

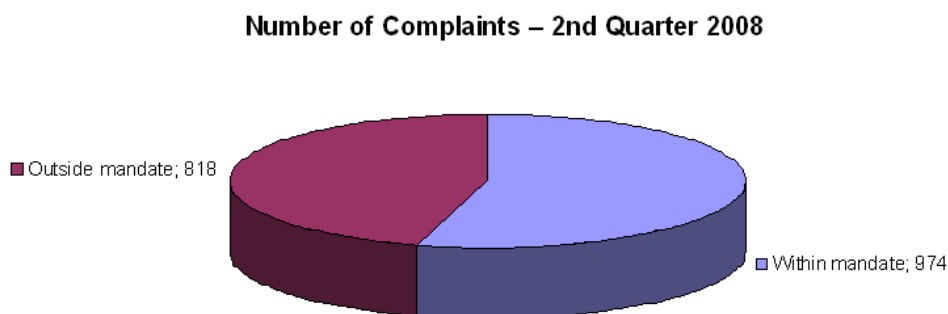
Report for the Second Quarter of 2008

Information on his work provided by the Public Defender of Rights
pursuant to Section 24 (1) (a) of Act No. 349/1999 Coll. on the Public Defender
of Rights as amended (hereinafter the Public Defender of Rights Act)
for the Period from April 1 to June 30, 2008

The Public Defender of Rights (hereinafter the “Defender”) submits information on his work and activities in the period under scrutiny to the Chamber of Deputies of the Parliament of the Czech Republic and simultaneously informs the Deputies of the current state of public administration as reflected in the complaints dealt with. The contents of this report are a continuation of the information on his work for the first quarter of 2008.

A. General Information on the Activities of the Defender

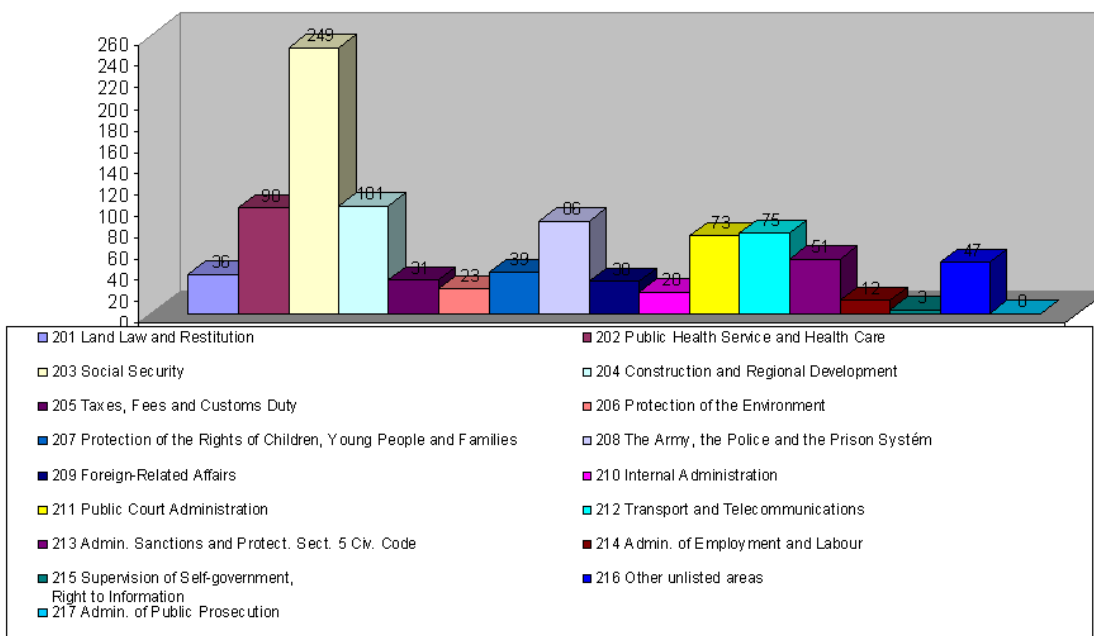
Number of complaints received and handled



The Defender received **1,792** complaints in the second quarter of 2008, of which **974** (54%) were within the Defender’s mandate as defined by the law and 818 (46%) were outside.

