



Report of the Public Defender of Rights on Activities in the 1st quarter of 2019

Pursuant to Section 24 (1)(a) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, I hereby inform the Chamber of Deputies of the Parliament of the Czech Republic of my activities.



A. Defender's activities in numbers.....	3
B. Public administration.....	5
B.1 Construction authorities will begin removing dangerous buildings.....	5
B.2 Fee for municipal waste	5
B.3 Fluency of guardianship proceedings	6
B.4 Delays in asylum proceedings.....	6
B.5 Publication of court decisions	7
B.6 Unblocking registration proceedings held by Land Registry offices	7
B.7 Including an abbreviated foreign degree in identity cards	8
B.8 Seizing and destroying unlabelled alcohol	8
B.9 Unclear pleadings of debtors subject to a tax enforcement procedure	9
B.10 Contact between parents and children	10
B.11 Camera in a remand prison cell.....	10
B.12 Conferences, roundtables and training	11
C. Supervision over restrictions of personal freedom and expulsion monitoring	12
C.1 Systematic visits and monitoring of expulsion	12
C.2 Secure preventive detention (summary report)	12
C.3 Prevention and detection of ill-treatment of detainees and prisoners	13
C.4 Amendment to the Healthcare Services Act	14
C.5 Conferences, roundtables and training	14
D. Protection against discrimination	15
D.1 Traveling by train with an assistance dog	15
D.2 Dismissal of a pregnant employee during the trial period	15
D.3 Dental care for people with mental disabilities and autism spectrum disorder...	16
D.4 Important negotiations.....	17
D.5 Awareness raising	17
D.6 Conferences, roundtables and training	17
E. Monitoring of rights of people with disabilities	18
E.1 Fourth meeting of the advisory body	18
E.2 Ongoing surveys	18
E.3 Co-operation with the UN Committee on the Rights of Persons with Disabilities.	18
E.4 Co-operation with non-profit organisations and people with disabilities	19
E.5 Conferences, roundtables and training	19



A. Defender's activities in numbers

During the 1st quarter of 2019, we received a total of **2,178** complaints (28 fewer than during the same period last year). The share of complaints falling within our mandate (**68.73%**) is above the average for 2018 (68%). As in previous years, most of the complaints concerned social security – especially pensions and benefits (423) and construction projects (165).

In **77** complaints, people objected to unequal treatment, of which **59** related to grounds prohibited by the Anti-Discrimination Act. In **10** cases, we also provided discrimination-related information and analyses to international entities or national bodies (on equality of women and men, reserved parking for people with disabilities, renting municipal flats, etc.).

We visited **7 facilities** (including a children's home, hospital and retirement home). We monitored **15 cases of expulsion** of foreign nationals and examined **2,454** expulsion decisions.

We initiated **2 surveys** to monitor the promotion of rights of people with disabilities.

The following figure illustrates the numbers of complaints:



2178

complaints were received in Q1 2019, including:

69 %

of complaints fell within the Defender's mandate and we could thus deal with them



165

construction



157

pensions



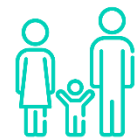
119

social aid and benefits for people in material



115

activities of the prison service



95

protection of children



64

allowance for care and benefits for people with disabilities



B. Public administration

Since 2001, the Defender has been defending individuals against unlawful or otherwise incorrect procedure of administrative authorities as well as against their inactivity. The Defender may inspect court files, request explanations from authorities and carry out local inquiries. If malpractice is found on the part of an authority, the Defender will recommend measures for remedy; the authority's decision, however, cannot be cancelled or replaced by the Defender.

B.1 Construction authorities will begin removing dangerous buildings (File No. [6/2011/SZD](#))



Where a building suffers from fundamental defects, the construction authority will require that its owner provide for a remedy. If the owner then fails to act, the authority will have to enforce its decision. Although the enforcement costs are borne by the owner, they often cannot be collected.

The construction authorities have thus long failed to enforce their decisions because they lacked the money required to this end. The unsustainability of this practice was already pointed out by Mr Otakar Motejl (former Defender) in 2004. Even though detailed information was gathered as to the scope of enforcement of these decisions and the reasons for inactivity on the part of the construction authorities, an analysis of the potential risks was carried out and a number of follow-up negotiations and roundtables were held, no suitable solution was found and put into practice.

Eventually, the Government had to interfere at the Defender's proposal. The Government twice¹ required the Minister for Regional Development to prepare a strategy comprising the rules of providing funds from the State budget to cover the costs of enforcement of these decisions.

