MINISTRY OF JUSTICE

Office of the Agent of the Czech Government before the European Court of Human Rights

Follow-up to the decision of the European Committee of Social Rights in case no. 148/2017
International Commission of Jurists (ICJ) v. Czech Republic
Report submitted by the Czech Government on 4 September 2026

I. INTRODUCTION

On 20 October 2020, the European Committee of Social Rights ("the Committee") ruled, in the case of a collective complaint lodged by the International Commission of Jurists ("the ICJ") against the Czech Republic, that the Czech Republic was in violation of Article 17 of the European Social Charter ("the Charter") by failing to provide children under the age of 15 with sufficient procedural rights in proceedings for an otherwise criminal act. The Committee upheld two of the complainant organisation's allegations, finding unanimously that:

- there was a violation of Article 17 of the Charter due to the failure to ensure mandatory legal assistance for children below the age of criminal responsibility in the pre-trial stage of proceedings;
- there was a violation of Article 17 of the Charter due to the failure to provide alternatives (diversion) to formal judicial proceedings for children below the age of criminal responsibility.

As to the remaining allegations made by the complainant organisation, the Committee found no violation of the Charter.

On 16 June 2021, the Committee of Ministers of the Council of Europe adopted Recommendation CM/RecChS(2021)15. Having regard to the response submitted by the Government, on 23 January 2021, to the Committee's decision (DD(2021)74), the Committee of Ministers recommended that the Czech Republic:

- pursue the work already initiated and take all necessary legislative and institutional measures to ensure mandatory legal assistance for children below the age of criminal responsibility in the pre-trial stage of proceedings;
- take any appropriate measures to provide alternatives (diversion) to formal judicial proceedings for children below the age of criminal responsibility, observing the child's human rights and best interests;
- indicate the actions taken to comply with this recommendation in the next report on follow-up to decisions in collective complaints.

On 28 March 2024, the Government submitted a Follow-up Report in which they described an amendment to the Juvenile Justice Act enacted as Act No. 165/2024 Coll., that was supposed to respond to the shortcomings identified in the above-mentioned decision. According to the amendment, a child under the age of 15 is mandatorily represented at all stages of proceedings, including at the stage preceding proceedings before the juvenile court. The amendment also enshrined an array of alternative approaches to the child's case being heard in a formal court hearing.

On 23 May 2025, the Government received the findings of the Committee on their Follow-up Report to the complaint. The Committee found that:

(A) the situation has been brought into conformity with Article 17 of the 1961 Charter with respect to the failure to ensure mandatory legal assistance for children below the age of criminal responsibility in the pre-trial stage of proceedings;

(B) the situation has not been brought into conformity with Article 17 of the 1961 Charter with respect to the failure to provide alternatives (diversion) to formal judicial proceedings for children below the age of criminal responsibility.

The Committee provided the following explanation of point (B) of its findings:

'*The ECSR notes that the public prosecutor has an option not to bring the case to the juvenile court provided that any of the conditions referred to in Article 89j are met. However, this discretion arises in a limited range of circumstances, and it does not appear to qualify as diversion of children from formal proceedings as required by the ECSR's decision in this case. The ECSR recalls that diversion should be the preferred manner of dealing with children in the majority of cases and diversion options should be available from as early as possible after contact with the system, before a trial commences, and throughout the proceedings (see decision on the merits, § 117).*'

On 31 October 2025, the Government submitted a Follow-up Report in which they described an amendment to the Juvenile Justice Act of 2025 which further expands the cases in which diversion from formal court proceedings should be used. Currently, diversion is available to the public prosecutor as an option. According to the amendment, the public prosecutor will be obliged to use informal procedures if any of the reasons set out in the Juvenile Justice Act are met. Moreover, there shall be enacted a guiding principle stating that it is necessary to consider whether the matter can be dealt with in a way other than bringing such a person before a court.

The present Report is intended to inform the Committee of Ministers of practice regarding the juvenile justice system, which reflects the practical impact of the measures adopted in response to the decision in *ICJ v. the Czech Republic*. It also provides information on the measures undertaken since the last Report was submitted and on the broader system for dealing with misconduct by children under the age of 15 in the Czech Republic.