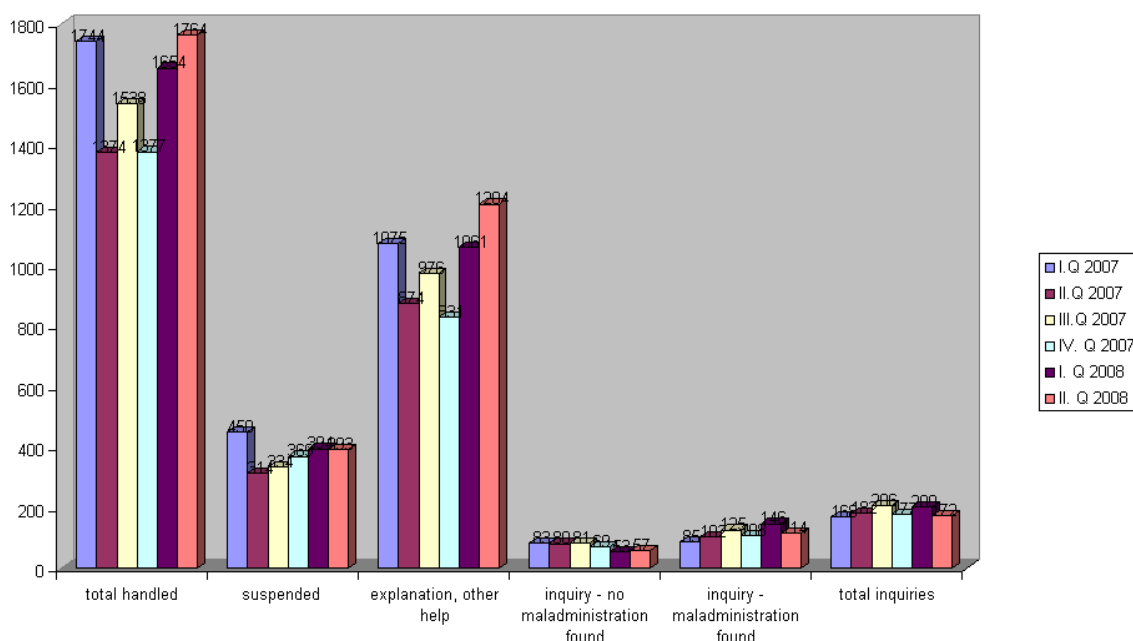
The structure of the received complaints by legal area has changed only slightly over time.

Structure of complaints by area of law – 2nd Q 2008



Social security is consistently the area with the highest rate of complaints (249), particularly concerning **pensions** and the provision of **social benefits**. The second most numerous group of complaints in the second quarter of 2008 were those in the area of **construction and regional development** (101), a majority of which related to zoning proceedings, planning permission and approval proceedings. Complaints in the area of healthcare ranked third (98). Most complaints outside the Defender’s mandate fall under the areas of **criminal law** (conduct of criminal prosecution authorities) and civil law (for instance the execution of **distrains** and the issue of **rented housing**).

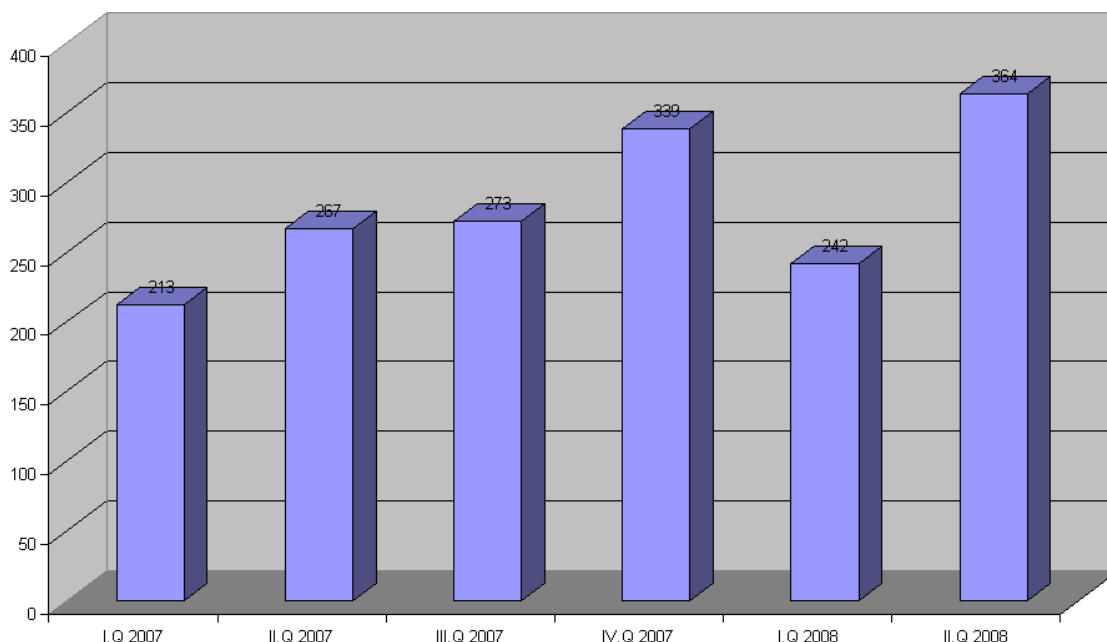
Number of complaints handled, number of inquiries



