Veřejný ochránce práv
OMBUDSMAN

Information on activities for the 4th quarter of 2015

pursuant to Section 24 (1)(a) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended

Contents:

A Number of complaints, inquiries

A total of **1,649** complaints were received in the 4th quarter of 2015, which is **349** less than in the same period last year. I was approached by 1,053 persons in matters falling within my competence under the law, which is 140 less than in the 4th quarter of the last year. **Thus, the proportion of complaints falling within the Defender's mandate increased to 64%** (the figure for the last year was 58%). Most complaints were related to social security (268 complaints); many complaints (111) concerned the area of construction proceedings and spatial planning and also the prison system, police and army (85).

In **59** of the complaints received, the complainants claimed unequal treatment by public administration and private individuals. The number of complaints directed against discrimination in the sense of the Anti-discrimination Act reached **35**. In **15** cases, we also provided information and analyses related to discrimination to international parties and national bodies.

In the fourth quarter, we performed **3** systematic visits to facilities where persons restricted in their freedom are or may be present. In the area of monitoring detention of foreign nationals and performance of administrative expulsion, we monitored **1,728** decisions.

The following figure illustrates the numbers of complaints.

- **64%** – the share of complaints in Q4 falling within the Defender's competence, meaning we can initiate inquiry
- **1649** complaints were lodged in Q4 2015, of which:
- **268** concerned the area of social security
- **111** concerned the area of construction and spatial planning
- **85** concerned the area of prisons, police and the army construction

B Summary of the Defender's main findings

Unlawfully ordered – unpaid – **hours of overtime work** are a problem in the State's law enforcement services, which has also been touched on by administrative courts. In accordance with the case law of the Supreme Administrative Court, law enforcement officers may be ordered to remain on duty after the standard hours only on an extraordinary basis – i.e. such an order cannot be predictable. This instrument must not be misused arbitrarily to deal with a lack of personnel.

I inquired into this issue in connection with a **complaint filed by a police officer from the Moravian-Silesian Region**, who demanded payment for 150 extra hours ordered by his employer. The Municipal Police Directorate in Ostrava as well as the Regional Police Directorate of the Moravian-Silesian Region erred when they rejected the complainant's request for compensation for the overtime without having examined whether the officer had been ordered to remain on duty in accordance with the law. Since the head of the Regional Directorate did not accept my recommendation to approach the Minister of the

Interior with an instigation for review, I published the case as a means of penalisation, and I hereby notify the Chamber of Deputies of this fact.

Entrusting a child to the care of an individual should take precedence over institutional care. If it is possible for the child to remain in its natural family environment – including the broader family – then the body for social and legal protection of children (hereinafter abbreviated as "BSLPC") must respect that. In this connection, I inquired into the procedure of an authority in Moravské Budějovice, where the BSLPC agreed to order institutional care without having first ruled out the possibility of entrusting the child to the care of family members. Based on my information, the BSLPC in Moravské Budějovice remedied the errors found in its procedure. Pursuant to Article 3 of the Convention on the Rights of the Child, BSLPC must act in the best interest of the child.

There is a 22% **gender pay gap** in the Czech Republic. A situation where people are paid differently for the same work based on their gender is not acceptable. I recommended to the Minister of Labour and Social Affairs and the State Labour Inspectorate to approach gender experts and prepare guidelines for the District Labour Inspectorates on how to verify gender equality in pay. This year, the Labour Inspectorates should begin regular inspections of employers. They will focus on differences in pay between men and women in the same or comparable positions.

The Constitutional Court supported, by its ruling, a man who pleaded discrimination on the grounds of gender with respect to termination of his employment. The man had worked as a tutor in a children's home. **The Constitutional Court followed from the opinion of the Public Defender of Rights** who had inquired into the case and pointed out an incorrect procedure on the part of the Labour Inspectorate. The Labour Inspectorate had inspected the conditions at the workplace only in formal fashion and did not find any discrimination. The Constitutional Court thus forced the courts and the Labour Inspectorates to approach cases of discrimination more responsibly.

In 2016, I will focus **on visits to facilities for children requiring immediate assistance**. On this account, by the end of 2015 I approached and selected psychologists, psychotherapists and social workers with whom I will co-operate in these visits in the long term.

C Activities of the Defender

C.1 Public administration

In the fourth quarter of 2015, I and my deputy dealt, among others, with the following cases in the area of public administration.