II. FOLLOW-UP TO THE COMMITTEE'S FINDINGS OF MAY 2025

A. CURRENT PRACTICE REFLECTING THE AMENDMENT

The amendment to the Juvenile Justice Act introduced by Act No. 165/2024 Coll., which enabled a public prosecutor not to file a motion for the juvenile court to impose measures under Section 89j of the Juvenile Justice Act, entered into force on 1 July 2024. Given the relatively short period since the amendment took effect, it is not yet possible to draw comprehensive conclusions regarding its practical impact. Nevertheless, the Government wishes to draw the Committee's attention to the positive trend in the number of proceedings, as reflected in the data presented below.

As can be seen from Chart 1, a certain decline in motions requesting the juvenile court to impose measures was already apparent in 2024 (a motion was filed in 94% of the cases handled by the public prosecutor's office), following a relatively stable period from 2019 to 2023, during which this proportion ranged between 97% and 98%. In 2025, the decline became more pronounced. A motion to impose a measure was filed in only 79% of cases handled by the public prosecutor's office in 2025.

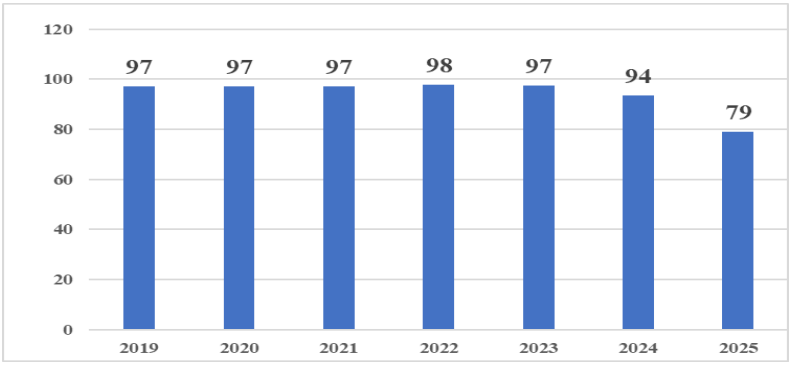


Chart 1 – Percentage of motions to impose measures by the juvenile court out of the total number of cases handled by the public prosecutor's office during the motion phase of proceedings under Title III of the Juvenile Justice Act (children under 15 years of age only)[1]

The amendment introduced by Act No. 165/2024 Coll., which established the option for a public prosecutor not to submit a motion to the court for the imposition of a measure pursuant to Section 89j of the Juvenile Justice Act, has already been partially reflected in changes to the structure of measures imposed under Title III of the Juvenile Justice Act. Chart 2 shows that, in 2024, and especially in 2025, the proportion of cases in which the imposition of a measure was waived declined more noticeably. This indicates that cases in which the juvenile court would ultimately refrain from imposing a measure are increasingly being filtered out before reaching the court. On this basis, it may be concluded that the primary objective of the amendment — to avoid unnecessary court proceedings and the resulting stigmatization of the child — is already beginning to be achieved.

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
waiver of the imposition of measures without a hearing	29,6	32,0	31,6	33,2	29,3	29,7	32,3	32,0	26,0	21,9
an admonition with warning	33,4	34,5	34,5	34,5	37,6	36,8	37,9	33,8	39,2	38,9
an educational obligation	9,3	9,3	10,6	12,5	10,0	11,3	11,6	12,2	12,8	13,5
an educational restriction	0,9	0,5	1,2	0,6	0,1	0,3	0,4	0,5	0,4	0,8
placement in a therapeutic, psychological, or other appropriate educational programme in an educational care centre	8,6	9,3	7,8	7,3	9,0	8,3	7,2	9,0	9,4	9,8
supervision by a probation officer	15,7	12,5	11,8	8,5	10,6	10,9	7,4	9,3	10,3	12,5
protective care	2,4	1,5	2,4	3,2	2,8	2,1	2,8	2,7	1,7	2,3
protective treatment	0,2	0,4	0,1	0,1	0,6	0,7	0,4	0,3	0,3	0,3

Chart 2 – Distribution of measures imposed under Title III of the Juvenile Justice Act, including cases where no measure was imposed, by number of cases, %[2]

The aforementioned data suggest that the amendment introduced by Act No. 165/2024 Coll. is gradually starting to work as intended. For several years, from 2019 to 2023, almost all cases were brought by the public prosecutor before a juvenile court. In 2024, this number began to decrease slightly, and the decline became more noticeable in 2025 (Chart 1).