The Defender **handled** 1,764 complaints during the second quarter of 2008, and **closed** 172 inquiries, where maladministration by an authority was found in 114 cases (66%).

In the period under scrutiny, the Defender, his deputy and the authorised lawyers of the Office of the Public Defender of Rights continued to receive complainants who visited the Office in person.

Development in the Number of Complaints Made in Person since 2007



In the second quarter of 2008, **364 complainants** visited the Defender's office in person either to **compile a complaint in a protocol** or to obtain information and simple legal advice.

B. Special Powers, General Observations

In this section of the quarterly report, the Defender informs legislators of his observations with general impact and the application of the special powers bestowed on him by the Public Defender of Rights Act.

I. The Defender's authorisation to make recommendations on legal regulations pursuant to Section 24 (1) (c) of the Public Defender of Rights Act

1) Comments on the draft amendment to the decree on court executor remuneration and reimbursement

concerning: decree of the Ministry of Justice No. 330/2001 Coll. on Court Executor Remuneration and Reimbursement, on Remuneration and Reimbursement of Cash Expenses of Enterprise Administrator and the Terms of Insurance of Liability for Damage Caused by Executors

The Defender expressed his disagreement with the proposed concept of executor remuneration that fails to reflect the complexity, responsibility and severity of the executor's work as provided for in the Constitutional Court finding of March 1, 2007, File Ref. Pl. ÚS 8/06. The Defender mentioned that the submitted draft failed to address the legal conclusions of the Constitutional Court, whether concerning the actual determination of the amount of the remuneration or the definition of enforced performance (the amount of which forms the basis for determining the executor's remuneration). Furthermore, in the Defender's opinion, the draft fails to sufficiently deal with the condition for decreasing the executor's remuneration. The Defender proposed in this respect that the draft contain stipulation of the right of the court to decrease the executor's remuneration for reasons worthy of special consideration upon proposal of the liable party.

2) Comments on the draft decree on the central register of distraints

The Defender's comments were related in particular to the form of the register in general (for example if the full text of the court's resolution should be stored and the individual data on the distraint proceedings entered in parallel or only the entering of data should take place). The Defender in particular requested clarification from the author as to whether the register should only have the nature of a reference informative database or whether the provision of the "data" would be comparable to the studying of court files. In the Defender's opinion, if only basic information with respect to the distraint proceedings is concerned, access to the database should not be subject to payment (remuneration).

3) Comments on the draft Tax Code

First of all, the Defender requested an explanation from the submitter as to whether separate legislation is essential for the tax process in a situation where the new Code of Administrative Procedure comprehensively stipulates the rights and obligations of the entities in the area of public administration. Furthermore, the Defender did not support the proposed scope of tax distraint stipulation that, in large part, excessively "doubles" the Code of Civil Court Procedure. The Defender simultaneously emphatically rejected attempts by the Ministry of Finance to curtail his competences in that he should submit a release from the confidentiality obligation from complainants. The latter step fails to respect the provisions of Section 15 of the Public Defender of Rights Act ("for the purposes of inquiry under the previous paragraphs, a person empowered under a special law to do so shall relieve individual authority staff members of the obligation of confidentiality at the Defender's request, should such an obligation have been imposed on them by a special law"), according to which all information must be provided to the Defender in all cases.