In February 2019, the Ministry drew up a strategy titled "[Support for Enforcement of Decisions Rendered by Construction Authorities](#)", aimed to remedy the most striking cases of defective structures (urgent removal of a building, necessary safeguarding work on a building or clearance of a building). Municipalities may apply for the necessary funds with the relevant regional authority.

B.2 Fee for municipal waste (File No. [5913/2018/VOP](#))



A local fee for municipal waste is owed even by the owners of houses where no one has a registered address. The duty to pay such a fee does not depend either on the use of a house or on the quantity of waste generated. If the owner fails to pay, the municipal authority will charge the fee by means of a payment order. The competent officers are bound to maintain confidentiality. They may not submit information on

¹ [Resolution of the Government No. 56](#) of 25 January 2017 and [Resolution of the Government No. 222](#) of 11 April 2018.



the fee assessment procedure even to self-governing bodies of the municipality (the municipal council). A local fee may be waived.

The complainant inherited a former farm comprising two houses, among other structures. Along with payment of the relevant fee at the place of her permanent address, the complainant also paid the fee for one of the houses within the farm, which she used for summer vacations. She, however, refused to pay it for the other house – according to an expert report, it lacked utility networks and equipment necessary for housing (water, gas, electricity, sewerage, WC, bathroom, stove, heating). The municipal authority kept sending her requests for payment of the fee but did not issue any payment order that she would be able to appeal or challenge in court. The competent officer went on to discuss the case with the town council, whereby she breached her non-disclosure duty. Moreover, she told the complainant that the fee could not be waived, although the Local Fees Act has permitted this option for three years already – both in justified cases and to mitigate the harshness of the law.

The complainant is formally liable to pay the local fee even for the inhabitable house. However, she can ask for its waiver. The municipal authority acknowledged the malpractice found, modified its procedure and apologised to the complainant.

B.3 Fluency of guardianship proceedings (File No. [2034/2018/VOP](#))



The competent court has to decide on an application for a preliminary injunction regarding the situation of a minor child within 7 days. If the court that is seised in the case lacks local jurisdiction, it must make a declaration to this effect by the same deadline.

On 14 December 2017, the complainant asked a court to entrust his son into his custody by means of a preliminary injunction. On the same day, the court declared that it lacked local jurisdiction and referred the application to another court. The latter then referred the case back to the first court at the beginning of February 2018. In mid-March, the case was presented to the superior regional court, which confirmed, one week later, that the first court indeed lacked jurisdiction. The second court then decided on the original application filed by the complainant on 21 May 2018, i.e. after more than five months.

The second court's president (as a body of State administration of the judiciary) adopted a precautionary measure to prevent ill-advised transfers of local jurisdiction.

B.4 Delays in asylum proceedings (File No. [6741/2017/VOP](#))²



The Ministry of the Interior has to render a decision on an asylum application not later than within 18 months.

² [Report on inquiry](#), [final statement](#).



In the period from the summer of 2015 to the summer of 2016, asylum was sought in the Czech Republic by 78 Chinese citizens. The Ministry failed to meet the deadline for issuing a decision in any of these cases.

The Minister admitted the malpractice and adopted measures to prevent its recurrence.

B.5 Publication of court decisions (File No. [4292/2015/VOP](#))



Public access to court case-law contributes to predictable decision-making by the courts, unification of the decision-making practice and transparency of court decisions, and thus also to promotion of the right to a fair trial. The Ministry of Justice has to provide for proper functioning of online records of court case-law.³

During a 2016 [survey](#), we found that the relevant records were basically not functioning. The public part comprised only 2,875 decisions. About 800 decisions had been added since 2011. For comparison, the database of the Supreme Administrative Court alone comprised more than 95 thousand decisions at that time and the Slovak database launched in 2012 contained over 1.9 million decisions.

The situation did not improve even after another two years. We therefore suggested to the Ministry that:

- the courts' duty to publish all their decisions be incorporated in the Courts and Judges Act;
- the new database also comprise older court decisions disclosed under the Free Access to Information Act and decisions in private commercial databases;
- the contents of the new database be made accessible to the public via a web browser enabling basic classification of documents; and
- the courts be provided with the necessary staff and technical background for publication of the decisions.

On 28 February, we discussed the situation and possible solutions with representatives of the Ministry of Justice, the Chamber of Deputies of the Parliament, the courts (including supreme courts) and those who use the database most frequently (academicians, lawyers, non-profit organisations and journalists).

