

# Implementation of the Right to Equal Treatment and Protection against Discrimination

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## Monitoring Report 2021



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## Mission of the Defender

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Since 2001, the Defender has been defending individuals against unlawful or otherwise incorrect procedure of administrative authorities and other institutions, as well as against their inactivity. The Defender may peruse administrative and court files, request explanations from the authorities and carry out unannounced inquiries on site. If the Defender finds errors in the activities of an authority and fails to achieve a remedy, the Defender may inform the superior authority or the public.

Since 2006, the Defender has acted in the capacity of the national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Defender systematically visits facilities where persons are restricted in their freedom, either *ex officio* or as a result of dependence on the care provided. The purpose of the visits is to strengthen protection against ill-treatment. The Defender generalises his or her findings and recommendations in summary reports on visits and formulates standards of treatment on their basis. Recommendations of the Defender concerning improvement of the ascertained conditions and elimination of ill-treatment, if applicable, are directed both to the facilities themselves and their operators as well as central governmental authorities.

In 2009, the Defender assumed the role of the national equality body. The Defender thus contributes to the enforcement of the right to equal treatment of all persons

regardless of their race or ethnicity, nationality, sex/gender, sexual orientation, age, disability, religion, belief or worldview. For that purpose, the Defender provides assistance to victims of discrimination, carries out surveys, publishes reports and issues recommendations with respect to matters of discrimination, and ensures exchange of available information with the relevant European bodies.

Since 2011, the Defender has also been monitoring detention of foreign nationals and the performance of administrative expulsion.

In January 2018, the Defender became a monitoring body for the implementation of rights recognised in the Convention on the Rights of Persons with Disabilities, also helping European Union citizens who live and work in the Czech Republic. The Defender provides them with information on their rights and helps them in cases of suspected discrimination on grounds of their citizenship.

The special powers of the Defender include the right to file a petition with the Constitutional Court seeking the abolishment of a secondary legal regulation, the right to become an enjoined party in Constitutional Court proceedings on annulment of a law or its part, the right to lodge an administrative action to protect a general interest or to file an application to initiate disciplinary proceedings with the president or vice-president of a court. The Defender may also recommend that a relevant public authority issue, amend or cancel a legal or internal regulation. The Defender advises the Government to amend laws.



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Public Defender of Rights

File No.: 89/2021/DIS/DJ

The Defender is independent and impartial, and accountable for the performance of his or her office to the Chamber of Deputies, which elected him or her. The Defender has one elected deputy, who can be authorised to assume some of the Defender's competences. The Defender regularly informs the public of

his or her findings through the media, web, social networks, professional workshops, roundtables and conferences. The most important findings and recommendations are summarised in the Annual Report on the Activities of the Public Defender of Rights submitted to the Chamber of Deputies.



## Introduction

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This interim monitoring report<sup>1</sup> describes how the Defender monitors systematically the implementation of the right to equal treatment and compliance with the prohibition of discrimination. We focus on three selected areas: Roma education, equal pay for women and men, and procedural issues.

Although the Public Defender of Rights currently does not play the role of the National Human Rights Institution, as presented in more detail in the initial monitoring report, there is a possibility that this mandate will be granted to him in the coming years. Monitoring activities can help us prepare for this role.

This report follows up on the initial monitoring report which I – as the Public Defender of Rights – issued in April 2021.<sup>2</sup> In that report, I summarised the obligations of the Czech Republic in the area of equal treatment and prohibition of discrimination, and set out qualitative and quantitative indicators to monitor the selected topics. In the interim report you are now about to read, I summarised and evaluated the developments in the given topics and changes in the indicator values in 2021. It is therefore advisable to read the present report in the context of the initial report.

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<sup>3</sup> and the Strategy for Gender Equality for 2021–2030,<sup>4</sup> 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. I continue to monitor compliance with these commitments.

I wish you a pleasant reading.

In Brno, on 16 May 2022

JUDr. Stanislav Křeček  
Public Defender of Rights

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1 The monitoring process is conducted in relation to 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. The project is part of Human Rights Programme financed from the 2014–2021 Norway grants through the Czech Ministry of Finance.

2 Implementation of the Right to Equal Treatment and Protection against Discrimination, a monitoring report of the Public Defender of Rights of 6 April 2021, File No.: 62/20/DIS/DJ, Ref. No. KVOP-14286/2021. Available at: <https://eso.ochrance.cz/Nalezene/Edit/9218>.