[1] Statistics compiled by the Institute of Criminology and Social Prevention in April 2026, based on the data of the Ministry of Justice and the Prosecutor General's Office.

[2] Statistics compiled by the Institute of Criminology and Social Prevention in April 2026, based on the data of the Ministry of Justice and the Prosecutor General's Office.

At the same time, there were fewer cases in which the court ultimately decided not to impose any measure. This indicates that public prosecutors are increasingly filtering out cases that do not require court intervention, helping to reduce unnecessary court proceedings and the potential stigmatization of children (Chart 2).

B. THE FORTHCOMING SUPPLEMENTARY AMENDMENT TO THE JUVENILE JUSTICE ACT

The Government note that the issue of the availability of diversion throughout the proceedings (from the child's first contact with the system up to the proceedings before the juvenile court) is covered by existing legislation. If the public prosecutor does not make use of an informal solution to the case and the court concludes that this would have been possible, the court may also decide not to hear the case and make use of diversion. For more detail, please see the subchapter *II. C. 4 Possibility for the court to decide to waive the imposition of measures without a hearing* of the Follow-up Report submitted by the Government on 23 March 2024.

Nonetheless, based on the Committee's findings received on 23 May 2025, the Ministry of Justice drafted, in cooperation with an expert working group, another amendment to the Juvenile Justice Act expanding the possibilities for using diversion from formal proceedings and making diversion the preferred manner of dealing with children. Under the current legislation, the use of diversion by the public prosecutor is discretionary. According to the forthcoming amendment, a guiding principle providing that it is necessary to consider whether the matter can be dealt with in a way other than bringing such a person before a court will be enacted. In line with that principle, the public prosecutor will be obliged to use informal procedures if any of the reasons set out in the Juvenile Justice Act are met. The wording and explanatory memorandum of the amendment are described in detail in the Follow-up Report submitted by the Government on 31 October 2025.

The amendment was later approved by the Government on 10 December 2025 and submitted to the Chamber of Deputies for consideration on 11 December 2025. The amendment is currently awaiting consideration by the Chamber of Deputies. It may be expected that it will be approved by Parliament during the first half of 2027 and will enter into force on 1 July 2027.

III. BROADER SYSTEM FOR DEALING WITH MISCONDUCT BY CHILDREN UNDER THE AGE OF 15 IN THE CZECH REPUBLIC

A. INTRODUCTION

The Government point out that the overall number of proceedings concerning children under the age of 15 under Title III of the Juvenile Justice Act has remained very low over the long term (2025: 1,325; 2024: 1,618; 2023: 1,782). For comparison, the number of court criminal proceedings in adult cases is significantly higher: 55,963 proceedings were initiated in 2025.[3]

This reflects the fact that, under the Juvenile Justice Act, only the most serious otherwise criminal acts committed by children are generally dealt with. In line with the principle of subsidiarity of criminal, or quasi-criminal, repression, the vast majority of misconduct by children under the age of 15 is dealt with by other means, using other legal — less formal — instruments. This approach makes it possible to target the measures taken precisely and to avoid stigmatising the child through unnecessary court proceedings. The Government are convinced that this procedure is in the best interests of the child.

[3] Data based on statistics '*Reports from Courts and Public Prosecutors' Offices'* from the Ministry of Justice available at: [infodata] - Výkazy soudů a státních zastupitelství

These informal instruments include, in particular, educational measures under the Civil Code, the Act on the Social and Legal Protection of Children, the Education Act, and the Act on the Execution of Institutional Education or Protective Education. These informal instruments are described below in more detail.

B. LEGAL MEASURES APPLICABLE TO MISCONDUCT BY CHILDREN UNDER LEGISLATION OTHER THAN THE JUVENILE JUSTICE ACT

1. THE CIVIL CODE (ACT NO. 89/2012)

The Civil Code governs, among other matters, parental responsibility, including the duties and rights of parents, which also encompass the upbringing of the child and guiding the child through disciplinary measures.

