in the Czech Republic have been found not likely to practice, or show that they practice their religion or cultural habits, usually due to the fear of being stereotyped. For example, even in a company where the employer enabled Muslims to take a break for Friday prayers, migrant employees (advised by their Czech colleagues) preferred not to take this opportunity for fear of being reprimanded by the other staff in the company.¹²¹ The same applies to the wearing of traditional clothing.

Discrimination in access to employment against Roma applicants

The survey conducted by the EU Agency for Fundamental Rights showed that more than 60% of Roma respondents in the Czech Republic (aged 16 and above) have experienced discrimination when looking for work, one of the highest percentage among 11 monitored countries.¹²² The access of Roma applicants to the labour market is restricted by primarily the following factors: lack of jobs, low qualifications, low mobility, personal debt, informal employment, discrimination,¹²³ social exclusion, housing, and solidarity networks.¹²⁴

“Many Roma are placed into special schools where they have little chance to gain any qualifications and have therefore a much lower chance in finding employment. Besides, Roma are discriminated on the labour market also directly on the ground of their ethnic origin.”¹²⁵

Employers’ motives to discriminate differ from employer to employer. Some discriminate against Roma because of their own xenophobic attitudes, others for purely economic or, in their minds, rational reasons.¹²⁶ A case study showed that an employer paid less remuneration to Roma workers than to non-Roma, simply because the negotiating position of Roma workers was not as strong.¹²⁷

¹¹⁹ The neighbourhoods unofficially known as ghettos with high portion of people with ethnic or foreign background, socially excluded people, homeless people, having generally higher portion of criminality.

¹²⁰ Sokačová, L., *Jaké je postavení trvale usazených migrantů a migrantek v České republice?*, Counselling Centre for Citizenship/Civil and Human Rights, research conducted from May 2012, preliminary results based on 128 interviews and 190 questionnaires (not yet published).

¹²¹ Ibid.

¹²² European Agency for Fundamental Rights, *The situation of Roma in 11 EU Member State – Survey results at a glance*, May 2012, p. 19.

¹²³ Hůlová, K., Steiner, J., *Romové na trhu práce*, Prague, 2005.

¹²⁴ Geissler, H., *Czech Republic EWCO CAR on Working conditions of nationals with a foreign background*, Research Institute for Labour and Social Affairs, 2011.

¹²⁵ Kostlán, F., „Český anticiganismus aneb Zpráva o stavu země“, Prague, 20. 3. 2013.

¹²⁶ Based on interviews with experts conducted during research.

¹²⁷ Hůlová, Steiner, *Romové na trhu práce*, 2005, p. 14.

Other employers are not able to distinguish the quality of workers and prefer not to hire Roma applicants due to their reputation of being unreliable. There are strong feelings among the Roma population of being constantly discriminated against: "When I tell them how many years of experience I have, they react positively. When I tell them that I am a Roma, they are no longer interested. They only see the colour and say goodbye."¹²⁸

Generally, discrimination in access to employment is not as common as the discrimination of Roma in other spheres of life, notably in services and housing.¹²⁹ Most employers in positions where most Roma apply (in particular cleaning, manual labour, construction works and factory production) are used to Roma applicants. Moreover, it is difficult to prove discriminatory practices. Most employers simply say that "the position is occupied" or that they "will get back to the applicant". Also, it cannot be said that Roma are discriminated solely on the basis of their ethnic background. It is a combination of factors: in particular the level of personal presentation, communication skills, and manual skills, possible existence of a criminal record, insufficient education, and inadequate housing.¹³⁰ Whereas in the past they did not need to have strong communication skills, nowadays they need to undergo a job interview to get even a cleaning job. Some employers are hesitant to employ Roma applicants because they fear negative responses from their clients, typically for cleaners or security positions.¹³¹

Some data exist thanks to situational testing which is occasionally conducted by several Czech NGOs. Two situation testings were conducted by the Counselling Centre for Citizenship, Civil and Human Rights in 2003 and 2004¹³², both concerning direct discrimination of Roma applicants in access to employment, followed by successful court litigation.¹³³ More recently, situational testing was conducted by the organization IQ Roma Service¹³⁴, but mainly in the field of access to services, housing, medical services, and education. The situational testing in the field of employment is more difficult in logistical terms as the jobs are quickly taken. Moreover, more factors come into play such as the qualification and personal presentation skills of the applicant.

The IQ Roma Service reported several incidents of direct or indirect discrimination of Roma applicants in access to employment which are briefly described below:¹³⁵

In September 2012, a young Roma woman (aged 17) applied for a part-time job of selling charity products. She asked a social worker to join her for the interview. The approach of the interviewer towards the applicant was clearly negative. She was asked about her previous experience with selling products, informed about some new regulation and other reasons why it is not possible to give her the job. After finishing the interview, the applicant contacted another applicant of non-Roma origin who got the job without having (or being asked to have) previous experience. The NGO reported the discriminatory behaviour of the employer to the labour inspectorates but received no reply about the results of investigation.

Another reported incident is from April 2013. A Roma applicant attended the interview for the position of cleaner and was told by the interviewer that she is "too dark for the job". The interviewer even suggested that she might try to put on light colour make-up. The two NGO employees (one of

¹²⁸ Český rozhlas, "Česká vláda dnes vyhodnotí situaci romské menšiny u nás", Prouza, P., 14. 11. 2012

¹²⁹ Information based in interviews with professionals working with Roma applicants.

¹³⁰ Information based in interviews with professionals working with Roma applicants.

¹³¹ Information based in interviews with professionals working with Roma applicants.

¹³² Linda Sokačová, sociologist, Counselling Centre for Citizenship, Civil and Human Rights, 12. 8. 2013, Prague

¹³³ Romove.radio.cz, "Firma Rossmann se musí omluvit za diskriminaci a vyplatit 50.000", ČTK, 31. 3. 2004.

¹³⁴ Anna Meixnerová, lawyer, IQ Roma Service, 30. 8. 2013, Skype interview.

¹³⁵ Anna Meixnerová, lawyer, IQ Roma Service, 30. 8. 2013, Skype interview.

Roma and one of non-Roma origin) contacted the employer and agreed to have a job interview. The discriminatory practice of the employer was not confirmed as both applicants were offered the job.

Discrimination in access to the labour market against migrants from third countries

Third-country migrants face complex procedures when accessing employment in the Czech Republic. Many rely on labour agencies or assistance of the so-called “clients”. Some migrants think that it is impossible to find a job without their help. Language is a major obstacle in the employment of all migrants (even those not requiring a work permit). The possibility of getting a job increases considerably with knowledge of the Czech language (even in the professions where knowledge of Czech is not necessary, employers tend to prefer candidates with at least some knowledge of the language).¹³⁶ Even the second generation of migrants with Czech university education find it difficult to find a place in the labour market.¹³⁷ According to the recent media survey, they often find employment only within their communities or in companies hoping to find new clients among those communities¹³⁸.

A recent report¹³⁹ summarized the most frequent (discriminatory) practices towards migrants regarding access to employment, based on the practice and experience of two NGOs which provide migrants with social and legal advice:¹⁴⁰

1. Migrants are offered only work with no work contracts, jobs declared as self-employed when the worker acts as a subcontractor, or work through participation in companies or members of cooperatives. All these forms of illegal or disguised employment keep migrants outside the protection of labour laws.
2. Appointment for a trial period only: migrants are often promised that if they prove themselves they will get a job. In practice foreign nationals often work for several weeks without being paid wages in the hope of future earnings.
3. No written contracts. Although verbal employment contracts are formally valid, it is very difficult to prove the existence of an employment relationship when before the courts.
4. Failure to declare migrant employees to the Czech Social Security Administration and to the public health insurance company which are legal obligations of every employer. Migrants then mistakenly believe that they are medically insured; in addition, the health insurance companies often mistakenly regard these people as so-called ‘self-payers’ and recover the debts from them instead of from their employers.
5. Informal payment of wages, when the employee formally agrees to be paid only the minimum wage and the remainder is paid unofficially.

¹³⁶ Sokačová, L., *Jaké je postavení trvale usazených migrantů a migrantek v České republice?*, Counselling Centre for Citizenship/Civil and Human Rights, research conducted from May 2012, preliminary results based on 128 interviews and 190 questionnaires (not yet published).

¹³⁷ IHNEI.cz, *Mladí Vietnamci cítí, že nemají stejné možnosti jako Češi. Uvažují o emigraci*, Hromádková, T., 15. 8. 2013.

¹³⁸ Ibid.

¹³⁹ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 30.

¹⁴⁰ Counselling Centre for Citizenship/Civil and Human Rights, Association for Integration and Migration.