3 Strategie romské rovnosti, začlenění a participace 2021–2030 (Roma Equality, Inclusion and Participation Strategy 2021–2030) [online]. Available at: [https://www.vlada.cz/assets/ppov/zmocnenkyne-vlady-pro-lidska-prava/aktuality/Strategie-rovnosti-zacleneni-a-participace-Romu-2021---2030---textova-cast\\_OK.pdf](https://www.vlada.cz/assets/ppov/zmocnenkyne-vlady-pro-lidska-prava/aktuality/Strategie-rovnosti-zacleneni-a-participace-Romu-2021---2030---textova-cast_OK.pdf) [retrieved on: 2022-02-20].

4 Strategie rovnosti žen a mužů na léta 2021–2030 (Strategy for Gender Equality for 2021–2030) of 8 March 2021. Government of the Czech Republic [online]. Available at: <https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Strategie-rovnosti-zen-a-muzu.pdf> [retrieved on: 2022-02-20].



# Development in the areas under review

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## 1. Roma education

Various experts, public authorities and the Public Defender of Rights discussed topics related to Roma education in 2021. International bodies also showed interest in the developments in the Czech Republic.

### **International trends**

In October 2021, the Advisory Committee of the Framework Convention for the Protection of National Minorities issued its Fifth Opinion on the Czech Republic.<sup>5</sup> In the report, the Committee assessed positively the measures aimed at inclusive education, as the Czech Republic amended the Education Act in 2016.<sup>6</sup> However, it also called on the authorities to evaluate regularly the impact of the education reform, including whether the examinations performed by school counselling centres correspond to the educational needs of Roma pupils. The Committee also monitored aspects of joint education of Roma and non-Roma students and pointed out, in particular, that the number of Roma students being educated based on programmes with reduced outcomes had been decreasing very slowly and that almost three quarters of them were placed in separate classes and schools. Therefore, the Committee recommended that the authorities, in co-operation with representatives of the Roma minority, assess comprehensively what remedial measures should be taken to ensure that the reform achieves the goal of inclusive education. The Committee suggested, among other things, to create new diagnostic methods ensuring that impacts of the difficult social background of Roma children were not erroneously regarded as mental disability.

As regards the execution of the judgment in case D.H. and Others v. the Czech Republic, the last meeting of the Committee of Ministers of the Council of Europe was held in December 2020. At that meeting, the Committee appreciated that the annex to the Framework Educational Programme for Primary Education for pupils with mild mental disabilities had been cancelled, but nevertheless expressed its concern that most Roma pupils educated according to the minimum recommended level of the Framework Educational Programme for Primary Education of Pupils with Reduced Outcomes Due to Mental Disability

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5 Fifth Opinion on the Czech Republic of 6 October 2021. Advisory Committee of the Framework Convention for the Protection of National Minorities. [online]. Available at: <https://rm.coe.int/5th-op-czech-republic-en-restricted/1680a2b3d6>. <https://rm.coe.int/5th-op-czech-republic-en-restricted/1680a2b3d6> [retrieved on: 2022-02-20].

6 Act No. 561/2004 Coll., on pre-school, primary, secondary, higher vocational and other education (the Schools Act), as amended.



(hereinafter the “FEP PE RD”)<sup>7</sup> were placed in separate classes.<sup>8</sup> The Committee will again comment on further execution of the judgment in June 2022.<sup>9</sup>

The Defender considers it necessary to point out in this regard that one of the figures on which the Committee of Ministers based its decision of December 2020 is incorrect. The Committee of Ministers expressed its satisfaction with the alleged fact that only 4% of all children educated according to individual educational plans (i.e., according to FEP PE RD) were Roma.<sup>10</sup> However, in actual fact, 24.2% of all children educated according to the FEP PE RD were Roma in the 2019/2020 school year, i.e. the year when the decision was issued. The Defender considers this inconsistency fundamental, as the fact that the Committee of Ministers based its assessment of the execution of the judgment in D.H. on a completely different figure can affect the future decisions of the Committee on the scope of supervision over the execution of the judgment. The committee meeting on further execution of the judgment is scheduled to take place as early as June 2022.