B.6 Unblocking registration proceedings held by Land Registry offices (File No. [6517/2018/VOP](#))



If the competent court defers enforceability of a decision that serves as a basis for entry of a right in the Land Registry, the relevant Land Registry Office has to reject the application for entry and stop blocking further proceedings.

Based on deferral of enforceability of a decision, the Land Registry Office stayed proceedings on permitting entry (in the Registry) of termination of an easement related to installation of antennas on a residential building. Subsequently, it stayed all later proceedings on entry of

³ http://www.nsoud.cz/Judikaturans_new/judikatura_vks.nsf/uvod



details on flats in the building in the Registry. The complainant was thus unable to sell her flat, cancel a mortgage encumbering the flat and establish a new mortgage for the benefit of the buyer's bank.

We managed to persuade the Land Registry Office to reject the application and unblock all the other proceedings.

B.7 Including an abbreviated foreign degree in identity cards (File No. [1532/2018/VOP](#))



If a foreign university or college does not specify an abbreviation of the relevant academic degree in a diploma it issues, such an abbreviation cannot be stated in a citizen's identity card.

The complainant obtained a Master of Sciences degree in the United Kingdom in the field of Information and Communication Technology. However, the relevant authority refused to include the abbreviation of the degree (MSc or MSc.) in the complainant's identity card because it had not been stated by the school in his diploma.

We could not help the complainant because the authority could not proceed otherwise under the current laws. However, the situation is quite absurd. While it is not possible to state in an identity card a common abbreviation of a university degree, at the same time (according to a register maintained by the Ministry of the Interior) people have registered in their identity cards as many as 342 various degrees and abbreviations, which sometimes differ merely in their language versions or, in other cases, in the number of full stops used in the abbreviation ("magister inżynier ogrodnictwa", "BABA", "INSINÖÖRI"), all that only because the Universities Act remains silent in this respect. The Ministries of the Interior and of Education, Youth and Sports have already pledged to seek a solution together.

B.8 Seizing and destroying unlabelled alcohol (File No. [6274/2017/VOP](#))



The Mandatory Labelling of Alcohol Act prohibits any handling of unlabelled alcohol. That also includes alcohol acquired by a vendor from an unregistered person. Registration is conditional on payment of a high deposit, including in the form of a bank guarantee. Based on the law, registration terminates 5 months before lapse of such a guarantee. The expiry of registration is then marked in the relevant publicly accessible register on the subsequent day. If a customs office finds unlabelled alcohol at a vendor, it must seize it and eventually destroy it.

Registration of an alcohol supplier terminated on 30 September 2015. An entrepreneur bought a total of 40 bottles of a spirit drink from that supplier on 2 October 2015. Later (either on 12 October or on 16 November 2015 – this is uncertain), the customs office entered information on expiry of registration in the register retroactively as of 30 September 2015. Subsequently, during an inspection on the premises of the entrepreneur, the customs office found 40 bottles labelled with control strips used by a supplier whose registration had already expired. While it discontinued proceedings concerning a suspected infraction committed by the entrepreneur (handling of unlabelled alcohol) because the entrepreneur



had been objectively unable to verify the termination of registration in due time, it however did seize, confiscate and destroy the alcohol.

Regardless of the impossibility of checking the existence of registration, the complainant had acquired unlabelled alcohol which he indeed could no longer handle. (The entrepreneur was eventually indemnified by the supplier). Nonetheless, the General Customs Directorate acknowledged the malpractice on the part of the customs office which had violated the applicable methodology and failed to enter the termination of the registration in the register on the subsequent day. At the same time, it pledged to incorporate a one-day deadline for entering terminations in the register directly in the law.

B.9 Unclear pleadings of debtors subject to a tax enforcement procedure (File No. 19/2019/SZD)



A pleading always has to be evaluated according to its actual contents (regardless of the designation). A debtor can defend him/herself against the procedure taken by the tax administrator in a tax enforcement procedure especially by filing an objection (within 30 days of the notice of the relevant act) or through an application for discontinuing the enforcement procedure (during the procedure). The tax administrator cannot arbitrarily choose the regime for dealing with a pleading. Quite the contrary, the administrator must follow a procedure that will enable material review of the objections.

The tax authority attached the entire balance of salary paid to a debtor by his former employer. The authority treated a pleading whereby the debtor questioned the lawfulness of this procedure as an objection. However, the deadline for filing an objection (30 days) had already expired, and it therefore rejected the objection without material review. The pleading should have been treated as an application for discontinuing the enforcement procedure.