4) Comments on the draft Act on Prices

concerning: Act No. 526/1990 Coll. on prices

The Defender supported an amendment to the provisions of the Act on Prices that prohibits the indication of incomplete prices (both generally and specifically in the provision of tours). Although a number of cases may be penalised already now using an extensive interpretation of the existing provisions of the Act on Consumer Protection (or the Advertising Regulation Act), the proposed change is only welcome

because the requirement for price completeness is expressly defined in it. The relevant European directives that also stipulate the obligation to indicate complete prices also play a role here.

II. Proceedings at the Constitutional Court pursuant to Section 69 (2) of the Constitutional Court Act

Proposal of the Ministry of the Interior for annulment of some provisions of the generally binding decree of the Pichov municipality No. 1/2005 on local fees

concerning: Act No. 128/2000 Coll. on Municipalities (local government system), Act No. 565/1990 Coll. on Local Fees, Act No. 13/1997 Coll. on Surface Communications, the Constitution of the Czech Republic, the Charter of Fundamental Rights and Basic Freedoms

The Defender entered proceedings at the Constitutional Court and in his statement he supported the proposal of the Ministry of the Interior to annul the relevant parts of the contested generally binding decree (annulment of those property lot numbers of plots of land that inherently cannot be regarded as a concourse as they are not publicly accessible plots of land). Furthermore, the Defender (in contrast to the proposal of the Ministry) stated that the owners of the plots of land designated as a concourse in generally binding decrees of municipalities should not be payers of the fee for the special use of a concourse, since in such cases the exercise of their ownership title is de facto made subject to a fee. The owner of a plot of land designated as a concourse is limited already by having to tolerate the so-called common use of the concourse. Making a concourse subject to a fee for so-called special use (e.g. in the placement of an advertising installation or creation of a parking place) may then in a number of cases result in making the exercise of ownership title subject to a fee, which is not in accordance with the constitutional protection of ownership. The Defender simultaneously expressed his opinion that the accessibility of such plots of land should be primarily achieved using the institutes of the building law, the Act on Surface Communications or by means of the Trade Licensing Act (market regulations).

Unfortunately, to the Defender's surprise, the Constitutional Court (in a finding of April 30, 2008, File Ref. Pl. ÚS 5/07) dismissed the proposal of the Ministry, or more specifically refused to consider whether a public concourse is actually concerned in the given case. It results from the finding of the Constitutional Court that administrative courts are competent to consider whether a plot of land is a public concourse or not in proceedings on the review of a decision, by virtue of which a fee for a special use of a concourse was assessed to a party. Although the Defender has a different view of the issue of reviewing the definition of public concourses, he must respect the conclusions of the Constitutional Court. Unfortunately, the Constitutional Court failed to comment in detail on the issue of preferential application of the aforementioned public law institutes. It only reiterated that the "the legal conclusion, according to which the owner of a plot of land would be obliged to pay the fees for a special use of his plot of land, designated as a public concourse by a generally binding decree of the municipality, could be, depending on the circumstances, at variance with the constitutional protection of ownership".

C. Presentation in the Media and Communication with the Public

The Defender used all the available means of communication to inform the public of his work in the 2nd quarter of 2008 and continued to maintain contact in person with complainants and partake in discussions with the public.

- Three press conferences were organised during the period under scrutiny. Apart from the 2007 Annual Report, the agenda of the April conference included the obligation of asylum seekers to pay regulation fees in healthcare facilities. The May conference was dedicated to the issue of consumer protection and the June meeting with journalists concentrated on the extensive issue of pensions.
- Individual interviews for the media and appearances in television discussions were an important part of the Defender's presentation. The Defender and his deputy gave interviews, presented their statements and answered questions at Czech Broadcast stations, Radio Impuls, Czech Television, TV Prima and Nova, appeared as guests in a number of broadcast and television programmes – e.g. Impulsy Václava Moravce, Radioforum, Interview ČT24 and others. The cases dealt with by the Defender were included in coverage broadcast in the Občanské judo (or Civil Judo) and Nedej se (or Don't Give Up) programmes. Live broadcasts of press conferences on the ČT 24 news channel were newly introduced. The Defender also answered citizens' questions in on-line discussions at www.idnes.cz and www.respekt.cz.
- Pension insurance, the Anti-discrimination Act, the social and legal protection of children, heritage preservation and some aspects of the Mining Act were the areas the media most frequently showed interest in.
- In the 2nd quarter, Czech Television broadcast 13 new episodes of the series A Case for the Ombudsman.

