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Public Defender of Rights

# Annual Report

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# Annual Report

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Public Defender of Rights

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## COLOUR SCHEME – COLOUR LEGEND

- generally about the Public Defender of Rights
- government
- supervision over restrictions of personal freedom
- equal treatment and discrimination
- protection of rights of people with disabilities

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# Foreword by the Public Defender of Rights

You are opening an annual report describing the Defender's efforts in 2022. If you are a regular reader, you probably know what to expect. You will read about cases where my fellow lawyers and I investigated how diligent the authorities were in their work, and you will see how we managed to settle those cases where the authorities had erred. You will find out what we did in the past year to protect the rights of people with disabilities and promote equal treatment. And you will also learn about the latest developments regarding the supervision of the rights of people restricted in their freedom. The report also presents legislative recommendations addressed to the Chamber of Deputies to tackle situations that require changes to legislation.

Indeed, none of the regular parts are missing in this year's report. But this time, we decided to provide something extra. Beyond the traditional division into sections devoted to the individual areas of public administration, such as social security and construction regulations, this year's edition includes two comprehensive chapters on multi-faceted issues.

The Covid-19 pandemic has affected everyone's lives and our society as a whole in recent years, and in 2022, our reality was changed forever by Russia's war against Ukraine. I am not afraid to admit that I personally consider this unprovoked aggression by a member country of the UN Security Council to be the worst event that has happened in my lifetime.

The people affected by the war deserve our protection and support. I am very pleased to see how we, as society, were able to come together and respond quickly to the arrival of thousands of people who had been forced to flee from their homes. In the chapter devoted to the impacts of the war in Ukraine, you can read how our institution contributed to the relief effort – whether in the registration of newcomers or by submitting comments on all the Lex Ukraine regulations enacted to date.

The war has exposed sore spots in our society: many people have trouble finding decent housing or paying the related costs. Single parents struggle to balance childcare and work. Kindergarten capacities are lacking, especially in larger cities. Our country continues to prioritise institutional social services. The arrival of Ukrainian women and children only made these and other pressing issues more visible. A change for the better in these areas will help not only those who have fled to our country to escape the war.

In the second comprehensive chapter, we focus on the protection of children's rights. We have long been pointing out that the Czech Republic has yet to establish a children's ombudsman. I trust this debt we owe to our children will soon be repaid. While the Public Defender of Rights addresses many topics relating to the protection of children's rights, he cannot completely replace an institution devoted specifically to the rights of children.

The Deputy Public Defender of Rights changed last year as Vít Alexander Schorm took over from Monika Šimůnková in the autumn. I would like to use this opportunity to welcome him once again in our midst. As he soon discovered, we have a great deal of work ahead of us, both on cases of specific people asking for help in desperate situations and in addressing systemic problems. This report will show you how we managed in 2022.

**Stanislav Křeček**, Public Defender of Rights  
1 March 2023



# **Legislative recommendations, relations with constitutional bodies and Defender's activities**





The Defender makes general conclusions that reflect the problems and findings encountered in his activities and points out the necessary changes to the legislation. He proposes possible solutions to the Chamber of Deputies in the form of legislative recommendations and also responds to the way his previous recommendations were followed.

# Legislative recommendations



## 1. INCREASE IN THE CARE ALLOWANCE AND ITS REGULAR ADJUSTMENT

People with disabilities who need help from others receive care allowances that are too small to cover the necessary assistance.

The exact amount depends on the recipient's age (people under 18 receive higher allowances) and the degree of their dependence on assistance. At the beginning of 2007, the care allowance was CZK 2 000 for adults in degree 1, CZK 4 000 in degree 2, CZK 8 000 in degree 3, and CZK 11 000 in degree 4. Now it is only CZK 880 in degree 1, CZK 4 400 in degree 2, CZK 12 800 in degree 3, and CZK 19 200 in degree 4. Allowances for people up to 18 years of age are slightly higher.

The Ministry of Labour and Social Affairs is currently working on an amendment to the Social Services Act (submitter's No. MPSV-2022/191853-510/2). The sole purpose of the amendment, however, is to increase degree 1 care allowance for adults to CZK 2 000 and introduce regular adjustments by way of a Government regulation.

This change will not be sufficient to secure enough money for people with disabilities to cover the necessary social services and other expenses.

For example, in 2007, when the Social Services Act entered into force, the allowance for adults with degree 1 disabilities paid for almost 24 hours of personal assistance per month. Now, the allowance covers less than 6 hours a month. After the increase to CZK 2 000, it will suffice for 13 hours,

i.e. 45% less than in 2007. The situation is similar for degree 2 adult allowances and degree 2 and 3 allowances for children under 18 years of age.

The amounts of care allowances are insufficient to pay for the necessary services, and in fact fail to achieve even the levels set by the Social Services Act in 2007. This also impairs these people's right to live an independent life. The Czech Republic is thus in violation of [Article 19](#) of the Convention on the Rights of Persons with Disabilities.

This is why, as a first step, care allowances need to be increased so they at least match the 2007 levels of support. Only then can we start with their regular adjustment.

That, however, will not be enough in the future. Even after the increase, the allowance will not help people with the highest need for support. The whole system of support for people with disabilities should be changed fundamentally. This will only be possible, however, if the State involves these people in seeking the solution.

### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a draft amendment to Act No. 108/2006 Coll., on social services, to increase the care allowance to at least CZK 5 480 under Section 11 (1)(a), CZK 9 120 under subparagraph (b) and CZK 14 300 under subparagraph (c), and to at least CZK 3 650 under Section 11 (2)(a) and CZK 7 300 under subparagraph (b).**



## 2. NEW LEGISLATION ON CHILDREN'S INSTITUTIONAL EDUCATION

The Defender has long been striving to ensure that children do not grow up in institutions and that the youngest ones never get there in the first place ([Annual Report for 2020](#), p. 13). This requires the support of social and healthcare community services and foster carers.

Still, some 6 500 children currently live in institutions. These include both young and older children, orphans, children abandoned by their families because they lacked the necessary skills or means to care for the children, as well as children with serious behaviour issues.

All these children should receive professional help and support so that they can develop their abilities and live their lives to the fullest.

However, this endeavour has so far been unsuccessful in the long term (Defender's Report on visits to school facilities for the performance of institutional education of 2022, File No. [33/2021/NZ](#); Defender's Report on visits to school facilities for the performance of institutional education and protective education of 2011, File No. [53/2010/NZ](#)). Institutional education falls short of the children's needs because it is still governed by outdated [Act No. 109/2002 Coll.](#), which was originally supposed to serve merely as a temporary solution.

The current legislation neglects children with special needs, such as children with mental disabilities, autism spectrum disorders, extreme behav-

ioural disorders, mental illnesses and, last but not least, children with addictions. These children often lack the care they need because their institutions are unable to employ certain professionals, such as health professionals, especially nurses, psychiatric nurses and addictionologists. On top of that, specialist care for these children can interfere with their fundamental rights, so the law must clearly define such care and establish the related supervision.

Children's institutions are also often too large and housed in unsuitable buildings. The children's lives are then defined by the operational needs of the institution with their own needs often being sidelined.

The Defender has been drawing attention to serious deficiencies in the institutional care of children for more than 10 years. And he is not the only one to do so. There is a consensus regarding the need for fundamental systemic changes among the institutions themselves and their founders, the academia and experts from the non-profit sector, as well as other authorities and bodies.

Yet the State still lacks any comprehensive concept of foster care for children at risk, and one may thus come under the impression that these children were only of marginal interest for the Ministry of Education, Youth and Sports and for the Government.

---

### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a new draft legislative act on children's institutional education.**

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## 3. STOPPING THE PAYMENT OF ORPHANS' PENSIONS IN CASES OF OBVIOUS ABUSE

Some foster parents lack the means to pay for the needs of the child entrusted to them. They are therefore entitled to a benefit – the child's needs allowance – which is quite logically reduced by the child's orphan's pension. However, in cases where the pension is paid out to the child's biological parent and the latter fails to pass it on to the foster carer, the carer will not have enough money for the child's needs.

According to the law, a foster parent does not automatically become the recipient of the foster



child's pension. The pension continues to be paid out to the biological parent as the child's legal representative, unless the court exceptionally designates a foster carer as the pension's recipient. Thus, in cases where the pension is abused, the foster parent must ask the municipal authority to appoint him/her as a special pension recipient. However, even if a foster parent becomes authorised to dispose of the foster child's pension, the carer will not receive the pension immediately. For technical reasons, the Czech Social Security Administration is unable to change pension recipients faster than in 2 to 3 months, and the law does not allow it to immediately stop paying pensions to those who are abusing them. Later on, it is often impossible to collect the orphan's pension from such persons, as they usually have no income or assets.

The Ministry of Labour and Social Affairs promised to the Defender that it would consider amending the law at the first opportunity so that the Czech Social Security Administration could at least temporarily stop paying the pension in cases where it is justifiably concerned that the recipient is not using the pension for the entitled person's benefit. This could be done, for example, at the initiative of a body for social and legal protection of children. However, no such amendment has been submitted so far.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a draft amendment to Act No. 582/1991 Coll., on the organisation and implementation of social security, which would enable the Czech Social Security Administration to stop paying out a pension without delay in cases where there is a justified concern that the pension's recipient is abusing it.**

---

### 4. REDUCTION OF THE COURT FEE FOR APPEALS IN DISCRIMINATION CASES

Since autumn 2017, the court fee paid by discrimination victims for anti-discrimination lawsuits has been set at CZK 1 000. The Chamber of Deputies thus followed the Defender's recommendation from 2012 that the fee for these lawsuits should be reduced from CZK 2 000 to CZK 1 000 and not increased by one percent of the requested compensation for non-pecuniary damage exceeding CZK 200 000 ([Summary Report for 2012](#), p. 18).

However, if the victim of discrimination disagrees with the court's ruling on his/her anti-discrimination action and files an appeal, the fee can be several times higher. This is because the fee for an appeal is still determined in the same way as for ordinary claims for pecuniary compensation for intangible damage in (CZK 2 000 plus 1% of the amount exceeding CZK 200 000).

This contradicts the general rule that the fee for an appeal should, in principle, be the same as for bringing an action at first instance.

Crucially, this makes it difficult for victims of discrimination to access justice, although effective protection against discrimination (including proceedings on an appeal) must be available to all victims, regardless of their wealth or social status.

The Defender has therefore long been calling for redress (comment on the amendment to the Court Fees Act, File No. [45601/2019/S](#); survey report on Czech courts' decision-making in anti-discrimination disputes 2015–2019, File No. [61/2019/DIS](#)).

Although the Ministry of Justice supports the change, it does not plan to submit an amendment to the Court Fees Act.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies modify the tariff of fees, i.e. the Annex to Act No. 549/1991 Coll., on court fees, by inserting a new paragraph 13 following paragraph 12 in item 22, reading as follows: "The fee for an appeal against a decision in matters of protection against discrimination shall be collected under item 40." Paragraphs 13 and 14 shall be renumbered.**

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### 5. SUMMER DEBT RELIEF FOR PUBLIC HEALTH INSURANCE CONTRIBUTIONS

The summer debt relief campaigns known as "Gracious Summer I and II" allowed debtors whose public debt was being collected by an enforcement officer to obtain relief from debt accessions – interest, penalties, most of the enforcement costs, etc. – if they paid the original debt. This option, however, was not available to those whose debts were being collected by authorities through tax enforcement procedures or who were repaying their debt voluntarily in instalments.

That will now change. The Ministry of Finance has submitted a [bill](#) on extraordinary waiver and extinction of certain tax debts; this new legislation will affect debts administered by authorities under the Ministry of Finance. The Ministry of Justice joined the proposal with regard to debts administered by the courts and the Czech Prison Service. Municipalities and regions are also invited to join. The Ministry of Labour and Social Affairs has submitted a [bill](#) on extraordinary waiver of penalties on outstanding social security contributions and contributions towards the State employment policy and enforcement costs.

The Ministry of Health, on the other hand, has rejected a similar solution with regard to debts relating to public health insurance contributions. The Ministry is concerned about a possible adverse impact on the collection of contributions and the borrowers' morale. It believes that the option of removing the harshness of law, which can be granted by health insurance companies, would be more fair in this regard.

The Defender considers the summer debt relief campaigns an extraordinary (one-off) State assistance to people in times of crisis. There is no reason, however, why the State should deny this benefit to a particular group of debtors. Moreover, the relief applies only to accessions if the debtors pay their original debt, so the debtors are motivated to deal with their situation, i.e. to pay the debt. This can, in fact, increase the collection of contributions.

I acknowledge that some of these debtors have already achieved relief in the previous editions of the summer debt relief campaign because health insurance companies mostly collect debts through enforcement officers.

Those cases where this option has failed can therefore be addressed by "removing the harshness of law", but only if the currently existing legal barriers are lifted. This is because debtors have to file their applications within strict deadlines, and most of them are unable to comply.

---

#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a bill on extraordinary waiver of penalties relating to outstanding public health insurance contributions and enforcement costs, or at least a proposal for an amendment to Act No. 48/1997 Coll., on public health insurance, which would extend the deadline for applying for a "removal of the harshness of law".**

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## 6. ENFORCEMENT OF JUDICIAL CLAIMS BY CUSTOMS OFFICERS

The courts are unable themselves to collect "their" receivables, such as those for unpaid fines imposed as criminal sentences, procedural fines, court fees and costs of criminal proceedings. Some of them therefore commission civilian enforcement officers to do so in their stead. This option is available according to the Tax Code if the enforcement costs, which are paid by the debtor, reach an amount that is proportionate to the sum of the debt being recovered.

The courts could be relieved of this burden by the customs administration, which already successfully collects some other public debts.

This solution found support with the courts' presidents. However, the previous Chamber of Deputies did not manage to discuss the 2020 Government bill for amendment before the end of its electoral term (8<sup>th</sup> electoral term, Chamber of Deputies document No. [762](#)).

The Ministry of Justice supports the handover of judicial claims to the customs administration for collection. However, it needs to reach agreement on a transfer of money from its budget chapter to the Ministry of Finance so that the latter can recruit additional customs officers for debt collection.

Debt collection by civilian enforcement officers could be maintained in justified cases instead of handing the recovery of judicial claims over to the customs administration, and the courts could be allowed to ask the customs administration to recover the rest (similar to the option available to municipalities according to the second sentence of Section 106 (2) of the Code of Administrative Procedure).

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a proposal for amendment to Act No. 141/1961 Coll., on criminal court proceedings (the Code of Criminal Procedure), Act No. 99/1963 Coll., the Code of Civil Procedure, and certain other legislative acts, which would confer the power to enforce judicial claims on the customs authorities instead of the courts, or at least allow the courts to ask the customs authorities to carry out such debt collection.**

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# Recommendations for 2020 and 2021

## Recommendations for 2021

### 1. MODIFICATION OF THE LEGAL RULES GOVERNING WATER POLLUTION INCIDENTS

Within his inquiry into the water pollution incident on the Bečva River in 2020, the Defender found certain shortcomings in the ["Water Act"](#). In particular, it is unclear what powers the relevant stakeholders have, how they are supposed to work together in the clean-up work, and how they are supposed to inform one another.

Although the Ministry of the Environment prepared a "pollution incidents" amendment to the Water Act in 2022, it is yet to submit it to the Government.

#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a proposal for amendment to Act No. 254/2001 Coll., on waters and on amendment to certain laws (the Water Act), as amended, to**

- › provide a clear and transparent system of reporting water pollution incidents;
- › specify explicitly which regional author-

ity is to manage the clean-up work in the event that an incident extends beyond the administrative district of one administrative region;

- › and specify the content of management of clean-up work and the powers of the individual entities concerned in the resolution of an incident.

### 2. COMPREHENSIVE REGULATION OF GUARDIANSHIP AND SUPPORTING MEASURES FOR ADULTS

There are more than 50 000 adults living in the Czech Republic who have difficulty performing legal acts on their own and hence benefit from supporting measures. Nevertheless, there is still no detailed legislation on guardianship and on the forms of less intensive legal support, such as assistance with decision-making or representation by a household member. The basic rules are set out in the Civil Code, but too briefly. Although the Civil Code foresees the enactment of a guardianship law (Sections 468, 471 (2) and 3033 (2)), the Government still has to submit such a bill nine years after the Civil Code entered into effect.

The Defender also monitors the implementation of the Convention on the Rights of Persons with Disabilities and inquires into complaints against public guardians. (If the court is unable to find a suitable person, it appoints the municipality or an organisation established by the municipality as the public guardian.) The Defender is therefore aware of persistent systemic issues. Courts still too often choose the last resort measure – restricting the person's legal capacity. They also apply a "summary restriction" in up to 40% of the cases (survey report File No. [61/2018/OZP](#)). This means that the person concerned cannot act legally in any way, except for ordinary matters of everyday life. The courts also often interfere with fundamental rights of people who are being restricted, such as the right to vote, the right to enter into marriage and the right to work. Moreover, the Civil Code does not define unambiguously the rights of the persons under guardianship or the guardians' duties. There is no effective supervision of guardians and people providing other forms of legal support either. The law envisaged by the Civil Code is therefore needed as soon as possible. This would also bring the Czech Republic closer to fulfilling [Article 12](#) of the Convention on the Rights of Persons with Disabilities.



The bill has yet to be drafted, also because there is no single ministry responsible for the area of guardianship and supporting measures as a whole. The individual parts fall under the Ministry of the Interior (the contribution towards the exercise of guardianship), the Ministry of Justice (reporting and statistics; education of guardians), the Ministry of Labour and Social Affairs (education connected to the deinstitutionalisation of social services), and administrative regions (methodological support and control). However, this division is not enshrined anywhere, the authorities act at their discretion and none of them is responsible for ensuring that the concept is functional as a whole.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to present a bill to regulate comprehensively the matter of guardianship and supporting measures and to appoint a central responsible body.**

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### 3. NEW ABORTION LAW

Act No. 66/1986 Coll., on medical termination of pregnancy, and the implementing decree are outdated, discriminatory, illegal and contradict the Constitution and European Union law (32/2011/DIS, 24/2020/SZD, 25/2021/DIS, an article in the *Tempus Medicorum* journal).

In 2022, the Minister of Health acknowledged that the legislation was indeed outdated and did not reflect the level of Czech healthcare. He plans to regulate abortion (medical termination of pregnancy) by amending the Specific Healthcare Services Act. The Minister claims that he is actively dealing with the issue and is discussing it with experts, but while the change is indeed included in the legislative work plan for 2023, the progress achieved so far is insufficient.

---

#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a new legal regulation on abortions that would fit into the valid legal system and correspond to the current social reality and state-of-the-art in medicine.**

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## Recommendations for 2020

### 1. REDUCTION IN THE PERIOD OF INSURANCE REQUIRED TO BE ELIGIBLE FOR (REGULAR) RETIREMENT PENSION

More and more elderly people will live in poverty unless there is a reduction in the period of 35 years of pension insurance, which is essential for obtaining a regular retirement pension.

Despite the Defender's long-existing recommendation in this regard, in September 2022 [the Government rejected](#) the proposal to reduce the minimum period of insurance submitted by the Minister of Labour and Social Affairs. The Government wants to include the reduction in the comprehensive pension reform it [committed to](#) prepare by the end of 2023. However, it takes time to discuss such a fundamental reform. Even in an optimistic scenario of the reform work, the changes will not take effect before 2025.

---

#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to present a draft amendment to Act No. 155/1995 Coll., on pension insurance, to reduce the period required for an entitlement to retirement pension (currently 35 years of contributory and non-contributory period of insurance or 30 years of contributory period of insurance).**

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### 2. DENIAL OR WITHDRAWAL OF A HOUSING ALLOWANCE BECAUSE OF A FAILURE TO PRESENT AN ANNUAL BILL FOR SERVICES

Thanks to an [amendment](#) to the State Social Assistance Act, applicants for a housing allowance no longer have to submit annual bills for services. Thus, they will not lose this important benefit if

their landlord fails to provide them with the bill.

The Defender appreciates that the Government and the legislature have heeded his warnings (most recently presented in the [Annual Report for 2021](#), p. 14).

### 3. ENSURING ACCESS TO COMPENSATION AIDS FOR EVERYONE SUFFERING FROM A SERIOUS MOBILITY IMPAIRMENT

Many people with serious mobility impairments cannot receive a special aid allowance because some serious impairments of this kind are not included in the list of disabilities comprised in the Annex to Act No. 329/2011 Coll. The allowance will thus not be provided, for instance, to people suffering from multiple sclerosis, Parkinson's disease, dementia or other severe brain damage.

Nothing changed in 2022 in this regard despite the Defender's warnings. The Czech Republic thus continues to violate its international commitments ([Article 28](#) of the Convention on the Rights of Persons with Disabilities).

---

#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a comprehensive amendment to Act No. 329/2011 Coll., on granting benefits to people with disabilities and amending related laws, which would grant a special aid allowance to all people with serious mobility impairments.**

---

### 4. RIGHTS OF PERSONS WITH DISABILITIES ACCOMPANIED BY SPECIALLY-TRAINED DOGS

Some persons with disabilities require help of assistance or guide dogs. This is the only way they can exercise their rights.

There is still no law establishing the rights of these people, even though the Government already [asked](#) the Ministry of Labour and Social

Affairs to draft such a bill in 2016, based on the Defender's recommendation. The Ministry has yet to submit the bill. The Government expressed its agreement with a Deputies' motion in 2020, but the previous Chamber of Deputies was unable to discuss it before the end of its electoral term. The Ministry has now finally started drafting a bill on guide and assistance dogs with a proposed effective date in 2024. Meanwhile, a group of Deputies presented their own draft law (Chamber of Deputies, 9<sup>th</sup> electoral term, Chamber of Deputies document [No. 250](#)), which, however, [has not met with the Government's approval](#).

Because of the lacking legislation, the Defender repeatedly encounters problems of people who are reliant on their dogs, for example, [in public transport](#), during hospitalisation in a healthcare facility, [while using taxi services](#), at school or [when travelling by train](#). That is why he insists on finding a prompt solution.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to present a draft law regulating certain rights of people with disabilities accompanied by specially-trained dogs.**

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### 5. INCREASE IN FOSTER PARENTS' ALLOWANCE

The allowance for both temporary and long-term foster carers increased with effect from 2022, as the Defender had recommended in the Annual Reports for [2018](#), [2020](#) and [2021](#).

However, various Deputies' motions for amendment worsened the conditions for kinship foster parents and other foster parents not mediated for the children by the authorities. Following another change, the period of care they provide is at least fully counted towards their pensions. However, they still receive lower remuneration (the foster care allowance).

The Defender disagrees with the reduction in the allowance for foster parents who do not have a maintenance duty towards the children (see page [48](#)).

## 6. DEINSTITUTIONALISATION OF CARE FOR SMALL CHILDREN

The Defender demanded that children under the age of three stop being placed in children's homes (known as infant care centres or children's centres). With effect from 2022, these children can no longer be placed in children homes for social reasons, and starting in 2025, the courts will not be able to place these children in institutions even temporarily. The only exception will apply to children with disabilities who cannot receive care in a (substitute) family environment. For more information, see the [Annual Report for 2021](#), page 16.

## 7. REINFORCING CONSUMER PROTECTION IN RELATION TO UTILITY SUPPLIES

In [2020](#), the Defender recommended that the Chamber of Deputies call on the Government to submit an amendment to the Energy Act that would increase consumer protection. The Energy Act has indeed provided greater protection to the consumer since 2022. For example, it sets more specific rules for brokers and rules for terminating the authorisation to enter into a supply contract, and also allows the Energy Regulatory Office to resolve disputes concerning the performance of obligations under brokerage agreements in the energy sectors. For more information, see the [Annual Report for 2021](#), page 16.

## 8. COMPLAINTS MECHANISM IN SOCIAL SERVICES

An effective complaints mechanism has to be in place to ensure that the rights of vulnerable people (i.e. users of social services) are truly protected. Such a mechanism should guarantee that the clients of social services have their complaints assessed quickly, professionally and independently of the social service provider. Where deficiencies are identified, the mechanism should ensure remedy.

While there is an authority inspecting the quality of social services, people do not have the right to claim that the authority inquire into their complaints and ensure prompt remedy. The inspection authority uses such complaints "merely" as suggestions for future, more extensive inspections. Regional authorities will not help social services users either. They merely check whether the provider in question meets the conditions for social

services registration. Even a lawsuit is not a solution. If these people manage to bring their case to the court, they might not achieve redress in time.

This is all the more serious since questionable procedures of a social service provider may result in ill-treatment, which is prohibited by the Charter of Fundamental Rights and Freedoms (Article 7 (2)) and the Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3) and for which the State must establish means of prompt remedy.

The previous Chamber of Deputies did not manage to discuss the legislative proposals submitted so far (submitter's Ref. No. [MPSV-2019/239277-510/2](#)) and the Government has yet to draft new ones.

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### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a draft amendment to Act No. 108/2006 Coll., on social services, to introduce an effective complaints mechanism in social services.**

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## 9. RECLASSIFICATION OF INTERFERENCE WITH PERSONAL DIGNITY IN THE PROVISION OF HEALTHCARE SERVICES AS AN INFRACTION

Healthcare providers cannot be penalised for most cases of interference with the dignity, privacy, safety and integrity of patients, as such conduct is not considered an infraction.

While authorities may impose remedial measures on the providers, this will not suffice in some cases, and even if all victims of ill-treatment were able to file actions for the protection of personal rights, this would not result in a prompt remedy.

Thus, the lacking classification of such conduct as an infraction poses a serious problem. The existing criminal offences as defined in the law do not suffice for effective punishment. Even a serious interference with personal dignity often does not meet all the criteria for being classified as one of the existing offences. For example, there might be no bodily injury or intent, or the series of actions or omissions in question might not attain the gravity of a criminal offence. The Defender has repeat-

edly found serious cases of interference with the patients' dignity caused by the actions of individuals or unsuitable conditions of care. On occasions, this even amounted to ill-treatment, which is prohibited by the Charter of Fundamental Rights and Freedoms (Article 7 (2)) and the Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3).

Yet, even in 2022, the Government did not draft an amendment to the Healthcare Services Act.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a draft amendment to Act No. 372/2011 Coll., on healthcare services and the conditions for their provision, which would define an infraction of unlawful interference with personal dignity, privacy, integrity and safety of patients.**

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### 10. RECLASSIFICATION OF INTERFERENCE WITH PERSONAL DIGNITY IN THE PROVISION OF SOCIAL SERVICES AS AN INFRACTION

For several years now, the Defender has also been advocating for introducing a new infraction in the provision of social services, including a penalty of prohibition to operate as a social services provider. The reasons are practically the same as in the previous case. The Chamber of Deputies did not have time to discuss the last proposal before the end of its electoral term (8<sup>th</sup> electoral term, Chamber of Deputies document No. [520](#)). While the Defender discussed the issue again with the Ministry of Labour and Social Affairs in 2022, the Government has yet to submit the relevant proposal.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit a draft amendment to Act No. 108/2006 Coll., on social services, which would introduce an infraction of unlawful interference with personal dignity, privacy, integrity and safety of persons to whom a social service is being provided.**

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### 11. ENSURING CONFIDENTIALITY IN THE PROVISION OF HEALTHCARE SERVICES TO PRISONERS AND PERSONS DEPRIVED OF LIBERTY BY THE POLICE

Even a person deprived of liberty has the right to privacy and dignity when visiting a physician. This right can only be restricted in accordance with the principles of the rule of law: the restriction must be laid down by the law, must pursue a legitimate objective (for example, to prevent a specific risk of attack or absconding) and must be proportionate to the objective pursued.

Act No. 372/2011 Coll., on healthcare services, merely requires healthcare services providers to ensure that such services are provided to prisoners "in the presence of a Prison Service officer, in his/her sight, but out of his/her earshot", save for some exceptional cases where an officer may also be within his/her earshot.

The law thus inappropriately provides for the automatic presence of officers (within their sight). What is even worse, the Defender found that, in violation of the law, officers were routinely present in the surgery, i.e. not just in sight, but also within earshot. However, more subtle measures (secure surgeries, panic buttons, more men on the medical staff, etc.) could also ensure safety and security.

The law does not lay down any restrictions whatsoever with regard to medical examinations of people detained by the police. Yet, police officers are routinely present in the surgery, thus violating the law (following a binding instruction of the Police President).

The Defender has long drawn attention to these violations of fundamental rights. He stresses that the presence of officers at medical examinations is not even capable of preventing ill-treatment. The Czech Republic is therefore rightly criticised by international human rights bodies. The principle of privacy during medical examinations is enshrined in the [standard of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) and in the [UN Principles](#).

The Healthcare Services Act must therefore be modified to accurately define the relevant exception to the patient's right to privacy in the provision of healthcare services and the conditions for ensuring safety and security. The Defender has already drafted such a proposal to amend the law and has successfully discussed it with the Prison Service and the Ministry of Health. However, the



Government has yet to submit it to the Chamber of Deputies.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies call on the Government to submit an amendment to Act No 372/2011 Coll., on healthcare services and the conditions for their provision, which would lay down a statutory exception to the privacy rule in the provision of healthcare services to people restricted in their freedom in accordance with the patients' fundamental rights, i.e. only if the statutory objective cannot be achieved otherwise than by restricting privacy and in such a way that the restriction is as small and proportionate as possible.**

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## 12. CANCELLATION OF THE SUBJECTIVE PERIOD (TIME LIMIT) FOR INITIATING REVIEW PROCEEDINGS

An unlawful administrative decision cannot be reviewed (and thus not cancelled) if the relevant authority does not initiate the review proceedings within two months of discovering the defect in the decision (Section 96 (1) of the Code of Administrative Procedure). The authorities usually fail to do so and they are then unable to cancel the decision themselves, even if people contest it in court and the authorities actually acknowledge the mistake. People then have to wait for the court to decide, even though seeking redress before the administrative authority would be quicker, cheaper and would relieve the burden on administrative courts. On top of that, if the persons concerned do not file a lawsuit, the Defender cannot help them even if he manages to convince the authorities of their mistake.

The Defender therefore recommended that the Government cancel the subjective two-month time limit for initiating review proceedings (File No. [26/2021/SZD](#)). The Government took note of the recommendation, but did not promise to change the law, i.e. that there would only be an objective time limit of one year from the decision's entry into force (see page [24](#)).

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies adopt a Depu-**

**ties' motion to amend Section 96 (1) of Act No. 500/2004 Coll., the Code of Administrative Procedure, to read as follows: "A resolution to initiate review proceedings may be issued not later than within one year of the legal force of the decision on merits."**

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## 13. SHARED BURDEN OF PROOF

Since 2013, the Defender has consistently advocated for the right of all victims of discrimination to access effective legal protection in court. Some victims are currently unable to win their cases because the burden of proof is not shared. Where that is so, they must not only prove that someone treated them worse than others, but also that there were no justifiable reasons for such worse treatment. However, it is very difficult or even impossible to prove the motives of the discriminating entity.

Remedy has not yet been achieved because the previous Chamber of Deputies did not manage to discuss the relevant Deputies' motion before the end of its electoral term (Chamber of Deputies, 8th electoral term, Chamber of Deputies document No. [424](#)). Hence, in the second monitoring report on the implementation of the right to equal treatment and protection against discrimination (File No. [89/2021/DIS](#)), the Defender reiterated that the indicator "Legislative expansion of grounds for sharing the burden of proof in the Code of Civil Procedure" had not yet been met.

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#### THE PUBLIC DEFENDER OF RIGHTS RECOMMENDS

**That the Chamber of Deputies adopt a Deputies' motion to amend Section 133a of Act No. 99/1963 Coll., the Code of Civil Procedure, to read as follows:**

**"If the plaintiff's testimony in court reveals facts indicating that the defendant discriminated against the plaintiff**

- a) on the grounds of race, ethnic origin, nationality (národnost), sex, sexual orientation, age, disability, religion or belief in matters concerning**
  - 1. right to employment and access to employment;**
  - 2. access to occupation, enterprise and other forms of self-employment;**
  - 3. employment relationships, service relationships and other dependent activities,**

- including remuneration;
4. membership of and activities in trade union organisations, works councils or employers' organisations, including the benefits provided by such organisations or councils to their members;
  5. membership of and activities in professional associations, including the benefits provided by such public corporations to their members;
  6. social security;
  7. granting and provision of social benefits;
  8. access to and provision of healthcare;
  9. access to and provision of education and professional training; or
  10. access to and provision of goods and services, including housing, if provided to the public;
- b) on the grounds of race or ethnic origin in access to public contracts and membership in associations and other interest groups; or
- c) on the grounds of nationality in legal relations in which a directly applicable regulation of the European Union concerning the free movement of workers applies<sup>56b</sup>);

the defendant is required to prove that the defendant did not violate the principle of equal treatment.

<sup>56b</sup>) Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union."

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# The Defender and the Parliament

## CHAMBER OF DEPUTIES

The Defender's annual reports include legislative recommendations. As the Chamber of Deputies failed to discuss the Annual Reports on the Defender's activities for 2019 and 2020 during its 8<sup>th</sup> electoral term, the Government did not address the Defender's legislative recommendations either.

The Defender sent his Annual Report for 2021 to the Chamber of Deputies in March 2022 (Chamber of Deputies document No. 189). Shortly afterwards, the report was discussed by the Petition Committee. Again, the Chamber of Deputies did not discuss the Annual Report by the report's editorial deadline.

The Defender also worked closely with the Chamber of Deputies, especially through its Petition Committee and individual Deputies.

## PETITION COMMITTEE

The Petition Committee discussed the Defender's Annual Report for 2021. Furthermore, it discussed the Defender's quarterly reports for the 4<sup>th</sup> quarter of 2021, 1<sup>st</sup> quarter of 2022 and 2<sup>nd</sup> quarter of 2022, which are accompanied by reports on matters where the Defender did not achieve a remedy even after exhausting the options laid down by the law.

In February 2022, the Petition Committee discussed the draft budget of the Defender's Office for 2022, followed by the draft State final account for 2021 in May and the draft budget for 2023 in November.

In June, the Petition Committee visited the Defender's Office as part of its meeting held outside the parliamentary premises. Together with other staff members, the Defender briefed the Petition Committee on the Defender's mandate. They also discussed some current topics, especially the issue of establishing the institute of children's ombudsman in the Czech Republic.

The Petition Committee again dealt with the situation prevailing in the Defender's Office before the Deputy Defender's resignation.

## BUDGET COMMITTEE

In May 2022, the Budget Committee discussed the proposed basic items of the budget of the Defender's Office for 2023.

## SENATE

On 24 June 2022, the Senate discussed and took due note of the Annual Report on Activities of the Public Defender of Rights in 2021.

The Defender's work is followed in more detail by the Committee on Legal and Constitutional Affairs and the Committee on Education, Science, Culture, Human Rights and Petitions, which also regularly discuss the Defender's annual reports.

## COMMUNICATION WITH INDIVIDUAL DEPUTIES AND SENATORS

The Defender appreciates that the Deputies and Senators make use of their right to convey complaints they receive from various individuals. The Defender also welcomes the opportunity to inform anyone interested about his findings and conclusions from all the areas of competence entrusted to him.





# The Defender and the Government

The Public Defender of Rights advises the Government whenever a ministry fails to adopt adequate measures to remedy a certain failure or general maladministration. The Defender may also recommend that the Government propose the adoption, amendment or annulment of a law, or adopt, amend or annul a Government regulation or resolution.