### **Czech Republic**

In the period under review, four meetings of the Expert Forum on the execution of the judgment in D.H.<sup>11</sup> were held at the Office of the Czech Government’s Agent before the ECtHR (hereinafter the “Office”) – three in 2021 and one in early 2022. The Expert Forum focused on identifying the causes of the persistently high number of Roma pupils educated according to the minimum recommended level for pupils with mild mental disabilities. At the February meeting, the members of the Forum discussed segregation and broader influences affecting school attendance of Roma pupils, including antigypsyism and housing. Two meetings took place in May. At the first of these meetings, the members of the Forum discussed with the representatives of the Ministry of Education, Youth and Sports (hereinafter the “MEYS”) measures planned within the Strategy for the Education Policy of the Czech Republic up to 2030+. At the second meeting, they focused on the terms of

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7 In the Framework Educational Programme for Primary Education, the minimum recommended level is defined as follows: “The expected outcomes adjusted usually to a lower than the corresponding expected outcomes of the educational field form the minimum recommended level for the adjustment of expected outcomes within the supporting measures. (...) In accordance with Decree No. 27/2016 Coll., on education of pupils and students with special educational needs and exceptionally gifted pupils and students, the outcomes of the minimum recommended level will be used for supporting measures from the third degree of support only for pupils with mild mental disabilities.” [online]. Available at: [https://www.nuv.cz/uploads/RVP\\_ZV\\_2021\\_word.docx](https://www.nuv.cz/uploads/RVP_ZV_2021_word.docx) [retrieved on: 2022-02-20].

8 Decision of the Committee of Ministers of the Council of Europe CM/Del/Dec(2020)1390/H46-8 of 1 to 3 December 2020 made within the framework of supervision over execution of the judgment of the European Court of Human Rights in case D.H. and Others v. the Czech Republic [online]. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a090bf](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a090bf) [retrieved on: 2022-02-20].

9 List of judgments of the European Court of Human Rights to be considered by the Committee of Ministers of the Council of Europe in the coming period [online]. Available at: [https://search.coe.int/cm/pages/result\\_details.aspx?objectId=0900001680a3bdb2](https://search.coe.int/cm/pages/result_details.aspx?objectId=0900001680a3bdb2) [retrieved on: 2022-02-20].

10 See footnote 8, *ibid.*

11 The Expert Forum was established by the College of Experts at the Office of the Czech Government’s Agent before the European Court of Human Rights at its sixth meeting on 14 January 2020, see minutes [online]. Available at: [https://www.justice.cz/documents/12681/768738/Kolegium+6.+zased%C3%A1n%C3%AD\\_20200114\\_z%C3%A1pis.pdf/a40fdd28-d1f8-42af-a9e0-78934bf2c46c](https://www.justice.cz/documents/12681/768738/Kolegium+6.+zased%C3%A1n%C3%AD_20200114_z%C3%A1pis.pdf/a40fdd28-d1f8-42af-a9e0-78934bf2c46c) [retrieved on: 20-02-2022].



reference of the already ongoing research analysis requested from the MEYS by the Committee of Ministers of the Council of Europe. Its aim is to analyse the current situation where a majority of Roma pupils educated according to the framework educational programme with outcomes adjusted to mild mental disability are educated in schools or classes established pursuant to Section 16 (9) of the Schools Act, i.e., separately from children in regular schools or classrooms.

The Office captured the contents of the discussion in the conclusions of the Expert Forum.<sup>12</sup> These will be sent to the Committee of Ministers of the Council of Europe for their considerations regarding further monitoring of the execution of the judgment, together with the future interim report of the MEYS on the execution of the judgment, which should adequately respond to the conclusions.

Czech courts issued no important decisions concerning Roma education in the past year.

### **Activities of the Public Defender of Rights**

Of the topics under review, the Public Defender of Rights focused the most on Roma education last year. Authorised employees of the Office of the Public Defender of Rights (hereinafter the “Defender’s Office”) participated in discussions at the meeting of the mentioned Expert Forum on the execution of the judgment in D.H.

In October 2021, the Defender organised a roundtable with non-governmental organisations dealing with education of Roma children entitled “Education of Roma Children – Monitoring Activities of the Public Defender of Rights”.<sup>13</sup> At the roundtable, the Defender informed the participants of his monitoring activities and obtained feedback on the individual indicators. They also discussed good practice and tried to identify the main causes of the current situation.