1,538 calls were received by the Defender's **information hotline**. These were mostly requests for simple legal advice, or queries regarding the Defender's mandate and progress in the handling of a complaint.

154,803 visits were logged in the Defender's **website** at www.ochrance.cz in the period under scrutiny

D. International Relations and Major Meetings within the Exercise of the Mandate

Meeting with foreign delegations and participation in international conferences

- **with the deputies of the Romanian parliament** (human rights protection and functioning of the ombudsman's institute; April 21, 2008)
- **conference "Modern Challenges to the Protection of Human Rights and Freedoms"** (Kiev, April 12 to 15, 2008)

- **conference “20th Anniversary of Establishment of the Polish Ombudsman”** (Warsaw, May 15, 2008)

Conferences and workshops organised

- **round table meeting on Consumer Protection** (specialised workshop with the representatives of public administration and consumer organisations, on April 23, 2008)
- **“Legal Regulation of Local (and Regional) Self-Government”** (international conference organised together with the Faculty of Law of Masaryk University; the issue of generally binding decrees and orders, case-law of the Constitutional Court; on June 19 and 20, 2008)
- **“Common European Asylum System”** (the issue of EU’s common asylum policy; on June 25, 2008)

Domestic meetings

- **in the matter of so-called social housing** (with the representatives of the Ministry of the Interior, the Ministry for Local Development and the Ministry of Labour and Social Affairs, on April 29, 2008)
- **on the safety of healthcare products** (with the Chief Public Health Officer, May 14, 2008)
- **on social security** (with the Minister of Labour and Social Affairs, on May 27, 2008)
- **on delays in administrative proceedings and competence of the Social Services Inspectorate** (with the heads of the regional authorities, on June 6, 2008)
- **on supervision over the financial market** (with the Governor of the Czech National Bank, on June 16, 2008)
- **on the provision of copies of medical opinions** (with the representatives of the Ministry of Health and the Office for Personal Data Protection, on June 25, 2008)
- **detention visits in mental homes** (with the heads of the mental homes, on June 24, 2008)

Meetings at the Chamber of Deputies of Parliament

- **on the draft amendment to the Act on Courts and Judges** (at the Constitutional and Legal Committee, on April 2 and 9 and May 22, 2008)
- **on the 2007 Annual Report of the Public Defender of Rights** (at the Petitions Committee, on May 20, 2008)

Meetings at the Senate

- **public hearing “Unfair Practices of Loan Providers”** (on April 9, 2008)

- **Conference on the 30th anniversary of establishment of the Committee for the Defence of the Unjustly Prosecuted** (on April 22, 2008)
- on the **2007 Annual Report of the Public Defender of Rights** (at the Committee on Education, Science, Culture, Human Rights and Petitions, on May 28, 2008; at the Constitutional and Legal Committee on May 28, 2008; in the plenum of the Senate on June 4, 2008)

E. Selected Cases from the Defender's Work in the Period under Scrutiny

In this Report, the Defender regularly incorporates brief information on interesting or otherwise important complaints that help to document, in more detail, which areas of law are most frequently dealt with and the diversity of the cases handled in the period under scrutiny:

I. Inquiries opened on the initiative of Deputies and Senators

1) Eviction of Romani families from Vsetín

Most recently, the Defender intensively dealt in particular with the case of the Tulej family deported from Vsetín to the Čechy pod Kosířem municipality. The house concerned is in such poor technical condition that the municipal authority in Kostelec na Hané had to order elimination of the defects putting peoples' lives and health at risk. As a result, funds required for the maintenance and redevelopment work on the premises had to be found for the affected family. The alarming aspect of the situation of the Tulej family is that it was evicted from Vsetín notwithstanding the fact that its members had no debts with respect to the municipality.