In 2022, the Defender informed the Government **twice** about the ministries' unlawful practices and, on **three occasions**, he recommended changes to specific laws. The Defender considers his participation in consultation procedures to be a simplified form of legislative recommendations to the Government.

## THE DEFENDER'S NOTIFICATIONS TO THE GOVERNMENT

### OPERATION OF THE SLUNIČKO RETIREMENT HOME IN THE TOWN OF MLADÉ BUKY WITHOUT A LEGAL REGISTRATION

The Public Defender of Rights has repeatedly drawn attention to the operation of unregistered facilities. A [summary report](#) on unlicensed residential care facilities was already produced in 2015.

In 2022, the Defender drew attention to yet another facility providing social services without a licence. He found that the Mladé Buky Senior Citi-

zens' Association had been operating a residential social service at the Sluničko Home in Krkonoše, and that this service could be effectively equated to a retirement home. Officially, the Association is formed by the accommodated seniors as its members. The Association is not licensed to provide social or healthcare services, and yet it also provided the seniors with common catering services, along with housing. The care actually provided to the clients at the time of the Defender's visit comprised, among other things, assistance with personal hygiene tasks, including changing of incontinence aids, dressing up, administering medication, positioning and assistance with movement or eating. The Association also organised various social activities for its clients and helped them deal with official matters.

The Social Services Act defines a retirement home precisely as a facility providing residential services to people who are dependent on care mainly because of their age, and also defines the scope of the services provided. If anyone intends to provide the services specified by the law, they need to register. Without such registration, there is no guarantee of any caregiver expertise, and this can, in turn, have a negative impact on the elderly residents' health. Inexpert care may result, for example, in premature loss of independence or abilities and skills that could be maintained or even enhanced with the right support.

Along with the dubious quality of care, unregistered facilities also put the client's property at risk. Registered facilities follow certain rules relating to payments for services. For example, clients must have at least 15% of their income left after paying for their accommodation and food, and the fee for the care provided may not exceed the amount of the care allowance. On the other hand, no official rules apply to unregistered facilities – they set the rules themselves.

On top of all that, because unregistered facilities are outside the system, the competence of the Social Services Inspectorate of the Ministry of Labour and Social Affairs does not extend to them either. There is thus no body authorised to inspect the quality of care provided in these facilities, so nothing forces the facilities to comply with the quality standards for social services and the clients are unable to seek remedy of any undesirable situation.

The Regional Authority of the Hradec Králové Region had already reached the same conclusion as the Defender, following an inspection. The Regional Authority ruled in 2018 that the Association had committed an infraction of providing unlicensed social services. This opinion was later confirmed by both the Ministry of Labour and Social Affairs and the Regional Court in Hradec Králové. The dis-

pute has now reached the Supreme Administrative Court.

The President of the Mladé Buky Senior Citizens' Association has repeatedly denied that the Association provides a residential social service, and has been refusing to apply for proper registration. In this case, the Defender has thus exhausted all the legal options to compel the facility to remedy the situation. He therefore decided to use his statutory authorisation and inform the public and the Government.

[Defender's sanction: File No. 24/2022/SZD](#)

[Press release of 14 December 2022](#)

## RECOMMENDATION TO AMEND THE CODE OF ADMINISTRATIVE PROCEDURE

The Defender already made a legislative recommendation in his summary report on activities performed in 2020, suggesting that the Chamber of Deputies retain only the one-year objective time limit for review proceedings in the Code of Administrative Procedure **and eliminate the subjective time limit.**

According to the Code (Section 96 (1)), this is a two-month time limit for initiating review proceedings. The time when the administrative authority learns of the grounds for initiating review proceedings marks the beginning of this period – this is most often the date of receipt of the administrative file. **In case of inactivity of the administrative authority, the relatively short subjective period may completely prevent a review of the decision,** even if the party whose rights were infringed in the preceding administrative proceedings intends to file a well-founded motion.

**At the same time, review is a relatively effective way to achieve remedy of errors committed by the public administration,** which satisfies the legitimate interest of the party without it being necessary to resort to administrative justice. Thus, along with ensuring better functioning of public administration, review proceedings can **help in some cases to reduce the workload of administrative courts,** without restricting access to these courts.

In the Defender's opinion, there is no rationale behind the presence of the subjective period in the law that would outweigh its drawbacks in terms of functioning of the review. He therefore repeatedly discussed the matter with the Ministry of the Interior, which – despite all the arguments put forth by the Defender – did not find sufficient grounds for its elimination.

Having exhausted all the legal options available, the Defender exercised his authority and recommended that the Government of the Czech Republic instruct the Ministry of the Interior to prepare and submit to the Government for approval a draft amendment to Section 96 of the Code of Administrative Procedure that would eliminate the subjective time limit for initiating review proceedings.

**The Government did not heed this recommendation** and merely took note of the material.

[Recommendation to the Government: File No. 26/2021/SZD](#)

## RECOMMENDATIONS FOR CHANGES TO THE CRISIS ACT

On the basis of individual complaints and information from NGOs, the Defender became aware of several problematic aspects that made **it difficult for citizens to effectively exercise their rights and deal with the authorities** during the Covid-19 pandemic.

The main issues related primarily to the authorities' inconsistent procedures, the lack of public awareness regarding the limited operation of certain departments, the inaccessibility of public administration services for people with disabilities, and the disadvantage for certain groups of the population in distance communication with the authorities. The Defender therefore urged the Ministry of the Interior to rectify these shortcomings, but the Ministry refused to provide any methodical guidance to those sectors of the State administration that did not fall within its remit.

The Defender found that the administrative authorities' practices varied considerably at the time of the emergency measures. These differences could not be attributed solely to the local or specific conditions of their activities. In view of the large number of public administration tasks and the fragmentation of the entities that act as superior authorities, the Defender considers it desirable to reinforce the methodological and co-ordination activities of the public administration, and subject them to unifying instructions and recommendations coming from a single management point. In his opinion, the above measure **will enable citizens to properly assert their rights and legitimate interests, and will also prevent factual disadvantages for certain groups of people.**

Having exhausted all the legal options, the Defender used his authority and recommended that the Government of the Czech Republic instruct the Ministry of the Interior or another central govern-

mental authority, by virtue of an amendment to the Crisis Act, to unify the public administration procedures and issue methodological recommendations for times of emergency.

**The Government did not heed this recommendation** and merely took note of the material.

[Recommendation to the Government: File No. 14/2022/SZD](#)

[Press release of 31 August 2022](#)

## DEFENDER'S COMMENTS ADDRESSED TO THE GOVERNMENT

In 2022, the Defender raised 205 comments on 42 ministerial materials, of which 40 were draft pieces of legislation. Little less than one third of the comments addressed were at least partially accepted (27%); disagreements persisted in a further 18%.

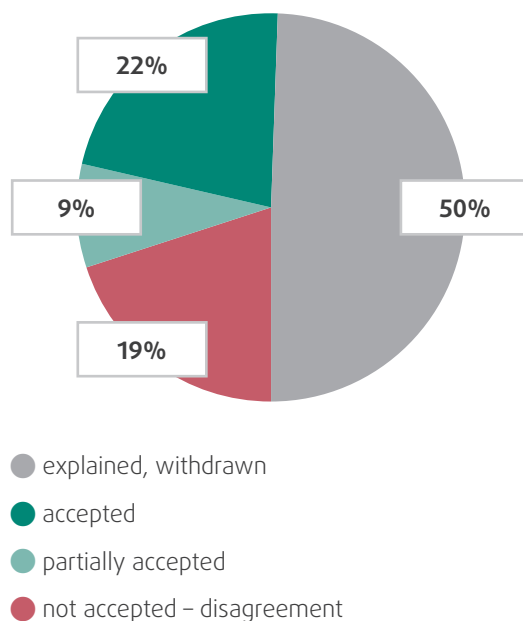
The number of comments increased significantly year-on-year. This increase may owe to a confluence of several reasons, such as a change in the Government or a greater number of regulations enacted in response to the arrival of people fleeing the war in Ukraine (see page [36](#)).

The overview below only includes fundamental comments to which the submitters have already responded. It does not include several yet unresolved comments relating to the proposals for the Energy Act and Schools Act, the Expropriation Act, the Railway Decree and the Public Defender of Rights Act.

Focusing only on comments that have been addressed, the Defender made a total of 185 comments on 38 proposals in 2022.

Most comments addressed – a total of 36 – concerned an amendment to the Residence of Foreign Nationals Act. The greatest number of non-accepted comments (16) were also raised by the Defender in respect to this draft.

### Resolution of comments provided within consultation procedures in 2022







# The Defender and the Constitutional Court

## PROCEEDINGS ON THE ANNULMENT OF LAWS

With effect from 1 January 2013, the Public Defender of Rights may intervene in proceedings on the annulment of laws or their individual provisions. In 2022, the Defender **joined four** out of seventeen **sets of proceedings**.

## VACCINATION DECREE

The Constitutional Court received an application to annul the relevant provisions of the "Vaccination Decree" (No. 537/2006 Coll.), which had introduced mandatory regular and special vaccination against Covid-19. The Decree expanded the scope of mandatory vaccination to include people over 60 years of age and selected professions.

The Defender also dealt extensively with the legislation in this field, as he received over ten thousand complaints in this regard in 2022. He repeatedly communicated with the Minister of Health and pointed out the problematic implications of the Decree. He also intervened in proceedings held before the Constitutional Court.

However, before the Constitutional Court had time to examine the Decree, the Ministry of Health replaced it by a new decree (No. 21/2022 Coll.),

which no longer provided for mandatory vaccination against Covid-19.

The Constitutional Court therefore discontinued the proceedings.

[Press release of 6 January 2022](#)

[Press release of 12 January 2022](#)

## COMPENSATION RELATING TO THE EXPLOSION AT THE VLACHOVICE-VRBĚTICE AMMUNITION DEPOT

In the spring of 2022, a group of Senators turned to the Constitutional Court with an application to annul part of Act No. 324/2021 Coll., known as "Lex Vrbětice". The Defender later intervened in the proceedings and pointed out further unconstitutional parts of the Act, as the legislator had set the rules for compensating individuals affected by the explosion at the Vlachovice-Vrbětice ammunition depot unequally. In particular, the rules disadvantaged those people who had not been registered for permanent residence in one of the municipalities concerned, although they had actually lived there and suffered harm. Furthermore, they disadvantaged injured foreigners who had not had a permanent residence permit in the Czech Republic.

The Constitutional Court agreed with the Defender's motion and annulled the disputed rules. Like the Defender, it stated that if the State decided to provide one-off compensation on the basis of a special law, all the persons affected by the harmful event (entitled parties) had to be subject to the same – non-discriminatory – conditions for receiving the compensation in accordance with the constitutional principles of equality and non-discrimination.

The entitlement to compensation was thus also extended to those groups of victims that the legislator had originally neglected.

[Statement of the Defender for the Constitutional Court: File No. 13/2022/SZD](#)

[Constitutional Court judgement of 14 June 2022, Pl. ÚS 10/22](#)

## AVAILABILITY OF LEGAL AID PROVIDED BY A LAWYER (ATTORNEY-AT-LAW)

The Defender intervened in Constitutional Court proceedings, joining the application of the Municipal Court in Prague to annul part of Act No. 85/1996 Coll., on the legal profession. The relevant provision limits the circle of people for whom the Czech Bar Association may appoint a lawyer in cases where this is justified by the applicant's "income and financial circumstances". The Defender, just like the Prague Municipal Court, sees this as a threat to the right of access to justice and the right to legal aid guaranteed by the Charter of Fundamental Rights and Freedoms.

The Municipal Court filed its application with the Constitutional Court after having dealt with a dispute between a private individual and the Czech Bar Association. The individual sought in vain the services of a lawyer with a view to filing a constitutional complaint in another case, although representation by a lawyer was mandatory in that context. The Czech Bar Association rejected the individual's request for the appointment of a lawyer on the grounds that she did not meet the condition regarding her income and financial circumstances. The woman could afford to pay for the lawyer herself, yet she was left without legal representation.

In his statement to the Constitutional Court, the Defender mentioned several other possible instances where it would be necessary to appoint a lawyer even without reference to income and financial circumstances. For example, it can be difficult for people in smaller towns and municipalities to find a lawyer without a conflict of interest, given that most of the lawyers available provide services to the municipality.

On 31 January 2023, the Constitutional Court granted the Municipal Court's application and annulled the disputed part of the provision.

[!\[\]\(a03a7eb2f4046e1d3c76772003e549ea\_img.jpg\) Statement of the Defender for the Constitutional Court: File No. 3/2022/SZD](#)


[!\[\]\(cbe2492b119e39e02a1dab2af4a4b296\_img.jpg\) Constitutional Court judgement of 31 January 2023, Pl. ÚS 44/21](#)

# The year 2022 in numbers


## COMPLAINTS RESOLVED

The high ratio of successful inquiries proves once again that the authorities respect the Defender's expert opinions, and in the vast majority of cases, correct their mistakes in line with his conclusions. The authorities failed to acknowledge the maladministration and the Defender thus had to use his power to inform the superior authorities or the public in only 5% of cases in 2022.

In each of the more than 17 000 cases closed where the Defender did not conduct an inquiry, we explained to the complainants what options they had and advised them on how they could further address their issues. We also handled over 5 700 calls to our hotline.


 **18 016**  
complaints resolved

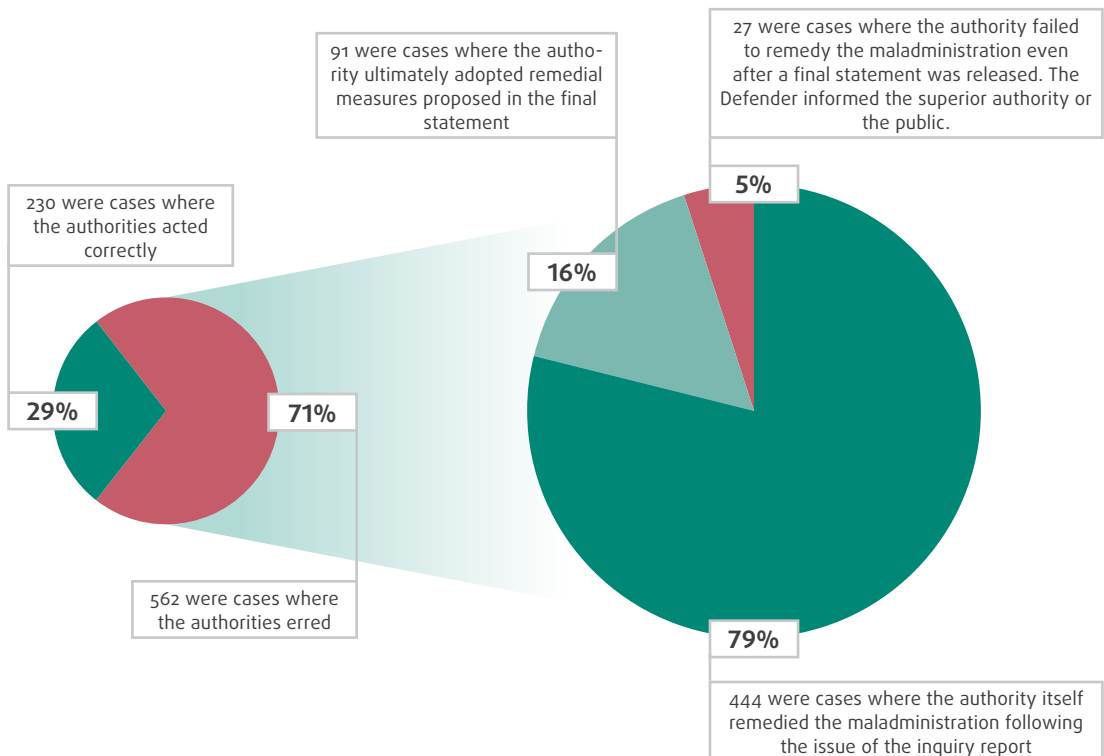
→ including

 **10 415**  
complaints concerning the Vaccination Decree

 **792**  
inquiries completed

→ of which

 **562**  
were cases where the authorities erred



**In 95% of cases,** the authorities corrected their mistake after the Defender's intervention




## COMPLAINTS RECEIVED

1. Legislative recommendations, relations with constitutional bodies and Defender's activities


 **17 942**  
complaints received










→  
of which

 **10 415**  
complaints concerned the Vaccination Decree

 **744**  
inquiries initiated

→  
of which

 **50**  
of the Defender's own motion

	Total complaints	Within mandate	Outside mandate
Year 2020	7 926	68%	32%
Year 2021	 7 988	 70%	 30%
			
			

\* excluding complaints concerning the Vaccination Decree

\*\* including complaints concerning the Vaccination Decree

Complaints received within mandate by area	year 2021	year 2022
Healthcare administration – the Vaccination Decree		<b>10 415</b>
Social security	<b>1 412</b>	<b>1 449</b>
The army, police and prisons	<b>420</b>	<b>521</b>
Construction and regional development	<b>577</b>	<b>503</b>
Rights of children, youth and families	<b>401</b>	<b>444</b>
Foreign nationals	<b>278</b>	<b>294</b>
Healthcare administration – excluding the Vaccination Decree	<b>523</b>	<b>279</b>
State administration of courts	<b>242</b>	<b>240</b>
Miscellaneous fields within the competence of the PDR	<b>303</b>	<b>218</b>
Taxes, charges and customs duties	<b>238</b>	<b>201</b>
Infractions	<b>209</b>	<b>183</b>
Transport and communication	<b>210</b>	<b>169</b>
Environmental protection	<b>166</b>	<b>164</b>
Administration of employment and work	<b>170</b>	<b>158</b>
Property law and restitutions	<b>124</b>	<b>113</b>
Discrimination – goods and services	<b>40</b>	<b>75</b>
Self-government, regional governance, right to information	<b>76</b>	<b>70</b>
Internal administration	<b>76</b>	<b>65</b>

# Important moments and events in 2022

## JANUARY

The Defender [intervened](#) in Constitutional Court proceedings aimed to annul part of the Vaccination Decree. In connection with the possible mandatory vaccination against Covid-19, [he had previously drawn the attention of the Minister of Health](#), for example, to the situation of pregnant employees, people with contraindications or those who had recently been vaccinated against Covid-19 and were thus immune to the disease.

We appreciated that [the changes to sickness insurance](#) also reflected the concerns that people had raised with the Defender.

Similarly, [changes were achieved](#) with regard to the State Social Assistance Act. Thanks to an amendment to the Act, more applicants will be able to receive the housing allowance and its amount now also reflects rising energy prices.

## FEBRUARY

[We condemned](#) Russia's invasion of Ukraine. Unilateral aggression against a sovereign country directly violates the norms and social ethics of the 21<sup>st</sup> century.

We drew attention to [problems associated with the increase in payments](#) for care, accommodation and meals in social services. The care allowance had not been raised accordingly. For some people with disabilities, social care services could thus be effectively unavailable in the future.

We welcomed a change to the rules governing the [use of restraints in healthcare](#). An amend-

ment to the Healthcare Services Act significantly shortened and simplified the definition of the use of psychoactive and other drugs as a means of restraint. Enclosure beds were completely removed from the list of restraints.

## MARCH

We became actively involved in helping people coming from Ukraine. We were in contact with the [Ukrainian Consul](#) and the [ombudspersons](#) of neighbouring countries. With [UNICEF representatives](#), we discussed the possibilities of helping Ukrainian children in Czechia.

The Defender's advisory body worked to improve conditions for the [schooling of children with disabilities](#). Specifically, it demanded the repeal of the Ministry of Education's decree in its current form, which had made it impossible to provide intensive support to children in special schools since 2020.

## APRIL

We updated the website "[Simple Guide to Building a House](#)". We uploaded audio recordings explaining various issues in the construction industry to the website.

We published the case of a woman who had been unable to [visit her three-month-old daughter in hospital](#) for several days. The city hall had failed to investigate her complaint properly. It had not dealt, among other things, with the complainant's objection that she had a negative Covid-19 test when she was being admitted to the hospital with her daughter.

At a [roundtable on construction law](#), we discussed with the representatives of governmental authorities, for example, the issue of granting exemptions from the general requirements on construction, and how to deal with repeated applications for ex post permission of unauthorised structures.

## MAY

We created a [map of maternity hospitals](#) with information on whether they [required payment](#) for the presence of fathers and other people in the delivery room.

We pointed out that there were no clear rules on [barriers reducing noise pollution](#) from skateboarding, in-line skating and scooter areas.

We published a [summary report on our visits to facilities for children](#) who cannot benefit from care provided by their biological or substitute families for some reason.

## JUNE

We held the [first Ombudsman Conference for Children](#).

We summarised the red flags signalling [forced labour and exploitation](#). People who, like thousands of Ukrainians, have left their homes and are seeking safety in another country become especially vulnerable due to their lack of knowledge about the language and environment in the foreign country.

The Petition Committee of the Chamber of Deputies held its [meeting at the Defender's Office](#), focusing on the Defender's cases in the first quarter of 2022. The Deputies also discussed the possible establishment of the institution of children's ombudsman.

## JULY

We published the [case of a complainant](#) who had left her job to relocate. The Labour Office erred when it granted her a lower unemployment benefit, as it had failed to sufficiently assess whether she had a valid reason for leaving her job.

We began to inquire into the circumstances surrounding the demolition of historic buildings in Brno and Prague. [Both cases](#) are linked together not only by the historical value of the original buildings and the desire to classify them as immovable cultural monuments, but also by the investor's intention to erect new buildings in their place.

The Defender filed a [cassation complaint](#) in connection with the planned construction of the Šantovka Tower in Olomouc. In August, the Supreme Administrative Court granted [suspensory effect](#) to the complaint. As a result, the Olomouc City Hall may not issue the investor with a building permit until the proceedings on the complaint are closed.

## AUGUST

We pointed out that people drawing pre-retirement benefits from pension savings [would lose their tax discounts for their spouse](#).

The Czech National Bank heeded the Defender's recommendation with regard to disputes

surrounding the [right to a basic account](#). The right of people legally residing in the Czech Republic to have at least one basic account collides in this area with the duties imposed on banks by the Money Laundering Act.

The Ministry of Regional Development issued a [methodology for shared accommodation](#), which had also been called for by the Defender.

The Ministry of Labour and Social Affairs set rules [for the removal of harshness of the law in granting employment benefits to people with disabilities](#). This was in response to the Defender's finding that officials had previously acted differently in similar cases and had not adhered to the principles of legitimate expectations and predictability.

On 31 August, Deputy Defender Monika Šimůnková resigned from her post.

## SEPTEMBER

In the second [monitoring report on equal treatment](#), we pointed out that outdated diagnostics in educational psychology service centres might not correctly distinguish between the innate intellectual abilities of Roma pupils and the influence of their environment.

We welcomed that the rules of the ["Gracious Summer III"](#) debt relief campaign should also reflect the Defender's crucial comments. The Defender has long been seeking to level the playing field for various groups of debtors.

## OCTOBER

The Chamber of Deputies elected Vít Alexander Schorm [as the Deputy Defender](#). He received 82 votes from among the 160 Deputies present.

Representatives of the Visegrad Group countries' ombudspersons met in Kroměříž. The main topic of the two-day [conference](#) was their countries' experience in helping people fleeing the war in Ukraine.

[At the Assembly of the Union of Judges, the Defender](#) drew attention to the insufficient remuneration of experts and interpreters, and the plight of auxiliary judicial staff and court employees.

## NOVEMBER

We pointed out that the [ill-treatment of people with disabilities](#) in social service facilities also had systemic causes. We also confirmed that the Defender had filed a criminal complaint regarding the ill-treatment of clients in the "Dům pod lípou" retirement home. In December, he then discussed the changes made in the retirement home [with the President of the Central Bohemian Regional Council](#).

We published a summary report on our [visits to remand prisons](#), including a number of recommendations for the prisons themselves and the General Directorate of the Prison Service.

The Defender started an inquiry into the [length and expediency of court proceedings](#) in the case of the bridge collapse in Studénka.

## DECEMBER

The Defender warned that [the overload of social workers](#) caused by the understaffing of the children's social and legal protection bodies had a negative impact on children at risk.

In his comments on the [amendment to the Energy Act](#), the Defender pointed out that the proposed definition of vulnerable customer did not in fact cover all the people at risk of energy poverty.







# Impacts of the war in Ukraine



Around 8 million people have left Ukraine searching safety in Europe due to the Russian invasion, as reported by the United Nations High Commissioner for Refugees (UNHCR). About 480 000 of them headed to the Czech Republic during the ongoing conflict.

A total of 241 000, mostly women and children, came to our country during the first month alone. The individual branches of the Ministry of the Interior's Department for Asylum and Migration Policy, where all incoming foreigners are required to obtain residence permits, were not prepared for such an influx of applicants for temporary protection. That is why we offered help to the Ministry of the Interior in the first days of the war. As volunteers, we were involved in the registration of new arrivals at the South Moravian branch of the Asylum Department and later at the Ukraine Refugee Assistance Centre (KACPU) in Brno.

We also helped the Ministry of the Interior find more volunteers and trained the recruits online not only on the general aspects of asylum law, but also on practical information regarding their work in the registration centres.

We regularly updated and disseminated practical information materials in the Ukrainian language. The Office also recorded a video about the functioning of KACPU [Як працює центр реєстрації для біженців з України](#) featuring a student from Ukraine. We warned about the risks of exploitation and human trafficking, and monitored the situation of particularly vulnerable groups among the newcomers, such as people with disabilities, members of other ethnic groups, unaccompanied minors and children in general.

We systematically commented on legislation and helped those who sought the Defender's help. Initially, we answered primarily the newcomers' questions about temporary protection and requests for humanitarian benefits. The mix of complaints and suggestions gradually changed. For example, people started to deliberate whether they could leave the Czech Republic or change the country of protection. We also handled complaints raised by people from Russia and Belarus who had encountered problems because of their origin.

And the Office also helped in other ways: We organised several material aid donations to collect clothes, food and personal hygiene products among our staff. We accepted three Ukrainian children and a Ukrainian tutor into the Office's nursery.

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**120**

complaints received in relation to the impacts of the war in Ukraine

**10**

instructors

**39**

hours of training

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**1**

video

**4**

leaflets

## We help change the rules

### COMMENTS ON LEX UKRAINE

In response to the sudden large-scale displacement from Ukraine, the European Union activated for the first time in history the Temporary Protection Directive. In the Czech Republic, the specific conditions for the admission and stay of foreigners who have left their country en masse are regulated by the [Temporary Protection of Foreigners Act](#). However, as the existing Act had proven to be practically unusable in the context of the arrival of such a large number of people, [new legislation](#) was enacted to introduce certain measures relating to the armed conflict in Ukraine caused by the Russian invasion. The new law provides rules for granting temporary protection, while adopting certain concepts from the Residence of Foreign Nationals Act and from the Temporary Protection Act. This piece of legislation, together with two other regulations concerning [employment and social security](#) and [education](#), is referred to as Lex Ukraine.

We commented on the first drafts of these laws, as well as on their subsequent amendments adopted during 2022, and also on an amendment which was still in preparation at the time of the editorial deadline for this Annual Report. We drew attention especially to the exclusion of people with temporary protection from national benefit systems, the situation of newcomers with disabilities, the time limitation of free emergency accommodation, and the impossibility of applying for residence permits at the Czech Embassy in Ukraine.

### PEOPLE WITH TEMPORARY PROTECTION NOT COVERED UNDER THE NATIONAL BENEFIT SYSTEMS – MAYBE LATER...

According to Lex Ukraine, foreigners subject to temporary protection receive a special humanitarian benefit of CZK 5 000. This benefit, however, does not cover all possible situations, and this causes various complications, especially in the area of housing and care for people with disabilities. That is why, in later versions of Lex Ukraine, we proposed that people with temporary protection should be able to draw regular benefits from the national benefit systems, such as housing allowance and contribution towards housing or care allowance.

We pointed out that temporary protection holders who had found themselves paid accommodation (typically for rent) after the expiry of their entitlement to free accommodation, were not eligible for any financial support. Given the rising energy prices and inflation, they are at risk of facing a shortage of money to pay for their housing costs.

We also stressed that the State had to keep track of the number of temporary protection holders who, due to their disabilities, needed daily assistance from other person and of the number of these people who used residential, outreach or outpatient social services, which is equally important as a source of information. The Ministry of Labour and Social Affairs has yet to provide these data. However, without relevant data and familiarity with the actual situation and needs of people with disabilities and their families or caregivers among people benefitting from temporary protection, we face an increased risk that newly enacted legislation might – even unintentionally – put the most vulnerable groups at risk.

We also focused on the situation of people with temporary protection who are caring for their family members. Some of them are unable to work or have limited opportunities to find a suitable job precisely because of the care they provide. At the same time, however, they are subject to the same rules as other newcomers and must therefore start paying health insurance after five months. We warned that this would drive people unable to take care of themselves from their homes and their families to residential social services, such as homes for people with disabilities and retirement homes, thus restricting the right of people with disabilities to live an independent life.

## FREE EMERGENCY ACCOMMODATION FOR A FIXED PERIOD ONLY

We perceive a major problem in the proposal that people with temporary protection should only benefit from free emergency accommodation for a period of five months. After that, they could stay in the emergency accommodation, but only if they agreed with the operator on payment. On top of that, the five months of free accommodation would also include the time spent by temporary protection holders in emergency shelters. We fear that many people could end up without any accommodation whatsoever as a result. We pointed out that the State should try to ensure that as many newcomers as possible have the opportunity to find and maintain standard housing. Indeed, available surveys show that children who live in flats attend school more often and understand Czech better and their parents are more likely to have a job.

## EXCEPTION FOR UKRAINIAN STUDENTS APPLYING FOR A RESIDENCE PERMIT

We appreciated that the Government had made it possible for the holders of temporary protection in another Member State who would like to study in the Czech Republic to submit their study applications to the Czech Embassy in Ukraine. This had not been previously possible. We also suggested to waive the requirement for personal submission of applications at the Embassy in Ukraine in these cases. We proposed that applicants for an employee or blue card should also be able to apply at the Embassy. However, the Ministry of Foreign Affairs did not adopt our proposals.

## SITUATION OF RUSSIANS AND BELARUSIANS

Due to the Russian aggression, the Czech Republic banned the entry of nationals of the Russian Federation and the Republic of Belarus. The ban initially applied to all citizens of Russia and Belarus. Gradually, the Government – also on the Defender’s recommendation – introduced several exemptions that allow some citizens of these countries to apply for visa. These include family members of Russian and Belarusian citizens residing in the Czech Republic and students from Belarus. We

proposed exemptions for Russian students, but the Ministry of Foreign Affairs eventually decided against.

## BETTER LANGUAGE LEARNING OPPORTUNITIES FOR FOREIGN PUPILS

People arriving from Ukraine are entitled to free language courses at secondary schools. Based on our suggestions, the Ministry of Education, Youth and Sports further specified and better explained some of the related practical issues in a [methodological guide](#). This document addresses, for example, the form of teaching, the procedure for enrolment in language courses, the scope of the language courses and the method of financing by the regional authorities.

## RECOMMENDATIONS FOR MUNICIPALITIES AND REGIONS REFUSING TO ACCOMMODATE ROMA REFUGEES FROM UKRAINE

The media reported in the spring of 2022 that certain municipalities and regions were refusing to accommodate Ukrainian refugees of Roma origin in their territories. We watched these statements with concern, as municipalities and regions were key stakeholders in handling the refugee crisis.

In this context, we advised municipal and regional representatives not to adopt a negative stance in this regard based solely on information about the refugees’ ethnic origin. Indeed, rejection on the grounds of ethnicity amounts to discrimination, as defined and prohibited by law. On the other hand, it is understandable that municipalities need to consider how many newcomers they can accommodate – given their size and the capacities of local schools or services – and determine what they need to cope with the influx of refugees.

[Defender’s recommendation: File No. 40/2022/DIS](#)

# We are here to help

## PEOPLE WITH TEMPORARY PROTECTION USING SOCIAL SERVICES

Since there are no official data, we decided to find out the number of people benefitting from temporary protection who were using social services in the Czech Republic on the basis of Lex Ukraine. These services are free of charge for less affluent clients. We asked the regions and the Capital City of Prague to provide the number of people with temporary protection using social services in their respective territories. We looked for information on what kind of service they were receiving and for how long. It turned out that only a small number of regions kept records of these data. We then utilised the findings in our comments on Lex Ukraine.

## REJECTION OF TEMPORARY PROTECTION ON THE GROUNDS OF A MISSING PASSPORT STAMP

To verify the applicants' eligibility for temporary protection, the Ukraine Refugee Assistance Centres must ascertain when they crossed the border, as temporary protection only applies to Ukrainian nationals who resided in Ukraine before 24 February 2022. However, people are often allowed across the border without a stamp. A missing passport stamp should nonetheless not cause ineligibility for temporary protection.

We helped a woman who had fled from Melitopol with her children through Poland to the Czech Republic. None of them had travel documents, which is why they did not get any passport stamps at the border. When they applied for temporary

protection, the police doubted whether they had actually crossed the border on the given day and therefore considered their applications inadmissible. We found that the police was able to check with the border crossing point that the foreigners in question had actually crossed the border. We held a meeting with the Immigration Police Directorate and agreed that the police would do so in similar cases. In the case of the Melitopol family, it was indeed verified that they had crossed the border and all of them were granted temporary protection.

## PREVIOUS PAYMENT OF A HUMANITARIAN BENEFIT IS NOT REFLECTED IN THE CURRENT MONTH'S BENEFIT

We also managed to solve the problem of a temporary protection holder who had been denied a humanitarian benefit for the month of August 2022 because the Labour Office had deemed on the basis of her bank statement that she had had enough money to provide for her needs. The complainant argued that the humanitarian benefit was her only income and the money in her account had come from the previous month's benefit. In fact, she had no longer had that money in her account when she had applied for the humanitarian benefit for August 2022.

Following our inquiry, the Labour Office revisited the application and found that the amount in the complainant's account had indeed come from the previous payment of the humanitarian benefit. It therefore retroactively awarded the benefit claimed for August 2022 and paid it to the complainant. At the same time, the Labour Office staff were again instructed that a previous payment of humanitarian benefits could not be considered income under these circumstances.

## DEAF JOBSEEKERS AND AN OFFICER'S UNPROFESSIONAL ATTITUDE

The Director of the Brno Day Services Centre for the Hearing Impaired and the head of the Crisis Staff for Ukraine alerted us to the unprofessional and unhelpful attitude of a Labour Office employee at the KACPU assistance centre in Brno. She had allegedly tried to discourage a deaf couple from applying for registration with the Labour Office because she had had doubts about the chanc-



es deaf applicants from Ukraine had in the Czech labour market. In the end, she refused to register the applicants. Despite their initial request for our help, the family ultimately found jobs on their own because, in view of their refugee status, they did not want to confront the Labour Office.