In respect of another debtor (File No. [2829/2017/VOP](#)), the tax authority collected money from an account in which the debtor received the unattachable part of his salary (following deductions made within an enforcement procedure). The authority treated a complaint filed against further attachment of such money as an objection and dismissed it without proper justification. Based on a further complaint, it eventually checked the origin of the money and discontinued the enforcement procedure.

We discussed these cases with the General Tax Directorate, which then issued, on 13 March 2019, a [methodological guideline](#)⁴ based on which the tax administrator will always assess the lawfulness of a tax enforcement procedure following material review of the debtor's objections.

⁴ Guideline of the General Tax Authority Ref. No. 18085/19/7700-30133-711377, on handling ambiguous pleadings within a tax enforcement procedure, available on the website of the Tax Administration (www.financnisprava.cz).



B.10 Contact between parents and children (File No. [3656/2017/VOP](#))⁵



Only a court can restrict contact between parents and children. A child in institutional care can stay in a parent's household for several days only with a permission from the director of the given children's home, subject to prior consent of a body for social and legal protection of children (BSLPC). Even if a child's contact with a parent is not in the child's best interest, the BSLPC may not prevent contact by repeatedly disagreeing with the child's stay with his/her parents, but must rather file an application with the competent court to restrict the child's contact with the parents.

A court removed three small children away from their mother's care as it had been found that she had been neglecting them. The court placed them in a children's home. The mother tried to sort out her life, started a relationship with a new partner and found herself suitable accommodation. She wanted to be in contact with her children. She regularly spoke with them on the phone and visited them in the children's home. Later, she asked the home's director to permit the children to stay with her for a longer period of time. However, the BSLPC repeatedly refused to grant its consent until the mother underwent therapy and the therapy proved to have results.

In doing so, the BSLPC exceeded its competence because it set the conditions for long-term contact of the mother with her children (thus assuming the competence of the court). The situation in the family improved in the meantime and the BSLPC no longer considered it necessary to file an application for restriction of contact. It further supported (granted consents to) the children's stay with their mother and pledged to respect the limits of its competence.

B.11 Camera in a remand prison cell (File No. [923/2018/VOP](#))⁶



A general use of cameras in accommodation facilities of a remand prison disproportionately interferes with the right to privacy.

Among other objections, the complainant described his cell as a "toilet with a camera" Allegedly, the camera was only a few metres away from the toilet and made a 24/7 recording. Although it was supposed to have a night-vision technology, the guards would turn on the lights five times a night during the patrol, thus waking up the prisoners. We were unable to determine the actual use of the camera in the complainant's case. The prison claimed that the guard would turn on the camera transmitting images to the guard's station only if there was a danger of suicide. It did not make any recordings.

For assessing a possible interference with privacy, it is immaterial whether the camera actually records the premises of the cell. The complainant should not have been placed in a cell with a camera. The use of a camera can be admitted in justified cases if supervision cannot be sufficiently ensured by increasing individual checks (by an educator, guard,

5 [Report on inquiry, final statement.](#)

6 [Report on inquiry, final statement.](#)



doctor), interviews with a psychologist or placement in a special crisis ward. The remand prison eventually adopted the required measures and set the rules of camera use in an internal regulation. Given the general use of cells with cameras, we are negotiating with the Prison Service on possible unification of the procedures.

B.12 Conferences, roundtables and training

- Electronic publication of court decisions: Transparency – Fair trial – Confidence ([roundtable](#) – details in part B.5)
- Liability of the State for damage caused in tax administration ([expert symposium](#))
- Right to information and personal data protection ([workshop](#) for officers of territorial self-governing units in Hradec Králové)
- Administration of local fees (two workshops for officers of territorial self-governing units in [Pardubice](#) and [Hradec Králové](#))



C. Supervision over restrictions of personal freedom and expulsion monitoring

Since 2006, the Defender has been the national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Defender systematically visits facilities for persons restricted in their freedom, either *ex officio* or as a result of dependence on the care provided. The Defender generalises his or her findings and recommendations in summary reports on visits and formulates standards of treatment. The findings and recommendations are submitted to the facilities and their founders, and systemic recommendations are presented to central governmental authorities. Since 2011, the Defender has also been monitoring detention of foreign nationals and the performance of administrative expulsion.