The Defender organised a meeting with the mayor of Vsetín and the mayor of Čechy pod Kosířem where a compromise was reached according to which the Vsetín municipality (as the present owner of the premises) would provide funds for the restoration of the damaged house.

2) Unauthorised disposal of waste in Libčany near Hradec Králové

Based on a complaint filed together by Senator Karel Barták, mayor of Hradec Králové Otakar Divíšek, Deputy of Parliament David Kafka, and mayor of the Libčany municipality Jiří Polák, the deputy of the Defender opened an inquiry into the unauthorised disposal of hazardous waste in Libčany near Hradec Králové and in Hradec Králové.

The inquiry aims to review the steps of administrative authorities that did not prevent such extensive, unauthorised and hazardous conduct in time. Last but not least, the inquiry is aimed at ascertaining whether future prevention of similar situations has been ensured.

In the inquiry the deputy participated in a meeting at the Ministry of the Environment where she acquainted herself in detail with the manner of keeping records of waste and the possibilities of detecting illegal waste management using the output from such records. (In this respect, the deputy commented on the draft amendment to the Act on Waste).

A report on the inquiry was recently drawn up, in which the deputy points out that although the relevant administrative authorities performed a number of inspections, the latter were, unfortunately, insufficient as they were aimed at ascertaining "whether the company does correctly what it has been permitted to do, instead of ascertaining whether it is doing something that it has not been permitted to do".

The deputy also points out that the situation could be at least partly prevented had there been a higher degree of cooperation of the administrative authorities and a consequent use of their powers (possibility of entering other premises used for illegal activities).

Furthermore, it is obvious from the report on the inquiry that the legal record-keeping in the area of waste management and the manner in which it was used failed to fulfil its role as a tool enabling detection of discrepancies in the flow of waste.

Given the extraordinary seriousness of the case, the deputy recommends adoption of a number of specific remedial measures that will take two forms. On the one hand, there are application measures that may be implemented immediately and on the other hand, measures that require a change in the legislation.

II. Inquiries opened on the Defender's own Initiative

1) Ammonia refrigeration in indoor arenas

The Defender convened a meeting in December 2007, which resulted in an agreement on joint inspections by the Czech Environmental Inspectorate and inspectors of the State Labour Inspection Authority at indoor arenas that fail to meet safety standards regarding the potential leakage of ammonia.

On April 10, 2008, the Defender received a communication from the Minister of the Environment informing him of the procedure in the matter. It follows from the attached overview of the planned inspections at risky premises that the relevant authorities are acting in the sense of the agreed conclusions. The Defender continues to monitor the matter and he will again address the Minister in July 2008 with a request for information on the results of the inspections.

2) Payment of social benefits by vouchers in Litvínov

The deputy of the Defender opened an inquiry on her own initiative in the matter of the combined payment of social benefits (70% vouchers for goods, 30% cash). It was ascertained within the inquiry that the Municipal Authority in Litvínov had begun to pay benefits by means of vouchers generally to all the recipients of benefits who had been registered as job seekers for over 6 months and were not receiving unemployment benefit. The authority had taken the aforementioned criteria from the project Minimisation of Misuse of Social Benefits approved by the municipal council. In her report on the inquiry, the deputy reprehended the Municipal Authority for the following maladministration: 1) general payment without individual social work and monitoring of the jobseeker's specific needs, 2) failure to issue a decision (notification) on the change in the manner of payment. The Department of Supervision and Inspection of the Ministry of the Interior was simultaneously addressed with respect to the legality of the resolution of the municipal council and, furthermore, the Office for the Protection of Economic Competition in order to assess the selection of the "meal voucher company" from the view of the Act on Public Procurement.

3) Regulation fees for asylum seekers

In the Defender's opinion, asylum seekers should not be obliged to pay regulation fees for medical care. The Defender finds it inadmissible that medical care is inaccessible to persons who are objectively unable to pay the fees. The proposal is also supported by the Ministry of the Interior that has commenced negotiations with the Ministry of Health in this respect. However, the latter repeatedly confirms its negative approach to the matter; it does not expect any broadening of the legal exemptions and claims that other solutions should be looked for.