The report further states that “an important aspect of discrimination against foreign nationals is discrimination due to simple ignorance: for example, many employers do not know that foreign nationals with permanent residence permits are entirely comparable to Czech citizens and their potential employer does not have to deal with a variety of administrative problems in connection with their employment.”¹⁴¹

According to the report and other sources, the most vulnerable to discrimination practices are **irregular migrants** (those without residence permit) because they have no opportunity to work legally and run the risk of being administratively expelled from the territory when caught by the police.

Interestingly, the report also mentions practices which discriminate against Czech employees. According to the report, the Interdepartmental Authority to Combat Illegal Employment of Foreigners investigated practices aimed at maintaining the environment of lower standards of pay and safety at work within the migrant community, e.g. making knowledge of Russian language a condition for the position of cleaner.

Foreign nationals who hold a permanent residence permit are entitled to receive labour assistance from the labour offices. In a few cases, the labour office gave preference to a Czech candidate over a migrant who had permanent residency.¹⁴² This could be possibly explained by the double role of labour offices which are, on the one hand, instructed to defend the Czech labour market from foreign nationals and, on the other hand, should support the foreign nationals with permanent residency find employment.¹⁴³

Recognition of foreign qualifications

The issue of recognising professional qualifications for the purposes of practising a profession affect circa 430 professions¹⁴⁴, where legislation¹⁴⁵ regulates the conditions for entry to these professions and their practice.¹⁴⁶ Unregulated professions can be performed without formal recognition.

The process of recognising professional qualifications is not particularly flexible. The application should be submitted in Czech, accompanied by all the necessary annexes, and with the respective recognition authority listed on the website of the Ministry of Education. The authority can impose certain compensation measures¹⁴⁷ if there are substantial differences between the applicant’s education and preparation for the profession in the Czech Republic and the applicant’s country of education.

¹⁴¹ Ibid.

¹⁴² Lucie Trlifajová, Multicultural Center Prague, interview, 20. 8. 2013.

¹⁴³ Ibid.

¹⁴⁴ This list of regulated professions available here: http://uok.msmt.cz/uok/ru_list.php?let=&type=0&org=0&dl=cz&pg=7

¹⁴⁵ Act No. 18/2004 Coll. on recognition of qualifications as amended

¹⁴⁶ Ministry of Education, Youth and Sports, <http://www.msmt.cz/eu-and-international-affairs/recognition-of-qualifications-and-education>

¹⁴⁷ The compensation measures include so called *adaptation period* and *differential examination*, whereas the applicant can choose between them. The *adaptation period* means performing the profession on the territory of the Czech Republic under the supervision of a qualified person in order to complete theoretical knowledge and practical skills in the profession. The length of the adaptation period is determined individually, maximum is 3 years. The *differential examination* means an exam assessing whether the applicant is capable to perform a regulated profession in the Czech Republic. The content of the exam is determined individually. The exam is undertaken before the commission, in Czech language and has an oral and written part.

The recognition of foreign education is a different issue. The process of recognition of education depends on the existence of an international agreement of mutual recognition of documents on education. If no such agreement exists, the educational qualifications must be recognized by the regional authority.¹⁴⁸

According to the new methodical guidelines of the Ministry of Labour and Social Affairs, foreign nationals applying for a work permit must submit proof of education, officially recognized in the Czech Republic. Consequently, the regional authorities, as well as the Ministry of Education, experienced a large increase in applications for recognition of foreign education in 2012. The subsequent delays in the recognition of education were subject to open criticism by the Ombudsman.¹⁴⁹

As a result of a particularly inflexible system of recognition of foreign qualifications, foreign nationals (including those from EU countries) on average work in less skilled jobs than the average local population.¹⁵⁰ Academic research showed that among all non-EU migrants in the Czech Republic the discrepancies between educational and occupational status are not that high. However, the overall pattern of mismatching applicants hides significant differences at individual and sub-group levels.¹⁵¹ The differences in educational and occupational status are asymmetric and are mostly evident among the most highly educated.¹⁵² This makes sense as migrants with low levels of education can only experience a mismatch if they have an occupation for which they are under-qualified. This is a relatively rare occurrence outside a self-employment status. This asymmetry also helps to explain why, for example, Russians with typically high levels of education might also experience significant education-occupation mismatch in contrast to the Vietnamese who are often self-employed and so their low levels of education are less of a hindrance. The research also demonstrated that labour market success for migrants from third countries is strongly dependent on personal resources, i.e. level of education and language skills.¹⁵³

3.5 Discrimination in the workplace

Discrimination against migrants from third countries in the workplace

Discriminatory practices towards migrants in the workplace are not sufficiently monitored.¹⁵⁴ However, NGOs assisting migrants report that migrants face harsh working conditions more often than Czech workers.¹⁵⁵ In addition to practices already mentioned in the previous section, the most frequent discriminatory practices identified by NGOs gathered in the Consortium of Migrants Assisting Organizations in the Czech Republic¹⁵⁶ :

¹⁴⁸ <http://enic-naric.net/index.aspx?c=Czech%20Republic>

¹⁴⁹ Public Defender of Rights, *Informace o činnosti za čtvrté čtvrtletí roku 2012*, Brno, 2013.

¹⁵⁰ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 28.

¹⁵¹ Leontieva, Y., *Brains versus Brawn: Comparison of the Educational and Occupational Status of non-EU Labour Migrants in the Czech Republic*, Institute of Sociological Studies, Prague 2012.

¹⁵² *Ibid.*

¹⁵³ *Ibid.*

¹⁵⁴ The data provided by labour inspectorates do not include information on the number of complaints on, investigations of and sanctions for discriminatory practices by employers.

¹⁵⁵ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 38.

¹⁵⁶ *Ibid.*

- overtime work without compensation which is contrary to the labour regulations;
- late or no salary payment;
- arbitrary transfer to other jobs or other places of employment;
- termination of employment contrary to the Labour Code, e.g. unilateral verbal termination of the employment with no given notice period; and
- non-adherence to or low safety standards.

There have only been a small number of reported cases of discriminatory practices in employment recently. In some reported cases, the working conditions and treatment of migrant workers in employment strongly indicate precarious work and abusive practices. Probably the most flagrant case of the precarious work conditions of migrants in the Czech Republic, largely covered by media, is the **Tree Workers Case** of 2009.¹⁵⁷ The migrant workers from Vietnam, the Ukraine, Slovakia, Romania, Bulgaria and other countries, were employed to perform reforestation works in large woodland areas. Hundreds of migrants were hired by several subcontractors from the company Lesy České republiky. Instead of regular work contracts, migrants were given education contracts and their work was declared as unpaid, practical, work experience (in order to avoid applications for a work permit). One report describes working conditions of hired migrants as follows:

“For weeks, sometimes months, foreign workers were housed in various facilities near their place of work in the woods (hostels, changing rooms at sports grounds), received only pasta for subsistence and were forced to work much longer than the permitted maximum of eight hours per day. Most of them were never paid their wages. This situation continued until the foreigners were forced to leave for existential reasons, when other migrants then took their place.”¹⁵⁸

The case was investigated by the Ombudsman who found several violations by labour inspectorates.¹⁵⁹ A number of civil proceedings to recover wages are still pending. In these proceedings, one of the subcontractors owes approximately CZK 2.5 Million in unpaid wages.¹⁶⁰ The criminal investigations did not lead to official charges. According to the Amnesty International 2012 report¹⁶¹, the Czech forestry companies continued to recruit new workers for the 2011 season. The AI also questioned the pace and effectiveness of the police investigations of the allegations of human trafficking and fraud.¹⁶²

Another reported case¹⁶³ of discriminatory practices towards migrants, dates back to 2010. The employer, a small textile company in Jihlava, employing Mongolian female workers, dismissed its workers by verbal notice that they no longer needed to come to work. As a gesture of good will, the employer offered not to notify the labour office immediately about the termination of their employment, so they have enough time to find a new job otherwise their residence permits would be cancelled. The employer saved severance payments of three months' wages that he was required to

¹⁵⁷ <http://thetreeworkerscase.com/>

¹⁵⁸ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 39.

¹⁵⁹ Public Defender of Rights, *Závěrečná zpráva o šetření zahájeném z vlastní iniciativy ve věci kontroly dodržování pracovněprávních předpisů a předpisů o zaměstnanosti ze strany zaměstnavatelů - subdodavatelských společností společnosti L. ČR, s. p.*, Brno, 22. 10. 2012.

¹⁶⁰ MigraceOnline, “Kauza stromkaři”, <http://www.migraceonline.cz/cz/temata/kauza-stromkari>, last accessed on 15. 8. 2013.

¹⁶¹ Amnesty International Report 2012, *The State of the World's Human Rights*, United Kingdom, 2012

¹⁶² *Ibid.*, pp. 144-145.