## WAIVER OF LOCAL LEVIES

People fleeing Ukraine who have decided to stay in the Czech Republic must pay local levies just like any other resident or tourist. These may include, for example, a residence fee, municipal waste fee and dog fee. The Ministry of Finance prepared a model collective waiver decision for municipalities that would like to provide refugees with at least temporary relief from levies. However, we encountered a case where one of the regional authorities considered this option risky and recommended that the municipalities take an alternative approach. Some municipal authorities therefore asked the Defender for his opinion on the best possible way to provide such relief. We discussed the matter with the regional authority and found consensus on the conditions under which a collective waiver of levies could be issued to refugees. Because it also became clear that it could be difficult for municipal authorities to determine exactly who was a refugee and should be exempted from the levy and who was not, we published an information leaflet titled [Permission to stay in the Czech Republic because of the war in Ukraine](#). It explains the concepts of “temporary protection” and “sufferance visa” and indicates who is eligible in this regard.

## PROBLEMS OF PEOPLE WITH TIES TO RUSSIA

We addressed complaints from individuals associated with Russia and Belarus regarding restrictions on access to a range of services, from housing, accommodation and air travel to financial services.

One of these people was a man who was told by a currency trading company that in light of European sanctions, the company had restricted the accounts of all its clients with ties to Russia. The complainant could still make trades, but only over the phone through a broker and after approval by a specialised department. In view of the situation, we considered this course of action reasonable and necessary, and closed the matter, providing an explanation of our conclusions.

[Defender's letter: File No. 9117/2022/VOP](#)

Several complaints pointed out the practice of some universities that had been limiting the education of Russian and Belarusian students in technical fields. The universities justified this different treatment of applicants and students from Russia and Belarus in “critical fields” by referring to international sanctions against Russia and Belarus that prohibited the provision of technical assistance. In this context, we launched an inquiry focusing on the Financial Analytical Department, which co-ordinates the implementation of international sanctions at the national level. We did not have the competence to deal with the procedure of the universities as such. We therefore investigated how the Department guided these institutions in methodological terms. The inquiry has not been closed yet.



## We communicate

Throughout the year, we informed the public about our activities on our website and via social networks and media. On the occasion of the [International Refugee Day](#) in June, we drew the public's attention to the fact that the majority of those arriving from Ukraine were women and children, who were among the most vulnerable groups of refugees. People who have left their homes to seek safety in another country are particularly vulnerable to exploitation because they do not speak the language and are unfamiliar with the environment in their host country. We summarised what people should look out for in connection with possible exploitation. The red flags are similar for both potential victims and for other people involved.

[Interview for the CT24 TV channel](#) – beginning at 02:51:04.

On the International Migrants Day in December, we highlighted that migration was also an opportunity. Czech employers are struggling to find employees throughout all the regions of the country. It is also important to attract highly qualified foreigners. During the first six months of 2022, people from Ukraine constituted the largest group of foreign workers in the Czech labour market. We pointed out that the best way to enable as many temporary protection holders as possible to access employment in the territory was to ensure quality accommodation, Czech language courses, and sufficient places in kindergartens and nurseries, and to simplify the recognition of qualifications.



We have set up an internal group at the Defender's Office to deal with the legal and practical aspects of temporary protection. The group also acts as a co-ordinator within the Office and deals with consultation procedures for legislative acts adopted in connection with the war.

Since the war began, we have actively co-operated with other national and international stakeholders. We also discussed how other countries in Central Europe were treating the arrivals from Ukraine at the V4 Ombudspersons' Conference (see page [136](#)). We regularly met with representatives of the Ministry of the Interior and the Ministry of Foreign Affairs. Meetings of the Commission for the Integration and Adaptation of Ukrainian Refugees continued under the auspices of the Ministry of Labour and Social Affairs. This platform is used by NGOs and representatives of ministries and administrative regions to address topical issues arising in connection with the presence of temporary protection holders.

### UNACCOMPANIED CHILDREN FROM UKRAINE

We noticed that many children were arriving in the Czech Republic unaccompanied or accompanied by an adult other than their legal representative, and there was initially no unified procedure for registering these children at the registration centres. In the spring, we repeatedly participated in



Roma newcomers were required to have fixed accommodation arrangements prior to applying for temporary protection. The general practice was that those arriving from Ukraine who had no accommodation arranged could enter the centre and wait inside while the staff found accommodation for them in the system. However, Roma newcomers were only allowed into the KACPU registration centre in Prague if they were accompanied by someone from the non-profit sector or by a police officer. Otherwise, they had to wait outside or in a tent in front of the building. They could not use the services available inside the registration centre – the children’s corner, nursing room, waiting room or lavatories. Only when accommodation was found for them could they apply for temporary protection, and had to do so while accompanied by someone from the non-profit sector. In addition to the inferior facilities, not being allowed into the registration centre also had other consequences. For example, none of the registration centre’s staff checked whether there were any particularly vulnerable persons among the Roma.

inter-ministerial meetings regarding unaccompanied children, which also addressed, for example, children with disabilities and children arriving with sports clubs or schools. A working group for particularly vulnerable persons was later established at the Government’s Office. We also addressed this issue during our meeting with UNICEF.

We also expressly addressed the situation of Ukrainian children as part of our training programme for guardianship judges focusing on unaccompanied children in general, in our training programme for social workers, at a conference held at the Defender’s Office in November, and in a paper for a seminar titled Law and Conflict in Ukraine, organised in May by the Czech Society for European and Comparative Law. We drew information about these children from our meetings with the bodies for the social and legal protection of children, from our visits to registration centres and from our communication with NGOs.

## UNEQUAL TREATMENT OF PEOPLE FROM UKRAINE AT REGISTRATION CENTRES

During the spring, news circulated in the media and on social networks about unequal treatment of Roma applicants for temporary protection from Ukraine by the staff at the Prague registration centre. We visited the centre and found that

We also visited the registration centre in Brno, and found no irregularities there. We found good practice at the Zlín registration centre. An emergency shelter is operated near the centre where people can wait until accommodation is found for them.

We brought the unequal treatment to the attention of the Minister of the Interior. He assured us that he was trying to find a dignified solution for everyone involved. The situation subsequently improved.

[Defender’s report: File No. 11981/2022/VOP](#)

## UKRAINIAN PUPILS IN THE CZECH REPUBLIC

Since May, we co-operated with the Ministry of Education, Youth and Sports on the inclusion of Ukrainian pupils with special educational needs in schools. We pointed out that pupils from Ukraine, too, needed a recommendation from the school counselling centre to be enrolled in a “special school” and had no exceptions in this regard. However, the capacities of these counselling facilities were strained in the long term. Because of a lacking recommendation, children with disabilities could thus be integrated into the Czech education system only with delays or might not receive appropriate support.

We proposed suitable steps to the Ministry, including collection of the necessary data, raising awareness among a broader range of officials and working more closely with other relevant sectors



to ensure that Ukrainian pupils with disabilities could be properly educated in future school years, while receiving the support they needed. We are now waiting for the Ministry to prepare the data we asked for.

## PROTECTING PEOPLE WITH DISABILITIES

Just four days after the conflict broke out, we called on the Office of the Government, the Ministries of the Interior, Foreign Affairs and Health, individual administrative regions and the Prague City Hall to take all necessary measures to ensure the protection and safety of people with disabilities, especially children, women and the elderly. We called on all the institutions to focus on the needs of these particularly vulnerable groups.

In our response to the [appeal](#) made by the National Assembly of People with Disabilities of Ukraine (NADP) to foreign organisations, we expressed our deep regret about the current situation in Ukraine and condemned the Russian invasion as an act of unjustified aggression. We also informed them that we had urged the governmental and local authorities in the Czech Republic to consider

the needs of people with disabilities when adopting measures to help refugees from Ukraine.

We also published a special issue of our [Bulletin](#), which we dedicated to the topic of refugees with disabilities. In the Bulletin, we shared useful information and presented what we had already done to support people with disabilities. We asked the co-operating organisations to share their activities, experience, problems and shortcomings they encountered in relation to the recent events.

During an August meeting with UNICEF representatives, we explored potential areas for collaboration. Regarding the rights of children with disabilities, UNICEF agreed to provide us with information from abroad, for example on the inclusion of children from Ukraine. We also agreed that we would mutually share experience on other common topics.

## 1. TRAINING OF SOCIAL WORKERS

We organised a series of training sessions for social workers in the autumn of 2022, together with the Czech Office of the United Nations High Com-



missioner for Refugees (UNHCR). The main topic was the legal framework of assistance to newcomers from Ukraine. At meetings in Prague, Brno and Ostrava, we introduced the participants to the necessary legal and practical aspects of temporary protection. We focused more closely on social security, education, including especially access to schools, health insurance and access to healthcare, and on employment, including primarily the prevention of labour exploitation. Defence against discrimination was a separate topic, including an overview of the inspection bodies to which recourse could be made. As children form the most vulnerable group, the training also covered their protection and the functioning of the bodies for social and legal protection of children. Practical training also focused on crisis intervention, working with war refugees and handling emotions and trauma.

## TRAINING FOR THE HRADEC KRÁLOVÉ REGION

In co-operation with the Hradec Králové Region, we organised an online seminar focusing on the status of temporary protection holders from Ukraine. We dealt with practical aspects, such

as the education of children from Ukraine, employment of Ukrainians and prevention of their exploitation, as well as ways to defend oneself against discrimination. We also focused on the issue of equal access to rental housing at the municipal level and in the commercial sphere.

## CO-OPERATION WITH THE INTERNATIONAL ORGANISATION FOR MIGRATION

We started working with the International Organisation for Migration (IOM) to train the staff of smaller NGOs, community centres and the Ukrainian diaspora. At the first online meeting in December, we presented the activities and mandate of the Public Defender of Rights. The next training session in 2023 will focus, based on the participants' interests, on specific practical aspects of temporary protection.







# 3

## **Defender and protection of children's rights**





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**400**

participants in the competition for an invitation to the Ombudsman Conference for Children

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**14**

excursions for school groups

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**13**

inquiries initiated

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**62**

complaints from children, of which

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**13**

times children alerted us to poor conditions in the facilities where they lived, such as children's home, educational or diagnostic institution. They complained about poor quality of the food, staff's attitude and inability to communicate with their families as well as unaddressed cases of bullying. In some cases, the grievances were confirmed during our visits.

The Czech Republic is one of the last European countries without an institution specialised in the protection of children's rights guaranteed by the Convention on the Rights of the Child. Children's rights are included in various parts of the Defender's work, from the family, health-care, social security and education areas, to the prevention of child abuse in facilities, and the monitoring of the rights of people with disabilities. However, the Defender's work can replace a "children's ombudsman" only to a certain extent. This is what we consistently pointed out to the public and politicians in 2022. At the same time, we strived to find out how the children themselves thought about their lives and their involvement in society.

We presented the Defender's work and mission to children on various occasions throughout the year. We also got the children actively involved. They sent us dozens of pictures relating to the Ombudsman to decorate the "gallery tram". Nearly four hundred students from across the country registered for the first-ever Ombudsman Conference for Children. We welcomed over ninety of them at the conference in Brno in June. We talked with them about their perceptions of the desired qualities and responsibilities of a children's ombudsman. We also asked what topics they were interested in.

## We help change the rules

### PREPARATIONS FOR THE ESTABLISHMENT OF A CHILDREN'S OMBUDSMAN

The current Public Defender of Rights Act does not allow us to deal with the children's rights in their entirety. The observance of certain children's rights is not systematically monitored by an independent institution in the Czech Republic. We expressed support for the creation of such an institution in our comments for the UN Human Rights Council, which served as one of the bases for the Universal Periodic Review of the Czech Republic's human rights obligations. We also sent a statement supporting the establishment of this institution to the Government in connection with a Deputies' motion to establish an ombudsman for children's rights (opinion on Deputy Válková's motion – KVOP-39846/2022/S).

In the summer months, we discussed the planned establishment of a children's ombudsman in detail with the Deputies and representatives of ministries at a working meeting organised during the Children's Ombudsman Conference and also with members of the Chamber of Deputies' Petition Committee at its meeting held at the Defender's Office. In the autumn, we joined a working group convened by the Minister for Legislation. In this group, we have been working together with other experts on a draft law that would establish the new institution of children's ombudsman in our legal system.

[Press release of 15 June 2022](#)

### CONDITIONS IN CHILDREN'S FACILITIES

We visit facilities that house children restricted in freedom, such as children's homes, educational institutions and psychiatric hospitals. Our recommendations help to improve conditions in these facilities and protect children from ill-treatment. In 2022, we issued summary reports on our visits to [children's psychiatric institutions](#) and [institutions for children on whom institutional education has been imposed](#). Our findings will be used by the Ministry of Education, Youth and Sports in creating the concept of institutional education. For more information, see Chapter 09, p. [102](#)

### WHO CAN TEACH PUPILS WITH SPECIAL EDUCATIONAL NEEDS?

We convinced the Ministry of Education, Youth and Sports that pupils with special educational needs should be taught as much as possible by teachers with the appropriate professional qualifications. An amendment to the Teaching Staff Act also provides for a change in the qualifications for teaching assistants. For more information, see Chapter 11, p. [122](#)

[The Defender's comments on the draft amendment to the Teaching Staff Act](#)

### WE ADVOCATE FOR EQUAL CONDITIONS FOR ALL FOSTER PARENTS WHO DO NOT HAVE A MAINTENANCE OBLIGATION TOWARDS THE CHILDREN ENTRUSTED TO THEM

We dealt with a change in the foster care remuneration system. In January 2022, the State began to distinguish between [foster parents mediated by the authorities and those appointed on another basis \(see below\)](#), introducing two different remuneration schemes for these two groups of foster parents. Mediated foster parents are registered by the administrative regions, which then choose the most suitable foster family for each child. Non-mediated foster parents are not included in these registers. While these are often the child's relatives, they may also be people who decide to help children that would otherwise have a hard time finding a foster family (groups of siblings or children with disabilities).

Mediated foster parents receive a foster parent's remuneration as before 2022. In practice, this represents their salary for taking care of the foster children. The newly defined group of non-mediated foster parents receive a foster care allowance for the same activity. Unlike the foster parent's remuneration, foster care allowance is not considered income from employment, and contributions towards social security and health insurance are thus not levied from this income. The amount of the two benefits also differs. The foster parent's remuneration is derived from the minimum wage, while the foster care allowance is set at a multiple of an individual's subsistence minimum.

We were contacted by a number of foster parents harmed by this regulation. These were often people who had taken in a foster child although they were unrelated, simply because they wanted to get the child out of the institution or ensure that the child would not end up there in the first place. We warned the Minister of Labour and Social Affairs about the negative effects of the new remuneration system.

We demanded equal conditions for remuneration of all foster parents who did not have a maintenance obligation towards the foster child, regardless of whether they were mediated or non-mediated foster parents.

Eventually, the law was changed and non-mediated foster parents are now temporarily covered by the public pension and health insurance schemes. Those who were already foster parents before 2022 are insured for the whole period of foster care for the child entrusted to them. New foster parents only have insurance for the first two years of caring for the child.

We also commented on the issue of counting foster care time towards the requirements for pension eligibility and when calculating the respective amounts (see page [66](#)).

[Comments on the draft amendment to the Pension Insurance Act](#)





## We are here to help

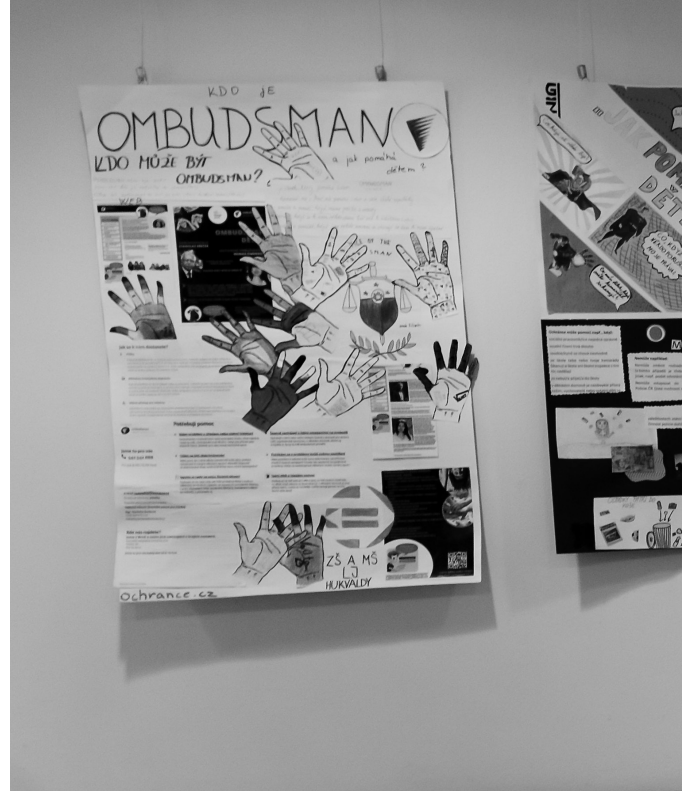
Our help was sought most often by children who were dissatisfied with the care and contact arrangements following their parents' separation or divorce. They stressed, in particular, that adults failed to include them in decision-making regarding the family disputes at home, at authorities or in courts: they would not listen to them and ask about their opinions and wishes.

The children's cases also concerned, for example, health insurance, education, benefits and pensions granted, and the stay of foreign children in the Czech Republic.

### ISSUES WITH HEALTH INSURANCE FOR CHILDREN FROM SLOVAKIA

We provided guidance to children originally from Slovakia and their uncle, who had applied for custody in the Czech Republic, on how to obtain health insurance. Czech health insurance companies were reluctant to insure the children, as they were unsure in which country they should be insured. Because of this, Czech doctors then refused to register the children. The children thus could have been asked to pay for any future treatment.

We explained to them that their situation was covered by a European regulation, which considered it decisive that they had already settled in the Czech Republic and were attending school here. On the contrary, it was irrelevant that the parents were still in Slovakia, where they were not work-



ing, and that the court had yet to decide on their placement into the uncle's custody.

We advised them to insist on being registered with a Czech health insurance company and to prove to the insurance company – for example, by a study certificate – that they were indeed living and attending school in the Czech Republic. We also verified that the same view was held by [the Health Insurance Bureau](#).

[Post on the children's website of 8 April 2022](#)

### LIVING WITH AN ASSISTANCE DOG IN A BOARDING HOUSE

A student who relies on her assistance dog feared that the headteacher might forbid the dog in the boarding house. She had already reached an agreement with the boarding house head educator: she would stay in a ground floor room near the entrance, wipe the dog's paws when entering the house and use her own bedding. This would be a safe arrangement for any of her classmates allergic to dog hair.

We explained to the student that while living with a dog in a boarding house was not explicitly mentioned in any law, the rights of people with disabilities were covered by the Anti-Discrimination Act. The Act prohibits discrimination on the grounds of disability and her illness could indeed be considered a disability. Hence, if the school headteacher were to ban her assistance dog in the boarding house, this could constitute discrimination. We





also pointed out to the student that the specific situation always mattered when assessing possible discrimination. The headteacher's actions would have to be proportionate and reflect the specific options available at the boarding house and also of the other residents.

[Post on the children's website of 27 April 2022](#)

corrections, as they would have to get new documents (ID cards, passports, driver's licenses and various other cards) once the birth and marriage certificates were corrected. Should his relatives disagree with the change, he could apply for permission to change his surname for a reduced administrative fee of CZK 100, because the authorities had misspelt his current surname.

[Post on the children's website of 22 September 2022](#)

## RETURN TO THE FAMILY TRADITION. A YOUNG MAN WANTED HIS ANCESTRAL SURNAME "BACK"

A seventeen-year-old man sought our advice and help with free recovery of his ancestral surname, as he had found out that his great-grandfather's surname had been German. After the Second World War, however, the registry office modified the name to sound Czech.

It was clear from Radek's letter that he had already found a great deal about his ancestors. Nevertheless, we recommended that he first verify in the birth record of his great-grandfather that the surname of his ancestors was indeed changed without a legal reason. He could then request that the entries in the registry books be corrected. The registry office could issue new documents on the basis of these documents. The registry office must take all these acts free of charge.

We also pointed out to Radek that everyone affected by the registry entries should agree to the

### What we also advised children about on the website at [deti.ochrance.cz](http://deti.ochrance.cz)

- › who is entitled to a [maintenance allowance](#)
- › what the rules are for [obtaining a driving licence](#)
- › why children have to [change their surname](#) after their parents' marriage
- › how [customs duties](#) operate when goods are bought abroad
- › how families can use the [extraordinary immediate assistance](#) benefit
- › why one should be careful about reporting high school studies to [the health insurance company](#)

# We communicate

## OMBUDSMAN CONFERENCE FOR CHILDREN

In June, we organised our [first ever conference for children](#). The right to participate was awarded to school teams on the basis of a creative competition on the topic of [“How the Ombudsman helps children”](#), entered by four hundred pupils from thirty-three primary schools and six or eight-year grammar schools. At the conference, children discussed various topics with the Defender and his former deputy. During an interactive workshop, they engaged in discussions concerning the responsibilities of a children's ombudsman, along with other subjects including children's involvement in public life and sources of assistance for resolving diverse issues. The conference was hosted by eighteen-year-old Ema; twelve-year-old Nina and fifteen-year-old Anna also helped with the preparations.

On the same day, we presented our awareness-raising activities for children at a [press conference](#). Thirteen-year-old Štěpánka was one of those actively involved in this press conference.

[Press release of 15 June 2022 – written version](#)

[Press release of 15 June – video in the Czech Sign Language + CZ subtitles](#)

## CHILDREN'S PARTICIPATION GROUP

After the children's conference, we organised a year-end meeting of the children's participation group. Twelve school teams from eight primary schools in the Czech Republic presented projects they had devised as part of our [Let's try and change that!](#) challenge. The children were asked to identify what they would like to change in their schools, suggest how this could be done, and take action. The participants called mainly for better food in their schools and financial literacy education. The online meeting of the

participation group was hosted by twenty-year-old Štěpán. We are planning the next meeting of children's groups for 2023.

### What else did we accomplish in 2022?

- ▶ We redesigned our [children's website](#). We believe the website is now more attractive and easier to navigate. We also wanted the children's website to be optimised for mobile phones and tablets, i.e. devices most often used by children. This also makes it more accessible to children with disabilities.
- ▶ Immediately after the outbreak of the war in Ukraine, we published Ukrainian and Czech [information leaflets](#) intended directly for children. In the leaflets, we answered the most common questions that bothered children fleeing the war.
- ▶ In spring, we presented our activities for children in Brno's [“Gallery Tram”](#). Children from Brno primary schools helped us decorate the tram.
- ▶ During the year, we finished filming a series of seven videos for children called [#AničkaVloguje](#) (Anička's Vlog). In each of the episodes, a girl named Anička introduces children to various areas of the Defender's remit. The videos are available on our YouTube channel and at [deti.ochrance.cz](#).
- ▶ We published a children's version of the [Convention on the Rights of the Child](#).
- ▶ With fifteen-year-old Anna, we recorded an episode of the “Have a coffee with the Ombudsman” podcast on the topic of [How the Ombudsman helps children](#).
- ▶ We organised 14 [excursions](#) for school groups, where we introduced children to our activities in an interactive way.
- ▶ We are also actively involved with university students – whether in teaching professional subjects at law faculties or during their individual internships.



## We also involved children

We want children to be actively involved in our activities and their preparation. Hence:

- › fourteen-year-old Anička recorded a series of videos for children;
- › children from Brno primary schools decorated the “gallery tram”;
- › seventeen-year-old Vojta illustrated the Convention on the Rights of the Child and participated in the design of a new website for children;
- › seventeen-year-old Vojta illustrated the Convention on the Rights of the Child and participated in the design of a new website for children;
- › children from two primary schools participated in testing the children’s version of the Convention;
- › seventeen-year-old DODO, as a member of the Defender’s advisory body, took part in monitoring the rights of people with disabilities;
- › fifteen-year-old Anna prepared a podcast about the children’s ombudsman’s work;
- › eighteen-year-old Ema hosted a conference for children, and twelve-year-old Nina and fifteen-year-old Anna helped us prepare the conference;
- › thirteen-year-old Štěpánka presented her experience with the Defender at a press conference;
- › twenty-year-old Štěpán hosted a meeting of the children’s participation group.

Most of our activities focusing on children were carried out and financed as part of the project “Reinforcing the activities of the Public Defender of Rights in the protection of human rights (with the aim of establishing a National Human Rights Institution in the Czech Republic)”, No. LP- PDP3-001. This project is financed from the EEA and Norway Grants 2014-2021 and the State budget of the Czech Republic.

# Úmluva o právech dítěte

ve znění srozumitelném dětem



Nejste sami, je s vámi



4

# Family, healthcare and labour



## WE HELPED OR ADVISED\*

\* number of complaints resolved in 2022



**435**

families



**222**

people who were dissatisfied with healthcare services provided



**69**

people who had problems with the Labour Office



**62**

people with health insurance contributions and activities of health insurance companies



**62**

children

## PEOPLE MOST OFTEN SOUGHT HELP IN THE FOLLOWING AREAS\*

\* number of complaints received in 2022

exercise of social and legal protection of children	<b>449</b>
complaints about healthcare services provided	<b>207</b>
BSLPC as a guardian ad litem	<b>58</b>
outstanding insurance contributions	<b>33</b>
problems in children's homes and other facilities for children	<b>31</b>
unemployment benefits	<b>26</b>
removal from the Labour Office's register	<b>23</b>

**11 640**

complaints resolved, of which

**11 168**

fell within the Defender's mandate

**506**

fell outside the Defender's mandate

**10 415**

complaints received were related to the "Vaccination Decree"; we also resolved all these complaints

**171**

completed inquiries, of which

**118**

were cases where the authorities erred, of which

**6**

were cases where it was not possible to ensure that the authorities remedy the maladministration

In early 2022, we were still dealing with the impacts of the pandemic. We received 10 415 complaints relating to the contemplated introduction of mandatory vaccination against Covid-19. We asked the Minister of Health to comment on a decree introducing mandatory vaccination and drew his attention to specific aspects of vaccination, especially the situation of pregnant employees, people with contraindications and those who have recently had a laboratory-confirmed disease and were thus immune to it.

In the context of the war in Ukraine, we dealt actively with the situation of unaccompanied minors arriving in the Czech Republic (see page 42). We were repeatedly approached by parents who wanted to be with their hospitalised children, but were denied this opportunity. Attendance at birth was also a frequent topic of their complaints. We dealt with numerous complaints about outstanding insurance contributions and reimbursement of healthcare from public health insurance. In some cases, we had to determine in which country a person should be insured. Almost three dozen women complained about decisions made by the Ministry of Health, which had rejected their claims for compensation for unlawful sterilisation. We started an inquiry into the Ministry's procedure in eight of these cases. Some people pointed to a shortage of doctors in a particular region or field of medical care. We referred them to health insurance companies, which should be the ones to address the shortage of doctors. The topic of removing jobseekers from the Labour Office's register remained widely discussed. We looked especially at how the individual branches of the Labour Office approached the need for maintaining proportionality between the degree of violation and the penalty of removal from the register.

# We help change the rules

## THE CZECH REPUBLIC NEEDS A SINGLE NATIONAL DATABASE OF FOSTER AND ADOPTIVE PARENTS

We completed an inquiry carried out on our own initiative, focusing on the procedure of regional authorities and the bodies for social and legal protection of children (BSLPC) in seeking foster parents and adoptive parents for children in temporary foster care.

We pointed out the need for active co-operation between the BSLPC and the regional authorities. We also believe that more attention should be paid to finding applicants willing and able to take in particularly vulnerable children, such as children from minority ethnic groups, several siblings and children with disabilities. These applicants already need to be sought out, motivated and supported in the preparation phase. We proposed that the BSLPC responsible for a given child should have the right to change the final selection of a suitable applicant and that regional authorities should always justify their selection of a suitable applicant or specify why they did not select one. On the other hand, we did not recommend publishing information about children by sharing their stories, for example, on the websites of regional authorities, because of the possible interferences with their privacy, the need to preserve their dignity, or the risk that someone might recognise them from the stories.

We again drew attention to the need to have a single national database of applicants for foster care and adoption accessible to regional authorities, as well as a methodology that would unify the authorities' procedures in this area. The Min-

ister of Labour and Social Affairs promised to take our recommendations into account when providing the methodological guidance to the regional authorities and in the forthcoming amendment to the Social and Legal Protection of Children Act.

[Defender's report: File No. 6324/2021/VOP](#)

[Survey report](#)

## THE PRESENCE OF PARENTS AND OTHER LEGAL REPRESENTATIVES ALONGSIDE HOSPITALISED CHILDREN IS STILL NOT A MATTER OF COURSE

Last year, we also received a number of complaints from parents who wanted to accompany their hospitalised children, but were not allowed to do so by the hospital. This was the case, for example, of a mother who was unable to visit her three-month-old daughter for almost a week. The situation occurred during the period of significant incidence of the Covid-19 disease when the girl was placed in the intensive and resuscitation care unit following surgery. In another case, the hospital staff did not want to allow the mother to stay at all times with her son, who had to be confined to bed. We also dealt with the case of a boy who had repeatedly undergone MRI under general anaesthesia. He did not tolerate the process of anaesthesia well, so his mother wanted to be with him until he fell asleep.

In another hospital, the staff mistakenly thought that it would suffice if one of the parents stayed with the child. The second one was thus not allowed to stay with their offspring at all times, although the law confers on children the right to have both parents present. Since 2020, we repeatedly discussed our inquiries and errors committed by hospitals with the Ministry of Health. After being urged repeatedly, the Ministry prepared a methodological guideline for the presence of legal representatives and other close persons in the provision of healthcare services to children.

[Defender's report, opinion and sanction: File No. 3045/2021/VOP](#)

[Press release of 20 April 2023](#)

[Defender's report and opinion: File No. 820/2021/VOP](#)

[Defender's report and opinion: File No. 305/2021/VOP](#)

[Defender's report, opinion and sanction: File No. 1002/2021/VOP](#)



## CHILDBIRTH IS A FREQUENT SUBJECT OF COMPLAINTS

In 2022, we were again forced to inquire repeatedly into the way regional authorities handled complaints from mothers and fathers of newborn children about the procedures of maternity hospitals and their staff.

The complaints concerned the conduct of healthcare professionals and other personnel. Parents most often described their approach as unethical, rude or dismissive. The obstetricians very often performed various procedures to which the mothers had not given their informed consent. Even more often, they pointed out that health professionals had not respected their birth plans. A specific area of the mothers' grievances was their separation from their children immediately after birth.

We criticised the regional authorities that dealt with parents' complaints against maternity hospitals for failing to address the complaints properly: they were unable to sufficiently establish the facts, unjustifiably favoured the assertions of the maternity hospitals over those of the mothers, assessed the medical aspects of the case without an independent expert's opinion, and failed to deal sufficiently or at all with legal issues such as informed consent or the presence of legal representatives.

Moreover, the regional authorities often refused to admit the maladministration and we had to turn to the Ministry of Health, which then usually agreed with us. The area of obstetrics is clearly highly sensitive for all the parties involved, so we wanted primarily to cultivate the practice of the regional authorities in handling complaints so that their conclusions were credible and reviewable.

[Defender's report, opinion and sanction: File No. 6046/2020/VOP](#)

[Defender's report and opinion: File No. 6375/2020/VOP](#)

[Defender's report and opinion: File No. 6727/2020/VOP](#)

[Defender's report and opinion: File No. 7100/2020/VOP](#)

[Defender's report: File No. 2995/2021/VOP](#)

[Defender's report: File No. 3925/2021/VOP](#)

[Defender's report: File No. 7296/2020/VOP](#)

## WAS THIS AN ABUSE OF THE RIGHT TO INFORMATION?

An employee of the District Labour Inspectorate who had been unfit to work in the long term sent numerous requests to all the labour inspectorates asking them to provide information pursuant to the Free Access to Information Act. However, these refused the requests, arguing that as an employee of the Labour Inspectorate, the applicant could look up the information himself in the internal information system, and accused him of abusing his right to information.

We rejected this line of argument. It is irrelevant whether the applicant, as an employee of the obliged entity, has access to the internal information system. If he asked for information that the obliged entity could provide to anyone else, he should have been provided with the information as well.

Ultimately, the General Inspector of the State Labour Inspectorate admitted that, under the Free Access to Information Act, even an employee could ask his/her employer for information concerning the employer's activities. He promised to make our legal assessment known to the staff of all regional labour inspectorates and the State Labour Inspectorate who deal with requests for information.

[Defender's report: File No. 12704/2022/VOP](#)

## THE LABOUR OFFICE MUST COMMUNICATE CLEARLY

A complainant applied with the Labour Office for job placement and unemployment benefits. However, the employee in charge of the case wrote on the jobseeker's contact sheet that "the applicant is not asking for UnBe", without previously determining the complainant's actual intentions. The complainant did not understand the abbreviation and signed everything. She did not find out what it stood for until the next meeting. Only then did she also apply for unemployment benefits. She was left without any financial support from the State for more than a month, although she was entitled to it. In response to our report, the authority acknowledged its error and promised not to use official abbreviations in documents. In addition, the staff of the Labour Office will always ask explicitly whether the applicant is asking for unemployment benefits. The same procedure will be followed when communicating by telephone or email.

[Defender's report: File No. 4135/2021/VOP](#)

## THE MINISTRY MUST BE PREDICTABLE WHEN DECIDING ON REQUESTS TO REMOVE HARSHNESS OF THE LAW

A Brno-based benevolent society employing 57 people, mostly suffering from a mental illness, disagreed with the authorities' procedure in assessing its application for a grant to support the employment of people with disabilities. The Labour Office found that the company had arrears in payments to the State and health insurance companies for the previous quarter. The accountant had been ill and sent the payments with a slight delay. Because of this, the company did not meet the legal condition of being debt-free.

Neither the Ministry of Labour and Social Affairs nor the Minister satisfied the company's requests to remove harshness of the law and thus did not enable it to draw the grant of CZK 2.1 million.

We reproached the Minister and the Ministry for proceeding formalistically, because they had not taken into account that this was an exceptional case worthy of special consideration and had not waived the condition of being debt-free. We also argued that they had not acted predictably and consistently in assessing the reasons worth of special consideration, because we had found during our inquiry that requests had been granted in a number of similar cases.