#### **1.1 Number of Roma pupils educated in programmes with reduced outcomes.**

The indicator consists of the following values:

- a) Qualified estimate of the proportion of Roma pupils in primary schools relative to all pupils in primary schools (percentage).
- b) Qualified estimate of the proportion of all Roma pupils educated according to the reduced outcomes of the Framework Education Programme for Primary Education in relation to all pupils educated in the same programme (percentage).

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12 The conclusions of the Expert Forum were not yet publicly available at the editorial deadline for this report, i.e., on 20 February 2022.

13 See the invitation and agenda of the roundtable “Education of Roma Children – Monitoring Activities of the Public Defender of Rights” held on 6 October 2021 in the Office of the Public Defender of Rights [online]. Available at: [https://test.ochrance.cz/fileadmin/user\\_upload/projekt\\_ESF/00\\_2021\\_VA/10\\_06\\_KS\\_NF\\_Vzdelavani\\_romskych\\_deti/10\\_06\\_Vzdelavani\\_romskych\\_deti\\_-\\_monitorovaci\\_cinnost\\_VOP\\_POZVANKA.pdf](https://test.ochrance.cz/fileadmin/user_upload/projekt_ESF/00_2021_VA/10_06_KS_NF_Vzdelavani_romskych_deti/10_06_Vzdelavani_romskych_deti_-_monitorovaci_cinnost_VOP_POZVANKA.pdf) [retrieved on: 2022-02-20].





- c) Qualified estimate of the proportion of Roma pupils educated according to the reduced outcomes of the Education Programme for Primary Education in the 1<sup>st</sup> grade in relation to all pupils educated in the same programme in the 1<sup>st</sup> grade (percentage).



**Estimated proportion of Roma pupils in primary schools<sup>14</sup>**

	2017/2018	2018/2019	2019/2020	2020/2021
Proportion of Roma pupils in primary schools	<b>3.6%</b>	<b>3.7%</b>	<b>3.5%</b>	<b>3.6%</b>
Proportion of Roma pupils relative to all pupils receiving education under FEP PE RD	<b>24.7%</b>	<b>27.5%</b>	<b>24.2%</b>	<b>25.3%</b>
Of those in the 1 <sup>st</sup> grade	<b>17.4%</b>	<b>20.0%</b>	<b>14.5%</b>	<b>19.1%</b>

According to the data from the Czech Republic’s report on the execution of the judgment in D.H., a total of 34,267 Roma pupils were educated in primary schools in the 2020/2021 school year, which **represents 3.6%** of the total number of pupils in primary schools. This proportion is not changing in any way and indicates that Roma children still participate in primary education to the same extent.

However, the proportion of Roma pupils educated under the Framework Educational Programme for Primary Education with Reduced Outcomes Due to Mental Disability (FEP PE RD) equals **25.3%** of all pupils educated according to this programme. This is a high number compared to less than four percent of Roma children in schools. From the 2018/2019 to the 2019/2020 school year, the number dropped by a relatively small amount (by 3.3 percentage points). However, it even increased (by 1.1 percentage points) in the 2020/2021 school year, which is worrying.

The proportion of Roma pupils in relation to all pupils educated under FEP PE RD in the 1<sup>st</sup> grade fluctuates by several percentage points around **17%** year-on-year. In absolute numbers, between 100 and 200 Roma children find themselves in this situation every year. Given the total percentage of Roma pupils in primary schools, which is around 3.6%, the proportion must be seen as unsatisfactory in the long term. A connection needs to be sought between early diagnostics and the child’s family environment, on the one hand, and their (non-)participation in preschool education, on the other.

Some more data should be added to the table above to understand the context.

In the 2020/2021 school year, **11.7%** of all Roma pupils in primary schools were educated under the FEP PE RD. This, too, is an increase compared to the previous school year, when the proportion was 10.8%. For comparison, the proportion of non-Roma pupils educated under FEP PE RD in relation to all non-Roma pupils equalled only 1.3% in the 2020/2021 school year. Roma pupils are roughly ten times more likely to be diagnosed as having a mild mental disability.

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<sup>14</sup> The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of Roma pupils in kindergartens, and primary and secondary schools every year.