¹⁶³ Network of socio-economic experts in the anti-discrimination field, *Country Report 2 2010 on Employment, Ethnicity and Migrants (Czech Republic)*, 1 July 2010, para. 39.

pay upon termination of employment. The case never went to the court as the only migrant who sought legal assistance settled with the employer.

In the context of precarious work, the Czech courts in 2012 issued the first decision where a person was found guilty of trafficking in human beings for the purpose of forced labour or other forms of precarious work (eight years after this offence was introduced into the Criminal Code). Up until now, three people have been sentenced for this offence.¹⁶⁴

A particularly vulnerable group are **domestic workers**, usually migrant women, who live in the same household with their employers. The recent project of NGOs¹⁶⁵ on domestic work and women who perform these jobs showed that it is extremely difficult to control the compliance with labour law regulations. The interviews revealed that domestic workers often experience unpaid overtime work, unacceptable working conditions, frequently connected with social isolation, harassment, humiliation, psychological or even physical violence.¹⁶⁶ The possibility to oppose these practices for this group of migrants is almost non-existent. In this context, it seems unfortunate that the Czech government refused to ratify the ILO Convention on Decent Work for Domestic Workers.¹⁶⁷

Discrimination against Roma in the workplace

There is a general lack of data on the incidence of discrimination in employment of workers with Roma ethnicity. According to NGOs working with Roma people¹⁶⁸, employers who agree to employ Roma workers do not tend to discriminate. Roma employees greatly depend on the job because their chances of getting another employment are lower than the majority population. This vulnerable position could be abused by employers in their approach towards Roma workers in employment (e.g. less convenient work locations or working hours, night-shifts, leaving Roma to perform jobs nobody else is willing to do, etc.). "In order to keep the job, I had to work twice more than my white colleagues, so the employer could benefit from giving me the job,"¹⁶⁹ as stated by one unnamed Roma stated in a media interview.

The generally low qualifications and lack of work experience of Roma usually results them having lower wages in comparison to those of the majority population. This situation could contribute to feelings of being discriminated against. There is, however, no proven evidence of unfair remuneration practices on the basis of ethnic origin.

3.6 Economic sectors

Generally, incidences of discrimination are more likely to occur in positions requiring lower qualifications (cleaning, construction, technical services, etc.). Low qualified workers have usually little awareness about their rights in employment and the possibilities of defence against discrimination, and are therefore more vulnerable to discrimination practices. Another factor is that low qualified positions are more often performed by workers with Roma or migrant background. The

¹⁶⁴ Otahálová, L., *V posledním roce padly tři rozsudky za pracovní vykořisťování (nejen) cizinců*, MigraceOnline, 29. 8. 2013.

¹⁶⁵ Heřmanová, M., "Co všechno byste měli vědět o své uklízečce (a nechcete se zeptat)", People in Need, Prague, 15. 4. 2013

¹⁶⁶ Ibid.

¹⁶⁷ Redlová, P., Heřmanová, M., *Why did Czech government refuse to ratify ILO Convention on Decent Work for Domestic Workers?*, MigraceOnline, 26. 3. 2013.

¹⁶⁸ Anna Meixnerová, lawyer, IQ Roma Service, 30. 8. 2013, Skype interview.

¹⁶⁹ Český rozhlas, "Česká vláda dnes vyhodnotí situaci romské menšiny u nás", Prouza, P., 14. 11. 2012.

table below shows that more Roma than the non-Roma population work in positions with very low social status, mainly unqualified work in the construction industry.¹⁷⁰ According to the Head of Department for Social Inclusion at the Government's Office, Martin Šimáček¹⁷¹, discrimination in employment is widespread in small firms, when being hired into small work collectives. Larger supranational companies do not generally resist hiring Roma.

	Employed (aged 15-64)		Unemployed (15-64)	
	Roma	non-Roma	Roma	non-Roma
Professions pursued (selected)				
Qualified craftsmen	23%	39%	8%	23%
Semi-qualified workers professions	22%	9%	20%	18%
Unqualified worker	44%	9%	70%	41%
Industry (selected)				
Industry and mining	12%	16%	22%	22%
Construction	32%	10%	31%	13%
Transport	9%	12%	3%	9%
Commerce	7%	15%	5%	17%
Other commercial services (hairdresser, dry cleaners, tailor, etc.)	10%	4%	10%	13%

Table: The comparison of Roma and non-Roma on the labour market according to professions¹⁷²

3.7 Geographical areas and relevant actors

There are a number of disadvantaged areas in the Czech Republic. These are primarily any regions that used to be dominated by heavy industry, such as the coal mining, steel and chemical industry in Northern Bohemia and Northern Moravia. Even though these industries continue to be of vital importance for the economy of these regions, they employ fewer people than before 1990. The specific state of these regions is very important in relation to this study, because a majority of Roma live in these areas. They relocated to these areas from Slovakia as a consequence of the former socialist Czechoslovakia's economic and settlement policy to work in heavy industry. As a result of the economic transformation, many subsequently lost their jobs. Among the disadvantaged areas with serious economic and social problems there are also a number of rural and peripheral areas where employment was affected by the re-organisation of the agricultural sector. In some of these sparsely populated areas there are sizable Roma minorities. The resulting "double marginalization" of the Roma who live as a disadvantaged minority in a disadvantaged region is intensified by the fact that many Roma have been moving (or were in some cases moved) from Prague and other cities to Northern Bohemia, and other less prosperous regions due to the lower costs of housing.

- Interestingly enough, parts of the relatively large Vietnamese populations are located in areas that are considered to be highly peripheral. This is due, largely, to trade along the sparsely populated

¹⁷⁰ Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012, p. 67.

¹⁷¹ Novinky.cz, "Většina Romů, kteří by mohli pracovat, si zaměstnání nehledá", Ginter J., 19. 10. 2012.

¹⁷² Council of the Government of the Czech Republic for Roma Community Affairs, *Zpráva o stavu romské menšiny v České republice za rok 2011*, September 2012, p. 67 (selected data).

border to Germany that was seen as a lucrative economic niche, and was discovered by former Vietnamese “contract workers” (who used to work in socialist Czechoslovakia within the framework of a highly regulated guest working scheme). As the profits from the sale of goods on the open markets in the border towns had been dwindling for many years, some of the Vietnamese from these regions moved to other parts of the Czech Republic, or became involved in other types of economic activities.

4. Tackling the challenges

4.1 Public policies

Unemployment is widely considered to be a serious problem in Czech society. Combating discrimination however is not seen as a way to tackle this problem. No public programmes aimed explicitly at structural discrimination are known (the only exception could be the issue of Roma segregation in the education system, where the state is legally obliged to develop a strategy due to the D.H. and others vs. The Czech Republic decision).¹⁷³

The official government **concept for the integration of Roma** exists since 2001. The current document is from 2009 and should be updated in 2013.¹⁷⁴ Another important document is the **Strategy for Combating Social Exclusion**, which was issued in 2010.¹⁷⁵ While acknowledging discrimination as one reason for the disadvantaged position of Roma on the labour market, both documents focus mostly on ways on how to improve the skills of Roma and how to support them when seeking employment. The implementation of some of the proposed employment-related measures (e.g. better assistance for job searching by employment offices) was however in reality hampered by Nečas’ government’s social reforms, which were implemented without consulting the government bodies responsible for the affairs concerning the Roma community.

One of the measures of the government’s active labour market policy is public works (so-called public beneficial works) that are financed by the Ministry of Labour and Social Affairs. Officially, an instrument that should help long-term unemployed persons prepare for the regular employment market, especially in regions with economic problems, public work programmes often constitute the only opportunity for regular employment for Roma and other persons in difficult positions on the labour market. The last government replaced the public work programme with an unpaid public service which was mandatory for recipients of social benefits. This measure was declared by the Constitutional Court unconstitutional in late 2012.¹⁷⁶ As a consequence of these changes, the initial system, of temporary work contracts for public beneficial works at minimum wage, was reintroduced. The work places are, in most cases, created and managed by local municipalities. Their availability depends both on the regional strategies of the labour offices (reflecting regional labour market situation) and the interest of local municipalities in creating such jobs.

¹⁷³[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{%22itemid%22:\[%22001-83256%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{%22itemid%22:[%22001-83256%22]})

¹⁷⁴ Minister of Human Rights, *Roma Integration Concept for 2010–2013*, December 2009, pp. 27-36.

¹⁷⁵ Office of the Government of the Czech Republic, *Strategy for Combating Social Exclusion for the Period 2011-2015*, Prague, September 2011, pp. 33-37.

¹⁷⁶ http://www.usoud.cz/aktualne/?tx_ttnews%5Btt_news%5D=175&cHash=0b63d8ae3e3d820ca1bbcdf97d437e46.