C.1 Systematic visits and monitoring of expulsion

We visited **7 facilities** and performed **monitoring in 15 instances** of administrative and criminal **expulsion** of foreigners, both by land and by air.

The series of visits focused on treatment of accused persons held in remand detention continued with my visit to the Ostrava **Remand Prison**. We also opened a series of visits to facilities for institutional and protective education with visits to the **Children's Home** in Znojmo and the Children's Home in Humpolec. We reviewed the treatment of patients during a visit to the Brno **University Hospital**, specifically children's psychiatric ward and psychiatry department. We also examined the conditions of arrest and detention in **police cells** at the Zlín Territorial Department of the Police, District Unit in Zlín. We visited a social services facility, the Kociánka **Retirement Home** in Brno.

C.2 Secure preventive detention (summary report)

Following a systematic visit to two facilities for secure preventive detention (Opava, Brno),⁷ we issued a **summary report** on visits to secure preventive detention facilities (File No. [5/2019/NZ](#)). The report explains the concept of this strictest protective measure and summarises the applicable legislation, including the conditions for imposing this measure and the standards of treatment. This is followed by a summary of findings from the visits and recommendations regarding the treatment. The conditions of secure preventive detention should reflect the fact that secure preventive detention is not a service of sentence. The report also brings an analysis of 100 decisions to impose secure preventive detention and systemic considerations on this topic.

On 14 February 2019, we **discussed** the findings and recommendations with representatives of the institutions, Ministry of Justice, Prison Service of the Czech Republic, courts and public prosecutor's office.

7 Report from the Secure Preventive Detention Institution in Brno, File No. [54/2017/NZ](#), Report from the Secure Preventive Detention Institution in Opava, File No. [3/2018/NZ](#).



C.3 Prevention and detection of ill-treatment of detainees and prisoners

On 5 February 2019, we organised a joint [workshop](#) with the Supreme Public Prosecutor's Office and the Judicial Academy for public prosecutors and healthcare workers active in prisons, with the aim to ensure the application of a common international **standard of documenting and investigating signs of ill-treatment of people during police arrest and in prisons**. A lecture was given by Dr. Marzena Ksel, 1st Vice-President of the European Committee for the Prevention of Torture (CPT). Materials are available [here](#).⁸

Prohibition of torture and ill-treatment requires the State to provide for safe conditions of deprivation of liberty and effectively investigate any credible suspicions. Healthcare services perform a number of tasks in prisons to secure the health of prisoners and to document injuries and other deterioration of their medical condition. They have to comply with the applicable rules so that the records can be used in further proceedings.

The Czech legislation and internal regulations of the prison service comprise only a part of the standards for preventing ill-treatment. The situation prevailing outside the prison system – in restriction of freedom by the police, in facilities for detention of foreigners and in psychiatric hospitals – is even more complex.

It is therefore necessary to

- draw up guidelines for physicians in general, and specifically for prison healthcare services, as to how they should examine a person who complains about ill-treatment or has signs of ill-treatment on his/her body; lay down the requisites of a record of such examination (the possibility of its use in further proceedings);
- amend the Healthcare Services Act⁹ so that the doctors' confidentiality obligation does not prevent compliance with the duty to report any suspicion of ill-treatment to the Public Prosecutor's Office;
- provide the prison healthcare services with the necessary conditions for work; there is generally insufficient medical staff in prisons, the doctors are overburdened; documentation technology is lacking (still cameras); no initial or regular training is carried out in respect of specific aspects of doctors' work in prisons;
- establish a standard for detecting and documenting signs of ill-treatment also in case of police arrests and in facilities for detention of foreigners.

The Ministry of Health has already pledged to the Defender that it would incorporate the relevant topics in the envisaged amendment to the Healthcare Services Act. We are also expecting negotiations with the Ministry of Justice. This topic is also of interest for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which will send a report to the Government in April concerning its periodic visit to the Czech Republic that took place in the autumn of 2018. The necessary

8 At www.ochrance.cz, in section *Protection of Persons Restricted in their Freedoms, News on detention 2019, 14 February, Importance of healthcare services for preventing and detecting ill-treatment*.

9 Act No. 372/2011 Coll., on healthcare services and the conditions for their provision, as amended.



measures partly correspond to what the Government already promised to the Committee in 2015 but has yet to deliver.