Since January 1, 2008, when the amendment to the Act on Public Health Insurance came into force, the Defender has noted problems concerning the accessibility of medical care for foreigners applying for international protection. Medical facilities are obliged to collect regulation fees, under threat of a CZK 50,000 fine, from all not exempt under the law, i.e. including asylum seekers. However, the latter are not allowed to work legally until expiry of one year from the commencement of the proceedings on the granting of asylum and depend on pocket money paid by the state in an amount of CZK 16 per person per day. Asylum seekers living in private facilities instead of an asylum centre may receive an allowance of 1.3 to 1.6 times the minimum living standard depending on the number of family members, although only for a maximum of three months. Afterwards, they find themselves entirely without the possibility of a legal income.

However, even the pocket money is not paid without exceptions. Thus for example foreigners applying for asylum in the transit area of the international airport or those placed in the Velké Přílepy Reception Centre are not entitled to pocket money pursuant to the Act on Asylum. Pocket money is also no longer paid to those foreigners who must be hospitalised, although the hospitals require them to pay the fees for care. The Defender finds it unethical in this situation that those who are unable to obtain means of payment for objective reasons face problems with the payment and claiming of the fees.

The Defender therefore repeatedly addressed the Minister of Health with a request for information as to how the situation of the asylum seekers could be solved (whether by exempting this group from the fees or paying their fees from the state budget).

4) Copyright fees

In July, the Defender responded to several filings in the matter of the decree of the Ministry of Culture No. 488/2006 Coll. concerning the collection of copyright fees on so-called flash disks. Since the Defender had dealt with the issue before, he again addressed the Minister of Culture with a request for information as to whether the Ministry of Culture would amend the decree and by what date the potential amendment would be effective. He simultaneously pointed out the most frequent problems contested by complainants (in particular the inappropriateness of the correlation between the amount of the copyright fee and the capacity of the storage medium). In this context, the Minister of Culture submitted to the Defender a draft amendment to the decree that should be soon submitted for amendment proceedings and responds to technological progress in the area of data capacities.

5) Procedure of the Czech Business Inspectorate in inspecting petrol stations

The deputy of the Defender opened an inquiry with respect to the Czech Business Inspectorate that refused to publish the name of a fined network of petrol stations. The particularly high fine for a significant violation of the law had been imposed recently and the matter then received publicity in the media. However, the Czech Business Inspectorate did not specify the name of the company that had committed the infringement. Previously, the Czech Business Inspectorate published the names of those committing administrative infringements. The deputy therefore called upon the head of the Czech Business Inspectorate to comment on the chosen procedure and to justify why the name of the fined company was not published.

III. Inquiries on the complainants' initiative

1) Competence conflict in the handling of complaints

When inquiring into a complaint, the deputy of the Defender ascertained the existence of a competence conflict between the Ministry of the Interior and the Ministry of Agriculture about which of the two central administrative bodies was competent to handle complaints about the conduct of a worker of the Environmental Department at the Regional Authority of the Ústí nad Labem region. The complainant had first addressed the relevant complaint to the Regional Authority of the Ústí nad Labem region (head of the Department of the Environment and Agriculture). Dissatisfied with the manner in which the complaint was handled, he had addressed the Ministry of the Interior with a request for an inquiry. The Ministry had stated that the Ministry of Agriculture was the body competent to handle the complaint (and simultaneously forwarded the filing to the Ministry of Agriculture). However, the Ministry of Agriculture had responded by claiming that it did not have any competence in the matter as the latter was an internal matter of the Regional Authority. As a result of the conflict, the complainant had not received answer from any of the Ministries to the question as to whether the regional authority had properly inquired into his original complaint about the conduct of the official. There had not been any competence conflict between the Ministries, according to their statements. However, the deputy rejected the aforementioned argument and requested that the complainant receive a specific response to his filing. In the opinion of the deputy, the Ministry of Agriculture should have expressed its non-competence through a resolution and forwarded the matter to the relevant administrative body or handled the subject matter of the complainant's filing. The Ministry of Agriculture finally accepted the legal conclusions of the deputy, commented on the complainant's objections and adopted measures ensuring that steps in accordance with the Code of Administrative Procedure are taken in similar cases in the future.