Concerning measures that would tackle direct discrimination at the work place, it is possible to mention activities implemented by various NGOs, companies, municipalities and other bodies that are financed by the EU Structural Funds on a project basis. There have been a large number of projects that aimed to improve the position of vulnerable groups, including Roma and migrants, on the labour market by improving their skills, informing them of their rights or by directly creating job opportunities (social enterprises).¹⁷⁷ While many of these projects generated definite positive results, it is important to realize that such individual and uncoordinated efforts cannot substitute systematic state policy. It is also not possible to determine exactly the amount of resources that were allocated to groups that are likely to be victims of ethnic discrimination, as the target groups are in many cases widely formulated (e.g. persons threatened by social exclusion).

With regard to migrants, the Government adopted a document called the **New System of Economic Migration** in 2011 which encompasses Czech Republic's attitudes towards labour migration for the first time in its history.¹⁷⁸ According to this document, the guiding principle of the Czech labour migration policy is the flexibility that would enable the government to react quickly to a changing economic reality and integration capacities. Labour immigration shall be based on a permanent migration of high-skilled labour force and temporary or circular migration of low-skilled foreign workers.¹⁷⁹ In terms of integration, the government adopted the **Updated Policy for Integration of Immigrants in 2011**¹⁸⁰ and the Procedure of Implementation of the Updated Policy for Integration of Immigrants in 2012.¹⁸¹ Both documents declare that "measures should aim at consolidation of the instruments for immigrant access to the job market and their ability to persevere in the job market and provision of protection against discrimination". However, no concrete measures to tackle or prevent discrimination were adopted.

There is no coordinated government policy or program directed specifically at reducing discrimination against migrants in employment. The projects aimed at tackling unequal position of migrants on the Czech labour market are run primarily by NGOs, on both national and local levels (the examples of these projects are described in a separate part below).

Both Roma and migrants currently face (at least in the perception of the public) more urgent problems than discrimination on the labour market. As for Roma, most discussions concern the issue of socially excluded localities and discrimination in the housing sector (unemployment as a result is perceived as secondary). As for migrants, NGOs still see the issue of the legalization of their residence (or maintaining their legal status) as a primary concern.

4.2 Access to effective remedies

4.2.1 Judicial remedies

¹⁷⁷ For a discussion of the EU structural fund's impact on Roma see: Hurrell, J., Felcmanová, L., Ripka, Š., Otahálová, L., Poláčková, L., Štěpánková, M., Trlifajová, L., Pixová, M., *Civil Society Monitoring Report on the Implementation of the national Roma Integration Strategy and Decade Action Plan in 2012 in the Czech Republic*, Decade of Roma Inclusion Secretariat Foundation, 2013, pp. 79 – 82.

¹⁷⁸ Government of the Czech Republic, *Usnesení vlády dne ze dne 19. ledna 2011 č. 48 o opatřeních k řízení ekonomické migrace, ochraně práv osob migrujících za prací a realizaci návratů*, 19. 1. 2011, section 3, page 26.

¹⁷⁹ Blahoušová, T., *An overview of the migration policies and trends – Czech Republic*, MigraceOnline, 4. 2. 2013.

¹⁸⁰ Government of the Czech Republic, *Updated Policy for Integration of Immigrants – Living Together – and Proposal for Further Steps in the Year 2011*, 9. 2. 2011.

¹⁸¹ Government of the Czech Republic, *Postup při realizaci aktualizované Koncepce integrace cizinců - Společné soužití v roce 2012*, 4. 1. 2012.

Civil proceedings

The Anti-discrimination Law provides the possibility of bringing discrimination claims before the civil courts (and in certain cases, the administrative court). A victim of discrimination may require a termination of the discriminatory conduct, remedy of its consequences and the provision of appropriate compensation. It is also possible to request monetary compensation for non-material damage incurred.¹⁸² The burden of proof is shared between the plaintiff and the defendant. If the plaintiff puts forward evidence which are used to ascertain whether the defendant caused direct or indirect discrimination, the defendant must then prove that he did not violate the principle of equal treatment.¹⁸³ The time limit for filing a claim for monetary compensation is 3 years. The court fee is 2 000 CZK (ca. 80 euro) for non-monetary compensation and monetary compensation under 200 000 CZK (ca. 8 000 euro) claims; for higher monetary claims 1% of the claimed amount.¹⁸⁴

Based on Article 138 Civil Procedure Code, the procedural fees can be partially or entirely pardoned. This can be achieved upon request and is decided by the presiding judge. The fees can be subsequently demanded if the court finds that the actual situation of the party no longer justifies the fee pardon.

Another set of remedies is provided by the Labour Code, notably claims against the invalid termination of employment.¹⁸⁵ The purpose of this remedy, however, is to challenge the validity of the termination of employment and not the discriminatory practices of the employer. The procedural fee is 2 000 CZK and the time limit is 2 months after the termination of employment.

Criminal proceedings

Criminal proceedings are not usually used to tackle discrimination in employment. However, certain provisions of the Criminal Code could be invoked in cases of flagrant discriminatory practices. The crime of defamation of nation, race, ethnic or other group of people is regulated under Article 355 of the Criminal Code. It states that if a person defames in public someone's nation, its language, race or ethnic group, or group of people for their religion etc., then he/she will be punished by imprisonment up to two years. If somebody commits the above mentioned crimes with at least two people or by public press, film etc., he/she will be punished by up to three years in prison. Article 352(2) of the Criminal Code relates to violence against a group of persons or against a particular individual, can also potentially be invoked. The provision declares that if a person uses violence against a group of inhabitants or individuals or threatens them by death, bodily harm or infliction of serious damage for their real or presumed race, affiliation to ethnic group etc., he/she will be punished by six months to three years in prison.

Other remedies

Victims of discrimination in the workplace may file a complaint with the regional labour inspectorate and require that the labour inspectorate initiates an inspection against the employer. The inspectors deal with possible violations of labour law provisions, including the adherence to the principle of equal treatment in employment. If a violation is found, the labour inspectorate may issue a warning and/or impose a fine. If these violations are not remedied, the inspectorate may proceed with a follow-up control. The inspectorate informs the complainant about the adopted measures.

¹⁸² Act No. 198/2009 Coll. on equal treatment and on the legal means of protection against discrimination and on amendment to some laws (the Antidiscrimination Law), Section 10 (1) and (2).

¹⁸³ Section 133a Civil Procedure Code

¹⁸⁴ Act No. 549/1991 Coll. on court fees, items 3 and 4.

¹⁸⁵ Act No. 262/2006 Coll., Labour Code, Section 69 et seq.

Discrimination on the ground of ethnic origin in employment before the Czech courts

The Czech courts do not collect statistics on discrimination disputes. The Czech Helsinki Committee ("CHC") conducted research on the application of the Anti-discrimination Law at the beginning of 2012.¹⁸⁶ The CHC has been requesting the district courts provide details of discrimination claims lodged under Section 10 of the Anti-discrimination Law since its entry into force in 2009. From 86 district courts only 16 replied that they had registered claims under the Anti-discrimination Law. According to this research, only 28 claims were lodged in the period from September 2009 to January 2012.¹⁸⁷ There was not one single positive ruling, i.e. none of the courts confirmed discriminatory behaviour.¹⁸⁸ The CHC reported¹⁸⁹ that these low figures can be explained by the lack of specific court statistics on discrimination claims, transitional provisions of the Anti-discrimination Law, the difficult evidentiary position of the victims and the possibility to lodge the action for the protection of personality (under the Civil Code). These low numbers of discrimination disputes have been confirmed by research conducted by the Gender Studies. Their researchers estimate that approximately 4 to 10 discrimination disputes reach Czech courts every year.¹⁹⁰

Not all decisions of lower courts are made public. Available online¹⁹¹ are only selected decisions of lower courts and the decisions of the Czech Supreme Court. Within the search tools the discrimination disputes could be found but they are not classified in terms of discrimination grounds. Nevertheless, according to the online search there are no decisions of lower courts listed under "discrimination" and there are 13 decision of the Supreme Court concerning discrimination so far. No decision concerns discrimination on the ground of ethnic origin or religion in employment.¹⁹²

Legal practitioners generally do not recommend victims of discrimination initiate court proceedings. Court proceedings are perceived as a last option¹⁹³ and mediation or out-of-court settlements are more common (approximately three quarters of discrimination disputes are settled out of the court).¹⁹⁴ This, however, limits the development of case-law and awareness of discrimination in the society as mediation and out-of-court settlements are usually not made public. Another major problem is the length of the court proceedings. Anti-discrimination disputes are complicated and can take several years. The victims of discrimination are also discouraged by the unpredictability of these disputes, the results of which often depend on the judge or court handling the case.¹⁹⁵ The anti-discrimination legislation is relatively new and judges, as well as legal practitioners, have little experience in resolving these disputes. There is no case-law, no practice in deciding these cases or precedent decisions.¹⁹⁶ Legal practitioners often experience negative attitudes from judges when dealing with discrimination disputes which tend to perceive victims taking legal actions against discrimination as trouble-makers. Moreover, victims taking legal action against discrimination often

¹⁸⁶ Czech Helsinki Committee, *Antidiscrimination Act after two and half years – is it effective in practice?*, 19. 3. 2012.