C.4 Amendment to the Healthcare Services Act

A deputy Minister of Health promised during February negotiations that an amendment to the Healthcare Services Act¹⁰ being prepared would reflect our recommendations to enact:

- supervision of the Public Prosecutor's Office over the exercise of forensic treatment;
- authorisation of the social services inspectors to access the medical (treatment) records;
- the duty to notify medical findings of ill-treatment of persons deprived of liberty and related exemption from the duty to maintain confidentiality;
- the basic requirements for privacy during examination of a prisoner or a person deprived of liberty by the police; i.e. to abolish the mandatory presence of officers of the Prison Service and police officers;
- abolishment of cage beds;
- an infraction related to serious unauthorised impairment of dignity and integrity of a patient.

C.5 Conferences, roundtables and training

In 2018, we supervised the course of 53 return operations.¹¹ On 11 January 2019, we passed on our findings at a roundtable on **monitoring of expulsions** to representatives of institutions that are involved in the exercise of forced returns of foreign nationals to "third countries" (Police of the Czech Republic; Ministry of the Interior; Prison Service of the Czech Republic; Refugee Facilities Administration of the Ministry of the Interior).

At a joint [workshop](#), we familiarised employees of healthcare services from the South Moravian Region with our findings from **systematic visits to treatment facilities for long-term patients** and we presented the good practice.¹² The series of training courses will also continue in the other regions.

10 Act No. 372/2011 Coll., on healthcare services and the conditions for their provision, as amended.

11 The "Support for the Effective Monitoring of Forced Returns" project, registration number AMIF/8/02, is financed within the framework of the national programme of the Asylum, Migration and Integration Fund of the European Union.

12 Summary report on visits to treatment facilities for long-term patients in 2017, File No. [3/2015/NZ](#).



D. Protection against discrimination

In 2009, the Defender was also given the role of the national *equality body* pursuant to the European Union legislation. The Defender thus contributes to the enforcement of the right to equal treatment of all persons regardless of their race or ethnicity, nationality, gender, sexual orientation, age, disability, religion, belief or worldview. For that purpose, the Defender provides assistance to victims of discrimination, carries out surveys, publishes reports and issues recommendations with respect to matters of discrimination, and ensures exchange of available information with the relevant European bodies.

Since 2018, the Defender has also been helping foreigners – EU citizens who live or work in the Czech Republic. The Defender provides them with information on their rights and helps them in cases of suspected discrimination on grounds of their citizenship. The Defender also co-operates with foreign bodies with similar responsibilities regarding Czech citizens abroad.

D.1 Traveling by train with an assistance dog (File No. [4475/2018/VOP](#))



A dog trained to accompany a person with a disability is irreplaceable – it enables that person to fully exercise his/her right to free movement, self-reliance and independence. A transport company must adopt reasonable measures to ensure that its services can also be utilised by people with disabilities. A failure to adopt a measure that would not unreasonably encumber the transport company constitutes indirect discrimination.

The complainant is on a wheelchair. For her daily activities, she uses the help of her assistance dog (9 years, 28 kg). Several times a month, she needs to travel by train. However, there are no low-platform trains on her route and she therefore has to use a mechanical platform (lift) to board and leave the train. According to a statement provided by employees of the transport company, the platform is not intended for lifting animals, and the assistance dog would therefore have to jump on and off the train itself. The complainant was very worried that the dog could get injured. She therefore was unable to travel by train.

On our request, the transport company reviewed the case and decided to enable loading and unloading of assistance dogs using these lifting platforms. It is now sufficient to inform the company in advance of such a trip. The transport company familiarised potential passengers with its new procedure.

D.2 Dismissal of a pregnant employee during the trial period (File No. [3126/2018/VOP](#))



A pregnant employee cannot be dismissed; however, the Labour Code does not prohibit termination of her employment during the trial period. An employee may be dismissed during the trial period without giving a reason; however, if the reason for termination is pregnancy, such termination is contrary to the Anti-Discrimination Act. Non-existence of a prohibition of terminating employment of a pregnant employee during the trial period violates the State's obligation ensuing from EU law.



The woman in question worked for her employer as a cleaner for more than three years. She then took on a different job but returned to the employer after two months, this time as a forest worker. They agreed on a three-month trial period. During the first month of the trial period, the employee got pregnant (she was not pregnant when she was hired). In the second month of the trial period, she notified her employer that she was pregnant and asked to be transferred to a different job. The employer told her that there was currently no other job available and, one week later, he dismissed her (still during the trial period). The employer had never before expressed any dissatisfaction with the employee's work. He did not advise her, even at her request, of the grounds for termination during the trial period, but rejected any accusation of discrimination.

