



Access to justice for children

Country fact sheet: **Czech Republic**¹



Overview

Country size: 78 866 km²

General Population: 10,7 million

Number of Children: 2,3 million

Date of ratification of the Convention on the Rights of the Child:

30 September 1990

Date of abolition of the death penalty: May 1990

Minimum ages

Minimum age of criminal responsibility ("MACR"): 15 years.

Age of imprisonment: 15 years (strict conditions to imprison children 15 to 18 years of age).

Age until juvenile justice legislation is applied: 18 years of age and in certain cases 19 years.

Type of legal system

The Czech legal system is based on a civil law system.

Specialisation of the system

The Czech Republic provides for the following specialised institutions and professionals:

- Child social work service
- Child judges
- Child social workers
- Child probation officers

Child-specific legislation

The Czech Constitution does not have any child specific provisions. However, there is child specific legislation, which includes:

- [Act on Youth Justice System](#) (JSY) – governs responsibility for unlawful criminal acts committed by children. [English version](#).
- [Criminal Code](#) – (CC) provides for alternatives to post-trial detention and provides that detention should be used as a last resort. [English version](#).
- [Act on Criminal Judicial Procedure](#) (CJP) – provides for certain rights including free legal assistance if an accused does not have adequate funds to pay, and protection of privacy. CJP also provides certain rights for child victims and witnesses, including instructions for questioning witnesses under 15 years and that children under 15 may only be questioned in exceptional circumstances. [English version](#).
- [Act on the Social & Legal Protection of Children](#) (SLPC) – contains provisions for children in need of protection, and social welfare measures for the protection of children.

Although not child specific, the following legislation is also relevant to a child's right to non-discrimination:

- Charter of Fundamental Rights and Fundamental Freedoms – offers legal protection from discrimination based on gender, race, colour of skin, language, faith religion, political or other conviction, national or social origin, membership of a national or ethnic minority, property, birth, or other status. [English Version](#).
- [Anti-Discrimination Act](#) – provides for equal protection before the law. [English version](#).

The [Convention on the Rights of the Child](#) is directly applicable in the Czech Republic's justice system.

¹ The information used to compile this fact sheet is based on responses to the questionnaire received in November 2019.

Child suspects or accused in criminal proceedings

Implementation of EU Directive 2016/800

The **EU Directive 2016/800** is now fully transposed and implemented in the Czech Republic's national legislation. Following the adoption of **EU Directive 2016/800**, the Czech Parliament amended relevant acts of its legislation, including the preference for audio-visual recording during the interrogation of a child and the separation of children from adults in custody, even after the child reaches the age of 18.

Cross-cutting safeguards

- Children under the age of 15 years old cannot be criminally prosecuted. See *JSY, Article 89*.
- There is a right to legal assistance at all stages of the proceedings. Legal assistance is free if the accused lacks the funds to pay. See *CJP, Section 33* and *JSY, Articles 42(2) and 42(3)*.
- Children have the right to be treated in accordance with their age, mental development, and health. See *JSY, Article 42(1)*.
- Children have the right to effective participation during all stages of the proceedings. See *JSY, Article 42*.
- Children have the right to have their privacy fully respected during all stages of the proceedings. See *JSY, Articles 3(5), 52, 53, and 54*.
- Additional safeguards for child suspects and accused include the right to have one's parents/legal guardians present during the proceedings, right to an individual assessment, right to psycho-social and other assistance, right to appeal, and the right to have decisions based on the best interest of the child.

Special procedural measures

The *SLPC* provides that social and legal protection should focus on children who committed a crime or if under the age of 15, committed an act that would be considered a crime (See *Section 6(c)*), and children who are victims of crimes (See *Section 6(e)*). The *SLPC* requires that authorities discuss behavioural

weaknesses with children and take measures to eliminate factors that have a negative effect on children. The *SLPC* also requires authorities to cooperate with the Probation and Mediation Service Centre where children are involved in criminal proceedings or where acts are punishable in other ways.

Diversion and alternatives to detention

- Detention or imprisonment of a child is to be used only as a measure of last resort and for the shortest appropriate period of time. See *JSY, Article 46, CC, Section 55, and CJP, Section 72a*.
- Diversion may be initiated at the prosecution-level and at the court-level (before the first trial hearing). See *JSY, Articles 15, 24, and 70* and *CC, Section 52*.
- There are alternatives to pre-trial detention and post-trial detention, including placing the child in the care of a trustworthy individual or the use of a financial guarantee. Protective measures may be imposed and include protective treatment and protective education. However, the Czech Republic does not collect data or keep records on the application of alternative measures to children in the justice system. See *JSY, Article 19* and *CC, Sections 60(6), 63(3), and 98*.
- Children under the age of 18 at the time of detention must be housed separately from adults. See *JSY, Article 51(1)*.
- The Czech criminal system promotes restorative justice. The Czech Republic's Probation and Mediation Service conducts a Restorative Justice Week to increase awareness and promote restorative justice practice.

Child victims and witnesses in criminal proceedings

Implementation of EU Directive 2012/29

As of 11 May, 2020, the Czech Republic has not fully transposed **EU Directive 2012/29** establishing minimum standards on the rights, support and protection of victims of crime, and the European Commission had ongoing infringement proceedings against the Czech Republic for its failure to fully transpose **EU Directive 2012/29**.

Cross-cutting safeguards

- Victims have a right to claim compensation. See *CJP, Section 43*.
- A victim or witness under 15 years old may only be confronted in exceptional circumstances. See *CJP, Section 104a(5)*.

- Witnesses under the age of 15 should be questioned with special care, and consider their age, and their ability to perceive, remember and reproduce. See *CJP, Section 102*.
- The period of time during which a victim of human trafficking or of any of the certain sexual criminal offences (as described in the *Criminal Code*) was younger than 18 years will not be counted against the period of limitation. See *CC 34(3)(c)*.
- Other rights for child victims and witnesses include the right to legal assistance in all phases of the criminal proceeding and the right to avoid contact with the offender. See *CJP*.

Focus on status offences

For the most part, status offences such as truancy, running away from home, roaming the streets and begging are addressed through the social welfare sector, pursuant to the *SLPC* and the *Administrative Infraction Act*.

Cases involving disobedience, badly behaving with parents, and romantic relationships between peers may be addressed through either the criminal justice or social welfare sector. Under the *Criminal Code*, it is illegal to have sex with anyone under the age of 15 years old.

Children are not dealt with through the criminal justice sector for other common status offences, such as possession of alcohol and tobacco and curfew violations. However, consumption of alcohol is considered as an offense.

Other relevant information

There are a variety of civil organisations working to improve the rights of children in contact with the law. Initiatives of the non-governmental organisations (NGOs) include providing social services to child criminal offenders. Such services include a probation program which is offered as diversion from the criminal trial and strives to reintegrate children and reduce the risk of recidivism. A list of relevant NGOs will be made available upon request.