C.1.1 Ordering institutional care of a child without checking with the broader family (File No. 3111/2014/VOP/HZ)

A mother of two approached me with a request for inquiry into the procedure of the Municipal Authority of Moravské Budějovice and its body for social and legal protection of children (hereinafter abbreviated as "BSLPC"), which was performing curatorship *ad litem*

over the children. The children were placed in a children's home. The complainant objected to the BSLPC's order to place the children in institutional care.

The Defender found serious errors in the performance of the curatorship *ad litem*. The BSLPC did not proceed in accordance with the law, as it agreed with ordering of institutional care (the application was filed by the previous BSLPC in Znojmo), without checking with family members whether they could take the children into their care, and failed to inform the court of the mother's sisters who could have taken care of the children. The mother provided the BSLPC with contacts details of family members and the contacts were included in the file; nevertheless the social worker was not aware of this information, which negatively impacted not only the court hearing and the imperfectly compiled individual plans for protection of the children, but also the subsequent inquiry on site.

The priority of the child's natural (even broader) family care over institutional care constitutes a basic principle to which the BSLPC must adhere. This follows from the Civil Code[1], *inter alia*, according to which entrusting the child to the care of an individual should take priority over institutional care of the child. In institutional care proceedings, the court shall always consider whether or not entrusting the child to the care of an individual would be more appropriate. It is not acceptable to subject children to the most extreme possible form of substitute care, i.e. institutional care, just because the parent does not co-operate according to the BSLPC's wishes and does not address his or her adverse situation. Ordering institutional care is not an instrument serving to force parents to become more active and address their situation. The BSLPC must have on its mind the best interest of the child, as required by Article 3 of the Convention on the Rights of the Child[2].

After an inquiry on site, the BSLPC began mapping the children's family relationships and approached the Office for International Legal Protection of Children in Brno (the mother is a Slovak national), which it provided with the names of the mother's sisters, asked for assistance and repeatedly discussed the situation of the family in Slovakia. The BSLPC focused on the possibility of entrusting the children to foster care and consulted the case with a methodology specialist at the Regional Authority, to whom it presented the conclusions of the inquiry on site. The BSLPC also called a case conference to discuss foster care to be provided by relatives. It included its new evaluation of the children's situation in the individual plans for protection of the children, which now includes several alternative solutions. The case is now being addressed by a new social worker as the employment contract with the original social worker was not extended.

Given that after my notification, the BSLPC remedied the errors found during the inquiry, I have closed the case.

C.1.2 Marking of non-parking zones (File No. 7509/2014/VOP/MBČ)

My deputy dealt with a complaint against the procedure of an authority which had repeatedly refused to mark a no-parking zone (yellow zigzag line) at a place where a pavement leading to the complainant's home enters a parking lot. The complainant stated

[1] Act No. 89/2012 Coll., the Civil Code (Section 953 (2)).
[2] Communication of the Federal Ministry of Foreign Affairs No. 104/1991 Coll.

that she was taking care of her immobile mother who had to use a wheelchair; the complainant was unable to take her to the car as cars were often parked even in places prohibited by law, i.e. at the place where the pavement enters the parking lot. The authority refused to mark the no-parking zone on the ground, arguing that the ban on parking in that place followed directly from the law and the marking would be redundant; according to the authority, calling the police was the solution.

In the inquiry report, my deputy conceded that the ban did indeed follow from the law, but pointed out that the yellow zigzag line was used to mark access to pavements in the neighbouring streets; additionally, in a densely populated residential area where parking places are hard to come by and the drivers park their cars wherever they can, such marking would suitably complement the legal regulation. Moreover, the complainant gave a serious reason for marking the no-parking zone (care for a disabled person). The authority should adopt measures to assist such a person in easing or relieving the effects of the disability in his or her daily life.

The authority whose procedure was inquired into complied with my deputy's request to review the case and subsequently marked the no-parking zone in front of the complainant's home.