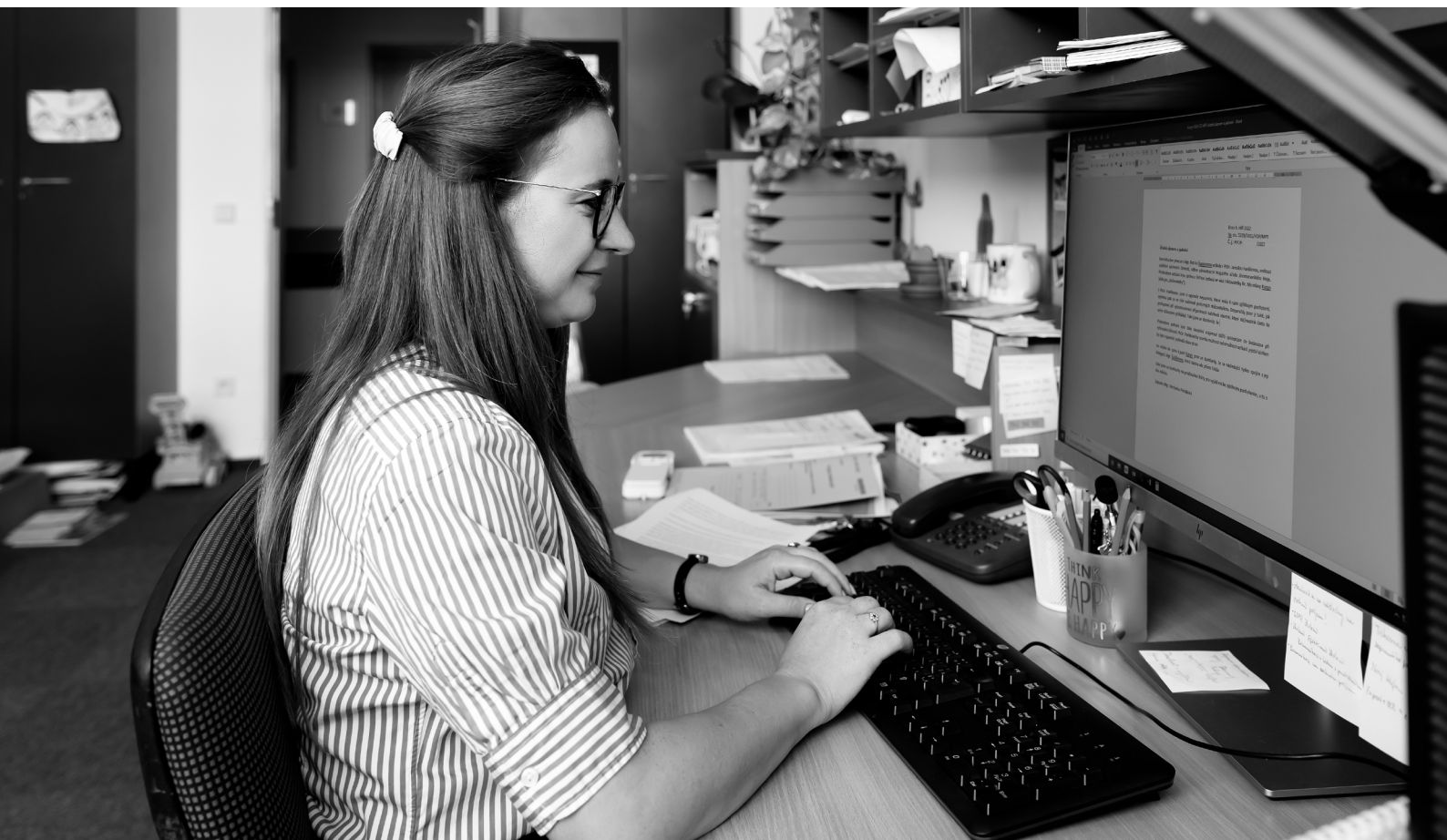
We called on the Ministry to draw up an internal material to ensure that the Ministry's decision-making in assessing requests for the removal of harshness of the law was unified, in order to comply with the principle of legitimate expectations.

The Ministry did not take the remedial action we proposed until 2022, when it issued an internal guidance on how to proceed in removing harshness of the law with regard to applications for a grant to support the employment of people with disabilities.

After being rejected by administrative authorities, the society, whose case had sparked the debate on the rules for waiving the condition of being debt-free, brought the case to court. In August 2022, the Regional Court in Brno overturned the Ministry's decision to reject the request for removing harshness of the law and referred the case back to the Labour Office for reconsideration. The Ministry did not contest the court's ruling by a cassation complaint and the decision thus became final. The society eventually received the grant of CZK 2.1 million at the beginning of the year.

[Defender's report and opinion: File No. 4439/2020/VOP](#)

[Press release of 30 August 2022](#)



# We are here to help

## WHERE TO LOOK FOR CAREGIVERS OR FACILITIES FOR “BORDERLINE CHILDREN”?

The family of a nine-year-old boy with cumulative disabilities found themselves in a difficult situation. The boy with autistic traits suffers from a moderate mental disability, ADHD, cerebral palsy and epilepsy. He is aggressive and has difficulty walking due to shortened tendons in his legs. The boy’s father died and the mother applied for institutional care because she would not be able to take care of the boy in view of her own disability. The court adjourned the proceedings as the BSLPC was unable to find a facility with available capacity that “would be willing” to accept the child. The boy was temporarily placed in a psychiatric hospital. The BSLPC approached a total of 25 facilities before it was able to find vacancy for the boy in a children’s home. The home, however, was located 130 kilometres from the mother’s home, which made it virtually impossible for her to visit him.

Some of the facilities (both schools and institutions for children in need of immediate assistance) refused to accept the boy, without giving legitimate reasons for the denial. They argued, for example, by referring to his challenging behaviour, being too young or using psychiatric medication. On the other hand, the boy’s health limitations were too mild for him to be placed in a residential social service, i.e. a home for people with disabilities. We also pointed out this systemic problem to the Ministry of Education, Youth and Sports.

Fortunately, the BSLPC was very active in working with the mother. With the co-operation of the original school, the parties eventually managed to negotiate the boy’s placement in a boarding school closer to his mother’s home. The boy’s contact with his mother was thus restored.

[Defender’s report: File No. 2950/2021/VOP](#)

## AN UNDERAGE MOTHER NEEDS AN INCREASED LEVEL OF SUPPORT AND PROTECTION

The BSLPC dealt with the pregnancy of a twelve-year-old girl with a disability, working both with the girl and her mother to resolve the situation. The girl wanted to take care of the child. Since she was still being brought up in an institution and the environment in her family was completely inappropriate, the BSLPC proposed that the girl be transferred to an educational institution specialising in care for minor mothers with children. A few days after the birth, however, another BSLPC (the BSLPC having jurisdiction over the newborn child) filed a petition for an interim court order placing the child in temporary foster care. The reason was that the girl had left the maternity hospital after two days of hospitalisation. She had gone to see her social worker because she had not liked it in the hospital – they, for example, had not allowed her mother to visit her.

The child's BSLPC seriously erred by filing the motion for the interim court order. Although it was aware that the minor's mother wished to take care of the child, it failed to give priority to placing them together in an institution. It also completely failed to communicate with the minor's mother and did not check the reasons for her leaving the maternity hospital. It also ignored the fact that she had eventually returned. The BSLPC erred by failing to take the need for proper contact between the child and the mother into consideration.

We managed to achieve a remedy. The mother-child relationship was established and developed in the form of frequent personal contact and, eventually, reunification.

The two authorities then developed their principles of social work with underage mothers and mothers with disabilities given that these are vulnerable, have specific needs and require a higher level of protection and support.

[!\[\]\(c694a3ff3b077d76910920a6a1593ab4\_img.jpg\) Defender's report and opinion: File No. 700/2021/VOP](#)

## A CHILD HAS THE RIGHT TO BE IN CONTACT WITH HIS/HER MOTHER EVEN IF SHE IS IN PRISON

A woman serving a prison sentence had no contact with her two children, whom the court had

placed in foster care. Before that, she would regularly talk to them over the phone and the children responded well to her.

While the BSLPC supported these contacts, the foster parents and accompanying organisations asked for their suspension, arguing by the need for the children to adapt to their foster parents over a period of six months. They claimed that the children could not handle even a mention of their mother.

However, the law does not support any obstacles to the child's contact with his or her parents with reference to the child's adaptation in the foster family. The BSLPC erred especially in its communication with the parties involved. It should have been proactive and taken on the role of co-ordinator. It was only in response to the inquiry that it began to guide the foster parents to address the children's negative reactions to mentions of their mother with professional psychological help. It asked the prison to involve the mother through an online platform with the participation of the prison's social worker, who could prepare the mother for the contacts. The BSLPC also incorporated the plan of the mother's contact with the children into the individual child protection plan. If the foster parents did not comply with its instructions and goals, the BSLPC would file a petition with the court to modify the mother's contact with the children.

[!\[\]\(fe3aebe81acea8d45108cd2768939da7\_img.jpg\) Defender's report: File No. 6133/2021/VOP](#)

## HOW CAN AN EXPERT OPINION TAKE THREE YEARS TO PREPARE?

We dealt with a dispute between parents over the father's contact with his ten-year-old daughter. The father had hardly seen his daughter after she was born. Although he initially showed little interest in her, from the age of three he strived to get closer to her and be part of her life. The mother and her parents tried to prevent this. The BSLPC supported the father's contact with the daughter and did not acknowledge the mother's reasons for refusing the contacts.

The peculiarity of the case, however, was that the court-ordered expert reports took exactly three years to prepare. The BSLPC did not address the unacceptable length of the expert examination caused by the mother's obstructions, although it could have used more effort and authority to persuade the mother to undergo the required examination with her daughter. The BSLPC acknowl-

edged the criticism, reviewed its procedures and developed an internal methodology for the exercise of guardianship ad litem.

[Defender's report: File No. 3659/2019/VOP](#)

## **THE COURT, NOT A CHILDREN'S HOME, IS THE ONLY ONE THAT CAN RESTRICT OR PROHIBIT PARENTS' CONTACT WITH THEIR CHILDREN**

As in previous years, we conducted several inquiries focusing on parents' contacts with children living in an institution. In one of these cases, the parents of three children living in a children's home argued that they could only visit their children under the supervision of the children's home's staff. This measure was required by the BSLPC without any court order restricting the parents' contact with the children. We pointed out to the children's home that the court was the only authority that could regulate, restrict or even prohibit the parents' contact with their children. Neither the BSLPC nor the children's home had such powers. If they considered that it was in the children's best interests to have their contacts with their parents arranged in a different way (for example, with assistance, over a limited time or at a set place), or not have any contacts at all, they would have to apply to the court for modification of the contact arrangements.

In another case, the children's home initially allowed the mother to be in contact with her son. However, the court later informed the home's management that criminal proceedings were being conducted against the mother, and that the child was a witness in the proceedings and should not have any contact with his mother. Nonetheless, the court did not formally modify or prohibit the contact. This was merely an informal request, which the children's home granted. We pointed out to the children's home that it could not proceed in this way, that any change to the arrangement of the parents' contact with the children had to be made by means of a court decision, and that a public prosecutor's interim measure could also be considered in case of a pending prosecution.

[Defender's report: File No. 1785/2021/VOP](#)

[Defender's report: File No. 5274/2021/VOP](#)

## **ONE CAN ACCESS ONE'S OWN MEDICAL RECORDS FOR FREE EVEN AFTER LEAVING THE HOSPITAL**

We found that a healthcare provider would not allow patients to inspect their medical records for free and within a reasonable time after leaving the hospital, and to make copies of the records during such inspection.

Healthcare providers cannot charge their clients for inspecting their own medical records or for the preparation of these records for inspection. Similarly, the providers should allow their clients to make copies free of charge if they use their own means to do so.

We therefore contacted the Prague City Hall, which had issued the healthcare provider's licence, and asked them to ensure remedy. The provider stopped charging the fee and reflected the change on its website.

[Defender's report: File No. 7116/2021/VOP](#)

## **HEALTH INSURANCE COMPANIES MUST HELP THEIR CLIENTS FIND A DOCTOR**

We helped a mother who was struggling to find a paediatrician for her baby daughter, although she had asked her health insurance company for assistance. Health insurance companies are required to ensure that their insured persons have healthcare covered by public health insurance available at the relevant time and place. We got the health insurance company to contact a contracted paediatrician in the given area and ask them to take care of the minor.

[Defender's report: File No. 1879/2022/VOP](#)

## **REMOVAL FROM THE LABOUR OFFICE'S REGISTER**

The complainant was registered as a jobseeker while having an agreement to perform work concluded for an indefinite term with an employment agency. However, the agency had no job for her at the time and the complainant had not even started to work. She thought that if she had zero earnings, she did not have to report the situation to the Labour Office. However, the Labour Office assessed



her actions as a failure to comply with the notification obligation and removed her from the register.

The law lays down that a jobseeker can work on the basis of an agreement to perform work while being registered with the Labour Office, provided that he or she does not earn more than half the minimum wage in one month (“non-conflicting employment”). However, the applicant must declare the non-conflicting employment when applying for job placement or, at the latest, on the day of commencement of the work.

We concluded that the Labour Office had erred when it incorrectly assessed the complainant’s conduct as obstructing co-operation with the Labour Office without good cause and removed her from the jobseekers’ register. The Ministry of Labour and Social Affairs agreed with our conclusions and cancelled the decision to remove the complainant from the Labour Office’s register.

[Defender’s report: File No. 7827/2022/VOP](#)

## THE LABOUR OFFICE UNLAWFULLY WITHHELD UNEMPLOYMENT BENEFITS

The complainant was registered as a jobseeker from 1 July to 12 September 2021. He was entitled to unemployment benefits during this whole period, including the twelve days in September. However, the complainant never received the pro rata share of the benefit for the month of September.

The Labour Office erred by stopping the payment of unemployment benefits before the decision to remove the complainant from the jobseekers’ register had taken effect. It also erred by not issuing a proper decision in administrative proceedings. The Labour Office acknowledged its error and paid the outstanding unemployment benefits to the claimant.

[Defender’s report: File No. 241/2022/VOP](#)

## We communicate

We continued to hold seminars for BSLPC officers on the topic of foster care. We also organised two seminars for them on a new topic – the role of the BSLPC in resolving parental conflicts in child care.

At a national conference of the TRIADA non-governmental non-profit organisation, we presented the Defender’s recommendations on the mediation of foster care and the conclusions of inquiries focusing on the contact of children with their parents serving a prison sentence.

We gave a lecture for the Judicial Academy on a very topical issue – the role of the BSLPC when dealing with unaccompanied foreign minors (see page [100](#)). We also lectured on the same topic for NGOs.

We regularly meet with representatives of the Ministry of Education, Youth and Sports to address our numerous negative findings in the area of institutional education, the configuration of the system and the operation of school facilities that house children on whom institutional education has been imposed. We repeatedly point, in particular, to the need for amending the outdated Institutional and Protective Education Act or replacing it with new, modern legislation to protect children at risk.

We actively participated in the Meeting of Hospital Ombudspersons, where we presented our

findings in the field of healthcare, focusing on the issue of recordings made by patients as evidence when dealing with complaints. We organised a workshop on the same topic for the staff of the Military University Hospital in Prague.

In the *Právo a rodina* (Law and Family) journal, we published articles titled Selected aspects of vaccinating minors against Covid-19 and Can I stay with my child in hospital? Legal representatives accompanying minor patients, as perceived by the Defender in practice.

We contributed a paper titled Possible implications of the Supreme Administrative Court’s decision for testing for the presence of the SARS-CoV-2 coronavirus antigen: the Defender’s perspective to the *Časopis zdravotnického práva a bioetiky* (Journal of Health Law and Bioethics) journal.

The papers Job placement for persons with disabilities as perceived by the Defender in practice and Possibility of providing APZ allowances to applicants facing debt collection were published in the magazine *Listy sociální práce* (Social Work Journal).

We published [an omnibus on Health Insurance](#) and an [information leaflet](#) concerning health insurance companies’ reimbursement decisions.













5

# Social security








## WE HELPED OR ADVISED\*

\* number of complaints resolved in 2022

 people with disability pensions	311
 people with a housing allowance	108
 people with a care allowance	106
 people with subsistence support	96
 people with retirement pensions	83
 people with sickness benefits	58

## PEOPLE MOST OFTEN SOUGHT HELP IN THE FOLLOWING AREAS\*

\* number of complaints received in 2022

	1433
	127
	121
 support	90
 pensions	89
 benefits	57
 disabled person's card	49

# 1433

complaints resolved  
all complaints relating to social security fall within the Defender's mandate

# 2x

increase in the number of complaints regarding the housing allowance received as compared to the previous year

# 249

completed inquiries, of which

# 166

were cases where the authorities erred, of which

# 4

were cases where it was not possible to ensure that the authorities remedy the maladministration

As part of our working groups and commissions, we were actively involved in setting up the social security system for refugees from Ukraine in 2022 (see page [36](#)).

We achieved an exemption from the administrative fee for authenticating signatures on life certificates issued to the recipients of pensions from other EU Member States.

We completed a [survey](#) focused on the Labour Office's procedure in determining the usual rent for the purposes of providing a contribution towards housing.

We wrote six articles for the professional public.

We broadcast three podcast episodes for the general public [on extraordinary immediate assistance benefits](#), [disability pensions](#) and the [care allowance](#).

In the "Sama doma" (Home Alone) TV show, we introduced viewers to topics related to [parental and maternity leave](#) and [retirement](#).



## We help change the rules

### DISADVANTAGES FOR WORKING PENSIONERS RECEIVING LATE (DEFERRED) RETIREMENT PENSION

In our comments on an amendment to the Pension Insurance Act, we repeatedly called for levelling the playing field for working pensioners. We demanded the option of increasing “late” or “deferred” retirement pension in cases where the pensioner continued to work while receiving the pension. Deferred pension is paid to people who have not completed the required period of pension insurance to qualify for regular retirement pension. However, unlike regular retirement pension, late retirement pension is not increased to reflect further gainful activity. While recipients of late retirement pension who continue to work are required to pay social security contributions from their earnings, they will obtain no compensation from the pension system in this regard. We therefore called for an elimination of this difference in the treatment of pensioners and for an increase in all retirement pensions in case of continued gainful employment.

In the end, the Ministry of Labour and Social Affairs decided to take another path and completely abolish the increase in retirement pensions if they are drawn along with continued gainful activity. However, it also exempted working pensioners from the requirement to pay social security contributions from their earnings. We accepted this solution.

[Defender’s comments on an amendment to the Pension Insurance Act](#)

### EXEMPTION FROM THE ADMINISTRATIVE FEE FOR AUTHENTICATING SIGNATURE ON LIFE CERTIFICATES

We found that municipal and regional authorities, “CzechPoint” offices and embassies charged administrative fees to foreign pension recipients for authenticating signatures on their life certificates. The vast majority of foreign institutions require such a certificate repeatedly when paying pensions to another country. The Ministry of the Interior instructed the authenticating authorities to collect the fee. The sole exemption applied to the authentication of signatures on life certificates intended for the Czech social security authorities.

However, the EU social security co-ordination regulations and the social security treaties entered into by the Czech Republic lay down the obligation of the Czech governmental authorities to treat beneficiaries of pensions from other Member States of the European Economic Area and from the contracting States in the same way as the recipients of Czech pension benefits. Czech authorities should therefore not charge a fee for authenticating signatures on life certificates.

Based on the Defender’s suggestion, the Ministry changed its methodology and informed the subordinate authorities that the recipients of pensions from contracting States were exempted from the authentication fee.

[The Ministry of the Interior’s methodology regarding the exemption from the administrative fee](#)

### COUNTING THE WHOLE TIME OF NON-MEDIATED FOSTER CARE TOWARDS PENSION

We advocated for improving the conditions of non-mediated foster carers (see page 48). We asked the Ministry of Labour and Social Affairs to introduce the same remuneration rules for all foster parents who do not have a maintenance obligation towards their foster children. While the Ministry refused to change the rules, it nevertheless drafted an amendment to the Pension Insurance Act, thanks to which non-mediated foster carers are now covered by pension and health insurance. At the same time, we achieved through our comments that the period of non-mediated foster care would be counted in full with regard to

both eligibility and the amount of retirement and disability pensions.

[Comments on the draft amendment to the Pension Insurance Act](#)

## MORE CONVINCING JUSTIFICATION OF DECISIONS NOT TO EXTEND SICK LEAVE

We repeatedly encountered complaints relating to the justification of refusals to grant sickness benefits after the expiry of the support period. The complainants considered the sickness insurance authorities' decisions incomprehensible and unclear.

The district social security administration authorities based their decisions on conclusions presented by medical assessors. However, the assessors often provided conflicting information. For example, the following mutually contradictory formulations were used next to one another: "It cannot be expected that the insured person will regain his fitness to work shortly after the expiry of the support period, even for activities other than those insured to date" and "the insured person's state of

health justifies the assumption that he will regain his fitness to work not later than on the date of expiry of the support period".

District social security administration authorities adopted these expert conclusions and used them to substantiate their decisions without further explanation, thus rendering them incomprehensible and unconvincing. We repeatedly criticised this. We also referred to court rulings, according to which a medical assessment was crucial to deciding whether the sickness benefits should continue after the support period has expired. However, the sickness insurance authority is not always required to accept a medical assessment. District social security bodies must base their decisions exclusively on complete and convincing assessments.

We demanded a systemic remedy, in particular a change in the methodological instruction for medical assessors. The Czech Social Security Administration eventually modified its methodological instruction.

[Recommendation to modify an internal regulation](#)



# We are here to help

## **THE SOCIAL SECURITY ADMINISTRATION AUTHORITY FAILED TO PROPERLY COUNT THE PERIOD OF CARE FOR A CHILD UNDER FOUR YEARS OF AGE TOWARD THE MOTHER'S PENSION**

We inquired into a complaint questioning the procedure in processing a complainant's repeated application for a disability pension, the established disability onset date, as well as the credited period of pension insurance. The Czech Social Security Administration found the complainant disabled in view of her borderline personality disorder, but failed to properly justify its assessment regarding the disability onset date. In calculating the pension, the authority did not even recognise the time the complainant spent caring for a child under the age of four, although she had specified and documented this period in her application.

It turned out that the authority had mistakenly applied a provision governing a different situation – the rule on reducing women's retirement age for raising children. That provision, however, does not apply to the assessment of the period of care for a child under the age of four. The authority corrected the error. It gave an instruction to carry out an extraordinary medical examination to assess the correctness of the disability onset date. The new assessment already met the requirement for completeness and conclusiveness of the reasoning. The Czech Social Security Administration also took the insurance period based on care for a child up to the age of four into account and awarded the complainant an invalidity pension

for third-degree disability from 1 June 2020 and a supplementary pension for the period from the date of its award.

[Defender's report: File No. 6943/2021/VOP](#)

## **IN THE CASE OF YOUNG DISABLED PEOPLE, THE CZECH SOCIAL SECURITY ADMINISTRATION MUST ALWAYS ASSESS WHETHER OR NOT THEY ARE ELIGIBLE FOR SPECIAL PENSION CALCULATION**

We helped a man who had asked for review of the amount of disability pension for third-degree disability. We found that the Czech Social Security Administration had made an error in determining the amount of his pension. The man met the conditions for a special method of calculation using the general assessment base, i.e. an amount corresponding to the average salary – he had become disabled before the age of 28, he had fulfilled the eligibility criteria for a partial disability pension and there had been no interruptions longer than one year in the insurance period from the age of 18 until he became eligible for the partial invalidity pension.

The complainant had worked only 12 days before the onset of his disability and had been on the register of jobseekers in the long term, with only brief interruptions. With that being said, the entire period when an applicant is registered with the Labour Office is also considered a period of insurance for the purposes of the special assessment. The pension awarded to the man based on the special assessment was higher than the pension calculated for him by the Czech Social Security Administration on the basis of his earnings before the onset of disability. When the special calculation method was used, the complainant thus received, along with a significant increase in his pension, a supplementary payment of over CZK 300 000.

[Defender's report: File No. 3075/2021/VOP](#)

## **THE DISTRICT SOCIAL SECURITY ADMINISTRATION AUTHORITY NEED NOT ALWAYS WAIT FOR THE OUTCOME OF CRIMINAL PROCEEDINGS BEFORE PAYING A PART OF THE SICKNESS BENEFIT**

We dealt with the case of a woman who had allegedly been violently assaulted by her employer and had ended up temporarily unfit to work due to her injuries. The district social security administration authority paid her sickness benefits in a reduced amount (one half). It justified this procedure by a suspicion that the complainant might have caused her unfitness to work by getting involved in a brawl, using narcotic substances or committing a culpable criminal offence or infraction. In these cases, the law requires the authority to pay sickness benefits at a reduced rate. However, the authority failed to specify why exactly it had decided to reduce the complainant's sickness benefit.

In doing so, the authority stayed the proceedings and awaited the outcome of the police investigation, in which the complainant participated as the victim of a sexually motivated assault by her employer. The decision to award the second half of the benefit was then made only nine months later, when the prosecutor indicted the employer. Only then, in the authority's view, was it certain that the complainant had not caused her unfitness to work.

We criticised the district social security administration authority for not stating the reason for halving the sickness benefits. We also disapproved of the decision to await the outcome of the police investigation, rather than making one's own judgement. We argued that the complainant had the position of victim since the prosecution had begun. Because the authority had already provided the remainder of the sickness benefits during the inquiry, we closed the case by noting that the authority had erred.

[Defender's report: File No. 12544/2022/VOP](#)

## **HIGHER ENERGY COSTS MAY ALSO BE COUNTED TOWARDS THE HOUSING ALLOWANCE BECAUSE OF DISTANCE LEARNING DURING THE COVID-19 PANDEMIC**

We dealt with the case of a single mother who was unable to cover her housing costs from the State's contribution towards housing. We found that the woman was paying slightly higher advances on electricity bills than was usual at the place where she lived. We therefore asked the Labour Office to consider a possible increase in the amount of the justified housing costs and thus also in the contribution towards housing.

We noted that the Labour Office could also recognise a situation other than one directly mentioned in the law as a case justifying an increase of up to 10% in the proven necessary energy consumption. The law specifically mentions as a case justifying such an increase only a long-term adverse health condition of a person in the household. In our view, the situation of a single mother living with a dependent child, whose energy costs have increased due to the closure of schools and ban on leisure activities during the Covid-19 pandemic, should also be considered such a case. The Labour Office is required to assess these circumstances on a case-by-case basis and determine whether the case in question is indeed justified. The Labour Office accepted our view and increased the complainant's contribution towards housing for the months when her son had attended distance learning.

[Defender's report and opinion: File No. 1909/2021/VOP](#)

## **WHEN DECIDING ON A DISABLED PERSON'S CERTIFICATE, THE ASSESSOR MUST THOROUGHLY ASSESS THE PERSON'S ABILITY OF INDEPENDENT ORIENTATION OUTSIDE THE HOUSEHOLD**

We dealt with the case of an eleven-year-old boy who had his disabled person's card (ZTP) revoked. His mother argued that the boy's health condition had not improved (Asperger's syndrome with ADHD), but rather deteriorated with the addition of emotional instability with a build-up of tics under stress and Tourette syndrome. We found that the boy was only learning to be independent at home at the age of 11, and that being alone at home triggered his tic disorder. The resulting stress caused the boy to react with unusual and inappropriate vocal and motor expressions to even relatively normal situations.

In our request to initiate review, we drew attention of the Minister of Labour and Social Affairs to the fact that the medical assessors had not ad-



ressed the psychological strain and impact on the boy's ability of independent orientation outside home. The ability of independent orientation in such an environment must be assessed according to the law. The Minister overturned the unlawful appeal decision and the appellate body then returned the ZTP card to the boy.

[Defender's report: File No. 7814/2021/VOP](#)

## **WHEN ASSESSING THE MEDICAL CONDITION FOR THE PURPOSES OF CARE ALLOWANCE, THE ASSESSOR MUST NOT DRAW THE WORDING OF MEDICAL REPORTS OUT OF CONTEXT**

We also dealt with a request for assistance from a woman who had suffered a massive brain haemorrhage when she was only 16 years old (in

2006) and in full health. This had led to a significant decline in her mental functions, paralysis of her right arm, the development of a psychorganic syndrome, speech impairment and other health problems. In particular, due to a significant reduction in the intellect to the level of moderate post-accident dementia, the court had restricted her legal capacity in 2015 for a period of five years, i.e. the maximum possible period. Just three years later, the Labour Office reduced her dependency level from second to first.

We took up the case after the administrative court had overturned the appeal decision due to serious errors. Unfortunately, the appellate body remedied the defects pointed out by the court only partially in the renewed proceedings. We criticised, for example, that the medical assessors had justified the non-recognition of the need for assistance with dressing by quoting one of the medical reports, which stated that the complainant was "striving as much as possible to be independent". We pointed out that this sentence did not allow for a conclusion that the complainant was managing the given activity because maximising one's efforts to be independent was not equivalent to actually being independent. The Minister agreed with our opinion and



overturned the unlawful appeal decision. The outcome of the renewed proceedings is still unknown.

[Defender's report: File No. 12940/2022/VOP](#)

## **THE LABOUR OFFICE MAY NOT REFUSE A STUDY CERTIFICATE ISSUED IN THE LANGUAGE OF ANOTHER EU MEMBER STATE WHEN DEALING WITH CHILD BENEFITS WITHIN THE EUROPEAN UNION**

We addressed a complaint lodged by the father of a full-time student at a university in another EU Member State. A girl studying in Germany had been denied child benefits by the Labour Office. The Labour Office, just like the Ministry of Labour and Social Affairs later on, had refused to recognise proof of study at a foreign university issued in German and English.

We considered the authorities' insistence on an official translation to be incorrect, and pointed out the conflict with the EU co-ordination regulations. If the applicant provides proof of study in another EU Member State, this may mean that they have the centre of interest (residence) there. This brings EU rules on social security co-ordination into play. The authorities, institutions and courts of a Member State may not refuse applications or other documents submitted to them on the grounds that they are issued in a foreign language if the language in question is an official language of another Member State recognised as an official language of the Union institutions.

The Ministry accepted our criticism. The Minister of Labour and Social Affairs overturned the Labour Office's decision as well as the original decision issued by the Ministry in review proceedings. The Labour Office subsequently granted the child benefit.

[Defender's report: File No. 7624/2021/VOP](#)



## We communicate

### **BRANCHES OF THE LABOUR OFFICE MUST FOLLOW A UNIFORM APPROACH WHEN DETERMINING THE USUAL RENT FOR THE PURPOSES OF GRANTING A CONTRIBUTION TOWARDS HOUSING**

We completed a survey relating to the way the Labour Office determines usual rent for the purposes of granting a contribution towards housing. The survey was carried out by means of a questionnaire and analysis of data from all contact points of the Labour Office.

The amount of the contribution towards housing depends on the degree to which the Labour Office reflects the rent actually paid. The rent, however, can only be reflected up to the amount usual in the given area. The data on the rent usual in the area must be based on “comparable rent” usual at the place, which is paid for a comparable flat in a house at a comparable location and under similar other conditions relevant for the amount of the agreed rent. The Labour Office must have at least three comparable rent figures at its disposal with regard to the contribution towards housing. These are usually obtained from the files of other clients receiving housing benefits.

We found that in some cases, the branches of the Labour Office failed to compare mutually comparable flats. For example, flats rented by municipalities or those rented by a co-operative to its members could not be used as a source for determining the usual rent in flats of private landlords. Nevertheless, the Labour Offices did so in some cases.

Its branches occasionally relied on old and outdated rental contracts. We therefore recommended that the Labour Office should only consider current contracts. In addition to the basic parameters of any given flat (location, area, price), the Labour Office should also indicate, in the document informing the party about the underlying material used for decision-making in the case, the validity of the lease contracts on which it based its considerations.

We also called on the Labour Office’s branches to update the rent levels regularly, at least once a year, and more frequently in case of a steep increase in rent prices.

We discussed the survey conclusions at a roundtable with representatives of branches of the Labour Office and the Ministry of Labour and Social Affairs. We are also negotiating with the Ministry on updating the methodological guidelines governing the determination of the usual rent.

[Survey report](#)

### **DELAYS IN THE PROVISION OF STATE INCOME SUPPORT AT THE LABOUR OFFICE – PRAGUE REGIONAL BRANCH**

Complaints we had received from dozens of people in a difficult social situation painted a picture of slow decision-making and late payment of State social support benefits at the regional branch of the Labour Office in Prague. We advised complainants on how to defend themselves against inaction when dealing with individual cases.

At the same time, we looked at the situation at the regional branch in general. We found that the delays were mainly due to staff shortages at the Prague contact points. At the end of 2022, the shortage was almost 12%, including mostly social workers and specialists in State income-support and assistance in material need benefits. According to the Directorate General of the Czech Labour Office, these positions were financially unattractive, especially given the psychological demands.

We informed the Minister of Labour and Social Affairs about our findings and asked him to take specific measures. We stated that, in our view, the only solution lay in proper financial motivation, as the current remuneration of the staff concerned did not correspond to the intensity and quantity of the work performed. In February 2023, we also brought these issues to the attention of the Chamber of Deputies’ Social Policy Committee.



## **WE LECTURE NGOS ON BENEFITS FOR PEOPLE WITH DISABILITIES**

We organised various training sessions concerning disability pensions, care allowances and benefits for people with disabilities for the staff of NGOs "Fokus" and "Charita České republiky" (Czech Republic Charity). We shared our experience from assessment procedures, the justification of health assessments and the appropriateness of increasing care allowances, and others.

## **WE DISCUSS THE PROBLEMS OF PEOPLE WITH CHRONIC FATIGUE SYNDROME IN DISABILITY PENSION PROCEEDINGS**

We met with representatives of the Neúnavní endowment fund and the ME/CFS (Chronic Fatigue Syndrome) Patients Club. During the meeting, we gained insights into their ongoing and future initiatives and apprised the participants of the conditions under which the Defender could deal with the topic, not only by addressing individual complaints, but also on a systemic level after their evaluation.







6

# Public policy

## WE HELPED OR ADVISED\*

\* number of complaints resolved in 2022

 **118**

people with problems relating to the Land Registry and land-use authorities

 **87**

people with problems concerning the use of roads

 **68**

people dealing with the police

 **68**

people with problems concerning the right to information or personal data protection

 **61**

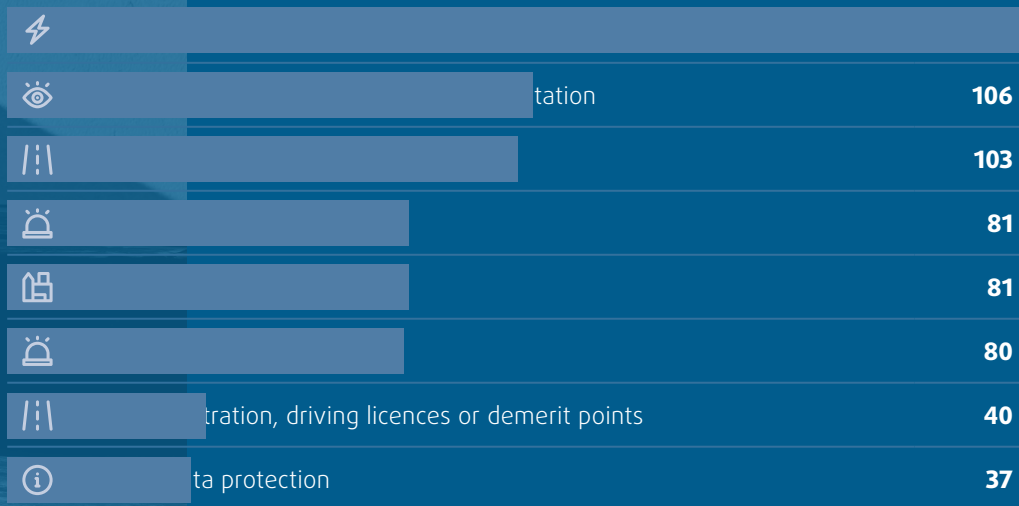
people with traffic infractions

 **11**

people with problems relating to registry offices and population records

## PEOPLE MOST OFTEN SOUGHT HELP IN THE FOLLOWING AREAS\*

\* number of complaints resolved in 2022



We focused on municipal law-making in 2022. We recorded several cases where municipalities had defined shorter night-time quiet hours in their generally binding edicts than laid down by the law. These, however, were not exceptional and predictable situations for which the Constitutional Court had previously admitted the limitation of night-time quiet hours.