We provided the complainant, as a possible victim of discrimination on the grounds of sex (pregnancy), with methodical assistance (legal analysis of her situation with a recommendation for possible defence in court) and informed her of the possibility to use the services of the Pro Bono Alliance, which indeed found legal counsel for her. The complainant filed a lawsuit aimed to declare the termination of her employment during the trial period invalid and to obtain compensation for discrimination. The court has yet to decide in the case.

D.3 Dental care for people with mental disabilities and autism spectrum disorder (File No. [51/2017/DIS](#))

Some people with a mental disability or autism spectrum disorder have to undergo dental treatment in general anaesthesia. We found that, in such a case, they had to wait unreasonably long periods of time to receive treatment – adults four months and children four and a half months on average. In Moravia, the waiting time for children was four times longer than in Bohemia; in some regions, it reached as much as one and a half years, and in two regions, there were no suitable facilities at all.

We discussed the findings from our survey and possible solutions on 28 February 2019 with representatives of the Ministry of Health, health insurance companies, the Czech Medical Chamber, universities and hospitals. We agreed that it was necessary to define specialised workplaces that would provide treatment of tooth decay in general anaesthesia. The Ministry of Health pledged to create procedures for providing dental care to people with disabilities and improve the rules for reimbursement of this treatment from health insurance.

Health insurance companies decided to increase the amount of reimbursement for treatment of people with disabilities, which often requires a long time and where the current reimbursement is inadequate. This could help reduce the overloading of facilities that provide treatment in general anaesthesia.

The Czech Dental Chamber suggests that sedatives administered directly in the dentist's office be used to enable treatment of a majority of children, whether with a mental disability, with an autism spectrum disorder or without any diagnostic impairment. This form of treatment should be newly covered from health insurance. In co-operation with



health insurance companies, the Chamber strives to extend the network of facilities where “one-day surgery” will be provided for dental treatment purposes.

D.4 Important negotiations

State Labour Inspectorate: negotiations on the contemplated methodology for checking compliance with equal treatment and for sending employees from other EU Member States to the Czech Republic.

Czech Trade Inspection Authority: discussion on dealing with inquiries and instigations regarding inspections, and agreement on co-operation in educating the inspectors.

Chamber of Commerce, Confederation of Industry of the Czech Republic and Confederation of Business and Employer Associations: negotiations on possible legislative measures to ensure transparency of salaries and pay and on discriminatory provisions in collective bargaining agreements.

D.5 Awareness raising

We issued three new **information leaflets**: Discrimination on Grounds of Disability; Discrimination on Grounds of Sex and Parenthood; Guide and Assistance Dogs. We translated and disseminated **Equinet’s recommendation** for combating hate speech in election campaigns. We created a detailed **information guide for people returning from abroad** (with emphasis on returns from the United Kingdom). We delivered lectures at a one-day session of “**Human Rights Live**”, an educational event intended for students of law faculties (19 February). We announced the “**Equal.doc**” **contest** for documentaries dedicated to the topics of equality and discrimination, made by students from 15 to 19 years of age.

D.6 Conferences, roundtables and training

Inclusive education of Roma and non-Roma children ([roundtable](#)): discussion on recommendation File No. [86/2017/DIS](#).

Availability of dental care for people with disabilities ([roundtable](#)): debate on survey report File No. [51/2017/DIS](#) (details in part D.3).

Help for migrating citizens of the European Union and their family members ([roundtable](#)): Various non-profit organisations advised us how nationals of EU countries and their family members lived in the Czech Republic and what obstacles they faced in finding employment, healthcare, accommodation and education.

Education towards tolerance ([roundtable](#)): debate on the challenges faced by primary and secondary schools in preventing hatred towards vulnerable groups.



E. Monitoring of rights of people with disabilities

In January 2018, the Defender became a monitoring body for the implementation of rights recognised in the Convention on the Rights of Persons with Disabilities

E.1 Fourth meeting of the advisory body

During its February meeting, the advisory body focused on the **right to health**. First, it became acquainted with the results of our survey regarding the **provision of dental care to people with a mental disability and an autism spectrum disorder** and the recommendations based on the survey (File No. [51/2017/DIS](#), details in part D.3). This was followed by a discussion on the obligations of the State towards people with disabilities in the area of healthcare and individual components of the right to health.