C.1.3 Determination of name (File No. 2767/2015/VOP/MV)

The complainant, a Czech national, and his wife, a USA national) had a child born in Vrchlabí, whom they named Thymian based on their affirmative declaration. The Registry office issued a birth certificate which stated "unknown" in the section "Name(s) of the child". The Registry received the parent's request to indicate Thymian as the name included in the book of births. The Registry then requested that the parents submit an expert's opinion and ordered a stay of the proceedings. The parents refused to submit the expert's opinion and supplemented their application with an extract from publicly available websites which clearly indicated that persons named Thymian lived in the USA, the Netherlands and Germany. The Registry then discontinued the proceedings on the grounds of failure to remedy the defects of the application. The Regional Authority rejected the parents' appeal. The Registry then notified the District Court, which, however, believed that under the Family Act, it lacked jurisdiction to decide in this matter. The complainant filed an administrative action against the decision of the Regional Authority, which the Regional Court dismissed. The Supreme Administrative Court decided based on the plaintiff's cassation complaint to refer the case back for further proceedings. According to the Supreme Administrative Court, the Registry made an error when it requested an expert's opinion without further considerations. According to the Supreme Administrative Court, the Registry should have continued the process of taking evidence by examining extracts from publicly accessible foreign databases of names. At variance with the legal opinion given in the judgement, the Registry again requested that the complainant provide an expert's opinion. At this stage, the complainant approached me.

In my inquiry report, I stated that the Registry's second request to the complainant constituted maladministration as the Registry had clearly failed to take the legal opinion of the Supreme Administrative Court into account. The Registry thus violated Section 78 (5) of the Code of Administrative Justice which stipulates that administrative authorities are bound

by legal opinions given by the courts in judgements cancelling their decisions. My report also addressed certain aspects of the case that had so far been left unnoted, especially the procedural question of when administrative proceedings are initiated and also the relation between Section 62 (1) and Section 18 (4)(c) of the Act on the Registries of Births, Deaths and Marriages. I also noted that it was in the interest of the child and its parents that the Registry assign a birth identification number to the newborn child, include the birth in the Register, issue a birth certificate containing the birth identification number and register the child in the population records information system as soon as possible.

Considering the fact that in the meantime, the Registry had obtained the "Historisches Deutches Vornamenbuch" (Book of Historical German First Names) where "Thymian" was indicated and had subsequently issued a birth certificate where Thymian was indicated as the name, thus remedying the situation, I closed the case.

C.1.4 Duty of a Labour Inspectorate to carry out an inspection (File No. 7952/2014/VOP/EHŠ)

I was approached by a complainant objecting to the procedure of a District Labour Inspectorate. He stated that his employer had issued work rules that included a clause stipulating the employees' confidentiality duty concerning matters learned during the performance of work, where breach of this confidentiality duty would be considered a serious breach of discipline at work under the work rules. The complainant believed that this clause of the work rules was at variance with the Labour Code and, therefore, requested that the District Labour Inspectorate ensure remedy. The District Labour Inspectorate informed the complainant that such clauses in internal regulations were disregarded under the Labour Code and, for this reason, the District Labour Inspectorate considered inspection of the employer unnecessary.

The Defender, aware of the fact that there was no legal entitlement to an inspection by the District Labour Inspectorate, initiated an inquiry into the matter. She first addressed the matter of whether a confidentiality duty arose to the complainant *ipso iure*. This was crucial for determining whether the employer had the right to stipulate such a duty in the internal regulation (work rules). The Labour Code includes a confidentiality duty on the part of employees in public administration. No such confidentiality duty is stipulated for employees in the private sector (such as the complainant). The complainant's duty to maintain confidentiality did not follow from the Labour Code, which meant it was not a statutory duty. In this case, a confidentiality obligation can be agreed in the employment contract or through another agreement. However, no such thing happened in the complainant's case (and in respect of other employees).

Pursuant to the Labour Code, an internal regulation may not stipulate duties for employees that go beyond their statutory duties or contractual obligations. The complainant's employer thus did not have the right to impose any confidentiality duty on the complainant (and the other employees) through an internal regulation. If an employer diverges from such a prohibition, this is to be disregarded.

Although the aforementioned part of the work rules should be disregarded pursuant to the Labour Code, it is clear that such an internal regulation impacted not only the

complainant, but also the other employees. Even such an internal regulation may affect employees who are not sufficiently informed about the law and may restrict their freedom beyond the statutory limits. In my opinion, the District Labour Inspectorate should have, for the sake of protection of public interest, carried out an inspection of the employer, whereby it would have fulfilled its statutory mission and, simultaneously, helped to cultivate working conditions in the employer's company. Due to the above-specified reasons, I considered the District Labour Inspectorate's unwillingness to carry out an inspection an error on its part.