¹⁸⁷ More recent data are not available.

¹⁸⁸ Czech Helsinki Committee, *Report on Human Rights Conditions in the Czech Republic in 2011*, Prague, 2012, p. 9.

¹⁸⁹ Ibid.

¹⁹⁰ Eva Fialová, Kristina Koldinská, Linda Sokačová, Martina Štěpánková, *Neviditelný problém. Rovnost a diskriminace v praxi*. Gender Studies, 2010, p. 35.

¹⁹¹ http://www.nsoud.cz/Judikaturans_new/judikatura_vks.nsf/webSpreadSearch

¹⁹² <http://www.nsoud.cz/Judikatura/>

¹⁹³ Tejnorová, M., *Diskriminační jednání při hledání zaměstnání*, Romea, 20. 5. 2013.

¹⁹⁴ Fialová, E., Koldinská, K., Sokačová, L., Štěpánková, M., *Neviditelný problém. Rovnost a diskriminace v praxi*. Gender Studies, 2010, p. 35.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid, p. 33.

face stigma which negatively influences their status, not only before the court, but also in the labour market and social environment.¹⁹⁷

Anti-discrimination disputes are difficult in terms of **evidence**. Victims do not know how to gather evidence of discrimination, especially in employment disputes where victims are often left with the witness statements of their colleagues. The lack of persuasive evidence is often the reason behind the decision not to take legal action against the employer.¹⁹⁸ Another disadvantage of taking antidiscrimination actions is that they are **costly**. Besides paying for legal assistance, legal costs in cases of loss can reach several thousand Czech crowns. According to legal practitioners, this can be very discouraging for victims of discrimination. Lawyers also see problems in relatively low **sanctions** imposed on perpetrators. Financial compensation only has reparatory purpose and is relatively low.¹⁹⁹ To illustrate, in two older cases the clients of the Counselling Centre for Citizenship, Civil and Human Rights initiated legal claims against employers on the grounds of ethnic discrimination in access to employment. The victims were awarded 25 000 CZK (ca. 1 000 euro) and 50 000 CZK respectively.²⁰⁰

Due to the complexity of anti-discrimination disputes, lawyers strongly recommend that victims secure **legal representation**. As there is no separate act on free legal aid in the Czech Republic, the system of free legal aid is scattered in various legal norms and is intricate.²⁰¹ Consequently, access to free legal aid before initiating the court proceedings is very limited. The victims of discrimination can only turn to counselling legal centres operating under the Czech Bar Association, law faculties, trade unions or NGOs. After initiating court proceedings, the victim can request the court obtain legal representation for free or for a reduced fee. The court decides on the basis of the financial circumstances of the victim.

The Anti-discrimination Law does not allow non-governmental organizations initiate lawsuits on behalf of a discriminated group (class action or *actio popularis*). Such a possibility would help NGOs tackle obvious discrimination in areas where it is extremely difficult to find or persuade victims of discrimination to bring legal action (typically in education, healthcare, labour market, and housing). The *actio popularis* in discrimination matters proved to be a good tool to tackle discrimination and its introduction is strongly recommended.

4.2.2 Non-judicial remedies

4.2.2.1 Ombudsman or equality body

The Ombudsman (officially called the Public Defender of Rights) has been the national equality body since 2009. The Ombudsman shall contribute to the promotion of the right of equal treatment for all persons regardless of their race or ethnic origin, nationality, sex, sexual orientation, age, disability, religion, and beliefs or opinions.²⁰² Individuals have the right to address the Ombudsman with complaints related to discrimination, free of charge. The Ombudsman addresses the case from a legal point of view, states whether discrimination occurred according to his observations and suggests a

¹⁹⁷ Ibid.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Hubálek, M., Štěpánková, M., Zamboj, L., *Trh práce a diskriminace*, Counselling Centre for Citizenship, Civil and Human Rights, Prague, 2008, pp. 62-64.

²⁰¹ <http://www.bezplatnapravnipomoc.cz/soucasny-stav/>

²⁰² Act No. 349/1999 Coll. on the Public Defender of Rights, Section 21b

possible further course of action. The Ombudsman also provides methodical assistance to victims of discrimination when taking court action against discrimination. Besides handling individual complaints, the Ombudsman's Department of Equal Treatment makes recommendations (intended for the general public) and statements (intended for the experts) and carries out research in the area of equal treatment.

The assessment of statistical information on discrimination complaints in employment is limited by primarily two factors: the Ombudsman's statistics do not reflect the actual number of discrimination complaints as, according to the internal filing system, complaints could be registered differently (e.g. work and employment rather than solely discrimination). The second factor is the duration of the proceedings which limits an accurate assessment of the success of complaints.²⁰³

In the reporting period, the Office of the Ombudsman received 215 complaints about discrimination in general (from the overall 8 433 complaints).²⁰⁴ From this number, the Ombudsman received eight complaints about discrimination falling into the category of *employment and work administration* (from the overall 423 complaints in this area) and 83 complaints regarding *work and employment* (including business).²⁰⁵ These complaints lasted an average of 6.5 months.²⁰⁶

Out of 83 complaints on *work and employment* discrimination, the Ombudsman found direct discrimination in two cases and indirect discrimination in one case (no harassment was found). None of these cases concerned discrimination on the bases of race, ethnicity or nationality. Both cases were of direct discrimination and concerned treatment of persons with disabilities in relation to their employment, specifically, termination of employment on the ground of HIV infection, and no possibility of the agency employment for persons with disabilities. The case of indirect discrimination concerned the availability of pregnant women or mothers to employment (post-doctoral grants).²⁰⁷

Out of 8 complaints registered under the *employment and work administration*, four were filed by women and another four by men. Two complaints were filed by foreign nationals. As to the age profile of the complainants, one complaint was filed by a person aged between 19-30, three complaints by persons aged between 31-60, one complaint by a person older than 61 (in three complaints information on age was not available).²⁰⁸

The Ombudsman also issued a few reports from investigations of the alleged discrimination in employment on the basis of ethnic origin, in which no discrimination was found. As an illustration of negative cases, the summaries of these cases are included:

Mrs. X. addressed the Ombudsman with a complaint of discrimination in access to employment on the grounds of age and ethnicity. She stated she is 54 years old, of Roma origin, has a university education, had recently attended several job interviews but had found it difficult to find employment. She supposed the reasons for these difficulties were her age and ethnic origin. In the course of an

²⁰³ Petr Polák, Director of Department of Equal Treatment, Office of Ombudsman, interview, 10. 7. 2013, Prague and subsequent communication.

²⁰⁴ Public Defender of Rights, *Informace o činnosti za druhé, třetí a čtvrté čtvrtletí roku 2012, a první čtvrtletí roku 2013*, Brno 2012 and 2013.

²⁰⁵ Public Defender of Rights, internal statistical data (1 March 2012 – 31 March 2013), response to the request for information, 10 July 2013.

²⁰⁶ The data about success and duration for the area of employment and work administration are not available.

²⁰⁷ Public Defender of Rights, *Závěrečná zpráva o šetření. Poskytování postdoktorských grantů - rovné příležitosti mužů a žen v oblasti vědy a výzkumu*, Brno, 23. 1. 2013.

²⁰⁸ Public Defender of Rights, internal statistical data (1 March 2012 – 31 March 2013), response to the request for information, 10 July 2013.

*inquiry, potential employers submitted credible evidence that Ms X. had been rejected due to a failure to meet the qualification prerequisites for the positions applied for. The ombudsman therefore concluded that the suspicion of discrimination was not confirmed.*²⁰⁹

*The Ombudsman conducted an investigation on behalf of a complainant objecting about ethnic discrimination at his workplace. Discrimination was claimed to be unequal remuneration and dislocation to a more distant worksite. The case was investigated by the Labour Inspectorate who did not find any error in the practice of the employer. Based on the investigation carried out by the Ombudsman, it was not possible to prove the discrimination against the employee, however, the ombudsman called upon the Labour Inspectorate to make a correction, since the Inspectorate did not proceed in a legally and procedurally suitable way.*²¹⁰

The institution of the ombudsman is highly-regarded and also perceived as being rather activist. The Office of the Ombudsman is divided into several departments and employs experienced and motivated lawyers. There are no issues as to its transparency or independence. The growing number of people turning to the ombudsman means that it requires an increase of funding and capacity.