Of Roma pupils studying under the FEP PE RD, **75.7%** were educated in classes or schools established pursuant to Section 16 (9) of the Schools Act.<sup>15;16</sup> These pupils receive education outside the main educational stream, i.e. separately from most pupils in primary schools. This high percentage was also emphasised by the Committee of Ministers in its previous decision of December 2020.<sup>17</sup> Based on this decision, the MEYS is currently working on a research analysis to create a strategy to reduce the number of Roma pupils educated under FEP PE RD outside regular schools and classes.<sup>18</sup> This analysis is going to run until the end of 2023. The Committee of Ministers should be kept informed about the results.

### 1.1.1 Indirect indicators for Indicator 1.1

#### **Ensuring objective diagnosis and adequate supporting measures**

Starting in 2013, the MEYS has regularly announced a development programme entitled “Equipping school counselling centres with diagnostic tools”, aimed to improve and unify the quality of counselling services provided across the regions and to expand the diagnostic base of school counselling centres with standardised modern tools. The allocated funds were increased substantially in the last two years.

In Committee of Ministers’ report on the execution of the judgment in case D.H. and Others of 2021, the Government stated that the development programme was last announced in 2020. According to the Government, the programme supported training in the use of diagnostic tools and, in particular, the purchase of tools that would contribute to improving the quality of diagnostics of pupils with different life or cultural backgrounds. The programme also aimed at adopting new tools instead of the outdated WISC-III.<sup>19</sup>

The National Pedagogical Institute of the Czech Republic also organised a seminar on the use of the Woodcock-Johnson IV test in Roma children. At the seminar, experts were informed about the findings of a three-year project organised by the Czech Technology Agency focusing on standardisation of the Czech version of the Woodcock-Johnson IV test in Roma children and the applicability of this method, modifications in administration and appropriate interpretation of the results.<sup>20</sup>

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15 Schools and classes established pursuant to Section 16 (9) of the Schools Act are intended for children with special educational needs.

16 Cf. the Czech Republic’s report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2021. Communication from the authorities (30/09/2021) in the case of D.H. AND OTHERS v. the Czech Republic (Application No. 57325/00 [online]. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a41672](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a41672) [retrieved on: 2022-02-20].

17 See footnote 8, *ibid.*

18 The research analysis was commissioned on the basis of a decision of the Committee of Ministers of the Council of Europe, cf. footnote 8, *ibid.* According to the MEYS, the analysis is currently being prepared by PAQ research, an organisation focusing on social surveys.

19 See footnote 16, *ibid.*

20 Cf. the invitation to the seminar “Use of the Woodcock-Johnson IV COG test in Roma children” on the website of the National Pedagogical Institute of the Czech Republic [online]. Available at: <http://hledej.npi.cz/60d18b65a40e6e4043453b82> [retrieved on: 2022-02-20].



In January 2022, the Czech Schools Inspectorate published a thematic report on the use of diagnostic tools and recommended supporting measures in school counselling centres.<sup>21</sup> In the report, the Czech Schools Inspectorate (hereinafter also the “CSI”) describes comprehensively what diagnostic methods are used by educational and psychological counselling centres and special counselling centres in their activities, and what supporting measures are most frequently recommended to pupils. The investigation was attended by the directors of these centres in the Czech Republic. Its results can thus be considered conclusive.

The topic of diagnostics was also addressed by the Public Defender of Rights at the roundtable organised in October 2021. On this occasion, representatives of NGOs stated that school counselling centres often failed to recognise the difference between a mild mental disability and social disadvantage. The roundtable further revealed that school counselling centres often lacked staff or capacity to make full use of some diagnostic tools, although they did have them available.

The members of the Expert Forum on the execution of the judgment in case D.H. and Others v. the Czech Republic reached the same conclusion. They saw as particularly questionable the three-month deadline which must be met by school counselling centres from the date of receipt of a request for counselling assistance under the Decree on education of students with special educational needs<sup>22</sup>, as it often limited the possibilities of using dynamic diagnostics.<sup>23</sup>

The following text describes specific indicators.

- a. Setting a standard for the work of school counselling centres in terms of assessing special educational needs and adequate support for pupils with different living conditions and from different cultural backgrounds (qualitative evaluation).