Responding to the inquiry report I had issued, the head inspector informed me that he had found my conclusions valid and decided to reflect the complainant's request in the inspection plan and carry out an inspection of the complainant's employer. I found the aforementioned steps sufficient and closed the inquiry.

C.1.5 Costs of removal of a structure, service of documents (File No. 5403/2014/VOP/MPO)

My deputy inquired into the procedure of the Brno City Hall (hereinafter the "City Hall") and the Municipal Authority of Brno-sever (hereinafter the "Construction Authority") in a matter involving the duty to pay the costs of structure removal proceedings imposed on the complainant, and in the matter of serving the decision by post (although the complainant had a data box). The reason why the decision was served by traditional post lay in the fact that enclosed with the decision was a postal payment order that could not be sent to the data box.

My deputy came to the conclusion that the Construction Authority had erred in the case when it had ordered the complainant to pay the costs of structure removal proceedings by means of its decision. Considering the fact that the complainant (developer) had applied for a retrospective permit for construction modifications, it appeared that there indeed had been a violation of a duty stipulated by the Construction Code since developers only apply for a retrospective permit in case they want to put a non-permitted structure into accordance with the law. This warranted the conclusion that the developer had lacked the necessary permit under the Construction Code at the time when construction modifications were implemented. The violation of the duty stipulated by the Construction Code thus initiated proceedings on removal of the structure. With regard to this fact, it was possible (under the Code of Administrative Procedure) to order the person against whom structure removal proceedings had been initiated to pay the costs of the proceedings by means of a fixed amount.

My deputy did not agree with the City Hall's argument that it was necessary to serve the relevant decision by post, because this was excluded by the nature of the document (postal payment order) enclosed with the decision. Under the Code of Administrative Procedure, the postal order enclosed with the relevant decision did not constitute a necessary requisite of the decision. In cases where a party to proceedings receives a document by post, enclosing a postal payment order may be seen as an accommodating step (enabling the parties, if they so choose, to pay the required amount using the pre-filled postal order). However, in cases where the decision is to be served to a data box and enclosure of a postal order would make this form of service impossible, such a procedure on the part of an administrative authority puts the addressee at a disadvantage. My deputy

found this procedure incorrect and at variance with the principles of administrative law. Enclosing a postal order must not be a reason to diminish the legal standing of a natural person who is not an entrepreneur, but has a data box, justifiably assuming that decisions of administrative authorities will be served into this data box. Without a legal basis, an administrative authority may not (as a consequence) directly decide or pre-determine the manner of payment of the imposed pecuniary amount by enclosing a postal order; under the principles of good governance, it is only obliged to provide information on the form of the payment (cash, bank transfer, postal order) and conditions under which it may be carried out.

Following the issuing of the final statement, the Brno City Hall, Department of Land-use and Construction Proceedings, called a meeting with the heads of the subordinate construction authorities and acquainted them with the legal opinion that enclosing a postal order cannot be a reason for restricting the service of decisions or other letters of administrative authorities to the individuals' accessible data boxes. My deputy considered this step sufficient and closed the inquiry.

C.2 Supervision over restrictions of personal freedom and monitoring of expulsions

Within the scope of prevention of ill-treatment and supervision over restrictions of personal freedom, employees of the Office of the Public Defender of Rights performed a total of **3 systematic visits** during the fourth quarter of 2015. These included a visit to a treatment facility for long-term patients, specifically the one in Podkrušnohorská Hospital of Follow-up Care in Litvínov, a police cell in Frýdek-Místek and the Facility For Detention of Foreigners in Bělá-Jezová. No expulsion monitoring took place during the same period.

Due to their seriousness and urgency, I discussed my findings from the visit to the Facility For Detention of Foreigners in Bělá-Jezová in the report to the Chamber of Deputies for the third quarter of 2015 (see par. C.2.1). The relevant report also included information concerning the penalties applied in the case pursuant to Section 20 (2)(a) and (b) of the Public Defender of Rights Act, i.e. informing the Minister of the Interior and the public. On 20 October 2015, I personally met with the Minister of the Interior, who informed me that he was adopting measures (increasing the number of social workers, providing for interpreters, games for children, etc.) ensuring that the conditions in the Facility For Detention of Foreigners in Bělá-Jezová would be gradually improving, especially with regard to the children accommodated in the Facility. On 12 November 2015, there was another meeting with the Minister of the Interior during which the Minister informed me of additional steps taken in relation to implementing my recommendations.