The anti-discrimination agenda is vested in the Department of Equal Treatment which is relatively new and consists of five lawyers. Although the number of discrimination complaints is still relatively low, the department is active in the field of awareness-raising and prevention of discrimination. The lawyers give lectures at workshops and seminars for professionals, legal practitioners and students in different regions. An effort is made to deal with structural problems by organizing roundtables, consisting of representatives of different state institutions, legal practitioners and non-governmental organizations. The Department of Equal Treatment concluded a memorandum of cooperation with the State Labour Inspectorate with the aim of exchanging information and organizing seminars on how to discover and investigate discriminatory practices in employment.

As a follow up to the situation testing on discriminatory practices in job advertisements, the Office of the Ombudsman, in cooperation with the job advertising company LMC, organized a series of workshops for professionals in human resources.²¹¹ The workshops took place in different regions and were lectured by lawyers working at the Department of Equal Treatment. The workshops are part of the information campaign named "Fair recruiting", launched by the LMC. The campaign aims to inform employers about unacceptable discrimination practices in recruitment and includes an information website with practical examples of fair and unfair practices.²¹² The Office of the Ombudsman also cooperates and supports NGOs in performing situation testing to uncover and tackle discriminatory practices.

The Office of the Ombudsman encourages victims of discrimination to take the necessary legal steps. In this regard, the Office of the Ombudsman established cooperation with the civil association, Pro bono alliance, which arranges pro bono legal assistance to victims of discrimination.²¹³ The victims of

²⁰⁹ Public Defender of Rights, *Zpráva o šetření. Diskriminace v oblasti přístupu k zaměstnání založené na věku a etnicitě*, Brno, 6. 12. 2012.

²¹⁰ Public Defender of Rights, *Zpráva o šetření. Diskriminační jednání zaměstnavatele a obtěžování na pracovišti*, Brno, 28. 3. 2011.

²¹¹ Petr Polák, Director of Department of Equal Treatment, Office of Ombudsman, interview, 10. 7. 2013, Prague.

²¹² LMC, "FÉROVÝ NÁBOR aneb Inspirace, jak lépe zadávat pracovní inzerci", <http://www.lmc.eu/o-nas/ferovy-nabor/>, last accessed on 30. 8. 2013.

²¹³ Public Defender of Rights, "Possibilities of free legal aid to victims of discrimination", <http://www.ochrance.cz/en/discrimination/assistance-to-victims-of-discrimination/free-legal-aid-to-victims-of-discrimination/>, last accessed on 30. 8. 2013.

discrimination can use the assistance of pro bono lawyers to bring a court or administrative action. So far, the cooperation has rendered two successful cases; both were concluded by an out-of-court settlement.²¹⁴ As part of this cooperation, a series of workshops, directed at finding legal solutions to discrimination, was organized in various regions and lectured by the lawyers from the Ombudsman Office. These workshops were intended for lawyers and legal practitioners.

4.2.2.3 Labour inspectorate

As of 2012, the majority of powers related to employment issues were transferred from *labour offices* to *labour inspectorates*.²¹⁵ The transfer of powers extended the competences of the labour inspectorates to monitor and check the equal treatment conditions not only in the existing labour relations between employees and employers, but also on the relations between potential employers and job seekers.

The labour inspectorates' competences comprise of unannounced on-the-spot checks and announced controls by employers, including follow-up controls of reported cases of discrimination or unequal treatment in employment. Furthermore, the labour inspectorates are obliged to either correct the misconduct through mediation and to require employers to remedy the situation within a stipulated time frame. In case of no improvement on the side of the employer, the labour inspectorate is competent to impose sanctions.

The labour inspectorates impose financial sanctions on employers mostly in the context of irregular work and violations of labour law regulations. The data on the number of controls, violations and sanctions are not desegregated as to the discrimination on the grounds of race or ethnic origin,²¹⁶ therefore it is not possible to find out how many investigations of discrimination in employment were conducted.

The 2010 and 2011 annual reports of the State Labour Inspectorate mention complaints of Bulgarian and Romanian workers in the forestry. In some cases, inspectorates found violations of labour law regulations (wages not corresponding to the complexity of work, travel expenses included in the wage, etc.) but took no action because the employer could not be tracked.²¹⁷

The annual program of monitoring actions set up by the State Labour Inspectorate in its annual report does not include clear action to tackle discrimination. Various sources suggest that labour inspectorates do not function well in tackling discrimination. In some cases the labour inspectorates carry out their monitoring checks in an inefficient or negligent way.²¹⁸ A complainant who turned to the labour inspectorate reflected on the fact that she never received any answers regarding the outcome of the investigation.²¹⁹ Practitioners from NGOs have similar experience: labour inspectorates do not know what to do with discrimination cases and how to conduct investigations. They focus more on irregular work and safety in employment.

²¹⁴ Public Defender of Rights, "Cooperation of the Public Defender of Rights with Pro bono alliance shows first signs of success", 27. 5. 2013.

²¹⁵ By the amendment of the Act No. 435/ 2004 Coll. on Employment, effective of 1.1.2012.

²¹⁶ E.g. in the 2010 Annual Report of the State Labour Inspectorate, data are desegregated in terms of gender discrimination. State Labour Inspectorate, *Zpráva o činnosti Státního úřadu inspekce práce za rok 2010*, May 2011, pp. 55 et seq.

²¹⁷ State Labour Inspectorate, *Zpráva o činnosti Státního úřadu inspekce práce za rok 2010*, Opava, May 2011, p. 19; State Labour Inspectorate, *Zpráva o činnosti Státního úřadu inspekce práce za rok 2011*, May 2012.

²¹⁸ Czech Helsinki Committee, *Report on Human Rights Conditions in the Czech Republic in 2011*, Prague, 2012, p. 6.

²¹⁹ Fialová, E., Koldinská, K., Sokačová, L., Štěpánková, M., *Neviditelný problém. Rovnost a diskriminace v praxi*. Gender Studies, 2010, p. 43.

The Office of the Ombudsman in one particular case also pointed out that the practices of the labour inspectorates when investigating discrimination in employment are insufficient.²²⁰ The Ombudsman emphasized that the investigation of the alleged discriminatory conduct of the employer was insufficient, as the inspectors performed insufficient interviews in terms of content and the number of persons. In that particular case referred above, the Ombudsman concluded that it is unlikely that the manager will affirmatively answer the question *'Do you think that your behaviour can be perceived as bossy or harassing?'*. The Ombudsman also pointed out that it is not enough to interview only the employer but, if possible, other employees at various job positions should be also interviewed.

4.3 Civil society initiatives

4.3.1 Trade Unions

Although trade unions officially declare the principle of anti-discrimination as one of their main priorities, their efforts to tackle discrimination in employment are limited mostly to gender equality, social dialogue and age discrimination. The Czech-Moravian Confederation of Trade Unions issued a leaflet which informed employees of gender equality in employment and contained basic information on discrimination, equal opportunities and rights of victims of discrimination.²²¹ Generally, the attitude of Czech trade unions to the employment of foreigners is rather negative and trade unions tend to support the protectionist model of the labour market.

4.3.2 NGOs activities

NGOs play a crucial role in tackling discrimination in employment both in terms of awareness raising and prevention, as well as in providing assistance to victims of discrimination.

Activities of NGOs working with Roma minority

Examples of NGOs that are active in the field of discrimination of the Roma minority are the *Counselling Centre for Citizenship, Civil and Human Rights*, the *IQ Roma Service*, *Konexe*, *vzajemné soužití* ("Mutual Co-existence") and the *Romodrom*. Important work in terms of the employment of the Roma minority is done by a number of local low-threshold and community social services which work directly with families and individuals from socially excluded areas. The NGOs working with the Roma minority carried out several projects and campaigns directed at better access to employment of Roma minority. Among these projects are:

- ***Nationwide campaign: "Romani people work and want to work"***

The organisation *IQ Roma Service* launched a campaign that aims to draw attention to the continually deteriorating attitude of the Czech public toward Romani people. The project is responding to the situation in which Roma are continually forced to face discrimination and the humiliation of being the targets of collective, negative stereotypes, such as the idea that Romani people do not work, live only on welfare, do not want to work, are not reliable workers, etc. The campaign uses jokes, paradoxes, and positive, pragmatic arguments made by persons from the Roma community. The campaign is conducted through advertisements on the internet, outdoor contact

²²⁰ Public Defender of Rights, *Zpráva o šetření: Diskriminační jednání zaměstnavatele a obtěžování na pracovišti*, Brno, 28. 3. 2011.