We also encountered a case where a municipality had provided an allowance covering the local fee for the municipal waste management system only to its citizens and not to the owners of recreational properties in the municipality. The Constitutional Court had previously forbidden in its rulings a practice favouring only one category of taxpayers, because the Local Fees Act puts both groups of taxpayers on an equal footing.

We also paid significant attention to consumer complaints related to the current energy crisis. During the year, we monitored primarily how the Energy Regulatory Office would respond to consumer pleadings. They concerned, for example, the procedure of those suppliers who had ceased their activities at the end of 2021 or had cancelled their customers' "fixed contracts" or unjustifiably increased advances on utility bills.

**2138**

complaints resolved, of which

**914**

fell within the Defender's mandate

**1224**

fell outside the Defender's mandate

**108**

completed inquiries, of which

**69**

were cases where the authorities erred, of which

**4**

were cases where it was not possible to ensure that the authorities remedy the maladministration

**4**

seminars "Right to information and personal data protection"

**179**

officials and representatives of local governments trained

# We help change the rules

## MODIFICATION OF THE LAND-REGISTRY DECREE – NO TWO FLATS ARE THE SAME

We increasingly often encounter an issue relating to the reconstruction of residential buildings and the construction of new residential buildings and single-family homes. This goes as follows: the building owner first reconstructs or erects a building without the necessary permission from the construction authority or in violation of an issued permit. Subsequently, the owner issues a declaration dividing the building into a number of units exceeding the number of flats permitted by the authority. When the declaration is later entered into the Land Registry, the Land Registry Office does not examine whether the number of units actually corresponds to the number of flats permitted by the construction authority. Once the declaration is thus part of the Land Registry, the building owner starts offering the units for sale. The new owners who buy their flats in good faith (after all, the unit is entered in the Land Registry) will usually only find out about the problem from the construction authority when the latter starts dealing with the existence of the unpermitted structure. The described practice stems from the fact that the legislation does not lay down the obligation to check consistency between the construction authority's decision and the owner's declaration entered in the Land Registry.

In co-operation with the Czech Office for Surveying, Mapping and the Land Registry and the Ministry of Regional Development, we agreed on an amendment to the Land Registry Decree that would make it possible, as from 1 January 2023, to enter a note in the Land Registry



stating that any given residential unit, as defined by the Civil Code, had been delimited in accordance with a construction or occupancy permit under the Construction Code. The buyers will thus be able to check in the registry whether or not the unit they are interested in has been approved by the construction authority. We assume that people will show interest in units marked in this way by the Land Registry Office, because they will at least have greater certainty that the unit they are buying has been permitted by the construction authority. At the same time, we expect that mortgage lenders will require such a note in the Land Registry as a condition for granting a loan.

[Press release of 27 June 2022](#)

## SAFETY OF RESTAURANTS' OUTDOOR SEATING

We inquired into the practice of an authority that had permitted the use of a parking area for a restaurant's outdoor seating. The complainant believed that the technical design of the seating premises was at variance with the permit issued and the seating was unsafe, and that the authority had not addressed these facts. We found that in contrast to the approved project design, the seating was not located on a platform, it was not separated from the rest of the parking area by a railing, and it was not delimited by traffic safety features such as retroreflective markings or traffic cones. In reality, the outdoor tables were separated from the parked cars only by ropes stretched between boxes. The seating area thus did not meet the safety requirements imposed by the traffic police or the conditions of the authority's permit.





## PREDICTABLE STEPS TAKEN BY AUTHORITIES IN DEALING WITH CONSUMER REQUESTS AND SUGGESTIONS

We found that the Energy Regulatory Office had failed to set clear rules for handling requests for assistance and public suggestions to initiate proceedings ex officio. There are no clearly defined rules for informal handling of requests for assistance. Nonetheless, if an authority infers from the content of a pleading that the petitioner suggests initiating proceedings ex officio, it has to handle such a pleading in line with the Code of Administrative Procedure. Yet, people who had contacted the Office often had no idea how it would evaluate their pleading and how it would further proceed. At our request, the Office redesigned its website to make it apparent how it would handle individual pleadings and what people could expect from the Office in the first place.

[Defender's report: File No. 349/2021/VOP](#)

The authority accepted our criticism and promised to check permitted outdoor seating more consistently.

[Defender's report: File No. 7462/2021/VOP](#)

## SAFE APPLICATION OF MEANS OF RESTRAINT

We inquired into an incident that had occurred in the town of Teplice, where a man who was under the influence of narcotics died when being arrested by the police. We pointed out several errors and achieved a change in the police approach to handcuffing persons while lying on the ground. In the future, people should not be forcibly held on the ground in a prone position, but should be seated or rolled onto their side by the officers after being handcuffed (if necessary).

[Defender's report and opinion: File No. 4022/2021/VOP](#)

## HOW TO CALCULATE CORRECTLY THE TIME LIMIT FOR WAIVING DEFAULT

After some time, we came across a case of misinterpretation of the time limit for waiving a failure to perform a certain act. However, we were able to persuade the authority that the objective one-year time limit was a deadline for filing an application, rather than a deadline for the authority to decide on it.

[Defender's report and opinion: File No. 13644/2022/VOP](#)

## REMOVING BILLBOARDS FROM ROAD PROTECTION ZONES

A complainant sought in vain that a billboard installed without a permit near a local road be removed. The crux of the dispute between the complainant and the authorities was whether the billboard was located in the road protection zone, as the complainant argued, or in the built-up area of the municipality, as argued by the authorities. The placement of an advertising media in a road protection zone requires a permit from the road administration authority. On the other hand, such media can be placed in a built-up area of the municipality without a permit.

We concluded that the billboard was indeed located in the road protection zone and thus required a permit. The authorities did not accept our conclusions. We therefore called on the Ministry of Transport to assess the issue. The Ministry agreed with our opinion and promised to issue recommendations to the road administration authorities regarding the delimitation of built-up areas of a municipality and a road protection zone.

[Defender's report and opinion: File No. 5891/2020/VOP](#)



## We are here to help

### WITH A PERMIT, YET STILL PUNISHED

We prevented further punishment of transport companies carrying heavy and oversized loads. It turned out that even those carriers who had a proper permit from the Ministry of Transport to transport heavy or oversized loads had been accused by the road administration authorities of committing an infraction of exceeding the permitted weight in weigh station checks. The authorities had no way of knowing whether the Ministry had authorised the carrier to transport a particularly heavy or oversize load.

The Minister of Transport inquired into the matter and the Ministry made the online register of decisions on special road use issued by the Ministry available to the road administration authorities concerned. Carriers should therefore no longer be punished without justification.

[Defender's report: File No. 8198/2022/VOP](#)

### WHEN DISCO NOISE DISTURBS THE NIGHT'S QUIET HOURS

People from three neighbouring villages repeatedly complained about nuisance noise from a nearby disco. Even police officers who were called in were unable to enforce compliance with the quiet hours. The municipality then stepped in and asked the police repeatedly to identify the individuals violating the municipal rules. We found that although the authority responsible for hearing the infraction of disturbing the quiet hours had imposed penalties in several cases of violation, it had nevertheless set most of the complaints aside

without initiating infraction proceedings or taking evidence.

We pointed out that in cases of disturbance of the quiet hours, crucial evidence was obtained by interviewing the people disturbed by the noise and police officers called on scene. This is also clear from courts' case law. No noise measurement is required, for example. We commended the municipality for calling the police immediately, without waiting for individual complaints from its residents regarding disturbance during the quiet hours. Outdoor discos are announced in advance in the operator's programme.

Both the police and the authority hearing infractions accepted our recommendation and the police promised to take security measures at announced events.

[Defender's report: File No. 5889/2021/VOP](#)

### WHEN THE AUTHORITY IS NOT WILLING TO RESEND A DOCUMENT

A complainant lost an important resolution of the Land Survey and Registry Inspectorate when relocating. However, when she asked the inspectorate to resend it, she was denied on the grounds that the resolution had already been duly served and the proof of service was on file.

Public administration is first and foremost a service to the public. An administrative authority should try, to the best of its ability, to help people achieve the objective they are pursuing through their pleading to the authority. Nothing prevented the inspectorate from providing the requested document.

Eventually, we were able to persuade the inspectorate to resend the requested resolution to the complainant.

[Defender's opinion: File No. 13341/2022/VOP](#)

## COMPENSATION FOR UNLAWFUL REMOVAL FROM A FOREIGN POST

A complainant was transferred from his foreign post of legal adviser at the headquarters of the North-East Multinational Corps in Szczecin to another duty station in the country. The court overturned the order on the grounds of it being unlawful. The complainant asked the Ministry of Defence for reasonable satisfaction for intangible damage (early removal from a foreign post) caused by the order.

We reproached the Ministry for refusing to provide voluntary compensation to the complainant after having acknowledged the error. As an effective and feasible remedy, we suggested that the Ministry should reconsider the complainant's request and decide on the form and potential amount of the compensation. It eventually paid CZK 100 000 to the complainant to compensate for the intangible damage.

[Defender's report and opinion: File No. 4403/2021/VOP](#)

## WHEN AN AUTHORITY IS INACTIVE

We succeeded in remedying the inaction of the Energy Regulatory Office in investigating a com-

plaint. The Office eventually initiated administrative proceedings against the owner of a local distribution network and ordered him to give written consent to the placement of a structure and the performance of activities in the protection zone of an electricity grid facility. After the consent was granted, the complainant was thus finally able to proceed with the construction of an electricity connection which had already started in 2020.

[Defender's report: File No. 5728/2021/VOP](#)

## RULES LAID DOWN IN A DECREE MUST BE OBSERVED

We dealt with a complaint concerning a municipality's failure to enforce its own rule that dogs had to be kept on leash at all times. We found that while the municipality had issued a generally binding edict in this sense, and had thus made it clear that it considered the opposite undesirable, it had subsequently failed to punish violators.

We pointed out to the municipality that if it decided to issue an edict to regulate certain conduct, it should then charge anyone violating the rules, rather than looking for ways to justify such violation. The municipality promised to change its approach to such violations.

[Defender's report: File No. 5134/2022/VOP](#)



# We communicate

## HOW TO PROPERLY RECORD PERSONAL DATA OF VISITORS TO OFFICIAL BUILDINGS

We encounter various rules of access to official buildings. Some authorities record the entry of visitors while others leave their entrances without supervision. Certain dynamics are also apparent in access regulations – in some authorities, the established practice changes with new leadership. Hence, we decided to determine how central authorities regulated access to their buildings.

It turned out that the vast majority of authorities recorded access to their buildings and processed selected personal data of their visitors. The main reasons were the protection of property and the safety of people inside the building. There is, however, a disparity in the extent of the data recorded by various authorities. Some of them record visitors' personal data when they enter official buildings for an unreasonably long time, even for more than a year.

[Survey report: File No. 5734/2020/VOP](#)

### Period for which data on visitors to authorities are recorded (N=95)

[redacted]	10
[redacted]	
[redacted] h to six months	6
[redacted]	16
[redacted] k	13
[redacted] ly during the presence in the building	2
[redacted] ed	8
[redacted] e recorded	6
[redacted] e data are processed by owner	8

## WINTER MAINTENANCE

We decided to examine winter maintenance of local roads and (especially) pavements in urban areas. The current wording of the Roads Act is quite unclear in this regard. The importance of winter cleaning of roads and pavements was recently recalled by the Constitutional Court, which provided guidance for general courts in disputes over compensation for damage in several of its rulings. We contacted the statutory cities and regional authorities supervising the regulations by which municipalities exclude sections of certain roads and pavements from winter maintenance.

We found that the practice was diverse across the Czech Republic. While some cities and towns excluded almost no roads or pavements from maintenance, others did exclude, for example, dead-end pavements leading to residential buildings in housing estates. The reasons are usually technical and financial – the impossibility of cleaning dead-end pavements with maintenance vehicles. The approach to marking unmaintained sections also differs. Some cities and towns use consistently traffic signs or markers to this end, while others do not install any warning signs because they publish the municipal regulations and map attachments on their websites. It appears that the regional authorities review municipal regulations only in formal terms. They are convinced that, although this is an exercise of State administration, municipalities are the only ones to know their territories, and the regional authorities cannot examine the traffic significance of specific roads and pavements.

We questioned the legitimacy of the practice of excluding pavements leading to residential buildings in built-up areas from the maintenance regime. We urged municipalities to carefully consider which roads and pavements they would thus omit from maintenance. We urged regional authorities to require municipalities, within their supervision, to communicate the criteria used to exclude roads and pavements from maintenance plans. This criterion should be assessed by the regional authorities. In the case of an individual complaint, the regional authorities should also deal with the specific traffic situation – assess the traffic significance of a particular road or pavement.

[Defender's report: File No. 3530/2022/VOP](#)

[Judgement of the Constitutional Court 2315/15 of 12 April 2016](#)

[Judgement of the Constitutional Court 1991/20 of 1 December 2021](#)

## BIRTHS AND DEATHS OF CITIZENS ABROAD

We discussed with representatives of the Ministry of the Interior, the Ministry of Foreign Affairs, the Brno City Hall and the Authority of the Brno-Centre City Ward (special registry office) the current difficulties experienced in registering certain registry events – births and deaths of Czech citizens abroad.

A pressing issue faced by citizens born and permanently residing abroad is the fact that, when they are issued with official Czech documents, their permanent residence is registered retroactively as at the date of birth. However, this information does not reflect reality and causes complications, as it, for example, gives rise to the obligation to pay the local municipal waste fee. We believe that a straightforward solution would be to change the law to allow a citizen who is permanently residing abroad to choose not to have their registered place of permanent residence in the Czech Republic.

In case of death, the main problem is linked with obtaining a foreign public document proving the citizen's death, which could be used to register the death in a special registry. Often, the only entity really motivated to obtain this document is the Czech government; the relatives do not need it, for example, to probate the inheritance. This is reflected in the transfer of data on death or any doubts regarding whether the citizen is alive into the basic registers. A partial solution could be ensured by a new methodology of the Ministry of the Interior that would outline to the authorities how to proceed in similar cases.

## WE CONTINUE OUR CO-OPERATION WITH THE CZECH NATIONAL BANK

In May, we met with the CNB's Deputy Governor and other officials to discuss not only how to improve the efficiency of their communication with the public, but also how they address the various issues we deal with.

## WITH THE ENERGY REGULATORY OFFICE, WE SEEK EFFECTIVE HELP FOR VULNERABLE CUSTOMERS

Throughout the year, we addressed specific cases presented to us by complainants and also dis-

cussed the supervisory department's procedure in handling individual complaints and the search for a useful tool to safeguard customers from unfair practices of certain suppliers.

We welcomed an amendment to the Energy Act which defined a "vulnerable customer". Although the proposed definition is not ideal, it is nevertheless a step in the right direction with a view to protecting the most vulnerable people from potential energy poverty, as unfair practices of certain suppliers put these people in a tight spot. In the worst-case scenario, these situations can result in the disconnection of their off-take site.

[Press release of 21 December 2022](#)

## WE DO NOT FORGET ABOUT THE CURRENT PROBLEMS OF PEOPLE AT RISK OF POVERTY AND SOCIAL EXCLUSION

As part of our membership of the Government Committee on the Rights of Persons at Risk of Poverty and Social Exclusion, we continued to meet with other representatives of governmental and non-governmental organisations to seek solutions to current problems. We recommended that the Committee raise its own comments regarding both the above-mentioned definition of "vulnerable customer" and the proposal to amend the regulation on non-attachable amounts in order to maintain the current system of deductions.

## WE ARE LOOKING FOR THE OPTIMAL SETTING OF CONSUMER COUNSELLING

We were unable in 2022 to effectively address the shortcomings in consumer counselling we pointed out in our [previous summary report](#) (p. 57), as this requires the adoption of a methodology by the Central Inspectorate of the Czech Trade Inspection Authority, which however had no director in office until October. We therefore discussed the functioning of counselling services at least with the Ministry of Industry and Trade.

We will continue to monitor how the new central director will take up this issue and whether the solution he adopts will contribute to more effective and relevant consumer counselling.





# Construction rules and the environment

## WE HELPED OR ADVISED\*

\* number of complaints resolved in 2022

 **271**

people with problems regarding planning or construction permit proceedings or using a structure

 **128**

people with problems concerning removal or additional approval of a structure

 **53**

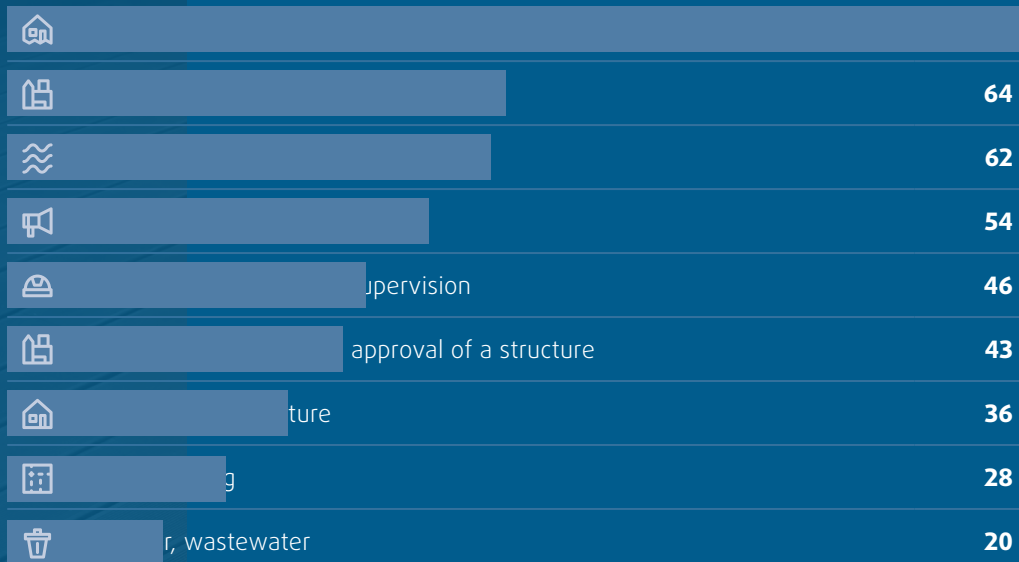
people exposed to excessive noise

 **21**

people dealing with water mains, sewerage or water protection

## PEOPLE MOST OFTEN SOUGHT HELP IN THE FOLLOWING AREAS\*

\* number of complaints received in 2022



**741**

complaints resolved

all complaints relating to construction rules and the environment fall within the Defender's mandate

**94**

completed inquiries, of which

**87**

were cases where the authorities erred, of which

**7**

were cases where it was not possible to ensure that the authorities remedy the maladministration

Along with helping individual complainants, we presented our findings at several professional seminars and conferences focused on cultural heritage, photovoltaics, animal protection and hydrogeology. We have shared our knowledge in the fields of construction law, spatial planning, noise, transport pollution and funeral services with the readers of the *Stavební právo* (Construction Law) and *Moderní obec* (Modern Municipality) journals. We raised comments regarding an amendment to the Water Act, amendment to the new Construction Code and the Bill on Single Environmental Opinion.

We are still updating our website "[Simple Guide to Building a House](#)", which is a simple interactive guide to building a house and should help primarily the developers (builders). We recorded further [podcasts](#) where we talk about noise, hunting, landscape protection and neighbours' objections to construction approvals.

We are pleased to work with students in the clinical course of "Construction in the Ombudsman's practice" at the Faculty of Law of Palacký University in Olomouc.

# We help change the rules

## METHODOLOGY FOR SHARED ACCOMMODATION

While handling complaints, we discovered that construction authorities often incorrectly assumed that approving a building for permanent housing automatically permitted its use for short-term accommodation. We negotiated with the Ministry of Regional Development on remedying this incorrect practice followed by the construction authorities. This eventually yielded a methodological aid titled "[Provision of accommodation services in buildings intended for housing](#)", which should assist construction authorities in assessing the use of buildings for short-term accommodation. We will monitor the application of this methodology. If it proves inadequate, we will negotiate with the Ministry of Regional Development on its update.

[Press release of 25 August 2022](#)

## PHOTOVOLTAIC PANELS ON THE ROOFS OF HERITAGE OBJECTS

We were contacted by several property owners in heritage protection areas who wanted to install photovoltaic panels on the roofs of their buildings. The State heritage care bodies usually do not approve the installation of photovoltaics on roofs and argue with reference to the protection of values in heritage protection areas. However, their practice was not uniform.

We therefore approached the Minister of Culture and involved ourselves in drafting a methodological material originally prepared by the National Herit-

age Institute. At our suggestion, the [methodology](#) includes a pictorial annex. Authorities and property owners thus have a better idea of what solutions are possible in terms of heritage protection.

Photovoltaic panels often cannot be installed on buildings subject to heritage protection. The Defender believes that the State should therefore consider the option of providing financial compensation to property owners who cannot save energy, for example, by replacing windows, insulating facades, or installing photovoltaic panels due to restrictions on property rights.

## WHEN A SEWER CONNECTION THREATENS THE ENVIRONMENT

We encountered a case of unauthorised use of a dilapidated sewer connection with tree root intrusion. The construction authority justified its reluctance to prohibit its use by the impact such a measure would have on the rights of the owners of the properties connected to the sewer line via the defective connection.

However, the use of a leaking sewer connection is contrary to the public interest in protecting groundwater and surface waters. It is up to the general construction authority to resolve such a situation, as a sewer connection is not legally considered a water works. The authority should solve problems relating to leaking connections that endanger the environment, for example, by calling on the owner to remove defects in the structure.

Implementation of measures in public interest can complicate the position of the persons concerned, albeit mostly only temporarily. However, public interest values are above private interests.

The construction authority did not accept our proposals for remedy. We therefore used our power to impose a sanction in that we informed the superior body, i.e. the regional authority. While the latter did try to find a solution, it too refused our proposal to prohibit the use of the connection until it was repaired. This is one of the few cases where even a sanction did not lead to a remedy. In such a case, the law expects the Defender to inform the Chamber of Deputies, which he subsequently did. The Defender therefore informed the Chamber of Deputies about the case.

[Defender's report, opinion and sanction: File No. 135/2021/VOP](#)

## EXCLUDED AREA AT A GOOD ADDRESS

A complainant lived in the vicinity of a house that was used as an accommodation facility. However, a single-family home cannot be used as such without a change in its occupancy permit. We reproached the construction authorities for not dealing sufficiently with the situation despite the negative impacts on the surrounding area, such as problems with sewage and water, accumulating garbage, and movement of many people in and around the building. Construction authorities are supposed to address such cases in co-operation with the local government and, as the last resort, even order that the building be cleared out and the persons concerned provided with some other shelter. The authorities accepted the criticism and committed to resolving the situation.

[Defender's report: File No. 4346/2021/VOP](#)

## WE ARE PROGRESSING WITH THE SOLUTION TO UNAUTHORISED DUMPING OF CONSTRUCTION DEBRIS

Several citizens complained about the authorities' inaction in dealing with unauthorised landscaping in the form of dumping construction debris and soil on neighbouring properties. A construction company was using the area as a disposal site in the construction of a golf course. The construction authority failed to proceed with sufficient diligence in addressing the case as it repeatedly provided the applicant with inappropriately long time to complete the relevant application.

The problem was not only the landscaping, but also the composition of the dumped material, which included waste. Hence, we also focused on the procedure of the regional authority, whom we reproached for allowing uncontrollable mixing of waste with soil. The authorities promised to remedy the situation – the construction authority would continue with the proceedings on unauthorised landscaping, and the waste management authority would supervise the quality of decision-making so as to enable effective control. In addition, the regional authority issued a methodology for assessing the documentation of landscaping in the form of dumping construction debris.

[Defender's report: File No. 5607/2021/VOP](#)

# We are here to help

## FENCING IN THE FLOODPLAIN IS A PROBLEM

We dealt with unauthorised construction of a massive concrete fence in an active flood zone of a watercourse. Although the water-law authority had not given its consent to the structure in view of its possible negative impact on the runoff conditions, the fence had already been erected in the flood zone for five years. We reproached the construction authority for dividing the construction project into three separate sets of proceedings ("salami tactics"). In order to objectively assess the runoff conditions, the authority had to consider the construction project as a whole. We also criticised the misleading designation of the construction project as a "replacement of fencing" as it was, in fact, a new structure. This may have confused



the parties to the proceedings. We persuaded the construction authority to deal with the matter and continue with the proceedings on the removal of the structure. We continue to monitor the case.

[Defender's report: File No. 6606/2021/VOP](#)

## THE "ŠANTOVKA TOWER" CASE CONTINUES

A significant progress was achieved in 2022 with regard to the Defender's lawsuit for the protection of public interest in the case of the "Šantovka Tower" high-rise building, which the investor intends to build in the protective zone of the Olomouc urban heritage area. The Defender filed the suit to challenge the planning permit issued in the case. In March 2022, the Olomouc branch of the Regional Court in Ostrava dismissed the lawsuit on the grounds of failure to prove a compelling public interest in bringing the suit. As the Defender disagreed with the court's decision, he filed a cassation complaint and applied for a suspensory effect. The Supreme Administrative Court granted the application in August 2022. This means that the Olomouc City Council may not issue the investor with a building permit until the proceedings on the complaint are closed.

[Press release of 28 July 2022](#)

[Press release of 29 August 2022](#)

## FUNERAL SERVICES

In this area, people most often contacted us with requests for advice or assistance in resolving disputes over a grave plot, either between relatives or with the cemetery operator. We also answered questions regarding municipal funerals. Such funerals are arranged by municipalities in cases where no one has provided for a burial within the legal deadline 96 hours of notification of the death. The relatives of the deceased often argued that no one from the authorities or the police had informed them of their family member's death, and they subsequently asked the municipality for the urn so that they could bury the cremated remains in the family grave. People also complained, for example, about damage to the tombstone caused by tree roots or falling branches.

[Press release of 2 November 2022](#)

## WHEN PERMITTING THE CONSTRUCTION OF A FAMILY HOME, THE CONSTRUCTION AUTHORITY MAY NOT NEGLECT CLOSE NEIGHBOURS, E.G. THOSE ACROSS THE ROAD

We dealt with a case where the construction authority granted a permit for a single-family home by way of a joint planning consent and consent to notified construction. The neighbours must grant consent to the notified construction. However, a neighbour living "across the road" was unaware of the project. By the time the construction work began, it was too late to revoke the consent – the deadline had passed. Due to the construction authority's mistake, the neighbour was unable to defend her rights and raise objections concerning, for example, the proximity of the building.

Although we could not help the complainant any further, we decided to deal with the case in order to guide the construction authority to improved practice in the future. We pointed out the erroneous procedure in identifying the owners of neighbouring land that could be affected by the construction plan and without whose consent the authority could not issue a simplified consent. Even settled case law does not construe a neighbouring landowner narrowly as merely the owner of a directly adjacent property, but also includes neighbours living across the road in the definition. If the owner concerned does not give their consent to the construction project, the authority must conduct a regular administrative procedure. The neighbour is then a party to such proceedings. Our opinion was shared by the regional authority, which instructed the construction authority on the correct procedure during its inspection.

[Defender's report: File No. 12277/2022/VOP](#)

## WE HELPED COMPLAINANTS DEFEND THEIR RIGHTS IN PROCEEDINGS TO PERMIT THE OPERATION OF A FACTORY PRODUCING NUISANCE ODOUR

We dealt with the case of a complainant who was bothered by the smell produced in test operation of an industrial plant. Other residents of the town also complained about the odour. We pointed out, among other things, that people whose rights or obligations are directly affected by the operation

should also be considered parties to the proceedings on an operation permit for the plant, which is issued by the regional authority under the Air Protection Act. These may be the residents of the town who are bothered by the smell from the plant's test operation.

The regional authority accepted our arguments and included the complainant and other people who had complained about the odour in the proceedings as parties for an unlimited period of time. They could thus exercise the rights vested in parties to the proceedings – for example, to raise objections, to inspect the file and to lodge remedies. They took advantage of this opportunity.

While the plant operator objected to the regional authority's procedure in this regard, the Ministry of the Environment confirmed that it had been correct. In addition, it recommended that in future, if the regional authority conducts proceedings to amend the operating permit, it should announce the commencement of the proceedings by a public notice, as the circle of parties might be larger than the administrative authority is aware at the time. By doing so, it will ensure that no parties are neglected.

[Defender's report: File No. 6215/2020/VOP](#)

## **THANKS TO OUR EFFORTS, A COMPLAINANT SUCCEEDED IN HIS FIGHT AGAINST NOISE FROM SKATEPARK CONSTRUCTION**

A man from Luhačovice contacted us with a complaint about excessive noise coming from a neighbouring skatepark, which had been created by reconstructing an original car park. He argued that, as a neighbour, he had not been given the opportunity to comment on the plan. He also disagreed with the construction authority's view that the construction of the skatepark did not require any measure or decision under the Construction Code.

We concluded that the construction authority had erred when it failed to consider the obstacles installed (play elements) in the skatepark as objects having the function of a structure, which required at least planning consent.

After our intervention, the construction authority supplemented its inquiry into the case. It found that the park had been built over a larger area than the original parking lot. This was therefore not a case of reconstruction, but rather of modifying a completed structure. The construction au-

thority should have discussed this in proceedings on the removal of a structure, or in proceedings on an additional construction permit; the complainant and other affected residents, if any, should also have been parties to such proceedings. The skatepark is currently closed, at least until these proceedings are completed.

[Defender's report and opinion: File No. 4997/2020/VOP](#)

[Press release of 18 May 2022](#)

## **RESTAURANT CANNOT INSTALL OUTDOOR SEATING IN A COMMON YARD WITHOUT THE NEIGHBOURS' CONSENT**

We dealt with a complaint regarding an unauthorised operation of a restaurant's outdoor seating in a courtyard. One of the neighbours had long complained about noise caused by the guests talking, cigarette smoke and other nuisance.

We found that the construction authority had not adequately assessed the facts. It had announced its inspections in advance and had thus been unable to properly verify whether the public had access to the outdoor seating. It also erred in allowing a change in the use of part of the yard as an outdoor seating area. It failed to assess the possible impact of the use of this structure on the surroundings, i.e. the possible disturbance of the housing comfort and reduced quality of the environment.

The regional authority cancelled the previously approved change of use, and the construction authority accepted our opinion. It promised to conduct an unannounced inspection of restaurants' outdoor seating during the season to check whether the courtyard was still being used as an outdoor seating area. It would then take further action depending on the outcome.

[Defender's report: File No. 503/2022/VOP](#)

## WHAT SHOULD BE DONE ABOUT A STRUCTURE THAT APPARENTLY BELONGS TO NO ONE?

We repeatedly encounter cases of unauthorised structures without a known owner. These cases are administratively demanding for the construction authorities and, above all, they warrant the question of who will pay for the costs of removing the unauthorised structure. Yet, the authorities must act. Some of these structures pose a risk to the health and lives of people and animals or to the environment.

We dealt with a case where the construction authority had been conducting proceedings on the removal of a timber-brick building, but no one claimed ownership of the structure. The construction authority had stayed the proceedings and invited the parties to file a lawsuit for the declaration of ownership. We found this procedure incorrect as it did not fit the circumstances of the case. The construction authority should have made its own judgement as to who was obliged to remove the building. If it were to conclude that the building owner was unknown, it would have been forced to appoint a guardian for the owner in the proceedings. The authorities started to address the matter according to our recommendations.

[Defender's report: File No. 11064/2022/VOP](#)

## WE MUST NOT NEGLECT THE NEEDS OF PEOPLE WITH DISABILITIES WHEN PERMITTING CONSTRUCTION PROJECTS

We inquired into two cases of unauthorised civic amenity construction projects that did not comply with accessibility requirements. One of these projects related to part of a town square and the other to part of a nature park.

In the case of the town square, we found that the special construction authority had not supervised the project consistently, as it had failed to take immediate action when it found that the developer had not secured a yet unpermitted part of the square – which was, moreover, built in violation of the requirements of the “accessibility decree” – so that it could not be used by the public.

We achieved that the developer modified the project to meet the requirements of accessi-

bility. The authority then issued an additional permit.

[Defender's report and opinion: File No. 5787/2021/VOP](#)

In the case of the nature park, we noted that the developer had built a part of the park in violation of the permit. However, the construction authority also erred when it had taken a disproportionately long time to decide on an additional permit. In the course of a year and a half, it had granted developer's consecutive requests for an extension of time to submit a complete application that would also meet the barrier-free requirements.

The developer subsequently submitted a complete application with design documents prepared in accordance with the “accessibility decree” and thus received an additional permit. The park has been completed and now meets the accessibility regulations.

[Defender's report: File No. 2644/2022/VOP](#)



# We communicate

## (NON-)TRADITIONAL DISCUSSION ON CONSTRUCTION LAW WITH REGIONAL AUTHORITIES AND THE MINISTRY OF REGIONAL DEVELOPMENT

In April, we met with representatives of the professional public at a traditional round table on construction law and discussed the topics and cases that authorities and institutions were currently dealing with in their construction law practice.

We focused on the granting of exemptions from the general requirements on construction. We agreed that an exemption always had to be specific and it had to be clear for what type of structure it was granted. The material aspect is decisive for the designation of the type of structure, i.e. what kind of structure is actually involved, rather than the formal designation of the project in the application for its location or permit, and in the design documents.





An amendment to the Fire Protection Act, which extended as of December 2021 the range of projects that the Fire Rescue Service would no longer assess as the affected authority, sparked an interesting discussion. It became apparent that construction authorities lacked the necessary expertise to assess, instead of firefighters, compliance with the fire requirements for buildings that had been removed from the scope of the Fire Rescue Service's competence. We will therefore meet with the Director General of the Fire Rescue Service and consider the possibility of initiating an amendment to the Fire Protection Act and the implementing decree that would return certain projects to the remit of the State fire supervision.

We also addressed the question of whether proceedings should be conducted on the removal of historic buildings originating from times preceding the Construction Code adopted in 1976. We did not rule out the possibility of dealing with such structures in proceedings on the removal of a structure. However, in their administrative considerations as to whether a historic building has or has not been permitted, the construction authorities must always take into account the legislation in force at the time of its construction.

[Press release of 29 April 2022](#)

## STAFFING OF CONSTRUCTION AUTHORITIES

During our inquiries, construction authorities often drew our attention to their insufficient staffing. Despite repeated efforts, they were not able to find suitable candidates for officer jobs. Many authorities are therefore overburdened in the long term, which could result in serious difficulties in the performance of the activities of municipal construction authorities. We would therefore like to further address this issue in the coming year.

## AMENDMENT TO THE "NOISE" REGULATIONS

In our comments on the proposed amendment to the Protection of Public Health Act and the Government Regulation on the protection of health against the harmful effects of noise and vibration, we pointed out the potential risks of the proposed legislation and the poor justification of the contemplated changes in the protection of health

against noise. We referred, for example, to the lack of control over the newly defined long-term noise exemption or the unification of the noise limit for all roads.

Although our efforts did not lead to any major changes in the legislative materials, the Ministry of Health as their submitter at least promised to revise the methodological guidelines and aids, and to prepare new ones that would regulate some existing and newly introduced concepts in more detail.