(1) Parents play the decisive role in the upbringing of a child. Parents should serve as comprehensive role models for their children, particularly with regard to their way of life and conduct within the family.

(2) Disciplinary measures may be used only in a form and to an extent that is appropriate to the circumstances, does not endanger the child's health or development, and does not interfere with the child's human dignity. It is recognised that corporal punishment, the infliction of mental suffering, or any other degrading measure infringes upon the child's human dignity. (Section 884 of the Civil Code)

(2) Until the child acquires full legal capacity, the parents have the right to guide the child through disciplinary measures in a manner consistent with the child's developing capacities, including restrictions aimed at protecting the child's morals, health and rights, as well as the rights of other persons and public order. The child is obliged to comply with such measures. (Section 857(2) of the Civil Code)

2. THE ACT ON THE SOCIAL AND LEGAL PROTECTION OF CHILDREN (ACT NO. 359/1999)

The Act on the Social and Legal Protection of Children regulates the social and legal protection of children, which also includes ensuring the child's right to favourable development and proper upbringing. The Act also sets out the powers of the municipal authority of a municipality with extended competence to impose, where necessary, educational measures on the child, the child's parents, or persons responsible for the child's upbringing.

(1) Where the interest in the proper upbringing of a child so requires, the municipal authority of a municipality with extended powers may

a) appropriately admonish the child, the parents, other persons responsible for the child's upbringing or, as the case may be, the person interfering with proper care for the child,

b) place the child under supervision and carry it out in cooperation with the school or, as the case may be, with other institutions and persons active in particular at the child's place of residence or workplace,

c) impose on the child, the parents or other persons responsible for the child's upbringing restrictions preventing harmful influences on the child's upbringing, in particular a prohibition on certain activities or visits to certain places, events or facilities unsuitable in view of the child's person and development, or

d) require the child, the parents or other persons responsible for the child's upbringing to make use of professional counselling assistance, or require them to attend a first meeting with a

registered mediator for a period of three hours or to undergo therapy; Section 12(1) shall not be affected thereby.

If the municipal authority of a municipality with extended powers has not done so, the court may decide on these educational measures under the same conditions. (Section 13(1) of the Act on the Social and Legal Protection of Children)

3. THE EDUCATION ACT (ACT NO. 561/2004)

The Education Act governs pre-school, primary, secondary and certain other forms of education in schools and school facilities and lays down the conditions under which education and upbringing take place. It also regulates, among other things, the possibility for school principals and teachers to award pupils commendations as well as to impose disciplinary measures in response to their conduct breaching the rules stipulated by the Education Act or the school rules.

Educational measures consist of commendations or other awards and disciplinary measures. Disciplinary measures include the conditional expulsion of a pupil or student from a school or educational institution, the expulsion of a pupil or student from a school or educational institution, and other disciplinary measures that do not entail legal consequences for the pupil or student. Commendations, other awards, and other disciplinary measures may be granted or imposed by the headteacher or director of the school or educational institution, the class teacher, or another educational staff member authorised by the headteacher or director. The Ministry shall, by implementing legislation, specify the types of other disciplinary measures and the conditions for granting and imposing such disciplinary measures, commendations, and other awards. (Section 31(1) of the Education Act)

4. THE ACT ON THE EXECUTION OF INSTITUTIONAL EDUCATION OR PROTECTIVE EDUCATION (ACT NO. 109/2002)

The Act on the Execution of Institutional Education or Protective Education governs the operation of school facilities that, on the basis of a court decision, provide children with substitute educational care, education and support for healthy personal development, including cooperation with the family and support for the child's return to the family environment. It also regulates, among other things, preventive educational care aimed at preventing and addressing behavioural disorders, including educational measures that may be imposed on a child for breaches of duties, as well as measures recognising exemplary effort and achievements.

