



## Report on cases in which remedy was not achieved even using the procedure under Section 20 of the Public Defender of Rights Act

In accordance with Section 24 (1)(b) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, I provide information to the Chamber of Deputies of the Parliament of the Czech Republic on cases where adequate remedial measures were not achieved even by means of notifying the superior authority or the Government, or by informing the public of the findings obtained in inquiries under Section 20 of the Public Defender of Rights Act.

### A. Failure to pay a subsidy (File No. 20/2018/SZD)

I was contacted by Mr Z. K. (hereinafter the “Complainant”) complaining about the procedure of the Ministry of Agriculture (hereinafter also the “Ministry”). The case concerned his application for a subsidy for sugar beet production (direct payment as part of “Voluntary Coupled Support Payments”).

After completing his inquiry into the case pursuant to the Public Defender of Rights Act, my Deputy found multiple errors in the procedure of the Ministry of Agriculture. The main errors consisted in the fact that the **Ministry had not considered the Complainant’s application filed through an electronic form of 22 April 2015 to constitute an application in the sense of the relevant provision of the Code of Administrative Procedure.** This was related to the fact that the Ministry subsequently did not consider the Complainant’s submission of 11 April 2016 to constitute an appeal in the material sense and did not forward it in time to the competent first-instance authority (the State Agricultural Intervention Fund, hereinafter “SAIF”). **The Ministry’s procedure significantly contributed to the result** where the Complainant was unable to defend himself properly and in time against the procedure of the authority providing the subsidy, **i.e. against not being awarded the subsidy. To put it simply, the fact that one box in the form was not ticked off resulted in the Complainant’s application for a subsidy being rejected solely because the authority’s procedure was unlawful and did not notify the Complainant of a formal error in his application, despite having the duty to do so pursuant to the Code of Administrative Procedure.**

My Deputy proposed that the Ministry apologise to the Complainant firstly for responding to his submission late, and secondly for the error made on the part of the Ministry and SAIF concerning the administration of the subsidy application, which had resulted in his inability to effectively defend himself against the decision not to provide the subsidy. My Deputy also invited the Ministry to make a formal decision on the Complainant’s appeal of 11 April 2016 and, in so doing, remedy its inactivity.

The Ministry of Agriculture repeatedly refused to accept that it had dealt with the case erroneously. Therefore, I informed the Government that the Ministry of Agriculture had failed to adopt sufficient measures to remedy the failure to pay the subsidy. The Government discussed the material on 26 September 2018.

**Since remedy could not be achieved, not even by imposing a penalty, I am hereby informing the Chamber of Deputies of the Parliament of the Czech Republic of this matter.**



**B. Non-compliance of a manufacturing plant with the Construction Code (File No. 463/2017/VOP)**

A complainant approached the Defender with a request to inquire into the procedure of construction authorities (specifically the Municipal Authority of Velké Meziříčí and Vysočina Regional Authority) concerning alleged **non-compliance of a manufacturing plant operated by R** (hereinafter the “Company”) with the Construction Code.

My Deputy inquired into the case to find out whether an increase in production gave rise to unauthorised use of a structure by the Company tolerated by the competent construction authorities.

My Deputy confirmed that the complainant’s concerns were grounded in reality. My Deputy found that **the construction authority made an error when it had not used its powers to ensure that the Company would notify and discuss (in a timely manner) the planned changes in the use of the plant** consisting in “increase in the projected consumption of raw materials comprising unsaturated polyester resins in the plant from the current maximum level of 210 tonnes per year to 350 tonnes per year” (as part of the business plan designated “Thermoset pressing plant – increase of production”) pursuant to the requirements of the Construction Code and with involvement of the responsible governmental authorities. **The Regional Authority, as the superior authority of the relevant construction authority, then made an error** when it tolerated the conduct of the construction authority and failed to order it to achieve a remedy, despite the complainant’s objections.

In spite of our communication with the relevant authorities, we were unable to achieve remedy in the case. For this reason, my Deputy imposed a penalty consisting in contacting the Ministry for Regional Development; however, the Ministry informed him that it was unable to address the case due to an incomplete file, which at that time was in court. The Minister also informed him that the Ministry was monitoring the case, which was being heard by administrative courts at the time.

However, I should note that the law does not preclude the Ministry from dealing with the case even if the case is also being heard by courts.

**Since remedy could not be achieved, not even by imposing a penalty, I am hereby informing the Chamber of Deputies of the Parliament of the Czech Republic of this matter.**

In Brno, on 31 October 2018

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