[Defender's comments](#)

## INACTION OF A CONSTRUCTION AUTHORITY IN DEALING WITH SEVERAL HUNDRED UNPERMITTED BUILDINGS

We often deal with inaction and delays in proceedings before construction authorities. There are several reasons why these authorities tend to be inactive. The construction authorities are often prevented from smooth and quick consideration of a case by the complexity of the particular case, insufficient staff or shortcomings in the legal regulation. These difficulties also arose in a recent case of unauthorised large-scale construction at the Nové Mlýny reservoir. Unauthorised structures which have been springing up there for the last twenty years adversely affect the environment. Agricultural land is also being claimed without any regulation and there are issues with problematic waste and wastewater management. When dealing with this matter, the construction authority and further agencies responsible for addressing the related issues have to overcome a number of obstacles. We therefore met with the authorities to discuss their experience in this regard and considered the possibilities of further action. We will continue to monitor the case in the coming year.

## **SURVEY FOCUSED ON THE LEVEL OF CONTROL OF ODOROUS SUB- STANCES IN THE AIR**

After ten years, we reopened the issue of airborne odour control. Using a questionnaire survey, we contacted the most important administrative authorities in this field – mainly regional authorities that issue operating permits for odour sources and regional inspectorates of the Czech Environmental Inspectorate which carry out inspection activities. Our findings suggest that air protection against odour cannot be achieved without changes to the legislation. We will inform the Ministry of the Environment about the results of our survey. We also want to provoke a broader professional discussion on the form of possible changes to the “anti-odour” legislation.

 [Survey report: File No. 19/2021/SZD](#)



8

**Judiciary,  
migration, finance**

## WE HELPED OR ADVISED\*

\* number of complaints resolved in 2022



123

people with tax and customs duties issues



292

foreigners seeking fair proceedings



127

people encountering delays in court proceedings or inappropriate behaviour of judicial persons



92

people and municipalities with fees

## PEOPLE MOST OFTEN SOUGHT HELP IN THE FOLLOWING AREAS\*

\* number of complaints received in 2022



ce permits

90

68

56

41

28

We continued to deal with a variety of complaints relating to migration. However, our work was significantly influenced by the war in Ukraine (see page 36). We helped register newcomers from Ukraine, organised a fundraiser and also tried to raise as much awareness as possible. In addition to leaflets, we continuously updated information in Ukrainian on the Defender's website, explained temporary protection to people and trained students in how to provide effective help.

We recorded an informative [video](#) for the newcomers from Ukraine, in which a Ukrainian student explained what to expect at the registration centre and what could be arranged there. In June, we also pointed out the potential [risks of forced labour and exploitation](#).

We investigated how unaccompanied foreign children could be identified and how we took care of these children. We communicated with the bodies for social and legal protection of children, the Office for International legal Protection of Children, the police, NGOs, representatives of ministries, UNICEF, and the UN High Commissioner for Refugees.

With regard to the judiciary, we set out to determine why financial assistance reached victims of crime belatedly and what other problems they encountered. We held discussions with experts and also organised a roundtable. We are pleased to see that practice has already moved forward on some issues. Next year, we will focus on how to change the Victims of Crime Act.

In the area of taxes and fees, we consider it a great success that we managed to negotiate with the Minister of Finance another edition of the summer debt relief campaign ("Gracious Summer III"), which would help people owing debts to the State that were being collected in a tax enforcement procedure. A protected account could also contribute to improving the debtors' position. This and other controversial areas of tax enforcement will be addressed this year.

1059

complaints resolved, of which

792

fell within the Defender's mandate

267

fell outside the Defender's mandate

171

completed inquiries, of which

113

were cases where the authorities erred, of which

5

were cases where it was not possible to ensure that the authorities remedy the maladministration

30

judges and over 100 social workers were trained in how to approach unaccompanied children



# We help change the rules

## THERE ARE ONLY FEW COURT DECISIONS IN THE PUBLICLY ACCESSIBLE DATABASE

In the past, we repeatedly called for a law requiring courts to publish their decisions, as the judiciary had been doing so to an insufficient extent or even failed to make their rulings public altogether. We supported the creation of a database of court decisions administered by the Ministry of Justice. From 1 July 2022, the law has indeed imposed this obligation on the judiciary, but failed to address details. These were left to an implementing decree that would specifically define which decisions had to be published and which not, and how courts should anonymise their decisions.

We commented on the draft decree. The Ministry of Justice reflected some of our suggestions in its wording. We were particularly bothered by the fact that the decree envisaged the publication of a very limited range of civil and criminal decisions, and did not contain any timetable for a further extension of this range, which we consider to be a mere starting point. In addition, we would also like to see, for example, decisions on preliminary injunctions, on objections of bias, on exemptions from court fees or decisions in custody cases published in the future, as the reasoning of these decisions, too, contains information valuable to the public. However, despite earlier promises by ministers, the Ministry is not yet planning any specific steps to expand the database, citing financial and staffing constraints. As we consider a broad range of published court decisions important, we will continue our efforts to expand the database. Slovakia is a good example in this regard as it [publishes all final decisions of all its courts](#).

- [Defender's report and opinion: File No. 4292/2015/VOP](#)
- [Defender's comments: File No. 33339/2022/S](#)
- [Press release of 18 November 2020](#)

## WE ADVOCATED FOR ANOTHER EDITION OF THE SUMMER DEBT RELIEF CAMPAIGN – GRACIOUS SUMMER III – FOR DEBTORS FACING A TAX ENFORCEMENT PROCEDURE

We sought to level the playing field for various groups of debtors. The previous editions of the campaign (Gracious Summer I and II) enabled people to get rid of debts towards authorities and other institutions that were being collected by enforcement officers. If the debtors fulfilled the set conditions, they were entitled to waiver of the debts' accessions, such as default interest and penalties. However, this option has not been available so far to debtors whose debts are being collected by the authority itself or who are even repaying their debts voluntarily. We considered from the outset that such a setting of the conditions was unfair and thus strived to ensure remedy. The Ministry of Finance heeded our comments and submitted a proposal for "Gracious Summer III". If the legislators approve the proposal, people will get a chance to repay their tax debts and other debts to the authorities on favourable terms. Thanks to the Defender's comment, municipalities and regions will also be able to join the contemplated third edition of the debt relief campaign.

- [Letter from the Defender to the Minister of Finance](#)
- [Defender's comments: File No. 48249/2022/S](#)
- [Press release of 22 September 2022](#)

## THE BRNO CITY HALL STOPPED CHARGING WASTE FEES IN UNJUSTIFIED CASES. MOREOVER, PEOPLE CAN NOW GET THEIR MONEY BACK

The Brno City Hall required people to pay the local municipal waste fee even for years when their duty to pay the fee had no longer existed under the law. The competent authority has three years to assess the amount of the fee owed by the individual residents. However, the Brno municipality claimed the fee even from people for whom such an assessment had not been made by that deadline. The City Hall changed its practice after we had alerted them to this problem. Fees that had been wrongly collected will be refunded on request.

- [Defender's report: File No. 6424/2020/VOP](#)
- [Press release of 12 October 2022](#)

# We are here to help

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## THE BEST INTERESTS OF THE CHILD MUST BE THE PRIMARY CONSIDERATION WHEN DECIDING ON THE PARENT'S RESIDENCE PERMIT

The father of nine-year-old and three-year-old daughters had his residence permit revoked. His ex-wife wanted the decision reversed because the daughters needed their father. Even after the divorce, the father continued to have regular contact with his daughters. The girls are Czech, so it is important that he can stay with them in the country. In our view, the Ministry of the Interior failed to take sufficient account of family life and the best interests of the child. The Ministry must make a much greater effort to ascertain a foreigner's family situation if the interests of a minor child are at stake. The case was also heard by an administrative court, which overturned the Ministry's decision. The Minister of the Interior prom-





ised that, when hearing the case anew, he would properly consider the proportionality of the decision's impact on the foreign father's private and family life. The best interests of his minor daughters will be the primary consideration, as we requested. In the second round, the Ministry granted the foreigner's request and extended the validity of his residence permit.

[Defender's report and opinion: File No. 7711/2020/VOP](#)

## **BEWARE OF EXCESSIVE FORMALISM WHEN APPLYING FOR INTERNATIONAL PROTECTION**

A citizen of Iran who feared for his life because of his political views arrived in the Czech Republic from Turkey hidden in the undercarriage of a truck. When the truck stopped on the motorway, he left his hiding place exhausted and asked the gas station attendant to call the police, saying he wanted to apply for international protection. He repeated the same wish to the police patrol. The police took him to the Immigration Police station, which initiated administrative proceedings on his expulsion and detained him in a facility for the detention of foreigners. Here, the complainant unknowingly missed the deadlines for applying for international protection because he believed that his request had already been accepted by the Immigration Police.

The Asylum Act allows an application for international protection to be filed with the Immigration Police on condition that the applicant presents himself or herself voluntarily. According to the Immigration Police, the complainant did not appear voluntarily

as he was brought in by a police patrol. We pointed out to the Immigration Police that they were excessively formalistic in the interpretation of the law and reminded them that the Asylum Act had to be interpreted in light of the Convention Relating to the Status of Refugees. The Convention includes the Czech Republic's commitment not to punish for unlawful entry and presence those refugees who present themselves without delay to the authorities and show good cause for their unlawful entry. Although the complainant did not appear directly at the Immigration Police station, he did not hide from the authorities and actively sought to apply for international protection as soon as he could. He even asked himself for the police to be called.

In the end, the Immigration Police acknowledged that it should have accepted the complainant's application and should not have initiated administrative expulsion proceedings in the first place. The complainant was able to file the application and the Immigration Police terminated his detention.

[Defender's report: File No. 5937/2020/VOP](#)

## **SUPERVISION OF EXPERTS IS STILL SLOW**

Since the responsibilities relating to the expert witness sector were centralised in 2021, there has been no significant reinforcement of the Ministry of Justice's staff accountable for the supervision of experts. Often, people who drew the Ministry's attention to a defective procedure followed by an expert or an expert institute received no response from the Ministry until they contacted our Office. In some instances, they received only vague statements. They never found out how the Ministry had assessed their complaint or why it had considered it unfounded.

## THE MINISTRY WILL NOT BE ABLE TO PUNISH AN ERRING EXPERT IN TIME

The complainant, as a party to court proceedings, drew the attention of the Ministry of Justice, as the supervisory authority, to possible misconduct of an expert, but received no response for over eight months despite repeated reminders and inquiries. In addition to inaction, we also discussed with the Ministry how it should communicate with those who contact it. It was no longer possible to initiate infraction proceedings against the expert, as the possible infraction was already time-barred at the time.

[Defender's report: File No. 4045/2021/VOP](#)

## SEPARATE THE WHEAT FROM THE CHAFF AND EXPLAIN WHY SOME OBJECTIONS ARE NOT RELEVANT

An expert institute dealt with the delimitation of the boundary between the complainants' property and neighbouring land. In their complaint, the complainants raised a number of objections indicating that the expert institute may have erred. After several months, the Ministry wrote to the complainants sternly that the complaint was unfounded and did not respond to any of the objections. When the complainants contacted the Ministry again and attached the expert report, they learned only three months later that the complaint was being investigated. After another five months, the Ministry wrote to them that it had initiated an infraction procedure relating to one of the objections. The complainants never learned why the other objections were not relevant to the Ministry. The Ministry later discontinued the infraction proceedings.

As a result of our investigation, the Ministry of Justice undertook to inform complainants in more detail. In the event that the Ministry sets a complaint against an expert aside, it will also send the relevant resolution to the complainants.

[Defender's report and opinion: File No. 2664/2021/VOP](#)

[Podcast, episode 72: How the State supervises experts](#)

## VERIFYING THE ASSIGNMENT OF A CERTAIN CASE TO A STATUTORY JUDGE WILL BE EASIER

Courts assign cases according to the work schedule rules either manually or through a computer program administered by the Ministry of Justice. We were contacted by a complainant who believed that the district court was not properly assigning guardianship cases, and her case was thus not being heard by a statutory judge. In our review of her objections, we found irregularities that had actually caused her case to be assigned to a wrong judge. Manual assignment is particularly complicated in guardianship cases because it is not sufficient to sort the incoming submissions and assign them to the individual chambers. Many proceedings are initiated without a motion – on the court's own initiative. This means that the court does not record the time when the proceedings were initiated by the delivery of the relevant application, but only the date when the resolution initiating the proceedings was issued. It can therefore be challenging to keep track of the correct order of assignment.

The court's president agreed with our conclusions and introduced a rule to create a record of the day and time when proceedings were initiated on the court's own initiative, so that new cases could be clearly sorted by the time they were initiated. The president rectified the irregularities in the work schedule by adopting a new schedule, in which she introduced an automatic assignment of cases.

[Defender's report: File No. 7751/2020/VOP](#)

## IN GUARDIANSHIP CASES SPEED IS ALSO OF THE ESSENCE IN THE ENFORCEMENT OF JUDGMENTS

The complainant had been trying in vain for two years to get the chance to see his children as ordered by the court. The children's mother did not respect the court's decision. We examined how the court management had supervised the smooth course of the proceedings and how it had dealt with the complaint about delays. We found defects in both.

Enforcement proceedings in guardianship cases have many specific features by nature. They directly affect children, whose best interests must always be pursued. At the same time, the courts should proceed with the utmost speed. It should never occur that the court does not respond at



all to the complainant's repeated requests for enforcement.

The court's president acknowledged all our conclusions. She conducted an in-depth review at the relevant court department and reproached the judge for the errors she had found. In order to prevent similar delays in the future, the president increased the scrutiny of acts in the judge's files. At the same time, she assigned a judicial assistant and a senior judicial officer to the given court department.

[Defender's report: File No. 10198/2022/VOP](#)

## COMPENSATION BONUS CLAIM AND WRONG DATA MESSAGE ATTACHMENT

The complainant's accountant made a mistake in applying for a compensation bonus in times of tight Covid restrictions. She mistakenly attached to the relevant data message another client's compensation bonus claim. However, it was clear from the subject line of the data message that she intended to file the application on behalf of the complainant. The tax authorities treated this appli-

cation as a claim raised by a person other than the complainant and merely placed it on file because the compensation bonus had already been paid to that other person. Following our intervention, the authorities acknowledged that they should not have placed the data message on file without a response, but should have rather clarified the situation with the complainant. The tax authority eventually paid the CZK 25 000 compensation bonus to the complainant.

[Defender's report: File No. 10552/2022/VOP](#)

## THE LOCAL FEE FOR THE RESERVATION OF A PERMANENT PARKING SPACE CANNOT BE COLLECTED AFTER THE DECISION TO RESERVE THE SPACE HAS EXPIRED

The complainant had a dispute with the city hall over the payment of a local fee of approximately CZK 15 000 for the use of a public area as a permanent parking space. She refused to pay the fee for a time when the decision to allow reserved



parking had already expired. The decision stated that if she did not apply for an extension, the reservation would be cancelled. Thus, the complainant assumed that if she did nothing, the parking space reservation would end automatically. However, no one removed the traffic signs, so the city hall continued to charge the fee.

We concluded that the city hall's demand for payment of the fee was unjustified. The complainant

could not be blamed for not having the traffic signs removed, as she was not legally required to do so. Under the circumstances, this should have been done by the road administrator. The city hall eventually agreed with us and initiated review proceedings.

[Defender's report: File No. 3325/2021/VOP](#)

## We communicate

### WE CONTINUE TO EDUCATE MUNICIPAL OFFICIALS

We organised traditional seminars for municipal authorities where we familiarised their staff with the current legislation on the administration of local fees. The emphasis was mainly on practical examples and interpretative ambiguities. In addition to general seminars on the administration of local fees, we also held a seminar focusing only on the new municipal waste fees. We also followed-up on training focused on the tax rules and, for the first time, added a special seminar on tax enforcement procedures. Indeed, our experience has shown that municipal authorities often lack adequate opportunities to educate themselves in this professionally demanding field.

We managed to train almost 300 officials from eight administrative regions. In addition to the training, we helped the municipal authorities by answering more than fifty of their questions.

### ROUNDTABLE ON THE PROVISION OF FINANCIAL ASSISTANCE TO VICTIMS OF CRIME

One of our priorities for 2022 was to make it as easy as possible for victims of crime to obtain financial assistance. We revised the financial assistance application forms for victims and survivors. They are now being tested for clarity. During the year, we met with the Ministry of Justice, the non-profit sector and lawyers. We also conduct-



ed a search in all court decisions issued since the Victims of Crime Act had entered into force. At the roundtable, we then discussed controversial issues such as the distribution of the burden of proof regarding the victim's status, the production of expert reports, the degree to which the conclusions of criminal courts are binding, the overlapping of claims for financial assistance, and the scope of real costs that could be reimbursed under financial assistance. We agreed that the current arrangement had a number of pitfalls. In 2023, we therefore want to focus on how specifically the Act should be changed to better serve its purpose.

 [Press release of 20 December 2022](#)

## UNACCOMPANIED CHILDREN

We participated in a series of inter-ministerial meetings concerning the situation of unaccompanied children, where we co-operated with the Ministry of Education, Youth and Sports and the Ministry of Labour and Social Affairs, representatives of the Facility for Children of Foreign Nationals and other actors.

In June, we organised a seminar for guardianship judges together with the Judicial Academy. We focused on the legal status of children who migrated alone from distant countries of origin and children from Ukraine (see page 42). We drew attention to the specifics of the situation of "separated" children, i.e. those who are accompanied by an adult other than their legal representative. We discussed the international obligations towards unaccompanied children and described the roles of individual institutions before the court decision on (non-)placement of a child in an institution for foreign children and after the child's extradition. We highlighted the risks associated with migration, human trafficking and the vulnerability of unaccompanied children, the psychological impact of migration and the cultural aspects of migration of people from culturally distant countries. We also addressed the issue of determining the age of foreign children. Along with us, the judges were also lectured by NGO workers, the director of the Facility for Children of Foreign Nationals, a judge of the Supreme Administrative Court and academics. We are planning to provide similar training this year to bodies for social and legal protection of children.


## CURRENT ISSUES OF REFUGEE AND FOREIGNER LAW

- › Students of the Břeclav Grammar School invited us to a human rights day. In March,

we met with them to discuss the topics of migration, international protection and the stay of foreigners in the Czech Republic.

- › In October, in co-operation with the Supreme Administrative Court, we welcomed a Polish judge who visited the Czech Republic as part of his research internship. We discussed with him the topic of restrictions on the freedom of movement in times of the Covid-19 pandemic, the issue of working with classified information and also current problems relating to the war in Ukraine.
- › In October 2022, we attended a conference in Madrid hosted by the Office of the United Nations High Commissioner for Refugees. Together with representatives of more than 35 countries, we discussed the topic of identifying and protecting stateless persons.
- › In November, we organised a traditional scientific seminar, which was attended primarily by representatives of authorities, NGOs, the judiciary, academics and lawyers. Presentations were made at the seminar, among other topics, on temporary protection, asylum for deserters from Russia, the status of unaccompanied children, age determination, updates on the visa agenda, employment cards and highly qualified workers, the status of family members of EU citizens, and the question when those fleeing war are entitled to subsidiary protection and when asylum is more appropriate.



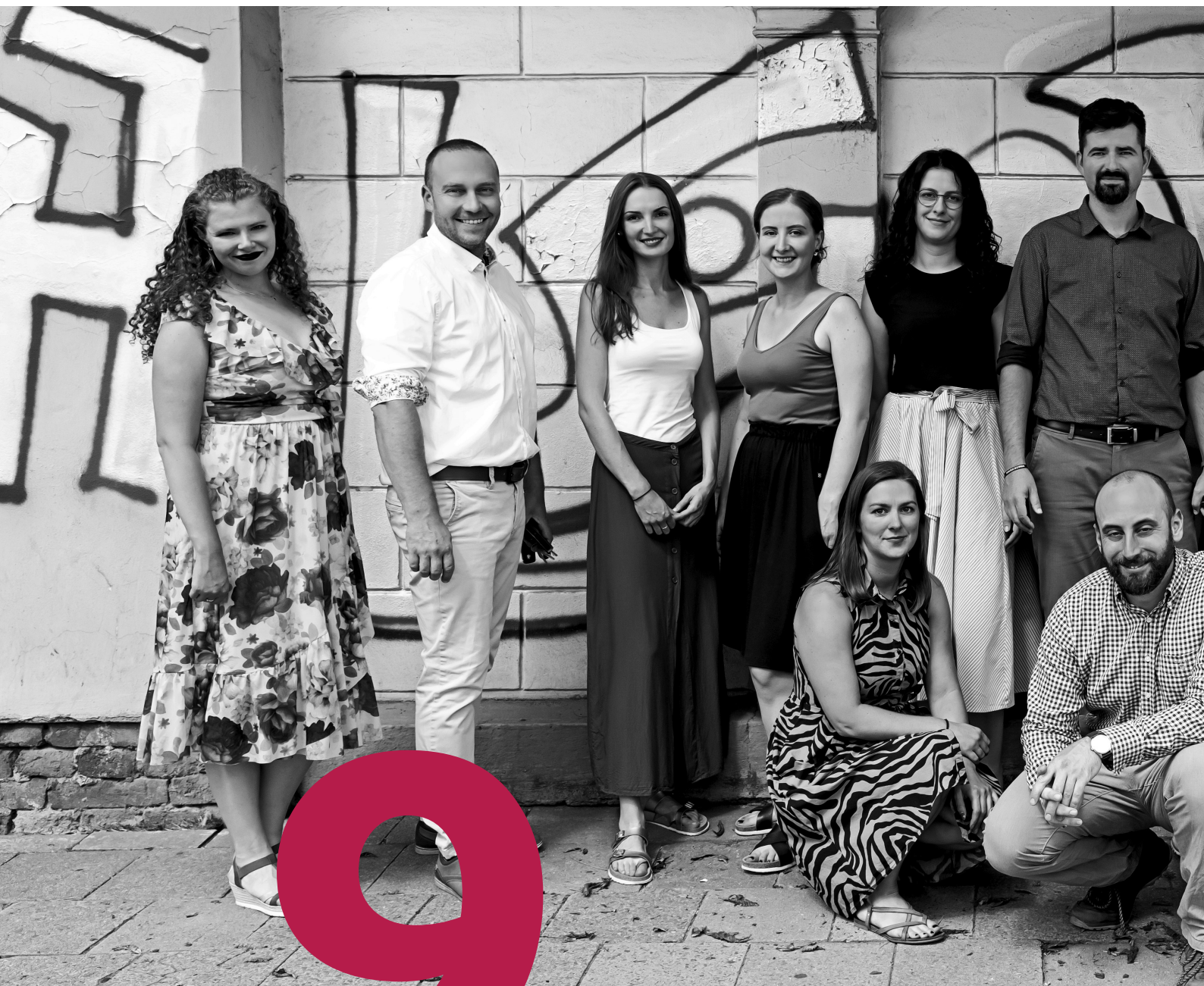
 [Contributions from the previous seminar can be found in 2020/2021 Yearbook](#)

- › In November, we also presented the topic of people fleeing the war during the Vienna Asyltag to Austrian judges and staff of the Austrian Federal Office for Migration and Asylum.
- › At the workshop on Current Issues of Illegal Work and Employment of Foreigners in the Czech Republic, organised in November by the Occupational Safety Research Institute, we contributed with topics relating to the impact of illegal employment on the residence permit of foreigners and employment of persons with temporary protection. At the end of November, we also trained the staff of the Slovak Centre for Legal Aid on the topic of detention of foreigners and the use of alternative options.









# Supervision over restrictions of personal freedom





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**36**

facilities visited,  
of which

**10**

were follow-up visits

**3**

monitored expulsions

**540**

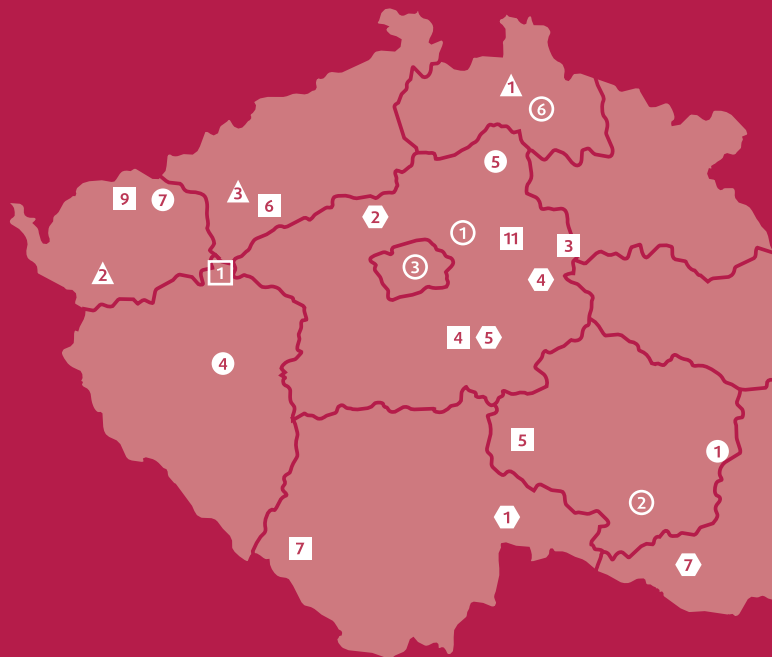
complaints raised by  
social services clients,  
patients and inmates

We focused on the life of children in institutions. We published a [report on visits to children's homes](#) and similar facilities. We showed how the regime in a facility limited the children's lives and that the requirements of children with special needs were not always met. We drew attention to the ill-treatment of children in an orphanage. In a separate summary report, we described the treatment of children in [inpatient psychiatric facilities](#).

We also fight against ill-treatment occurring at places other than children's institutions. We managed to change prison service's practice in recording medical evidence of ill-treatment of prisoners. In one case, we criticised the prison service for not effectively investigating ill-treatment in a prison. We also translated the updated [European Prison Rules](#).

## FACILITIES VISITED IN 2022

- **Social services facilities:** 1 SeneCura SeniorCentrum Modřice 2 Retirement home in Řasnice (Seniorresidenz) 3 Domov V Podzámčci, p.o. 4 ALZHEIMER HOME Pyšely 5 Dům sociálních služeb Pacov, p.o. 6 "Bez zámeků" home in Tuchořice 7 Home in Vimperk 8 Větrný mlýn home in Skalička 9 Home in Rudné u Nejdu 10 Home for people with disabilities in Zašová 11 Domov pod lipou Lipník
- **Facilities for children:** 1 Educational institute in Jindřichův Hradec 2 Children's home in Kralupy nad Vltavou 3 Children's home with school in Býchory (follow-up visit) 4 Children's home in Radkov (follow-up visit) 5 Children's home in Sázava 6 Children's home in Zašová 7 Educational institute in Višňové (follow-up visit)
- **Facilities providing inpatient psychiatric care:** 1 Velká Bíteš Children's Psychiatric Hospital 2 Šternberk Psychiatric Hospital Olomouc 3 Military Hospital Plzeň University Hospital (follow-up visit) 4 Kosmonosy Psychiatric Hospital (follow-up visit) 6 Opava Psychiatric Hospital 7 Ostrov Hospital
- ▲ **Prisons:** 1 Liberec Prison (follow-up visit) 2 Kynšperk nad Ohří Prison Nové Sedlo 3 Prison – Drahonice facility
- **Facilities for foreigners:** 1 Facility for the Detention of Foreigners at Bálková (follow-up visit) 2 Refugee Registration Centre in Břeclav
- **Police cells:** 1 Milovice Jablonec nad Nisou 2 Třebíč (follow-up visit) 3 Prague, Kongresová 4 Zlín (follow-up visit) 5 Valašské Meziříčí 6 Jablonec nad Nisou



Reports on completed visits to facilities are available in the [Defender's Opinions Register \(ESO\)](#) (area of law, p. 801 et seq.) or in the [map of facilities visited](#).

# We help change the rules

## REPORT ON VISITS TO INSTITUTIONAL EDUCATION FACILITIES

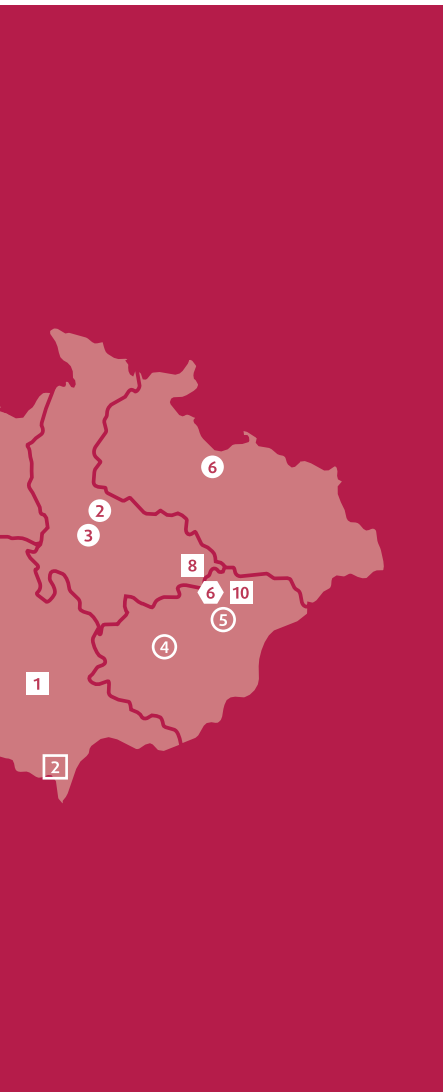
We published a report from a series of visits to facilities for children placed in institutional education. The report contains systemic recommendations addressed primarily to the Ministry of Education, Youth and Sports. We demand, among other things, the creation of a concept of institutional education and the adoption of new legislation that would respect the individual needs of children. In particular, we recommend that facilities remove institutional elements from children's lives and

prepare them to lead an independent life once they leave the facility. The report also includes an analysis of 241 court decisions ordering institutional education.

We discussed the report with representatives of the Ministry and they suggested that we could participate in a multidisciplinary working group aimed to develop a substantive intent of new legislation.

[Report on visits to institutional education facilities](#)

[Press release of 25 May 2022](#)



## REPORT ON VISITS TO REMAND PRISONS

We also published a report on a series of visits to five remand prisons. It contains systemic recommendations addressed to the General Directorate of the Czech Prison Service and a number of recommendations addressed directly to remand facilities. We point out interference with privacy in cases where cameras are used in some cells. We are concerned about the lack of daylight in the cells and the limited possibility of ventilation or limited opportunity to spend time outside the cell. According to our findings, prison facilities also fail to provide employment opportunities for the accused. If the accused are left without a job while in detention, they completely lose their income and the ability to pay for ordinary expenses, such as rent and other regular costs.

[Report on visits to remand prisons](#)

[Press release of 3 November 2022](#)

9. Supervision over restrictions of personal freedom

## REPORT ON VISITS TO CHILD PSYCHIATRIC FACILITIES

In a report from a series of visits to child inpatient psychiatric facilities, we described our findings on the treatment of and decision-making about child patients. The visits showed that underage patients were usually not appropriately involved in decision-making. We also found that the average length of hospitalisation was in the order of weeks. Some hospitals still had an impersonal environment with multi-bed rooms or even bars on the windows.

[Report on visits to child psychiatric facilities](#)

[Press release of 7 December 2022](#)

[Defender's recommendation – participation of a child in decision-making on matters related to the child's psychiatric hospitalisation](#)

## TRANSLATION OF THE EUROPEAN PRISON RULES

We translated the updated European Prison Rules. This document, issued by the Committee of Ministers of the Council of Europe, summarises the basic principles for the prison sector, be it conditions of imprisonment, health care or, for example, standards for prison management and staff. The European Prison Rules have the nature of soft law (recommendations). They serve as the basic guidance for the creation, application and interpretation of national laws.

We also recently translated the [UN Standard Minimum Rules for the Treatment of Prisoners](#) (the Nelson Mandela Rules).

## AMENDMENT TO THE PRISON SERVICE'S INTERNAL REGULATION FOR MEDICAL EXAMINATIONS IN CASES OF SUSPECTED ILL-TREATMENT

We long warned that the Czech Republic was failing to meet the [international standard](#) for recording medical evidence of ill-treatment of people deprived of their liberty.



We came across cases where failure to meet the standard resulted in violation of a prisoner's right to effective investigation of ill-treatment. Missing or contradictory medical reports made it impossible to clarify the circumstances of the prisoner's injuries. That is why we asked the Prison Service to adopt an internal regulation on the requirements relating to body searches upon the convict's arrival in prison to serve the sentence and also after incidents in prison.

The Prison Service did so in 2022 and set out the content of body searches and the records of the searches, although it did not meet all our re-

quirements based on international standards – for example, the doctors were not given instructive recording sheets or still cameras. It is encouraging that the Prison Service instructed its bodies to notify the General Inspectorate of the Security Forces in the event of a reasonable suspicion that a member of the Prison Service has been involved in violence against a prisoner.

What remains now is for the Czech Republic to also introduce a standard for recording medical evidence of ill-treatment in ordinary hospitals where people restricted in their freedom are also treated.

## We are here to help

### VISITS TO CHILDREN'S FACILITIES

We completed a series of visits to facilities for children subject to protective education, which we started in 2021. We visited a total of 6 facilities. In 2023, we will issue a report summarising our findings and recommending systemic changes.

We started a series of visits to children's homes. We focus primarily on institutional elements in the children's lives. These may be manifested, for example, in the organisation of daily activities and meals or in the degree of privacy and autonomy of children. They also depend on the location of the facility and its environment. During our visits, we observe the atmosphere in the facility, the attitude of the staff towards the children, and the relationships between the children and the adults. We pay attention to the children's opportunities to be in contact with the outside world. We will continue our visits in 2023.

We also conducted three follow-up visits to children's facilities. During these visits, we checked whether the facilities had complied with the measures formulated in the reports from previous visits. The follow-up visits took place within the LP-PDP3-001 project financed from the 2014–2021 Norway grants.

### ILL-TREATMENT IN THE HROTOVICE CHILDREN'S HOME

Children living in the children's home in Hrotovice wrote to us with a grievance about the quality of life in the facility. After two visits to the home, we concluded that the children had a point. We therefore informed the Vysočina Region, as the facility's founder, that children were being ill-treated in the facility. The facility presented itself as a family-type home. While this was in line with the facility's capacity and environment, the same could not be said of the regime established and required by its director. Life in the home was bound by very strict rules, which were more appropriate in an educational facility for children with serious behavioural disorders.

The ill-treatment lay in the following, for example:

- › the facility interfered with children's privacy by illegally searching their personal belongings;
- › the facility unjustifiably and illegally restricted the children's contact with their families and loved ones in the form of weekend stays outside the facility (leave permits);
- › various incidents occurred between the children and the director that negatively affected the children's mental health and impaired their dignity;

- › the facility's daily regime did not respect the children's needs, the children could not influence the regime and their daily routine did not correspond to life in a normal household;
- › children were not free to decide on their own appearance and clothing;
- › children had very little opportunity to individualise their environment.

The Vysočina Region, as the founder of the home, informed us that the facility's director had resigned. The administrative region promised to make changes in the operation of the facility. It would also provide maximum support in arranging for enhanced psychological and therapeutic care for the children and staff of the facility.