(1) Where a child is proven to have breached obligations laid down by this Act, the following measures may be imposed:

a) withdrawal of a privilege granted under subsection (3);

b) reduction of the child's allowance within the limits prescribed by this Act;

c) in the case of a child placed in institutional education, restriction or prohibition of spending leisure time outside the institution to the extent laid down by the internal rules of the institution;

d) withdrawal of the opportunity to participate in an attractive activity or event;

e) in the case of a child placed in institutional education, prohibition of visits, except visits by persons responsible for the child's upbringing, close persons,10) and authorised employees of child social and legal protection authorities, for a period not exceeding 30 days within the following three-month period.

(2) Measures under subsection (1) may be imposed conditionally, with a probationary period of up to three months.

(3) For exemplary effort and achievement in fulfilling obligations, or for an exemplary act, a child may be:

a) relieved of a previously imposed measure under subsection (1);

b) granted a material or financial reward;

c) awarded an increase in the child's allowance within the limits prescribed by this Act;

d) permitted an exceptional visit to a cultural facility, an exceptional leave from the institution, an exceptional visit, or granted another personal privilege; in the case of children subject to protective education, exceptional leave and visits may be authorised only under the conditions specified in subsection (4)(a) and (b).

(4) A child subject to protective education may also, where he or she demonstrates good performance in fulfilling obligations, be:

a) permitted unaccompanied leave outside the institution for a period not exceeding twelve hours, provided there are reasonable grounds to believe that the purpose of the protective education will not thereby be jeopardised;

b) permitted to receive visits from persons other than those responsible for the child's upbringing, close persons, and authorised employees of the child social and legal protection authority, provided that such visits are not contrary to the purpose of the protective education; where justified, such visits may take place under visual, or where appropriate also auditory, supervision by an employee of the institution.

(5) Measures adopted under subsections (1) to (4) shall be recorded in the child's personal file. Organisational details shall be governed by the internal rules of the institution. (Section 21 of the Act on the Execution of Institutional Education or Protective Education)

These measures provide a non-criminal and non-stigmatizing response to less serious forms of misconduct and therefore contribute to ensuring that formal juvenile court proceedings remain a measure of last resort.

IV. CONCLUSION

The Government welcome the fact that the measures they have taken to ensure legal representation for children under the age of 15 in proceedings concerning otherwise criminal acts have been deemed sufficient by the Committee.

The Government further believe that the measures already adopted and implemented in practice, together with those currently undergoing the legislative process, address the remaining procedural aspect identified in the Committee's findings.

Taking into account the amendments to the Juvenile Justice Act and the broader system for dealing with misconduct by children under the age of 15, the Government consider that the Czech system is moving towards making diversion the preferred way of responding to such conduct, while ensuring that formal juvenile court proceedings are reserved only for most serious cases where they are genuinely necessary.

The first statistics show that the amendment to the Juvenile Justice Act, which entered into force on 1 July 2024, is gradually fulfilling its purpose by reducing the filing of motions for the imposition of measures in cases where formal court proceedings do not appear necessary. It may be expected that this trend will continue as the amendment becomes increasingly embedded in the practice of public prosecutors' offices and courts.

To further strengthen the legal framework, a supplementary amendment has been submitted which expands the options for using diversion and enacts a principle consolidating diversion as the preferred way of dealing with matters concerning children under the age of 15.

Moreover, the number of motions filed for the imposition of measures on children under the age of 15 has remained very low over the long term (1,325 - 1,782 in 2023-2025). This reflects the fact that the public prosecutor's office deals only with the most serious unlawful conduct by children. Other misconduct by children under the age of 15 is addressed through other, mostly informal, legal instruments laid down in the relevant civil legislation, as described above.

In the light of the foregoing, the Government consider that the current juvenile justice practice, together with the adopted and planned amendments, is now moving towards full conformity with Article 17 of the Charter. The Government believe that further extension of the use of diversion in proceedings concerning otherwise criminal acts will lead to diversion being used in the majority of cases and being the preferred manner of handling these cases in the future, as required by the Committee in its decision in *ICJ v. the Czech Republic* (§ 117).

The Government of the Czech Republic conclude that the measures undertaken and in the process of being adopted are sufficient to remedy the violation found by the Committee.

The Government therefore respectfully propose to the Committee of Ministers that the case be closed.