²²¹ ČMKOS, „Leták výboru ČMKOS pro rovnost příležitostí žen a mužů“, 30. 7. 2013.

events, and public transportation. The campaign is mainly targeting the broad public. A key component of the campaign is the website, which updates new stories on working Romani people and jobs advertisements, and introduces the concept and visuals of the campaign.²²²

- ***Ethnic Friendly Employer***

The project Ethnic Friendly Employer is a reaction to the persistent employment discrimination against ethnic minorities in the Czech Republic, especially (but not only) against the Roma. Ethnic Friendly Employer is a brand that awards those employers who declare their support for the equal treatment of the ethnically different population and fulfil this principle on a long-term basis in practice. The project aims at the creation and development of those parts of corporate culture that ensure equal treatment conditions at work as well as at labour recruitment not influenced by bad stereotypes regarding people of different ethnic origin.²²³ Until December 2012, more than 2000 employers were nominated for the brand. 58 employers were awarded.²²⁴ The project is realized by the IQ Roma Service.

Activities of NGOs assisting migrants

The examples of NGOs active in assisting migrants are the *Organization for Aid to Refugees, Association for Integration and Migration, InBaze, META - the Association for Opportunities of Young Migrants, Counselling Centre for Integration, SOZE, and European Contact Group.*²²⁵ Their main activities are legal and social assistance, awareness raising, individual support and various projects directed at better access of excluded groups to the labour market. Examples of these projects are:

- ***Labour Offices and NGOs Project***

The Association for Integration and Migration runs a large project focused on eliminating problems connected with the social integration of third country migrants who are or will be active on the labour market in the Czech Republic. In particular, different language and socio-cultural backgrounds are the biggest obstacles for migrants in seeing assistance of state organs when having problems in employment. They often rely on intermediaries who often abuse their vulnerable situation. As one of the possible solutions of tackling problems of migrants in employment, the project aims to strengthen the cooperation of non-profit organisations with labour offices. The project consists of qualified legal and social counselling, roundtables, seminars for foreigners, campaign focused on domestic workers, scholarly publication and documentary film. Theoretical outputs in the form of comparative publications and examples of good practice are thus used by all of the project's target groups, by other NGOs or labour offices.²²⁶

- ***Foreign workers on the labour market – work injuries, occupational diseases and discrimination***

The Association for Integration and Migration in cooperation with the Organization for Aid to Refugees and Multicultural Centre Prague launched a project directed at equal rights for foreign workers and enhancing their safety in the workplace. The issue of work safety for foreigners is presented to the public through scholarly publications, case studies from the field, a special web platform, as well as a manual for foreigners and professions. Of no lesser importance there are public

²²² <http://mypracujeme.cz/>

²²³ <http://www.ethnic-friendly.eu/english>

²²⁴ Ibid.

²²⁵ The migrants NGOs are associated in the Consortium of Migrants Assisting Organizations in the Czech Republic: <http://konsorcium-nno.cz/>.

²²⁶ <http://www.migrace.com/en/work/kampan>

debates, foreign internships and seminars, and international conferences. Representatives of state administration, politicians, trade unions and other entities which can influence Czech legislation and migration policy will be familiarised with the results of this joint initiative of the non-profit sector. Special emphasis is placed on female foreigners on the labour market, who are in an even weaker position compared to the others.²²⁷

- ***Foreigners as community interpreters***

META, the Association for Opportunities of Young Migrants, launched a project of free community interpreters. The aim is to support the employment of foreigners from third countries with permanent residence in three selected regions. The project is supported by a total of 100 clients and creates positions of community interpreters in migration NGOs. The entire target group receives support during the project (individual employment counselling, in justified cases, balance diagnostics, individual and group training in presentation skills communicatively). The interpreters have to follow the Ethical code that consists of the specific and general rules of the profession in the organization.²²⁸

- ***Do you know who cleans your place?***

The project focusing on female migrants working in Czech households aims at providing these women with equal opportunities and rights and drawing attention of the public, media and policy makers to their situation. A specialist research into the paid work of female migrants in households is conducted as part of the project. The project also provides free social and legal counselling, collaboration with employers or offers up-to-date information. As part of the campaign, there is a prepared video spot for the public about domestic workers, informational brochures for foreigners, graphic video spot for foreigners and the website.²²⁹ The project is realized by the coalition of NGOs.

- ***The Support of Muslim Women***

The project aims to support women that are disadvantaged and vulnerable in the labour market, when trying to obtain jobs or self-employment. The target group are the unemployed foreign women from traditional Muslim communities living in the Czech Republic. The project tries to assist them and their husbands in entering the labour market. It provides a thorough informational service including working and legal counselling services. The project provides for the intensive cooperation with employers, relevant institutions, NGOs working with foreigners or Muslim communities in the country. The participants are involved in many educational activities – Czech language courses, PC courses or requalification courses, and training workshops. The project is realized by Counselling Centre for Integration.²³⁰

4.3.3 Other civil society initiatives

Social enterprises are a specific form of assisting disadvantaged groups in gaining employment. The social entrepreneurship is officially supported by the Agency for Social Inclusion as one of the tools of fighting long-term unemployment.²³¹ The social enterprises can get financial support from the grant programs operating by the various ministries, as well as from external resources or discounted bank loans. The social enterprises, which support employment of long-term unemployed people from socially excluded areas, are not yet widespread in the Czech Republic. For example, two social

²²⁷ <http://www.migrationonline.cz/en/about-us/current-projects/foreign-workers-in-the-labour-market>

²²⁸ <http://www.meta-os.cz/pic/134-sluzby-pro-cizince-komunitni-tlumoceni.aspx>

²²⁹ <http://www.pracovnicevdomacnosti.cz/en>

²³⁰ <http://p-p-i.cz/Projekty/>

²³¹ <http://www.socialni-zaclenovani.cz/podpora-podnikatelskych-aktivit-v-socialne-vyloucenych-lokalitach>

enterprises were set up in 2011 in the town of Odry: construction firm Stavzem, and AC AERO focusing on gardening and adaptation of public spaces.²³²

4.4 Individual employers' initiatives

The NGO Gender Studies organizes every year a competition "Company of the Year" giving awards to businesses with innovative approach towards equal treatment.²³³ Large and/or international companies operating in the Czech Republic have already implemented strategies to support equal opportunities in employment. Their efforts are primarily directed at gender equality, age discrimination and equal opportunities for people with disabilities.

The program of the nationwide bank Česká spořitelna "Diversitas" is an active effort of diversity management. The program is focused mostly on promoting equal opportunities in employment on the grounds of gender, age and disability.²³⁴ The program also includes workshops and mentoring for women and propagation of stickers stating *No discrimination zone*.²³⁵

5. Conclusions and recommendations

5.1 Political and societal developments related to racism and discrimination

It is possible to identify both a number of positive aspects very disturbing trends concerning the situation of discrimination in employment in the Czech Republic. With regards to the positive aspects, it is important to say that there is no major political party that would openly advocate for racist policies. Even though there are very widespread negative attitudes towards Roma, it seems at the same time that the Czech electorate has been more immune to the racist discourses of extremist parties than in many other European countries; with the only exception of the new Political Party Dawn of Direct Democracy of Tomio Okamura.²³⁶ Most established national politicians tend to be "neutral" (and at the same time inactive) on the issue of Roma integration. While avoiding the direct exploitation or even stirring of negative emotions towards Roma, they do not openly take a clear side in the increasingly common conflicts between Roma and right-wing extremists. It has not always been like this. During the 1990s and early 2000s, when there was still a large number of people from the former dissident movements active in politics, there used to be a number of public figures, including the former president Vaclav Havel, who would condemn racist acts very clearly.²³⁷ Today such voices are not entirely missing, but they are not really heard from high-ranking government

²³² Denník.cz, „Sociální podniky pomáhají dlouhodobě nezaměstnaným“, 14. 6. 2013.

²³³ Gender Studies, *Firma roku*. Rovné příležitosti, [http://rovneprilezitosti.ecn.cz/rocnik.shtml?als\[ROK\]=2012&als\[PHL\]=2751](http://rovneprilezitosti.ecn.cz/rocnik.shtml?als[ROK]=2012&als[PHL]=2751), last access 28. 8. 2013.

²³⁴ Gender Studies, *Diverzita jako konkurenční výhoda v byznysu*, Budway Strobach, V., 31. 8. 2012.

²³⁵ iDnes.cz, "Firmy proti diskriminaci žen nasadily samolepky a genderově korektní jazyk", Hovorková, K., 27. 12. 2011.

²³⁶ http://en.wikipedia.org/wiki/Czech_legislative_election,_2013.

²³⁷ For instance Vaclav Havel's engagement in the case of the wall in Matiční street in Usti nad Labem in 1998: the commune built a wall separating a problematic Roma neighbourhood, see http://zpravy.idnes.cz/ustecka-zoo-pokrtila-plot-z-maticni-db4-/domaci.aspx?c=A000720131648domaci_mhk.

representatives. In addition to this, anti-Roma-sentiments are quite often (and often successfully) exploited in local and regional elections.²³⁸

After long political debates, the Czech Republic issued in 2009 its Anti-discrimination Act. From a formal point of view, the Czech Republic met the international and European standards. However, the euro-sceptic conservative government saw the introduction of this Act not as a benefit to Czech society, but rather as one of the costs that has to be paid for EU membership.²³⁹ In accordance with this view, the introduction of the Anti-discrimination Act was not accompanied by larger efforts of public outreach. The attitude towards the Act can be taken as being symptomatic of the country's relationship to human and especially minority rights, which are often perceived as something introduced by western institutions that might be well-intended, yet unrepresentative of the real issues at stake in the Czech Republic. This feeling is particular widespread when it comes to the question of the Roma minority, to whom many Czechs hold very negative attitudes.