A conference held on academic ground in co-operation with Palacký University in Olomouc on 30 November 2015, titled **Challenges in Prevention of Ill-treatment,** marked the commencement of the programme prepared on the occasion of the **10th anniversary of the national preventive mechanism.** In connection with the anniversary, I also held a press briefing on 8 December 2015 where I summarised ten years of activities of the national preventive mechanism and its importance in preventing ill-treatment of persons deprived of liberty. I will address the tenth anniversary in more detail in the next quarterly report to the Chamber of Deputies.

On 9 December 2015, I held a round table with representatives of the visited facilities for treatment of long-term patients, discussing key topics raised in my reports from the visits to this type of facilities. Expert medical consultants who participated in the visits and helped compile the report on the visits were also present. The reports on the visits to treatment facilities for long-term patients as well as the results of the round table with the representatives of these facilities will be summarised in 2016. I plan to issue a summary report where I will draw attention to the individual as well as systemic shortcomings of care in this type of facilities.

Over the last quarter of 2015, I made progress in the preparation of the **summary report on prisons**, which also points out the individual and systemic shortcomings of the Czech prison system. I plan to publish the summary report during the first quarter of 2016.

I simultaneously continued preparing the visits to **facilities for children requiring immediate assistance**, which will be the focus of my systematic visits in 2016. I selected several experts (psychologists, psychotherapists, special education experts and social workers) for long term co-operation in visits to these facilities from those who had responded to my call.

The employees of the Department of Surveillance over Restriction of Personal Freedom worked on developing their competences in monitoring of treatment of persons deprived of their liberty during a number of trips abroad. They visited the national preventive mechanisms in Georgia and Hungary, where they drew on the valuable experience in performance of monitoring activities. One of the employees of the Department of Surveillance also participated in a work meeting in Madrid dedicated to the issue of monitoring of forced returns.

We continued our training of police officers in the area of preventing ill-treatment of detainees in police cells, which is carried out by employees of the Department of Protection of Persons Deprived of Freedom on the basis of an agreement with the Police Presidium (in České Budějovice and Ostrava).

C.3 Protection against discrimination

C.3.1 Unequal pay

I believe it unjust if people performing the same work or work of a similar value receive different pay, either due to their gender, disability or the fact they also receive old-age pension. Unequal pay is undignified and the government should do more to prevent it.

Therefore, **I recommended to the Minister of Labour and Social Affairs and the State Labour Inspectorate to** approach gender experts and p**repare guidelines** for the District Labour Inspectorates **on how to verify gender equality in pay**. In 2016, the Inspectorates should thus launch regular inspections of employers focusing on differences in pay between men and women in the same or comparable positions. **Currently, there is a 22% gender pay gap in the Czech Republic.** The Minister accepted my recommendation and there is preparatory work currently being performed on creating guidelines for the Labour Inspectorates.

I also discussed several cases of unequal pay concerning persons with disabilities personally with the Inspector General of the State Labour Inspectorate. The Inspector General promised that the Labour Inspectorates would focus on this specific issue which is often a source of the complaints I receive.

Finally, I accepted partnership in the project dubbed "Pay attention to gender pay differences!", as a part of which the employees of the Office of the Public Defender of Rights engage in debates with the broader public, high school students and social partners in all regions of the Czech Republic. Awareness-raising events have already taken place in Prague, Brno, Olomouc and Jihlava. The project is being implemented by the Gender Information Centre NORA, a benevolent association, and will continue until June 2016.

C.3.2 Proving discrimination before the court (File No. 5798/2013/VOP/ZO)

The Constitutional Court of the Czech Republic employed the legal opinion of the Public Defender of Rights in the case of a man claiming discrimination on the ground of gender with respect to termination of his employment (Judgement File No. III ÚS 880/15 of 8 October 2015). The man had worked as a tutor in a children's home. The Court noted that the Defender had previously criticised the procedure of the Labour Inspectorate which investigated the case, but failed to find any discrimination. Two years ago, the Defender found that the Inspectorate's inspections were purely formal. The lower-instance courts should thus not have used the inspection results and should have proceeded with taking additional evidence. When they failed to do so, they violated the plaintiff's right to a fair trial.