📄 [Defender's sanction: File No. 42/2021/NZ](#)

## VISITS TO SOCIAL SERVICES FACILITIES AND COMPLAINTS IN THE AREA OF SOCIAL SERVICES

We continued a series of visits to retirement homes and special regime homes providing care to people with dementia. We have so far visited six facilities in five different administrative regions. In one of the facilities we visited, we noted ill-treatment of the clients. We will continue our visits.

### FACILITIES PROVIDING CARE WITHOUT AUTHORISATION

Last year, we also focused on the issue of accommodation facilities providing social services without a licence. They usually offer care to elderly people and create the impression that they are a registered social service of "retirement home" or "special regime home for people with dementia".

The provision of care in these facilities involves risk because they may not meet the necessary conditions for the operation of a social services facility and are not bound by quality of care requirements. They need not even respect other statutory requirements, such as the maximum amount of the client's monthly payment for staying in the facility. On top of that, they are not subject to inspection by the Inspectorate of Social Services at the Ministry of Labour and Social Affairs.

We informed the Government that the Mladé Buky Senior Citizens' Association had been operating a resi-

dential social service at the Sluničko Home in Krkonoše, and that this service could be effectively equated to the operation of a retirement home. The Association is not licensed to provide social or healthcare services; the Association's president denies that they are providing a residential social service and refuses in the long term to comply with the Defender's recommendations – to legalise its activities, register the services provided and thus guarantee the quality of the services provided and allow for its control.

📄 [Defender's sanction: File No. 24/2022/SZD](#)

📄 [Press release of 14 December 2022](#)

## 51 COMPLAINTS IN THE AREA OF SOCIAL SERVICES

The law does not confer on us the authority to deal with individual complaints regarding social service providers. We can, however, address complaints directed against authorities that supervise social services facilities, including especially the social services inspectors of the Ministry of Labour, and other authorities that exercise State administration in this area.

### OBLIGATIONS OF A MUNICIPALITY WITH EXTENDED COMPETENCE IN PROVIDING SOCIAL SERVICES

We inquired into the situation of a man who had complained about the conditions of his stay in a retirement home and the activities of the town hall. He lived in the home without any contract for the provision of social services because the period for which he had originally concluded a contract with the facility had expired. Because of this, among other things, he was accruing a debt for the care provided. Nonetheless, he wished to remain in the facility. He sought that the authority reimburse the costs and, at the same time, determine the scope of care to be provided by the facility.

Under the law, we cannot deal directly with disputes between retirement homes and their clients. We therefore dealt only with the complaint against the authority. We concluded that the authority had not erred in the given matters. It had erred, however, in that it had not engaged in social work with the complainant for a long period of time and had not offered him sufficient opportunities to comprehensively address his adverse social situation. The authority accepted our recommendations and took action. However, not even the authority can order the social service provider to conclude a social service contract with the complainant.

📄 [Defender's report: File No. 4269/2021/VOP](#)

## VISITS TO PRISONS AND COMPLAINTS FROM PRISONERS

We visited three prison facilities. The visits included a follow-up visit to check the implementation of our earlier recommendations, a visit focused primarily on the conditions of imprisonment for permanently unemployable convicts, and a visit to a prison for female convicts. We also published a [report on visits to remand prisons](#).

### 424 COMPLAINTS FROM PRISON INMATES

Most often, we dealt with prisoners' complaints about the quality of healthcare in prisons, the manner of handling their money, and the fact that they could not be placed in facilities close to their families.

### CONTACT OF CONVICTS WITH MINOR CHILDREN DURING VISITATIONS

We received a complaint from several inmates who argued that they could not hold or hug their children during their visitations to the Vinařice Prison, and if they could, this would only be for a minute or two. We considered this a case of maladministration on the part of the prison. We recommended that all inmates be advised on how and for how long they could be in contact with minor children, while also instructing civilian staff and guards serving on visitation that physical contact between inmates and minor children, such as holding, lap sitting and hugging, was allowed throughout the visitation. In the survey report, we also looked at the practice in using the "children's corner" during visitations.

[Inquiry report: File No. 5742/2021/VOP](#)

### DEFECTS IN DISCIPLINARY PROCEEDINGS

A convict complained about the imposition of a disciplinary reprimand for allegedly making rude verbal assaults on civilian prison staff when dispensing dinners in the prison kitchen. We found a number of deficiencies in the disciplinary proceedings, in particular the prison's failure to examine the witnesses present to the incident from among the inmates and prison staff, to secure additional evidence (CCTV footage), to describe

specifically the complainant's conduct for which it had imposed the disciplinary punishment, and to address the complainant's objections raised in his complaint.

After communicating with the prison director, we informed the Director General of the Czech Prison Service about the case; he admitted that the disciplinary proceedings had suffered from defects in this case. The prison subsequently revoked the disciplinary punishment.

[Defender's sanction: File No. 3882/2021/VOP](#)

### CONVICTS' FUNDS

A number of incarcerated people complained that they had no financial means to purchase food, medicines, stationery and other items from the prison canteen. As of 1 January 2022, convicts are not left with any funds from their other income, such as pension, retirement and contributions from family during their incarceration, if they are subject to pending debt collection. This procedure is based on current case law and ambiguous legislation. We are already working together with the Ministry of Justice to change the law. We focus on this topic in a podcast called [Money in Prison](#).

### EFFECTIVE INVESTIGATION OF ILL-TREATMENT IN PRISON

A French-speaking foreigner contacted us with a complaint that he had been physically assaulted by a prison guard at Prague-Pankrác Prison.

He also filed a complaint against the actions of the Prison Service. We found, for example, that the first explanation had been given as late as two months after the complainant's request for investigation and that the prison had been unable to identify any other guard who may have witnessed the incident. The assault on the complainant could not be proven on the basis of the requested documents, in particular the CCTV footage and statements of fellow prisoners and guards. However, we found an error in the process of investigating the incident.

If a prisoner claims that he/she has been assaulted by a guard (member of the Prison Service) and the allegation is not entirely unreliable and unlikely, is sufficiently specific and is not changed over time (it constitutes a "defensible allegation of ill-treatment"), the prison should refer the matter to the General Inspectorate of Security Forces. That is what we requested from the prison director. We also wanted the prison to investigate complaints forthwith and with greater care in future, and to

apologise to the complainant for having violated, by its action, his fundamental right to an effective investigation by the State. However, the prison director neither acknowledged nor remedied the error.

We therefore turned to the General Directorate of the Czech Prison Service as the superior authority. While the latter agreed with the prison's view that the assault on the complainant by the prison officers had not been proven, it disapproved of the length of the proceedings and other procedural errors committed by the prison.

 [Defender's sanction: File No. 220/2021/VOP](#)

## VISITS TO FACILITIES PROVIDING PSYCHIATRIC CARE AND PATIENTS' COMPLAINTS

We visited seven facilities providing psychiatric care, specifically psychiatric hospitals for adults and children as well as psychiatric wards of regular hospitals. We carried out three follow-up visits. We published a [report on visits to child psychiatric facilities](#).

We found ill-treatment in three cases. This was true of two follow-up visits and one regular visit.

In the first of these cases, the ill-treatment took the form of intensive interference with children's privacy and dignity, restriction of children's contact with their families and the outside world, inappropriate treatment of children by the staff, as well as a non-transparent and repressive evaluation system that violated children's rights.

In the second case, the ill-treatment consisted in the fact that the patient had been tied with bed restraints for a long time without justification in the medical documentation. There was also a lack of information on whether the staff had considered using less restrictive means of restraint or planned to prevent their use.

In the third case, the ill-treatment reflected a systemic problem. The State overlooks the needs of some patients with chronic mental illness or a combination of illnesses by failing to provide appropriate social services for these patients. The State's failure reaches the intensity of ill-treatment and leads to long-term hospitalisation associated with the use of restraints that might not be necessary if individual care were provided in the context of an appropriate social service.

## AVAILABILITY OF MODERN DRUGS FOR PEOPLE WITH SEXUAL PREFERENCE DISORDERS

We managed to initiate a meeting among the Ministry of Health, the State Institute for Drug Control and the Sexology Society of the Czech Medical Society of Jan Evangelista Purkyně with the aim of ensuring accessibility of modern treatment to people with sexual preference disorders. Health professionals must currently negotiate with the relevant health insurance company on each drug prescription for such a person. Failure to provide appropriate treatment can cause the need for longer forensic treatment than strictly necessary, putting the surroundings at risk of possible relapse and frustrating the work of health professionals.

## 65 COMPLAINTS FROM PATIENTS

Patients most often complain about the conditions of the stay and treatment in psychiatric hospitals. However, the law only allows us to deal with complaints filed by those who are undergoing institutional forensic treatment.

## REMOVAL OF MOBILE PHONES FROM PATIENTS IN FORENSIC TREATMENT

We dealt with a complaint from a patient undergoing forensic treatment who had his mobile phone taken away by the hospital for failing to clean his ward area and come in to collect his medication. We considered this step erroneous. The Specific Health Services Act authorises a hospital to restrict the use of a phone if it would significantly interfere with a patient's individual treatment. This is therefore not a universal empowerment of the hospital to remove a phone as a punishment for violation of the department's regime.

 [Defender's final opinion: File No. 7680/2021/VOP](#)

## VISITS TO POLICE CELLS

We visited six police departments of the Police of the Czech Republic where multi-hour cells are set up. The most common remedial actions we recommended related to the way body searches were conducted, to the equipment of the search rooms and to ensuring privacy in personal hygiene.



We also met with the Police President to present our findings and discuss, among other things, the right of persons arrested or detained by the police to privacy while undergoing medical examination.

We recorded a podcast that presents detention in a police cell, the rights of people arrested and detained by the police and the Defender's work in this area.

 [Podcast, episode 71: What is it like in a police cell?](#)

## MONITORING OF EXPULSIONS AND VISITS TO FACILITIES FOR FOREIGNERS

We monitored three expulsions and visited the facility for the detention of foreigners in Bálková

as part of a follow-up visit. We also visited the foreigner registration centre in Břeclav. The centre was established in view of the increasing inflow of foreigners, mainly from the Middle East, to the Czech Republic.

## DIALOGUE WITH THE POLICE

We have long been addressing with the police the lack of co-operation in carrying out our mandate to monitor expulsions. This year again, the Defender's Office's staff were not allowed into the escort vehicle and thus could not follow part of the expulsion. The right to monitor the course of expulsion in all its phases, including the part of the foreigner's transport in a police vehicle, stems from our mandate in this area.

We again discussed our presence in escort vehicles with the Police President. We are pleased with his willingness to continue to seek a solution to this problem.

# We communicate

Prevention of ill-treatment also requires proper awareness of the issue. To raise such awareness, we hold lectures on standards of good treatment, our findings, recommendations and results of our work at many various seminars, conferences, expert meetings and teaching activities at law schools, etc.

## ROUNDTABLE WITH REPRESENTATIVES OF THE SPECIAL REGIME HOMES WE VISITED\*

We met with representatives of the special regime homes we had visited, i.e. social service facilities that provide care for people with mental illness (especially psychotic illness) and people with addiction or at risk of addiction to dependency-producing substances. We presented the findings from the visits and discussed support for the clients of these facilities.

## SEMINAR ON THE USE OF RESTRAINTS IN PSYCHIATRY

We prepared a seminar on current trends in the use of restraints in healthcare, intended for regional authorities' staff who may deal with healthcare complaints and for other professionals in the field.

## ROUNDTABLE WITH PEOPLE INVOLVED IN INSTITUTIONAL AND PROTECTIVE EDUCATION\*

We held a meeting with representatives of facilities providing institutional and protective education and other experts. We discussed, for example, the rules and possibilities of providing healthcare in institutions, the transfer of children and the form and content of educational and therapeutic care in specialised institutions.

## SEMINAR ON THE TREATMENT OF TRANSGENDER CHILDREN DURING HOSPITALISATION\*

Transgender people who have experience with hospitalisation, physicians, lawyers and other participants discussed what approach they should take when hospitalising children who identify as being transgender. We organised the seminar together with the Office of the Government Agent of the Czech Republic before the European Court of Human Rights.

## SEMINARS ON GOOD PRACTICE IN CHILDREN'S FACILITIES\*

We talked about examples of good practice that we encountered during our visits to children's facilities. The three seminars were attended by a total of 133 staff members of institutional and protective education facilities.

\*The roundtables and seminars took place within the LPPDP3-001 project financed from the 2014-2021 Norway grants.

9. Supervision over restrictions of personal freedom







# Equal treatment and discrimination

## FOCUS ON COMPLAINTS (FROM AMONG COMPLAINTS RECEIVED IN 2022)

### Areas in which people felt discriminated against

 goods and services	143
 work and employment (incl. entrepreneurship)	109
 education	60
 social affairs	55
 other areas of public administration	47
 housing	42
 healthcare	29
 membership of chambers and unions	2
 other area	61

### Why people felt discriminated against

 disability	80
 age	48
 nationality (ethnic origin)	41
 sex (gender)	41
 nationality (State citizenship)	38
 race, ethnicity	31
 religion, faith, worldview	18
 sexual orientation	8
 other reason	214

Some people complain about discrimination in several areas or for multiple reasons.

# 527

complaints resolved, of which

# 296

complaints did not relate to any of the statutory grounds of discrimination, so we could not assess them in terms of discrimination. We explained the situation to the complainants.

# 231

complaints concerned a statutory protected characteristic, of which

# in 168

cases, we advised the complainants on how they could proceed

# in 20

cases, we assessed whether discrimination may have occurred, of which

# 3

were cases where discrimination occurred

# 11

were cases where discrimination did not occur

# 6

were cases where discrimination could not be proven

Our work was affected by the conflict in Ukraine in 2022. Along with topics related to the arrival of Ukrainian refugees of Roma origin, we also addressed various complaints filed by citizens of the Russian Federation and Belarus. We issued a second monitoring report focusing on Roma education, transparency in pay and changes to legislation to ensure better protection of victims of discrimination and enforceability of their rights. We also published a practical handbook for parents in the labour market, addressed the issue of language training for foreign pupils and the rules for allocating municipal flats.

In communication with authorities, private entities, NGOs, international bodies and the public, we responded to 77 enquiries concerning equality and discrimination.



# We help change the rules

## EQUAL TREATMENT AT WORK: A GUIDE FOR PARENTS

We are often contacted by people who feel discriminated against at work because of their parenthood. Many of them need merely clear and comprehensible information about equal treatment at the workplace – that is sufficient for them to solve their problems and deal with the situation. This can make them more successful, for example, when dealing with their employer. That is why in 2022, we published a practical manual for parents regarding their right to equal treatment in the labour market. The manual will be used primarily by parents who are balancing their work and private life or who feel disadvantaged at work because of their motherhood or fatherhood.

The manual covers various issues related to equal treatment at work in a chronological order – from the time they start working to the time of termination of their employment. It presents defence options for people who feel disadvantaged at work because of their parenthood. Each of the sections of our manual is accompanied by illustrative examples that make it easier to understand the basic principles and legal rules, and also examples from the Defender's practice. The manual also includes a number of practical recommendations that, if followed, can help employees to transform their working environment into one that is more equal and responsive to their parental needs.

We sent the manual to selected helping associations, civic counselling centres and branches of

the Labour Office, i.e. places where it can be distributed to parents dealing with problems at work. The manual has also been featured in our podcasts and on the Sama doma TV show.

- [Manual for parents in the labour market: File No. 63/2020/DIS](#)
- [Press release of 16 February 2022](#)
- [Podcast Parents in the labour market I](#)
- [Podcast Parents in the labour market II](#)
- [Sama doma, broadcast on 9 September](#)
- [Sama doma, broadcast on 2 December](#)



## VACCINATION AGAINST TICK-BORNE ENCEPHALITIS WILL NOT BE MANDATORY FOR SOLDIERS WITH CONTRAINDICATIONS

We were contacted by a career soldier who suffers from multiple sclerosis. He refused to undergo the mandatory tick-borne encephalitis vaccination for fear of deteriorating health. The service authority therefore found him unfit for service and initiated proceedings on his dismissal. While inquiring into his case, we became suspicious that the mandatory vaccination against tick-borne encephalitis, as originally set up by the Ministry of Defence, might have been discriminating against soldiers who could not receive the vaccine for health reasons. After we presented our conclusions, the Ministry committed to take concrete steps to change the setting of this mandatory vaccination. The soldier who appealed to us succeeded in court, as the court reached a similar conclusion and overturned the decision on his dismissal.

- [Defender's report and opinion: File No. 4404/2021/VOP](#)

## FOREIGNERS' CHANCES OF OPENING A BANK ACCOUNT HAVE INCREASED

We were contacted by an applicant for international protection in the Czech Republic who had originally come to the country from Iran, as no Czech bank she had contacted was willing to open a current account for her. Neither the commercial banks she had approached nor the Czech National Bank had given satisfactory reasons for the banks' refusal. The woman's primary challenge stemmed from her status as a citizen of a country subject to international sanctions.

We inquired into the Czech National Bank's procedure in this matter and found several errors. The Czech National Bank had responded only with a general statement that people legally residing in EU Member States had the right to a payment account, but individual banks still had to comply with the provisions of other regulations, in particular the Anti-Money Laundering Act. We urged the Czech National Bank to take a clear stance on the matter as soon as possible so that it could effectively oversee consumer protection in similar situations. The Czech National Bank subsequently stressed to individual commercial banks that they were required to assess the specific risks associated with each individual customer and that refusal to open an account always had to be supported by unambiguous reasons that could not be discriminatory. A blanket rejection of foreigners from certain third countries was not the right option in this regard.

[Defender's report: File No. 364/2021/VOP](#)

[Press release of 16 August 2022](#)

## PEOPLE WITH ZTP DISABLED PERSON'S CARDS HAVE HOPE FOR FREE RESERVED PARKING IN THE TOWN OF ROKYCANY

We were approached by a man for whom the town of Rokycany had reserved a parking space close to his place of residence years ago due to his disability. Starting in 2021, however, he as the holder of a disabled person's ZTP card had been required to pay more than CZK 10 000 to the town every year for using the space. We closed the case by concluding that the town had failed to comply with its obligations to take reasonable accommodation in respect of persons with disabilities under the Anti-Discrimination Act. We recommended that it consider exempting all people with disabilities from paying to use a reserved parking space. In fact, such a payment and its amount might prevent a disabled person from continuing to use reserved parking. The man also contacted the Ministry of the Interior about the matter. The Ministry agreed with our conclusions and initiated legal action to have the town remedy the situation in line with our recommendation.

[Defender's assessment: File No. 2042/2021/VOP](#)



## **THE RULES FOR ALLOCATING MUNICIPAL FLATS MAY NOT EXCLUDE PEOPLE WITH RESTRICTED LEGAL CAPACITY. MUNICIPALITIES SHOULD ESTABLISH CLEAR AND TRANSPARENT RULES FOR THE ALLOCATION OF MUNICIPAL FLATS**

In 2022, we learned about problematic rules governing the allocation of municipal flats in the town of Slaný. In particular, the town excluded all people with restricted legal capacity and disability pension recipients with mental, intellectual, sensory or combined disabilities from the option of applying for a flat in a nursing home. We found such rules discriminatory. Compliance with tenants' obligations cannot be enforced at the cost of generally excluding people with restricted capacity or certain types of disabilities. We asked the Ministry of the Interior to carry out surveillance actions in this situation. The town of Slaný eventually abandoned both of these rules. A wider group of people in need can now apply for a flat in the town's nursing home.

[Defender's assessment: File No. 14/2021/DIS](#)

We also addressed the exclusion of people with restricted legal capacity in the town of Cheb. We found the condition of full legal capacity to be discriminatory.

[Defender's assessment: File No. 2450/2021/VOP](#)

## **MUNICIPALITIES SHOULD ESTABLISH CLEAR AND TRANSPARENT RULES FOR THE ALLOCATION OF MUNICIPAL FLATS**

We also dealt with a case of spouses who felt discriminated against in the selection process among applicants for a municipal flat lease because of the husband's disability. The suspicion of discrimination was not confirmed, as the municipality had convincingly explained its actions. However, we found the town's procedure in allocating flats non-transparent, as the allocation took place according to non-public Flats Management Princi-

ples. The absence of transparency impairs citizens' confidence in the town's ability to manage the housing stock in line with the law and its own regulations, potentially giving rise to concerns about possible discriminatory practices employed by the town. As municipalities should act predictably, they should also establish clear and transparent rules for the allocation of municipal flats and publish them in an accessible form. We therefore recommended that the Flats Management Principles be made publicly available.

[Defender's assessment: File No. 7982/2021/VOP](#)

## **SECOND MONITORING REPORT ON THE EXERCISE OF THE RIGHT TO EQUAL TREATMENT AND PROTECTION AGAINST DISCRIMINATION**

We published our second monitoring report on the exercise of the right to equal treatment and protection against discrimination. We focus on three selected areas in the report: Roma education; equal pay for women and men; and changes to the legislation to ensure better protection of victims of discrimination and enforceability of their rights. We track developments in the topics and changes in indicator values over the year 2021.

It can be stated in brief that the Czech Republic currently intends to work towards improving the status of people affected by the selected topics. This is mainly thanks to the approval of the [Roma Equality, Inclusion and Participation Strategy 2021-2030](#) and the [Strategy for Gender Equality for 2021-2030](#), which aim to improve the position of Roma people and women in society. It is now up to the institutions in charge to deliver on the commitments in the years to come. We monitor compliance with these commitments.

[Survey report: File No. 89/2021/SZD](#)

[Press release of 8 September 2022](#)

# We are here to help

We help people who have become victims of discrimination. We can advise them how to proceed in their situation and where to ask for further help. We can approach the adversary, find out what has happened and assess the situation in legal terms. Based on the above, we recommend to people who asked for our assistance whether it would be appropriate to deal with their case through mediation, in court or in some other way.

In 2022, we helped:

- › a complainant in a situation where a kindergarten had automatically refused to take care of children of mothers (parents) on maternity or parental leave during the spring break. The complainant suspected discrimination on grounds of sex in the kindergarten management's actions. Although it was not possible to infer sex-based discrimination from the information and documents she provided, we explained to the management that a child's attendance at kindergarten is an expression of the right to education and should not depend on circumstances related to the child's parents. We advised the complainant how she should address the situation directly with the kindergarten. Following the consultation with us, she was able to get her daughter to attend kindergarten during the holidays;





## 10. Equal treatment and discrimination

- › a woman who had repeatedly failed with her applications for a reserved parking space intended for her disabled mother who relied on her care. We reviewed the town's actions and found that it had been guilty of indirect discrimination in failing to take reasonable accommodation in respect of a person with a disability. We recommended that the town properly assess and evaluate any new application. We emphasised that arguments based on traffic conditions in the area or lack of parking could not stand as such in a situation where commercial parking spaces were established in the area. Increasing the availability of parking spaces cannot be at the expense of the needs of people with disabilities. The town subsequently granted the new application and agreed to the establishment of the reserved parking space;

### Defender's assessment: File No. 1287/2021/VOP

- › a woman whose former employer had refused to extend her fixed-term employment relationship after she had become pregnant, even though he had promised her the extension and would normally grant it to other employees in the same position. We evaluated the employer's practice. Because there was evidence that the reason for the non-extension was the employee's preg-

nancy, we concluded that the employer had committed direct discrimination on grounds of sex. We arranged for legal representation by a lawyer, and the complainant eventually agreed on out-of-court settlement (payment of compensation) with her employer;

### Defender's assessment: File No. 8798/2022/VOP

- › a woman who had faced defamatory statements published in a nationwide periodical. The statements alluded to her ethnicity, among other things. We advised her to file an action for the protection of personal rights and arranged for legal representation by a lawyer. The courts subsequently ordered the author of the statement to publish an apology and pay compensation;
- › a woman with a prosthesis who had reservations about the way security checks were carried out at one of the Czech Republic's international airports. While many other international airports use full-body scanners, at this specific airport she was repeatedly forced to hand over her prosthetic limb to airport staff. She saw this as a humiliating procedure. After consulting with us, the woman contacted the airport with a complaint. The airport then introduced new procedures for the security screening of prostheses.



# We communicate

## PODCASTS

On the occasion of the International Day Against Homophobia, Biphobia and Transphobia (17 May), we published a podcast on the social and legal status of gay, lesbian, bisexual and trans people.

 [Podcast, episode 64: Sexual minorities and discrimination](#)

## WORKSHOP ON THE RIGHTS OF EU CITIZENS LIVING IN THE CZECH REPUBLIC

We organised a workshop for representatives of ministries and other authorities, some administrative regions and non-profit organisations working with foreigners – EU citizens. We presented to the participants the results of our extensive survey entitled [EU citizens in the Czech Republic](#). In the survey, we examined the living conditions and challenges faced by EU citizens in the Czech Republic. At the workshop, we then discussed the Defender's recommendations that emerged from this survey.

## PUBLIC ADMINISTRATION

We met with the Ministry of the Interior's staff who oversee the municipalities' rules for allocating municipal flats. Along with sharing insights on municipal housing, we discussed municipal rules that could violate the prohibition of discrimination. We also addressed the issue of legality of such rules, which adversely affected lower-income applicants.

We instructed the employees of the Czech Trade Inspection Authority on the topic of discrimination on grounds of nationality of a European Union Member State.



A regular meeting with a Deputy Governor of the Czech National Bank was held in May. The meeting offered a forum for sharing experience and discussing cases of consumer discrimination in the area of financial services dealt with by the Defender.

With the Minister of Education, Youth and Sports, we discussed topical issues such as the education of pupils with different mother tongues and their support during the admission, course and completion of their education. We also discussed the situation of children who, in view of their health condition, required certain health services, such as the administration of insulin, during their school attendance.

## STUDENTS

We took part in the organisation of the Human Rights Olympics essay contest for high school students. The topics included the digitalisation of public administration and the impact of social networks on mental health and regulatory options. Students also discussed current human rights issues, such as restrictions on the freedom of expression in the context of the Russian invasion of Ukraine, euthanasia and transgender athletes.

We participated in the Human Rights Live and the School of Human Rights events, which are organised by the Pro Bono Alliance in co-operation with the Faculty of Law of Masaryk University.

We established co-operation with the Faculty of Law of Masaryk University in teaching a course titled "Clinic of Anti-Discrimination Law". This practically oriented course combines the teaching of the theoretical bases of anti-discrimination law and its practical application in case management.

We welcomed sociology students from the Faculty of Social Studies of Masaryk University at a short excursion.

We also became involved in supervising internships of students from law faculties and in teaching courses focused on human rights and anti-discrimination law.

## LEGAL PROFESSION

As part of the Zero Discrimination Day, which is traditionally held on 1 March, we conducted an interactive webinar for the Allen & Overy law firm, where we introduced the participants to various forms of discrimination and ways of defending against it.

## INTERNATIONAL CO-OPERATION

In March, we welcomed a delegation from the Congress of Local and Regional Authorities. The members of the delegation were briefed on the Defender's powers vis-à-vis local and regional authorities and the most frequently addressed topics, such as the right to information, generally binding edicts and discrimination in the allocation of municipal flats.

In April, we had an on-line meeting with the Organisation for Economic Co-operation and Development (OECD), where we informed OECD representatives about our mandate and activities in the field of gender equality.

In June, we welcomed a delegation from the European Commission. The meeting was concerned with the education of Roma children in the Czech Republic.

We attended the regular meeting of bodies dealing with free movement of workers within the Union, where representatives of the European Commission presented the first conclusions of a comparative study on the functioning of the free movement of workers bodies in the individual Member States. The study focuses on the powers, structure and financing of these bodies, as well as related issues.

We also met with a representative of the U.S. Embassy in the Czech Republic. She needed information on the right to equal treatment and discrimination in the past year to prepare the 2022 Report on Human Rights Practices in the Czech Republic, which the U.S. State Department submits to the U.S. Congress once a year along with other reports.

At a working meeting with representatives of the Slovak National Centre for Human Rights, which acts as an equal treatment body (similar to the Defender in the Czech Republic), we shared our experience with the performance of surveys.

We continued our co-operation with the European Network of Equality Bodies (Equinet), which brings together national equality bodies in Europe. The topics of the meeting included sharing experience with the transposition of the Work-Life Balance Directive into national law and the approval of the Pay Transparency Directive, suggestions related to the situation in Ukraine, the possibility of bringing a public interest action in discrimination disputes, discussion of [draft directives setting standards for equal treatment](#), and the negative impact of artificial intelligence. The topic of standards for equality bodies is addressed in the [2023 calendar](#), which also presents one of our cases.







# Monitoring of rights of people with disabilities



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**5**

meetings of the advisory body for monitoring the rights of people with disabilities

**7**

meetings with self-advocates

**7**

meetings of the working group on accessibility of schools and school facilities

**6**

visits focusing on the conditions of clients in homes for people with disabilities

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**67**

complaints resolved with regard to systemic shortcomings relating to the rights of people with disabilities

**64**

complaints resolved in the field of public guardianship and supporting measures

The right to live an independent life was one of the main topics in monitoring the rights of people with disabilities in 2022. We addressed the issue of the deinstitutionalising institutional social services. We started a survey focused on the setup of transformation, deinstitutionalisation and humanisation processes at the regional level. At the same time, we carried out a series of visits to homes for people with disabilities and established co-operation with a group of self-advocates.

Together with people with disabilities, we also tackled the topic of accessibility. We launched a survey focused on user accessibility of offices and services in regional cities not only for people with mobility limitations, but also for those with visual or hearing impairments. We created a questionnaire for schools to map the accessibility of their buildings and information. We want all TV stations to make targeted and thoughtful adjustments to their programmes for people with hearing and visual impairments. We are also working to improve the accessibility of our outputs – we have converted some of our information materials into an easy-to-read format and are developing an accessibility manual for people with disabilities.

# We help change the rules

## VISITS TO HOMES FOR PEOPLE WITH DISABILITIES

In 2022, we visited six homes for people with disabilities. We looked at the environment in which people lived and whether they were able to get involved in the community outside the facility itself. We also determined whether they could decide on important issues in their lives and routine matters. We also focused on whether the staff respected the dignity and privacy of the clients and provided them with support according to their needs – for example, for self-care and hygiene.

One of the homes visited had undergone a transformation from a residential service to a community-type service. In another home, we checked during our “follow-up visit” how they had managed to meet the recommendations from our previous systematic visit in 2019, when we had noticed ill-treatment of clients. Unfortunately, the situation in this home had not improved and the Defender filed a criminal complaint in this regard after the follow-up visit.

[📄 Press release of 23 November 2022](#)

Reports on completed visits to facilities are available in the [Defender’s Opinions Register \(ESO\)](#) (area of law, p. 801 et seq.) or in the [map of facilities visited](#).

## RECOMMENDATIONS FOR THE CZECH STATISTICAL OFFICE: HOW TO COLLECT DATA ON PEOPLE WITH DISABILITIES

We are assisting the Czech Statistical Office (CSO) with the preparation of the Selective Survey on Persons with Disabilities, which they plan to conduct in 2023.

We consider this survey important because it will provide important statistical data on the lives of people with disabilities in the Czech Republic, especially in the areas of work, health and everyday life. We recommended that the CSO make adjustments to the questionnaire for respondents. We also suggested that the survey should include data on people with autism spectrum disorder, as the State still lacks enough relevant information about them. We also recommended that the CSO issue two separate reports covering children with disabilities and people living in institutions, such as homes for people with disabilities.

We also recommended that, in addition to the main survey report focusing on respondents with disabilities aged 15 and over who live at home, the Office should also issue two individual survey reports. One should be dedicated to children with disabilities and the other to people living in homes for people with disabilities and other institutions.

## SUFFRAGE FOR ALL

In our comments on the Administration of Elections Act, we opposed a concept where the courts would be able to interfere with active suffrage when deciding on an individual’s legal capacity. We pointed out that the courts’ decision-making on who had the capacity to vote was at variance with Article 28 of the Convention on the Rights of Persons with Disabilities and the European Union’s approach. The State should focus on enabling an effective participation of all people with disabilities in all areas of public life, including elections. The Ministry accepted the comment and sent to the Parliament a proposal that would allow courts to interfere only with passive suffrage, i.e. the right to stand for election.

[📄 Defender’s comments on the Administration of Elections Act](#)



## INSUFFICIENT AMOUNT OF THE CARE ALLOWANCE

We gradually commented on two amendments to the decree implementing the Social Services Act which increase the regulated payments for social services. We repeatedly addressed the inadequacy of the care allowance. We pointed out that it was not possible to increase the reimbursement for nursing and personal assistance services without a corresponding increase in the care allowance. Such a change may have a particularly negative impact on people with higher support needs who live in their natural home environment and regularly use community-type services.

[Press release of 3 February 2022](#)

[The Defender's comments on an amendment to Decree No. 505/2006 Coll.](#)

## QUALIFICATION CRITERIA FOR THE PERFORMANCE OF TEACHING ACTIVITIES

The forthcoming amendment to the Teaching Staff Act envisages changes to the requirements for the qualifications of teaching assistants and teachers. In the case of teaching assistants, we pointed out that the proposed changes, consisting primarily in an increase in the number of hours of study, might not motivate enough additional candidates for this work and that it was important to change the content of the study itself. The Ministry assured us that it was expecting such a change and was preparing to update the standard for teaching assistant study programmes. At the same time, it offered that we could be involved in this update.

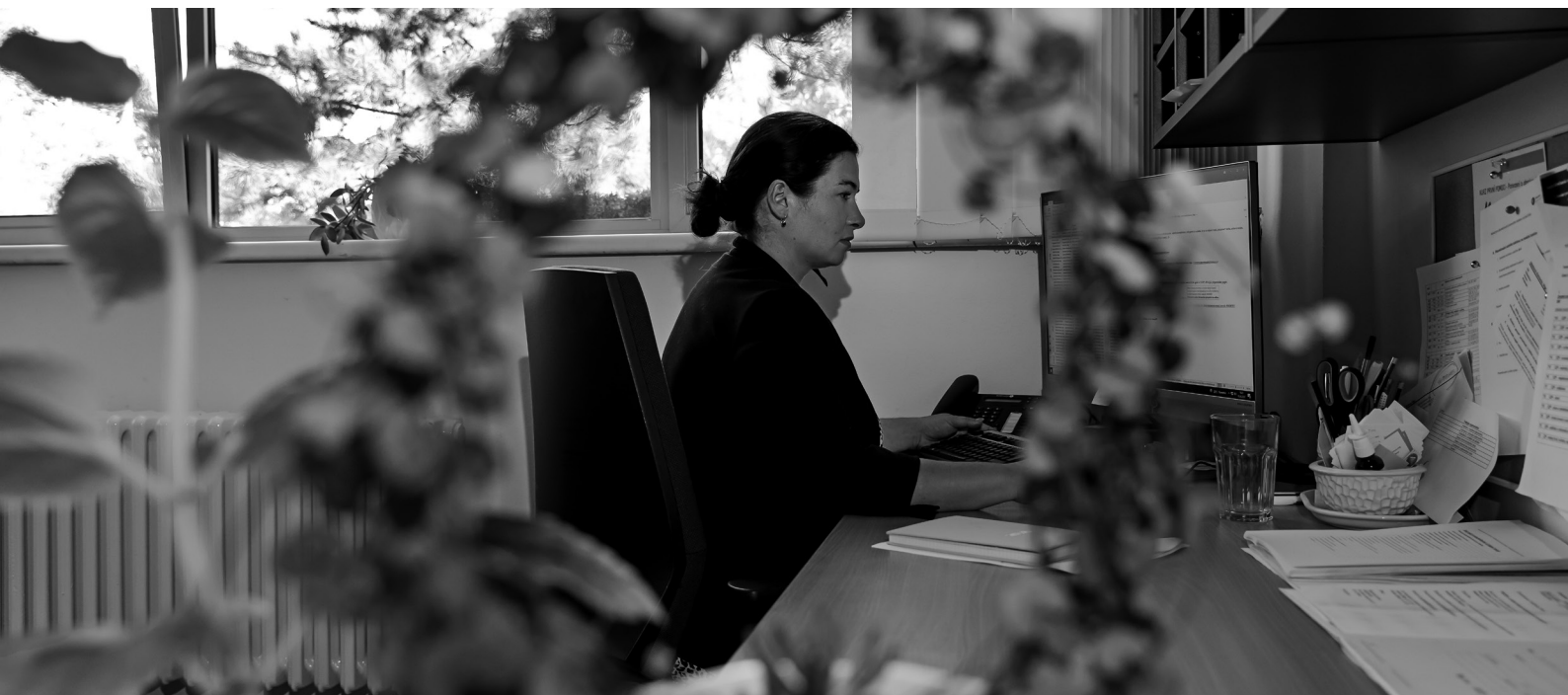
With regard to the special educational needs of some pupils, we also opposed in our comments the proposed reduction in the qualification criteria for teachers. The Ministry of Education, Youth and Sports then promised that it would lead schools to ensure that pupils with special educational needs were taught as much as possible by teachers who have appropriate professional qualifications.