At the roundtable organised by the Public Defender of Rights in October 2021, one of the participants noted the need to create a methodological material for school counselling centres. All the participants agreed; they believed that such a material should be prepared by the MEYS, helping to unify the diagnosis of children with social disadvantages.

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21 “Využívání diagnostických nástrojů a doporučená podpůrná opatření ve školských poradenských zařízeních” (*The Use of Diagnostic Tools and Recommended Supporting Measures in School Counselling Centres*), a thematic report by the Czech Schools Inspectorate of 4 January 2022 [online]. Available at: <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnostickych-nastrojov> [retrieved on: 2022-02-20].

22 Section 13 (3) of Decree No. 27/2016 Coll., on education of pupils and students with special educational needs and exceptionally gifted pupils and students, as amended.

23 Dynamic diagnostics is a type of diagnostic process that assesses a child’s perception, learning, thinking, and problem-solving over time. It is important for this type of diagnostics how the child responds to new stimuli and tasks, and how he or she gradually changes over the course of the examination. The relevant indicator is the child’s progress achieved during the examination, rather than a comparison of his/her solution to the standard score. Cf. the definition of dynamic diagnostics, e.g. on the website of the Catalogue of Supporting Measures of Palacký University in Olomouc [online]. Available at: <http://katalogpo.upol.cz/metodika-identifikace-socialniho-znevychodneni/1-dynamicka-diagnostika/> [retrieved on: 2022-02-20].



In its report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2021, the MEYS stated that school counselling centres had been supervised directly by the MEYS since 2020.<sup>24</sup> The Ministry explained that regular meetings took place, methodological materials were prepared, and directors and employees received information and support. However, it did not mention any specific methodological instruction for school counselling centres on diagnostics for children with different living conditions and coming from different cultural backgrounds. According to available sources, no such material exists.

- b. Percentage of school counselling centres using the WISC-III diagnostic method (percentage).

In the CSI survey on the use of diagnostic tools, 98% of the nearly 100 respondents from educational and psychological counselling centres and 92.5% of the nearly 140 special counselling centres stated that they were still using the WISC-III diagnostic tool.<sup>25</sup> This percentage is alarming and has not changed in any way over the past few years<sup>26</sup> even though the Czech Government has declared the instrument outdated and terminated its financing.<sup>27</sup>

The MEYS should therefore focus on increasing the capacity of school counselling centres in terms of funding and staffing so as to ensure that they have the capacities required for using newer and more suitable tools. The MEYS should then methodically lead them to make more frequent use of modern diagnostic tools that can better detect social disadvantages, such as the Woodcock-Johnson IV method or the ACFS dynamic diagnostic method.<sup>28</sup>

- c. Changing the regulations so that school counselling staff can carry out examinations of pupils directly in schools (qualitative evaluation).

A discussion was held at the roundtable<sup>29</sup> on the possibility of carrying out examination of children directly in schools. According to one of the participants, placing a school counselling centre in a school would be ideal because its employees know the children better. She also conveyed the experience of some school principals who considered it useful to place such

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24 See footnote 19, *ibid.*

25 See footnote 21, *ibid.*

26 The percentage of school counselling centres using the WISC-III method was 94.7% in the school year 2012/2013; 94.2% in the school year 2013/2014; 93.8% in the school year 2014/2015; and 94.6% in the school year 2017/2018. Data are available in the Czech Republic's report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2019. Communication from the authorities ("Comprehensive Evaluation of the Reform of Inclusive Education in Relation to Roma Pupils") (05/04/2019) in the case of D.H. AND OTHERS v. Czech Republic (Application No. 57325/00) [online] [retrieved on: 2022-02-20]. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=090000168093de28](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168093de28).

27 Cf. the Czech Republic's report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2020. Communication from the authorities (07/10/2020) in the case of D.H. AND OTHERS v. the Czech Republic (Application No. 57325/00) [online] [retrieved on: 2022-02-20]. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016809fe263](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809fe263).

28 Cf. footnotes 20, 21 and 23, *ibid.*

29 See footnote 13, *ibid.*



centres directly in schools. However, sustainable funding of their positions, especially based on pay scales, is often problematic.