I welcome the fact that the Constitutional Court of the Czech Republic took the Defender's findings into account and forced the courts and Labour Inspectorates to approach discrimination cases more responsibly.

C.3.3 Student with disability denied participation in a school residential trip (File No. 105/2013/DIS/EN)

I defended a student who was denied participation in a school residential trip by her school. The assistant teacher who, during standard school hours, ensured regular phlegm removal from the student's airways using an endotracheal cannula refused to go on the trip. The school did not get a different assistant for the student.

The prohibition of discrimination in access to and provision of education under the Anti-Discrimination Act and the schools regulations also applies to school residential trips. Schools have the duty to ensure such conditions for students with disabilities as to enable them to participate in school residential trips, unless this represents an unreasonable burden (Section 3 (2) in conjunction with Section 3 of the Anti-Discrimination Act). A reasonable measure could consist e.g. in training another school employee (aside from assistant teachers) who participates in the trip to assume the responsibilities normally carried out exclusively by assistant teachers (in this case, the responsibilities consisting in the so-called self-maintenance).

During inquiry into the case, I found that the school had generally done well in adjusting the conditions of the student's education to her disability and was actively

searching for various alternate solutions, even though these were not always according to the student's mother's wishes. For this reason, I recommended that the mother deal with this rare failure on the part of the school out of court (through mediation).

D Legislative recommendations and special powers of the Defender

D.1 Proposal for cancellation of parts of generally binding municipal ordinances issued by Litvínov and Varnsdorf (File No. Pl. ÚS 34/15 and File No. Pl. ÚS 35/15)

In this case, I originally inquired into the procedure of the Ministry of the Interior in performing supervision of the constitutionality and lawfulness of municipal ordinances issued by Varnsdorf and Litvínov. Municipal ordinances issued by Varnsdorf and Litvínov prohibit the consumption of alcoholic beverages in certain public spaces, bringing one's own articles for sitting, barbecuing etc. in certain public spaces and, **in the whole area of the affected towns**, prohibit sitting on curbs, walls and other structural elements not intended for sitting.

I believe that the ban on consumption of alcoholic beverages in certain public spaces is in accordance with the law. Bringing one's own articles for sitting and relaxation to certain public spaces is also generally in accordance with the law.

However, I was alarmed by the fact that the Ministry did not see the unlawfulness of the ordinance stipulating a **general** ban on sitting on things not intended for sitting in all public spaces in the whole area of the towns. Any person sitting down e.g. on a curb or a low wall or railing in front of the school would be committing an infraction (a violation of the ordinance). I consider such a regulation completely absurd. Sitting on things other than benches is not a harmful activity. Combating vandalism by prohibiting all people from engaging in activities not leading to vandalism is disproportionate. For instance, **a mother watching her child play in a sandbox that lacks a bench nearby would be forced to stand the whole time.**

As I was unable to ensure remedy either through the Ministry of the Interior or via communication with the above-specified towns, I resorted to using the special powers vested in me and applied to the Constitutional Court with an application to annul the relevant parts of the aforementioned generally binding municipal ordinances.

D.2 Action for the protection of public interest against permission to construct a photovoltaic power plant

In 2012, the Public Defender of Rights contested the final administrative decisions by which the Duchcov Municipal Authority had permitted the construction of a photovoltaic power plant in the land-registry territory of Moldava in Krušné hory and, subsequently, had approved the structure for use.

The Defender found multiple errors in the administrative proceedings, since the **environmental impact of this industrial structure had not been assessed in advance.**

Furthermore, **the Construction Code had been flagrantly breached** because the construction project had been permitted and carried out in an undeveloped free landscape and, hence, at variance with one of the basic principles of construction-law regulations, i.e. protection of undeveloped territories (greenfields). See also the Annual Reports on the Activities of the Public Defender of Rights for 2012 (p. 34), 2013 (p. 29) and 2014 (p. 20).

On 8 October 2014, the **Regional Court in Ústí nad Labem annulled the contested decisions** of the Duchcov Municipal Authority on grounds of **unlawfulness** and **procedural defects** and referred the case back to the Municipal Authority for further proceedings. The defendant subsequently appealed against the court's decision through cassation complaint filed with the Supreme Administrative Court, which cancelled the judgement of the Regional Court in Ústí nad Labem on 18 June 2015 and referred the case back for further proceedings.