While for a long time there was the expectation that attitudes towards Roma would improve over time thanks to education, better public policies and open public discourse, the developments of the last few years seem to indicate a dangerous tendency towards the opposite. There are a number of reasons for this: first, government policies towards the integration of Roma are half-hearted at best. While there have been some interesting (and at least partly successful) efforts, such as the creation of the Agency for Social Inclusion, which supports municipalities in developing strategic concepts for social inclusion, even members of the former government admit that little was achieved on a truly systemic level.²⁴⁰ Secondly, the worsening of the economic situation and the introduction of austerity measures in the social sector negatively affected both Roma and the majority population. This certainly is one reason for the outburst of local conflicts in a number of municipalities, which were in some cases followed by large citizen protests against so-called "Gypsy crime".²⁴¹ The most notorious case was the riots in the Šluknov region during the summer of 2011, which is a rather densely populated area close to the German and Polish border with high unemployment and a sizable Roma minority. Right-wing extremist organisations are increasingly trying to exploit local tensions by organizing "anti Roma protests" in many municipalities all over the country. In some cases, the skinheads were joined by local citizens. There have also been counter-protests, which were organized by the local Roma and supported by activists from various political groups.

It can also be mentioned that a special governmental body named Agency for Social Inclusion continued its work and deals mainly with the problem of housing segregation.²⁴² The Agency has no executive powers and can be described rather as a public project with several dozen of employees.

As for migration policy, the strategy of the Ministry of Interior has remained the same since January 2011 as this office has taken over the vast majority of the immigration agenda from the Aliens Police: labour migration has almost stopped, the number of new entries of foreigners who have the legal entitlement to obtain a stay permit based on EU law (family members, students) is held as low as

²³⁸ For example parts of the Czech Social Democratic Party used in the 2010 communal elections campaign quite problematic slogans, see <http://nerasismu.cz/nase-clanky/z-domova/komunalni-volby-xenofobie-verejneho-mineni>. But also all other Czech mainstream political parties have important members who use anti-Roma sentiments: Ivana Rapkova, mayor of Chomutov from ODS, Liana Janacova mayor of a part of Ostrava, Jiri Cunek, Mayor of Vsetin from KDU-CSL etc.

²³⁹ See the discussion in the Czech Parliament: <http://www.psp.cz/sqw/historie.sqw?o=5&t=253>.

²⁴⁰ Former Human Rights Minister Michael Kocab, see <http://zpravky.ihned.cz/c1-52886660-kocab-do-socialnich-problemu-malo-investujeme-muzeme-na-to-seredne-doplatit>

²⁴¹ See Czech Helsinki Committee, *Report on Human Rights Conditions in the Czech Republic 2012*, available at: http://helcom.cz/w/wp-content/uploads/2013/09/ZLP_2012.pdf, pp. 13, 14, 47.

²⁴² <http://www.socialni-zaclenovani.cz/>

possible, and the process of changing the long-term residence status into the permanent one is made more difficult (this can be seen in the situation of thousands of migrants who came to Czech Republic during the time of economic growth from 2004 till 2008, “survived” the repellent politics towards migrants during the crisis, have completed the 5 years of stay and are therefore required by EU law to acquire the status of permanent residence).

5.2 Conclusions and recommendations

On the national political level, the parliamentary elections of October 25th and 26th 2013 lead to a coalition of the Social Democratic Party, the Christian-Democratic Union and the new political movement of the Czech-Slovakian oligarch in the food and media industry, Andrej Babiš.. For the topic of anti-discrimination it is important that the Social Democrats plan to introduce a bill on social housing, which would help the Roma and other socially disadvantaged communities in the respect of housing. As the Ministry for Regional Development has been blocking the preparation of such a bill for many years while proposing substandard hostel-type accommodations as a solution to the housing needs of poor people, it will be very important to see whether the Ministry will change the course under the new government.

In the field of migration policy, 2 legislative initiatives should be mentioned:

1) Improvement of the data collection mechanism

Data collection mechanisms have to be improved, for example:

- despite the current low naturalization numbers, the Czech Republic should be prepared for the situation that naturalized migrants will “fall out” of the statistics mapping the labour situation of migrants; therefore the information on the place of birth (or even a place of birth of the parents) should be collected, analysed and made accessible, and
- data on the use of the means of legal protection against discrimination should be accessible, e.g. numbers of court actions (today they are statistically not distinguished from other civil actions), complaints to the labour inspectorates about discrimination, etc.
- while it would be contra-productive to gather information on the assumed ethnicity of citizens belong to such categories such as unemployed, recipients of state support, job candidates, etc, it would be essential to gather more precise estimates on the basis of the research of samples. Such data gathering should be part of a systematic effort to monitor (and eventually reduce) discrimination.

2) Adoption of the law on free legal aid

The Law on State Guaranteed Legal Aid should be passed, which could improve access to justice in discrimination matters. The current system of legal aid, in which all competencies are with the courts, does not seem to be effective, especially in the field of pre-trial legal counselling. Another topic is the problem of the costs of the antidiscrimination proceedings: the threat that the unsuccessful plaintiff will pay the costs of the legal representation of the defendant discourages many victims of discrimination from taking any active legal steps. This barrier could be solved by amending the current rules and including a provision providing that a combination of poverty and public interest reasons allow for there to be an exemption from the duty to pay the costs of proceedings.

3) Further development of antidiscrimination legislation

The Anti-discrimination Law should be further elaborated and extended: the list of grounds for discrimination should be expanded, the Public Defender of Rights (Ombudsman) should be given greater powers (to provide direct legal aid, mediation, right to investigate discrimination complaints) and NGOs should be more integrated into the public anti-discrimination efforts (class action, mediation etc.).

4) Adoption of the Act on Social Housing

The absolute urgency is the passing of the Act on Social Housing to prevent further growth of socially excluded localities, as housing segregation makes a crucial contribution to the bad position of Roma on Czech labour market. This law should contain legal entitlement to obtain housing for those who cannot succeed in the mainstream housing market and the deliberate policy of “dispersal” of people needing social housing among standard housing localities.

5) Reversal of restrictive policies towards migrants

As for the specifics of migrants on the labour market, migrants should be acknowledged as a vulnerable group on the labour market and specific programmes for their integration should be launched. The mechanisms of recognition of foreign education should be improved and the abuse of a recognition mechanism for the labour market control must be stopped. However, the biggest task in the field of migration is to stop the policy of involuntary temporary labour migration, as the current provisions that were designed to prevent migrants from staying permanently, are effectively hindering them from integrating in the Czech society. The authorities should also change its attitude towards those groups of migrants whose integration today is considered undesirable (e.g. asylum seekers) or whose integration today fell out of the eligibility criteria of EU funding (e.g. EU citizens using their right to free movement), and open a real integration possibility for all long-term residing migrants (at best also including a possibility of regularization of third country nationals in irregular situation), for instance by changing the funding policy.

6) Provision of work opportunity for Roma and other disadvantaged groups

Focusing in particular on poorer regions with high unemployment, the government should be more active in offering employment in the framework of its active labour market policies. The current programmes should be modified in ways that would allow to create more permanent types of employment and to realize more training programmes for workers. Particular focus should be on the labour market situation of young people who have no or limited work experience. The remuneration system should be set in a way that guarantees that accepting a job will lead also in the case of households with children to a significant improvement of their income (if compared with income from welfare payments). In order to achieve this important goal, other measures (e.g. lowering of tax burden for low income positions, financial aid for commuting) might be necessary.

7) Systematic focus on educational careers of teenagers from disadvantaged backgrounds

The low educational performance of many Roma and also other children from weak social family backgrounds is a fundamental problem, as there will be less and less demand for unskilled labour. It is essential to systematically address this problem through the combination of a number of measures:

a) substantial increase of the enrolment in pre-school education through suitable measures such as (1) right to kindergarten place, (2) provision of pre-school education free of charge, (3) mandatory last year of kindergarten

b) abolishment of special schools for children with mild learning disabilities and integration of these children in regular schools;

c) elimination of financial barriers to secondary education by creating a working scholarship programme, which would cover costs for living and study in case of children from poorer families. The programme should be designed in a way that guarantees that teenagers choosing to continue with their education will be better off financially than those being unemployed and relying on state support.

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