2) Closure of a railway line in the Děčín area

The Defender issued a report on an inquiry in the matter of a complaint by the Citizens' Association for Environmentally Friendly Transport in the Děčín Area where he criticised the steps of the administrative authorities in the prepared closure of regional railway line No. 132 from Děčín to Oldřichov u Duchcova and use of the railway plots of land for the placement of a feeder road to motorway D8 in the Děčín-Knínice section. The Defender holds the view that the principles contained in the

State Environmental Policy should apply in the given matter and railway No. 132 should therefore be preserved and modernised. The Defender was simultaneously forced to reprehend the Ministry of the Environment for delays in issuing a statement in the EIA process that is to assess the variants of the route of the repositioning of road I/13 Děčín – D 8. The Defender currently awaits the next statement of the Ministry of the Environment.

3) Work of the Land Fund

The deputy of the Defender inquired into the supervision work of the Ministry of the Environment in the matter of reviewing the management by the Land Fund of the Czech Republic. Specifically, plots of land were concerned that were used by third parties without corresponding title to the real estate (e.g. a lease agreement). It resulted from the advice of the Minister of Agriculture that a themed inspection concentrating on the condition of non-leased plots of land had been performed by the Inspection Department of the Land Fund at 13 regional sites. The following measures were taken on the basis of the conclusions of the aforementioned inspection: 1) the system of public offering of the lease of plots of land was modified, 2) an interactive software tool was created, which enables the location of plots of land and their comparison with the so-called land blocks. According to the Land Fund, the individual regional sites will now perform inquiries into the non-leased plots of land. Given that the Land Fund had about 781 thousand plots of land in its registration as of January 1, 2008, the review of the condition of their lease will be time-consuming and the partial results of the inquiry will be available only after June 30, 2008.

4) Provision of data from the citizens register with respect to irreversible adoption

The Defender has encountered the issue of the provision of data from the citizens register with respect to irreversibly adopted children already twice in a short time. In the case concerned, the complainants had adopted four children, and over the years they were several times questioned by various public bodies (in particular the police and courts) about the place of residence of the “biological” parent of their children. The situation culminated this May when a call from the District Court for Prague 9 was delivered to the complainants’ address, namely to the name of their minor daughter (born 1993) to give information of the place of stay of her original mother. The daughter of the complaining couple was also called to ask whether she agreed that the court appoint her to be the guardian of the “biological” mother for the purpose of civil law proceedings. The Defender opened an inquiry in the matter and initiated a dialogue with the Department of the Central Citizens Register of the Ministry of the Interior. The aforementioned activity should result in an attempt at the quickest possible elimination, including “*pro futuro*”, of insensitive interventions in privacy.

5) Work of the mining authorities

The deputy of the Defender issued her final statement, in which she responded to maladministration by the Mining Office consisting in (1) incorrect publication of documents in proceedings on the extension of a mining area and (2) prejudice of the expert who drew up an expert opinion for the mining administration

(there were links to the organisation interested in extending the mining area). Given that the complainant filed an administrative suit with respect to the expert's prejudice, the remedial measures requested by the deputy apply primarily to observance of the rules for publishing documents by way of a public decree and respecting deadlines in administrative proceedings.

F. The Defender's Activities in the Area of Detention

Systematic visits to eight mental homes were completed in the second quarter. A doctor – psychiatrist was also invited on every visit. The Defender concentrated in particular on the legality of patients' stays in the institutes, their awareness of the regime of treatment and the work of crisis stabilisation units. The visits simultaneously concentrated on respect for patients' fundamental rights (right to freedom of movement, right to privacy, right to file complaints, right to family life, etc.).

The basic findings the Defender generally discussed with the heads of the mental homes included, for example:

- the issue of **different regimes in crisis stabilisation units** in the individual institutes (the differences being, among other things, in locking rooms during the day, installation of camera systems in corridors, toilets and rooms, the possibility of using own civilian clothes, having a mobile phone available, etc.),
- the issue of the **wording of consent to treatment** (in many cases the forms were too general), and
- the issue of **unsuitable structural and technical background of the institutes**.

The Defender's findings and recommendations will be summarised in a general report that will be published on the Defender's website.

Brno, July 14, 2008

JUDr. Otakar M o t e j l
Public Defender of Rights