On 16 December 2015, **the Regional Court in Ústí nad Labem again satisfied the Defender's action and, for the second time, cancelled the decision** through which the construction of the photovoltaic power plant had been approved in combined land-use and construction proceedings.

The court also addressed **the issue of *locus standi* of the Defender**, i.e. whether or not a public interest serious enough to entitle the Public Defender of Rights to file an action had been ascertained. The court noted that this **serious public interest did exist**, which was documented e.g. by the opinion of the Czech Environmental Inspectorate, which likewise confirmed the existence of a serious public interest (consisting in affecting the environment and protection of the landscape).

E Other activities

E.1 Together towards Good Governance Project CZ.1.04/5.1.00/81.00007

Since 1 January 2014, the Office of the Public Defender of Rights has been implementing the "Together towards Good Governance" project (Reg. No. CZ.1.04/5.1.00/81.00007). The project is financed from the European Social Fund through operational programme Human Resources and Employment and the State budget of the Czech Republic.

The main objective of the project is to identify opportunities for increasing effectiveness of the work of the Office of the Public Defender of Rights (hereinafter "the Office") with the use of international co-operation.

The key activities of the project focus on exchange and comparison of experience and good practice examples with international partners, education of professional staff of the Office, organisation of training seminars, round tables and conferences for target groups, stays and internships for students and activities to raise public awareness about the competence of the Public Defender of Rights.

The following are the target groups of the project:

- local governments and regional authorities, their administrative bodies, organisations established or founded by them and their employees

- governmental authorities and organisations established by them
- Employers
- NGOs
- Students

The Office of the Public Defender of Rights (Slovakia) and Alapvető Jogok Biztosának Hivatala – The Office of the Commissioner for Fundamental Rights (Hungary) are the project partners.

The project included especially the following activities during the **fourth** quarter of 2015:

1) 3 individual international visits with partners and co-operating organisations

- 1 two-day visit to Spain (Oficina del Defensor del Pueblo)
- Topics of individual visits – exchange of experience and sharing good practice in the following areas:
    - comparison of working methods of the Czech and the Spanish national preventive mechanisms
    - comparison of working methods in the area of public relations
    - professional education of employees
    - comparison of working methods in the area of equal treatment
    - inclusive education

- Two-day visit in Georgia (Office of Public Defender of Georgia)
- Topics of individual visits – exchange of experience and sharing good practice in the following areas:
    - comparison of working methods of the Czech and the Georgian national preventive mechanisms
    - professional education of employees
    - public relations – communication with the specific target groups

- Two-day visit to Hungary (the Office of the Commissioner for Fundamental Rights; Equal Treatment Authority)
- Topics of individual visits – exchange of experience and sharing good practice in the following areas:
    - comparison of good and bad practices in the area of involving consulting experts in OPCAT visits
    - public relations and professional education of the employees

2) 8 seminars for public administration and NGOs in Zlín, Olomouc, Ústí nad Labem, Liberec, České Budějovice, Brno and Jihlava

Topics: local fees; assistance in material need and housing benefits; social and legal protection of children in the Defender's practice; public roads; benefits for persons with disability.
Total number of participants: 194.

3) **7 round tables for public administration, non-profit organisations and employers in Brno**

Topics: legal aspects of activities of facilities for children requiring immediate assistance; selected aspects of the activities of health insurance companies; provision of information on pay and benefits; selected issues of distraint and insolvency proceedings; discrimination in the area of labour law; selected aspects of administrative punishment by Labour Inspectorates in the Defender's practice.
Total number of participants: 144.

4) **3 seminars for students of higher vocational schools in Brno and in Prague**

Topic: the Public Defender of Rights and her activities.
Total number of students: 87.

5) **2 informative and awareness-raising meeting "We take interest in you" in libraries as part of the Defender's visits in the individual regions – Plzeň Region: Plzeň, Southern Bohemian Region: Tábor**

Topics: (un)equal employment opportunities
Total number of participants: 41.

6) **3 informative and awareness-raising meetings in schools in Plzeň, Vodňany and Brno**

Topic: diversity in schools.
Total number of participants: 114.

7) **1 informative and awareness-raising meeting in a socially excluded area in České Budějovice**

Topic: Discrimination in the area of schooling, housing, employment and access to services.
Total number of participants: 7.

The project outputs and indicators are carried out according to the set timetable.

In Brno, on 25 January 2016

Mgr. Anna Šabatová, Ph.D.
Public Defender of Rights