E.2 Ongoing surveys

Survey on the availability of social services for families of children with disabilities

The recently initiated survey concerning the availability of field and outpatient social services for families of children with disabilities aims to determine whether

- support for and development of these services belong among the strategic priorities of the administrative regions and the State;
- the administrative regions create corresponding instruments to satisfy in due time the demands of families of children with disabilities for these social services.

We want to check compliance with Article 23 of the Convention on the Rights of Persons with Disabilities (Respect for home and the family) and the Social Services Act, according to which the necessary support and care have to be ensured in an environment that is as non-restrictive as possible and aim at maximum development of self-reliance.

Survey on the availability of a work rehabilitation tool for people with disabilities

We want to map the work of “expert groups” involved in specifying the form of work rehabilitation of each specific candidate for support in his/her return to the open labour market.

Labour offices have been requested to fill in a questionnaire (how the expert group makes its decisions; who its members are; how the group’s opinions are made available to applicants for work rehabilitation; and others).

E.3 Co-operation with the UN Committee on the Rights of Persons with Disabilities.

Once every two years, the States Parties to the Convention on the Rights of Persons with Disabilities (hereinafter the “Convention”) submit to the UN Committee on the Rights of Persons with Disabilities (hereinafter the “Committee”) a report on measures adopted to fulfil their obligations towards people with disabilities.

For the reports to be as specific as possible, the Committee sends a *List of Issues* to the States in advance. Independent monitoring mechanisms (including the Czech Defender) are



expected to provide co-operation in formulating topical national issues. In the preparation of the issues (questions), we followed from instigations received from the advisory body and co-operating non-profit organisations. The Committee [published](#) our proposal, together with the proposals of certain non-profit organisations.¹³

E.4 Co-operation with non-profit organisations and people with disabilities

In March 2019, we took part in a meeting of **ALLIANCE 12**, an informal grouping of organisations and persons supporting implementation of Article 12 of the Convention on the Rights of Persons with Disabilities (Equal recognition before the law). The central topic of the meeting were **guarantees of safety in support for decision-making**. The participants discussed, e.g., the possibilities of checking guardians, supporters and representatives of a household member, possible conflicts of interests and the role of a court in protecting an individual against abuse.

The **first meeting on issues of people with a psychosocial disability** also took place in March 2019; the meeting involved especially people who had experienced a mental illness, representatives of their families and carers, as well as services supporting them in community. We discussed our activities in this field and the current issues. The next meeting to be held at the beginning of June will focus on information for people with a psychosocial disability on their rights and available legal aid.

E.5 Conferences, roundtables and training

In co-operation with patients' organisation SMÁCI, z. s., which supports people with spinal muscular atrophy, we organised the first **webinar called *Convention on the Rights of Persons with Disabilities and the monitoring activities of the Public Defender of Rights***. Along with listening to the lecture, the participants could use their computers to follow a presentation related to the lecture, and also actively enter the debate. This format allows for active participation in the lecture directly from home, and is therefore suitable for carers and people with disabilities.

On 27 February 2019, the Faculty of Law of Charles University held a **conference** titled ***Problems associated with defining the notion of "old and new minorities"***. Our colleagues presented a paper named *People with disabilities as a new minority?* They considered how society approached people with disabilities and whether these people were in a disfavoured social position (a typical feature of a minority). The participants in the conference noted that there had been a development in society's view of people with disabilities and expressed their hope that they would not be treated as a minority.

We became involved in a campaign on the occasion of the **Rare Disease Day**, organised by Debra ČR, z. ú. We contributed to the lecture on *Building bridges between health and social care for people with rare diseases*, given in Brno, with a paper on the right of people with disabilities to an independent way of life.

13 https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1304&Lang=en



On the occasion of the **World Down Syndrome Day**, on Sunday, 16 March, we co-operated with other organisations (the Úsměvy (*Smiles*) association, the Helceletka Home for Children and Youth) to organise a play of the Aldente theatre named *Who'd be afraid of this?*, accompanied with authors' reading by Marek Orko Vácha and Milan Kosmák. Over 120 people took part in the event, including children.

The **World Autism Awareness Day** falls on 2 April. We reminded ourselves that it was worth trying to help people with autism to live a full and dignified life, and primarily to ensure that they were heard. Just recently, we published the results of two surveys focusing on these people – a survey of the availability of social services for children and adults with an autism spectrum disorder, especially those with significant behavioural problems (File No. [45/2018/OZP¹⁴](#)), and a survey concerning the availability of dental care (File No. [51/2017/DIS](#), details in part D.3).

Brno, 23 April 2019

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

14 [Related recommendations](#).