[The Defender's comments on the amendment to the Teaching Staff Act](#)

## ACTION PLAN FOR DEINSTITUTIONALISATION

We have long been pointing out that the Czech Republic lacks a uniform concept of the process of deinstitutionalisation and transformation of institutional-type residential social services. That is why we were involved in the preparation of the deinstitutionalisation action plan. We pointed out to the Ministry of Labour and Social Affairs that the action plan had to contain, above all, a specific goal of the deinstitutionalisation process and a definition of the services concerned. The plan had to make it clear which actors were responsible for implementing specific actions. Financing details were also an essential part.

11. Monitoring of rights of people with disabilities





# We are here to help

## PEOPLE WITH VISUAL IMPAIRMENT HAD PROBLEMS REGISTERING FOR THE COVID-19 VACCINE

The United Organisation for the Blind and Partially Sighted (SONS) alerted us that the Central Reservation System (CRS) for the Covid-19 vaccination was not accessible to people with visual impairment. The reCAPTCHA codes in English formed a major barrier on the registration website. Because of incorrectly marked information in the HTML code, visually impaired people were unable to verify the chosen time slot on the website. In addition, the text on the website was difficult to read due to the lack of colour contrast.

SONS alerted the Ministry of Health to the inaccessibility of the CRS, but the Ministry failed to make the necessary adjustments. That is why we asked the then Minister of Health that the Ministry adapt the CRS registration forthwith to the needs of people with visual impairments. The Ministry then modified the online system in co-operation with SONS. As a result, the whole process of registering for vaccination on the Ministry's website and the booking of a time slot on Reservatic's website is now accessible even to people with visual impairments.

## HOW PREPARED ARE DRIVING SCHOOLS FOR STUDENTS WITH HEARING IMPAIRMENTS?

A woman with a hearing impairment who identifies herself as deaf tried unsuccessfully to find

a driving school in Prague that would take her disability into account during training and practical driving. She therefore asked us for help and assessment of the current legislation. She believed that the Acquisition and Improvement of Motor Vehicles Driving Competence Act disadvantaged people with hearing impairments.

We addressed the situation with the Ministry of Transport, the Czech Association of Driving Schools, the Centre for Road Transport Services and organisations defending the rights of people with hearing impairments. We managed to reach an agreement with the Ministry that it would better prepare driving schools for students with hearing impairments. The Ministry for Transport's working group on driving schools, in co-operation with organisations advocating for the rights of people with hearing impairments, will develop information material for driving schools on people with hearing impairments. The Centre will also supplement the "improvement training for examiners" with information on the needs of people with hearing impairments.

[Defender's opinion: File No. 60/2020/VOP](#)

## SUPPORT IN LEGAL ACTS – RESTRICTING LEGAL CAPACITY IS A LAST RESORT

At the beginning of September, we published a podcast episode titled [Support in Legal Acts](#) in which we talk about supporting measures that could be used by adults with impaired ability to engage in legal conduct. In the podcast, self-advocates from Uherské Hradiště shared their experience with restrictions of legal capacity, co-operation with a guardian and the changes that a renewed legal capacity had brought to their lives.

We also published an [information brochure](#) on the topic of support in legal acts. In the brochure, we again discuss the individual supporting measures in detail. We want to introduce people with disabilities, their family members, and the general and professional public to a wide range of legal instruments that can be used and tested in practice before proceeding to such a radical intervention in rights as a restriction of legal capacity.

[Support in legal acts brochure](#)

# We communicate

## ADVISORY BODY

The advisory body met three times and its working group on social services met twice. The advisory body set itself several priorities for 2022 – in particular the area of education (Article 24 of the Convention) and also the area of social services and the related issue of deinstitutionalisation and the right to independent life (Article 19 of the Convention). We dealt, for example, with home education of pupils with special educational needs and those with profound mental disabilities. We also addressed the need to map the accessibility of schools and educational facilities for pupils and students with disabilities, and partially also with the conditions that higher education institutions provide for students with disabilities.

[📄 Press release of 29 March 2022](#)

With regard to deinstitutionalisation, the members of the advisory body used their own experience with the functioning of the social services system to try and define together the gaps and barriers that could prevent people with disabilities from fully participating in society. We discussed the capacity of personal assistance and the setup of the standards for this social service, and also the lack of financial support for the purchase of community services, especially for people who need support 24 hours a day. We will continue to address these issues in 2023. In addition to the set priorities, we also discussed the extent to which people with disabilities were involved in legislative processes.

## TELEVISION BROADCASTING AND OTHER AUDIOVISUAL MEDIA SERVICES WILL BE MORE ACCESSIBLE

In June and November, we took part in two important working meetings organised by the Ministry of Culture on the topic of increasing the accessibility of television broadcasting through audio description, closed captioning and interpreting into

the Czech Sign Language. Organisations promoting the rights of people with visual and hearing impairments formulated demands on the basis of which the Ministry prepared the first draft of amendments to the Radio and Television Broadcasting Act and the On-Demand Audio-Visual Media Services Act. Czech Television, private TV stations and on-demand service providers provided their comments on the draft. The Ministry stated that it would incorporate the resulting proposal into the text of the amendment to the Audiovision Act, which it would submit for comments in the spring of 2023. We will continue to monitor the developments. We explained in the TV Deaf Club programme why the current regulations had to be changed.

[!\[\]\(c507f772dba2b921f86777f01218e570\_img.jpg\) Recording of Czech Television's TV Deaf Club of 12 October 2022](#)

## CONFIDENTIALITY IN SUPPORTING AND PROTECTING VULNERABLE PEOPLE

At a roundtable, we discussed with representatives of psychiatric hospitals, social service providers, the police and public guardians how to effectively share information about clients while respecting their right to privacy and the protection of personal data. In October, we followed up with a panel discussion that we co-hosted with the Práh Jižní Morava organisation. We introduced the basic principles of transferring personal data on vulnerable clients. We will further elaborate the principles in a recommendation for healthcare and

social service providers, municipal social workers, guardians and other support persons. The recommendation, entitled "Confidentiality and the transfer of personal data on vulnerable adults", will be issued in early 2023.

## ACCESSIBILITY OF JUSTICE

In the autumn, we and the Judicial Academy organised a [roundtable on the topic of accessibility of justice](#). We met there with experts from the judiciary, the legal profession, State administration and non-profit organisations to discuss barriers that prevent people with disabilities from effectively accessing justice. We also talked about the measures that some courts were implementing to improve accessibility. Two self-advocates from Uherské Hradiště also took the floor and shared their experience with legal capacity proceedings. In co-operation with the Czech Bar Association and the Judicial Academy, we are also preparing a recommendation for lawyers who serve as guardians of vulnerable persons.

## BANKING SERVICES FOR PEOPLE WITH RESTRICTED LEGAL CAPACITY

In our discussions with the Czech National Bank, we pointed out some of the problems faced by people with restricted legal capacity and their guardians. Banking services are often not flexible enough for them to be used by people who



have restricted capacity to dispose of their assets. Moreover, the current legislation allows banks to grant disposal rights relating to a bank account only to natural persons. However, a municipality acts as the guardian in the case of public guardianship. This causes practical problems for the authorities' staff and the persons under guardianship themselves. We will seek possible solutions in co-operation with the CNB.

## EDUCATION OF PUBLIC GUARDIANS

We continued to educate public guardians in 2022. We presented our findings at a meeting of regional public guardianship methodologists and at meetings with public guardians in Mladá Boleslav, Ostrava and Prague. In this way, we also collect information on specific problems from practice. These will then be used to develop recommendations and information materials.

## EDUCATION OF PUPILS WITH PROFOUND MENTAL DISABILITIES

In March, we organised a roundtable on the topic of education of pupils with profound mental disabilities. The event was attended by representatives of the Ministry of Education, Youth and Sports, the Czech Schools Inspectorate, administrative regions, and staff of special schools and educational institutions. We agreed that current practice was problematic in many ways. Pupils who are educated under Section 42 of the Education Act are not, in fact, pupils of any specific school. It is the responsibility of the regional authorities to provide adequate educational assistance to these children. The approach of individual regional authorities varies due to the lacking methodology, and so does the level of support. Moreover, this form of education does not fall under the supervisory activities of the Czech Schools Inspectorate. The solution requires closer inter-ministerial co-operation aimed to achieve methodological guidance and the introduction of a supervisory mechanism.

## CO-OPERATION WITH SELF-ADVOCATES

We established co-operation with a group of self-advocates from Uherské Hradiště which brings together people with intellectual and psychosocial disabilities. The self-advocates speak about their experience, spread awareness and promote an improved position of people with disabilities in society. We regularly discuss with self-advocates what the Defender can achieve based on their suggestions, both in individual cases and in advocating for systemic changes. They are most interested in the availability of housing and employment for people with disabilities. In May, the Defender's Office hosted an exhibition taking place under the Defender's auspices, where self-advocates presented photographs illustrating their view of independent life. In June, we organised a meeting of self-advocates from all over the Czech Republic in co-operation with organisations defending the rights of people with intellectual disabilities (SPMP, Rytmus). Using easy-to-read materials, we introduced them to what the Defender (Ombudsman) does and how he can help them.

At several working meetings, we also worked together on the education and employment of people with disabilities. The result is [Ten Principles for the Employment of People with Disabilities](#), which form the basis for the Defender's forthcoming recommendations in this area. On the occasion of the International Day of Persons with Disabilities in December, we organised a joint conference in Uherské Hradiště on the topic of independent life.

[Press release of 20 May 2022](#)

[Press release of 2 December 2022](#)





## **MONITORING THE ACTIVITIES OF WORK REHABILITATION CENTRES**

We participated in a meeting of the Project Council of the Czech Work Rehabilitation Association for the project “Development and pilot testing of the concept of a work rehabilitation centre”. The pilot testing of the project was aimed at examining the possibilities of operating work rehabilitation centres under the existing legislation. We will continue to monitor further steps taken by both the Work Rehabilitation Association and, in particular, the General Directorate of the Labour Office of the Czech Republic and the Ministry of Labour and Social Affairs in maintaining and expanding the network of work rehabilitation centres and ensuring effective and timely support for people with disabilities in their return to the labour market through work rehabilitation. At our suggestion, the General Directorate of the Labour Office adopted a three-year plan for the renewal of expert working groups on work rehabilitation. It also promised that by the end of 2024, it would significantly increase the proportion of members in these groups who are not employees of the Czech Labour Office. The groups will newly comprise not only people with disabilities themselves, but also employers from the open labour market and physicians.

## **MAPPING THE ACCESSIBILITY OF SCHOOLS AND SCHOOL FACILITIES**

Our internal working group on mapping the accessibility of schools and school facilities met seven times during the year. The aim of this group is to create the basis for our recommendations to the Ministry of Education and the Czech Schools Inspectorate. The authorities will be able to use the recommendations to map the accessibility of schools and school facilities for children and pupils with disabilities. The Czech government lacks such comprehensive data. Based on the accessibility mapping, schools and their founders will be able to take specific measures to improve the accessibility of schools. The working group includes representatives of people with physical, visual and hearing impairments who have experience in the field of education. The group developed an accessibility mapping questionnaire that will be piloted in several primary and secondary schools in 2023.

## **CO-OPERATION WITH FOREIGN COLLEAGUES**

Our monitoring work also includes the need to exchange information with relevant foreign and international bodies. We completed a several-day field trip to the German monitoring body in Berlin. Germany has already been monitoring the Convention’s implementation since 2009. We therefore wanted to inspire each other by sharing examples of good practice. We addressed the issue of involving people with disabilities in the process of monitoring the Convention or submitting an alternative report to the UN Committee. Together we opened the topic of indicators for monitoring the Convention. Specifically, we also discussed Articles 12 and 19 of the Convention, which address the promotion of free will in decision-making, as well as deinstitutionalisation and related issues of support and funding.

## **CO-OPERATION WITH OTHER MONITORING BODIES**

We co-operate with our colleagues from other foreign monitoring bodies on an ongoing basis. We meet regularly and share not only our experience and current topics, but also methods of work. For example, we jointly discussed the status and activities of the various monitoring bodies within the implementation of the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

## **“RIGHTS OF PEOPLE WITH DISABILITIES” FACEBOOK GROUP**

Social media serve as one of the means of raising awareness and involving people with disabilities and organisations advocating for their rights in the monitoring of the Convention. The “Rights of People with Disabilities” Facebook group grew exponentially to 1 200 members last year. We started with just under four hundred members in 2019. In 2022, we published more than 260 posts and the group was viewed by 33 047 people. If you want to follow us, join here:

 <https://www.facebook.com/groups/319938625441179>

## BULLETIN

### 11. Monitoring of rights of people with disabilities

In 2022, we continued to publish our [Bulletin](#), which provides information about our activities and other news. We prepared an extraordinary [topical edition](#) in response to the ongoing war in Ukraine. There, we shared useful information with our collaborating organisations, and explained to NGOs and the general public the steps we had taken to support people with disabilities in the context of the war.







# 12

## Defender and clarity of official texts





## A COMPREHENSIBLE OFFICIAL TEXT IS

 **well arranged**  
the readers can orient themselves easily in the text


 **concise but complete**  
it contains only what it should contain and nothing more


 **practical**  
the reader knows what to do


 **written in a language that the reader can understand**  
that means the ordinary language we speak


 **legally accurate**  
it explains the legal terms and concepts used to the reader; for example, it does not merely copy-paste the wording of a legal regulation, but rather clearly conveys its meaning

## WE STRIVE TO MAKE OFFICIAL TEXTS EASY TO UNDERSTAND

 we write our information leaflets more clearly

 we wrote a guide for civil servants "[How to write clear official texts](#)"

 we checked that people understood these modified leaflets much better

 we teach clear writing to students of the Law in Public Administration degree programme at the Faculty of Law in Olomouc

We are aware from our complainants' cases that people often do not understand what the authorities write to them. This costs everyone involved a lot of time and energy. The authorities' actions then do not follow the [principles of good governance](#), which are under the Defender's supervision.

We therefore decided to promote clear writing of official texts. We train ourselves in clear writing, explore how it benefits our outputs, and share our experience. In October 2022, we held a roundtable on [Clarity in Public Administration](#), where we invited civil servants, judges and other experts. We all agreed that clear and comprehensible writing required an overall change in the authorities' attitude, which had to be supported by the top management.

We are negotiating with the authorities on how their specific documents could be written comprehensibly. We discussed various texts, for example, with the Czech Social Security Administration, the Ministry of Labour and Social Affairs and the Ministry of the Interior's Department for Asylum and Migration Policy and the Civil Service Section.

We are now assembling a working group comprised of representatives of ministries, regional authorities and other experts. Within the group, we examine the barriers to clear writing and good practice. We want to put the results of our findings into practice together.





# 13

## International relations



Representatives of the Visegrad Group countries' ombudspersons met in Kroměříž at the invitation of the Czech Public Defender of Rights in the autumn of 2022. At this traditional ombudsman conference, we shared with representatives from other countries our experience with helping people fleeing the war in Ukraine. We also looked at the changing role of ombudsman institutions.

Throughout the year, we actively continued our co-operation with the European Network of National Human Rights Institutions (ENNHRI) and the European Network of Equality Bodies (see page [120](#)), and participated in other activities within international associations.

In June 2022, we sent a contribution to the UN Human Rights Council concerning the protection of [human rights in the Czech Republic](#) for the upcoming Universal Periodic Review (UPR) cycle. The [review of the Czech Republic](#) itself then took place in Geneva in January 2023.

We provided the EU Commission and ENNHRI with information on the current state of the rule of law in the Czech Republic.

We presented the operation of our office to foreign partners from various countries and inspired ourselves, for example, during trips abroad to Norway and Germany (see page [130](#)).

# Meeting of representatives of the Visegrad Group ombudspersons

Every year, the ombudsman offices of the Visegrad Group countries take turns to organise a conference on topical issues related to their work. The Czech Public Defender of Rights hosted this two-day meeting in autumn 2022, inviting his foreign colleagues and experts from their offices to Kroměříž.




## ROLE OF OMBUDSMAN INSTITUTIONS IN THE RECEPTION AND INTEGRATION OF PEOPLE FLEEING THE WAR IN UKRAINE

Representatives of the four Visegrad ombudsman institutions discussed the experience of the Czech Republic, Hungary, Poland and Slovakia in helping people fleeing Ukraine. The Visegrad Group countries, as neighbours or countries close to one another in terms of their language and culture, have become a frequent destination and new home for millions of people affected by the war in Ukraine.

Conference participants from the individual countries presented the local social context of receiving people fleeing the war in Ukraine. They not only shared relevant data, but also discussed measures taken at governmental and regional

levels, and the involvement of other stakeholders such as ministries, regional and local governments and, last but not least, NGOs. They also addressed, for example, the protection of vulnerable groups among newcomers, such as people of other ethnicities, unaccompanied children and people with disabilities. They shared examples of good practice, but also took the opportunity to discuss pressing issues such as the possible ban on the entry of Russian and Belarusian citizens into V4 countries.

## WHAT WAS ALSO SAID AT THE V4 OMBUDSMAN CONFERENCE

-  In Slovakia, the individual districts took turns to receive new arrivals who were unable to find themselves accommodation.
-  Since the beginning of the war, lawyers from the Hungarian Ombudsman's office have been working directly at two locations on the Ukrainian border. They provide legal and humanitarian assistance to newcomers.
-  Poland has simplified the recognition of Ukrainian diplomas for teachers and psychologists. They can start working with Ukrainian children who still have difficulties speaking Polish.

## TRANSFORMING THE ROLE OF OMBUDSMAN INSTITUTIONS

The second topic of the conference was the ongoing transformation of ombudsman institutions. Participants from all countries agreed that the role of national ombudsman institutions was gaining importance in countries governed by the rule of law as their remit shifted towards human rights issues. The importance of the ombudsman's mission, in their view, is particularly clear at a time of social changes, such as the Covid pandemic and the war in Ukraine.

In their joint statement prepared at the end of the conference, ombudspersons from the Czech Republic, Hungary and Poland therefore called for preserving the continuity of national ombudsman institutions. In the context of the situation in Slovakia, which had been without an ombudsperson for many months since April 2022, they urged national governments and parliaments to ensure that the protection of human

rights at the national level was in no way limited or compromised.

In the Czech Republic, the continuity of the Defender's office is ensured directly by the Public Defender of Rights Act. Outgoing officials remain in office beyond their term until their successor arrives. In Slovakia, the Ombudsman's post remains vacant until the new official is elected.

From the joint statement of ombudspersons from the Czech Republic, Hungary and Poland:

"Ombudsman institutions have always played an important role in upholding the principle of checks and balances in a country governed by the rule of law and respect for human rights. These institutions are the bridge between the State and society, public authorities and individuals. The importance of their mission has always grown with the degree of polarisation in society."

### 13. International relations





# Partnerships with foreign human rights institutions

Since December 2019, we have been co-operating with the Norwegian national human rights institution ([NIM](#)) in the framework of the project [“Reinforcing the activities of the Public Defender of Rights in the protection of human rights”](#). The aim of the project is to strengthen the human rights perspective in the work of the Public Defender of Rights. In view of the plan to establish a national human rights institution (NHRI) in the Czech Republic, we are learning in this partnership how the NHRI should function optimally.

## VISIT TO THE NORWEGIAN NATIONAL HUMAN RIGHTS INSTITUTION

In June 2022, we visited the NIM project partner directly in Oslo. This was a follow-up to the 2021 online meeting. We had the opportunity to see how the institution operated in practice and talk with a number of its experts. During the three-day programme, we discussed what the new legislation introducing the NHRI should look like to fully meet the requirements of the [UN Paris Principles](#). A topical question is whether the NHRI should be established in the Czech Republic as an independent institution or whether its mandate should be included in the Defender’s competence.

The Czech Defender is already active in the field of human rights protection in many ways, so

expanding his remit to include the activities of an NHRI would be a logical step. We therefore worked with our Norwegian colleagues on areas that were new to the functioning of our office in this regard. These areas include primarily general monitoring of the rule of law, climate change and human rights, raising awareness of human rights and human rights education, and the protection of children’s rights.

We also met with representatives of the Parliamentary Ombudsman, the Children’s Ombudsman, the Norwegian institution for the protection of people against discrimination, and a representative of local NGOs.

## MEETING OF THE NETWORK OF NATIONAL HUMAN RIGHTS INSTITUTIONS

At the end of November, the Defender’s representative attended the General Assembly of the European Network of National Human Rights Institutions ([ENNHRI](#)) in Brussels.

Representatives of more than forty national human rights institutions from European countries discussed the challenges arising from the war in Ukraine and improving the resilience of human rights institutions not only in times of crisis. They agreed that one of the basic preconditions for their good operation was a sound rule of law as well as strong regional standards for national human rights institutions. In Europe, these include not only the Paris Principles, but also Recommendation 2021/1 adopted by the Committee of Ministers of the Council of Europe .

## OTHER ACTIVITIES

- ▶ Although the Czech Republic has not yet established its own national human rights institution, the Public Defender of Rights is an associate member of the European Network of National Human Rights Institutions. Hence, we again prepared a report on the rule of law for the ENNHRI in 2022 as a basis for the comprehensive [ENNHRI rule of law report](#) on EU Member States.
- ▶ We met with a representative of the [EU Agency for Fundamental Rights](#) (FRA), which specialises in national human rights institutions (NHRIs), to discuss this topic in relation to the Czech Republic.

- › We were approached by a representative of the Georgian Ombudsman with a request for co-operation on a project to build the capacity of the public rights defender in Georgia. We offered specific areas where we could help.
- › For the UN Human Rights Council, we prepared a summary of information on the protection of children's rights in the Czech Republic.
- › An overview of activities related to the promotion of the right to equal treatment can be found at page [113](#).

### 13. International relations





14

# Media and communication



30

podcasts

6

videos made by the vlogger Anička

5

press conferences

3

videos – Defender’s assistance to children, functioning of the Ukraine assistance centre, importance of the national human rights institution

4

appearances on the Sama doma TV show

### WHAT CAUGHT THE ATTENTION OF OUR SOCIAL MEDIA USERS



how we help newcomers from Ukraine



the issue of ill-treatment of people in homes or institutions



hints and tips from various areas



rules of clear writing



publication of the Convention on the Rights of the Child



8 023

people follow [@verejny.ochrance.prav](https://www.facebook.com/verejny.ochrance.prav)

5% more than last year



3 027

people follow [@ochranceprav](https://twitter.com/ochranceprav)

11.8% more than last year



1 252

people follow [verejny.ochrance.prav](https://www.instagram.com/verejny.ochrance.prav)

18.5% more than last year



298

subscribers of the Ombudsman

39% more than last year



230

followers of [Veřejný ochránce práv – ombudsman](https://www.linkedin.com/company/verejny-ochrance-prav-ombudsman)

We regularly provide information about our work on our [website](#) and social media. Ombudsman topics are regularly covered by the mainstream news media. For the CT24 channel, we recorded live interviews about, for example, [financial assistance to victims of crime](#), [employment benefits for people with disabilities](#), the pitfalls of [making elections accessible to people with disabilities](#), and the risks of [exploitation of refugees](#) and [unequal treatment of Russians living in the Czech Republic](#). In the Snídaně s Novou (Breakfast with Nova) programme, our lawyer from the Equal Treatment Department addressed the topic of hate speech on the internet. [A report from the first ombudsman conference for children](#) was broadcast by the Zprávičky children’s newscast on the CT:D channel. The Události v regionech newscast reported, for example, on [an inquiry into the circumstances surrounding the demolition of a historic villa in Brno](#).



## PRINT AND ONLINE MEDIA

Readers of print and online dailies could learn about our cases in dozens of articles. The media followed the [court case relating to the construction of the Šantovka Tower](#) in Olomouc, and covered [topics such as noise from skate parks](#), the rules for [placing photovoltaic panels](#) on the roofs of houses in heritage protection areas, and the [presence of parents with children in hospitals](#). Readers were also intrigued by the [story of a woman with restricted legal capacity](#) who wanted to obtain an ID card. Our map with information on where maternity hospitals charge [fees for the presence of fathers or other relatives at the birth](#) had over twenty thousand views.

The Advokátní deník journal published articles about a [roundtable on construction law](#), [the conditions in remand prisons](#), and an inquiry into the courts' procedure in handling the [Studénka rail accident](#).

For the Můžeš magazine, published by Konto Bariéry, we prepared articles on [monitoring the rights of people with disabilities](#) (p. 64) and [accessibility of justice for people with disabilities](#) (p. 78).



## PODCASTS "HAVE A COFFEE WITH THE OMBUDSMAN"

We recorded 30 [podcasts](#) in 2022. The listeners were most interested in our talk [What is it like in a police cell](#), a podcast on the [Rules for walking dogs in hunting grounds](#), and episodes on the [Care allowance](#) and [How to deal with the authorities](#). However, we also focused on construction issues, the issue of benefits, as well as discrimination against sexual minorities and racism.



## GALLERY TRAM

The children helped us decorate the "Ombudsman tram" in 2022. They drew their ideas of how the Defender could help them. We added further information about the Defender's work in the area of protecting children's rights and helping families. People from outside Brno could see the tram in a [video](#) on our social media.

The Gallery Tram is a non-commercial project of the Brno Public Transit Company which offers passengers exhibitions related to the activities of various organisations.



## PARENTS AND SENIORS – THE SAMA DOMA TV PROGRAMME

In a series of three appearances on the Sama doma show, we introduced viewers to how the law [protects parents in the labour market](#) (9 September 2022). We introduced our guide [Parenthood and Discrimination at Work](#) and looked in detail at [parental leave](#) rules (4 November 2022) and the rights and responsibilities when [returning to work after parental leave](#) (2 December 2022).

At the beginning of November, we focused on the [rights of seniors at work](#) in an episode of the Sama doma show dedicated to elderly people.



## SERIES RELEASED ON SOCIAL MEDIA

In addition to posts about current events, we also published informative series on social media. We gave advice in Ukrainian to people affected by the war who had come to the Czech Republic. In our series on the accessibility of texts for people with visual impairments, we explained the basic rules and showed, among other things, why serif fonts could cause problems, how to design tables and charts, and why one should pay attention to proper contrast. For parents, we summarised in a special series the basic advice from our guide [Parenthood and Discrimination at Work](#).

## WE ARE HERE TO HELP

In 2022, we contributed to the traditional Three-Kings' Collection, the Cake for Hospice event and the International Veterans Day, both online and directly into a money box at our Office. We collected

drugstore goods and other practical things several times for the newcomers from Ukraine.

We also ran the Yellow Ribbon Run for the sixth time. Reflecting on its subtitle "Run Away from Prejudice", this sports event visions a society that gives ex-offenders and their families a second chance for a decent life.



## WE SAVE ENERGY

- › We have replaced most conventional bulbs with **more efficient LED lights**.
- › We have bought a smaller **electric boiler for heating water**. This way, we need not heat water with a large gas boiler outside the heating season.
- › We are gradually installing **motion sensors for lighting** corridors and other less used areas.
- › We have adjusted the lighting in our offices so that **everyone can turn on their desk lamps** and need not use the overhead light.
- › We have **disconnected some of the outdoor lamps** and shortened the hours of night lighting.
- › We have radically **lowered the heating temperature of the building** on weekends and holidays and in the evening and night.



# 15

## Public defender of rights



# Budget and its utilisation in 2022

in our buildings over the last 5 years

we reduced natural gas consumption by **10.75%**

we reduced electricity consumption by **16.61%**

## APPROVED BUDGET FOR 2022

**CZK 158.318 million**

The approved budget included expenditures related to funding the project [“Children’s Group Motejlci III”](#) within the Operational Programme “Employment” (CZK 383 000) and the project [“Reinforcing the activities of the Public Defender of Rights in the protection of human rights”](#) co-financed from the Norway Grants (CZK 8.822 million). In the course of the year, the budget was increased by expenditure on salaries and salary accessions (CZK 2.520 million) in connection with the amendment to Government Regulation No. 341/2017 Coll. After this change, the budget amounted to CZK 160.838 million.

In 2022, we also claimed unspent expenditure from the previous years in the amount of CZK 10 157 million. Of this amount:

- ▶ CZK 1.971 million for the project “Reinforcement of activities of the Public Defender of Rights in human rights protection”, co-financed from the 2014–2021 Norway grants;
- ▶ CZK 8.186 million for expenses not covered by the relevant chapter (including CZK 1.153 million for salaries and other payments for work, including accessions, and CZK 7.033 million for operating expenses).

Funds from the State budget were used to ensure standard activities of the Office in dealing with complaints and performance of other tasks that the Defender performs based on the law (especially systematic supervision of facilities where persons restricted in freedom are or may be present; assistance to victims of discrimination and citizens of the European Union and their family members living in the Czech Republic; monitoring of the rights of people with disabilities; monitoring of expulsions of foreign nationals). We also used these funds to co-finance the project “Reinforcement of activities of the Public Defender of Rights in human rights protection”.

## UTILISED BUDGET FOR 2022

**CZK 161.044 million**

Amounting to 99.88% of the adjusted budget. Of which:

- ▶ CZK 163 000 thousand was used to fund the “Children’s Group Motejlci III” project;
- ▶ CZK 10.400 million was used to finance the project “Reinforcement of activities of the Public Defender of Rights in human rights protection”.

The budget overrun was covered by using claims from unspent expenditure. The claims based on unspent expenditure were used to finance a project co-financed by the 2014–2021 Norway grants, staff salaries, severance pay for the former Deputy Public Defender of Rights, increased expenditure on gas and electricity supplies, repairs and cyber security.



ombudsman  
veřejný ochránce práv

ombudsman  
veřejný ochránce práv

ombudsman  
veřejný ochránce práv

# Výroční zpráva

20

21

2

[www.ochrance.cz](http://www.ochrance.cz)

# Staff in 2022

 **164.25**

the binding limit for the number of employees of the Office for 2022, of which

**10.25**

employees within the project [“Reinforcement of activities of the Public Defender of Rights in human rights protection”](#), co-financed from the Norway grants, i.e. EEA and Norwegian Financial Mechanisms;

 **165.48**

the actual average recalculated number of employees recorded in 2022, of which

**10.52**

employees within a project co-financed by the Norway Grants

**1.23**

employees over the limit. We covered the over-expenditure on the salaries, including the accessions (such as compulsory social security and health insurance contributions and the basic allocation to the Social and Culture Needs Fund) by claims from unspent expenditure.

 **120**

employees were directly involved in the handling of complaints and the performance of the Defender’s other duties, of which

**98**

employees in the Legal Section

**17**

employees in the Department of Administrative and Filing Services

**5**

employees at the Secretariat of the Defender and Deputy Defender

**70%**

of employees of the Defender’s Office are women

**73%**

of employees have a university degree

**42%**

of employees have been with the Office for more than 10 years

**24%**

of employees work part-time, most often because of their family, health or age.

employees who have returned to the Office after maternity or parental leave in the last 5 years

**70%**

of all parents

**80%**

of parents who used to work in the Legal Section

At the end of 2022, the Office had a total of 183 employees. Almost a quarter were part-time jobs. Another 16 people were on maternity or parental leave. We also continued co-operating with experts who are not our regular employees, but can nevertheless provide valuable contributions to a comprehensive assessment of certain cases. We relied on their knowledge especially during systematic visits in places of detention and in monitoring of the rights of people with disabilities. Specifically, we co-operated with psychologists, child psychiatrists, nurses, social work and service experts, and social workers experienced in work with difficult clients and inclusive education.





# Annual report on the provision of information pursuant to the Free Access to Information Act (Act No. 106/1999 Coll.)

The Defender's Office is an obliged entity under Act No. 106/1999 Coll., on free access to information. In 2022, the Office received a total of 92 requests for information under the Act, either in writing, by email or via data box. In 83 cases, the Office provided the information requested.

The applicants lodged one complaint pursuant to Section 16a of the Free Access to Information Act. In 20 cases, the Office decided to reject the request or its part. In three cases, the applicants appealed against the decision to reject the request.

## WHAT DID PEOPLE ASK IN THEIR REQUESTS FOR INFORMATION?

The questions concerned primarily the generalised results of the Defender's inquiries and his opinions on individual areas of responsibility. The complainants were also interested in statistical information on the handling of complaints or documents from the complainants' files. There were also questions about the Defender's remit and the functioning, organisation and budget of the Office.

The most frequent request was for the [Collection of the Defender's Opinions Prison II](#). For a student writing her bachelor's thesis, we searched for the numbers of complaints addressed to the Defender with regard to the [Karviná Town Hall and the Regional Authority in Ostrava](#). Another applicant was interested in the numbers of complaints in which the complainants had argued or which had indicated that [the amount of their retirement pension](#) had been adversely affected by legislation adopted at the time of the division of Czechoslovakia.

The requests and our responses are published on the Defender's [website](#).

92

requests for information received, i.e.

15

fewer applications received than in 2021

38

requests related to the area of prisons, primarily requests from convicts for sending the Collection of Defender's Opinions Prison II

84

cases where the Office provided information

20

decisions rejecting the request or its part

**total number of requests for the provision of information** **92**

Section 18 (1)(a)	decisions rejecting the request or its part	<b>20</b>
Section 18 (1)(b)	appeals lodged against decisions	<b>3</b>
Section 18 (1)(c)	copy of important parts of each court judgment	<b>0</b>
Section 18 (1)(d)	list of exclusive licences granted	<b>0</b>
Section 18 (1)(e)	complaints filed pursuant to Section 16a of the Act	<b>1</b>
Section 18 (1)(f)	other information concerning the application of law	<b>0</b>



## **ANNUAL REPORT ON THE ACTIVITIES OF THE PUBLIC DEFENDER OF RIGHTS IN 2022**

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