Another participant agreed that this measure could have a positive impact. She pointed out, however, that some school counselling centres could diagnose children in such a way to increase the number of pupils in the school, which entails more significant funding. She noted that there should be a school counselling workplace, but not necessarily a fully-fledged school counselling centre, in every school.<sup>30</sup>

#### **Securing staff positions in schools**

- d. Adopting measures to ensure systemic funding for staff positions in school counselling centres (special educator, school psychologist) and to ensure regular availability of the positions in all schools through an amendment to Act No. 563/2004 Coll., on pedagogical workers, and other relevant legislation (qualitative evaluation).

The MEYS plans to create a system of financial support indexing for supporting positions, such as school psychologists and social pedagogues, to which it committed in Strategy 2030+.<sup>31</sup> This measure should ensure sustainable funding of the given positions for schools with pupils from disadvantaged backgrounds as compared to the currently almost exclusive funding from time-limited subsidy programmes. Representatives of the MEYS also confirmed their commitment at one of the meetings of the Expert Forum on the execution of the judgment in D.H., where the members of the Forum presented their strategy.

Members of the Expert Forum agreed that school experts, such as school psychologists, special educators, and teaching assistants, were often not considered a fully-fledged teaching staff and often lacked the support, and trust of their colleagues and school administration, as well as of pupils and their families. This usually happens because they work only part time and are not employed for an indefinite term.

- e. Adopting measures to secure the availability of social pedagogue/social worker positions in schools situated in socially excluded areas (qualitative evaluation).

Implementation of the measures monitored by this indicator can partially follow up on the MEYS's commitment under Strategy 2030+ to create a system of financial support indexing for supporting positions.

As part of the Expert Forum on the execution of the judgment in D.H., representatives of the MEYS stated that the Ministry's vision for the coming years was to ensure that every

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<sup>30</sup> Pursuant to Decree No. 72/2005 Coll., on the provision of counselling in schools and school counselling centres, employees of school counselling centres established directly in schools may provide information and methodological assistance to students regarding their career decisions, help to develop individual educational plans, prevent high-risk behaviour and implement supporting measures for pupils with special educational needs. They can only work independently with pupils with support needs of the first degree. In contrast, school counselling centres, which include educational and psychological counselling centres and special counselling centres, can work with pupils with support needs of all degrees. Their employees are those who usually perform the diagnostics of pupils and issue recommendations for specific supporting measures.

<sup>31</sup> Strategy for the Education Policy of the Czech Republic up to 2030+ [online]. Available at: [https://www.msmt.cz/uploads/brozura\\_S2030\\_en\\_fin\\_online.pdf](https://www.msmt.cz/uploads/brozura_S2030_en_fin_online.pdf) [retrieved on: 2022-02-20].



school could use the services of a social worker. According to the MEYS, it is easier to ensure that schools have access to social workers, since social pedagogues must comply with stricter education requirements. Many social workers already work in municipalities that are in the position of the school founders. The MEYS wants to continue increasing the availability of social services in education.

### **Ensuring quality education for teaching staff**

- f. Changing the curriculum for the education of pedagogical workers at all faculties of education to train them in the education of students with different cultural backgrounds and living conditions (YES/NO, qualitative evaluation).

### **NO**

No significant developments occurred in this during the period under review. However, changing the curriculum is one of the tasks of the Roma Integration Strategy 2021-2030.<sup>32</sup> In co-operation with universities, the MEYS plans to enrich the content of education at secondary schools and universities to include courses focusing on education of pupils from a different cultural and life background, specifically Roma pupils. This includes a modification of the curriculums at secondary schools dedicated to the preparation of future teachers and adding new selective and elective courses to study programmes of university fields intended for future teaching staff. According to the Strategy, the MEYS plans to achieve this change by 2025.

- g. Creating a comprehensive module in the system of continuing education for teaching staff in the area of methodological support in relation to Roma children and pupils (YES/NO, qualitative evaluation).

### **YES**

As part of the implementation of the Inclusive Education Action Plan for 2019-2020<sup>33</sup>, the National Pedagogical Institute of the Czech Republic organised several courses for pilot testing of the continuing education for teaching staff modules in the area of methodological support for Roma children and pupils in 2021. These courses included “Foundations of Roma Studies for Teachers”, “Selected Aspects of the Education of Roma Pupils and Students” and “Specifics of the Education of Roma Children and Pupils”.<sup>34</sup>

In its statement sent to the Defender, the MEYS stated that the Roma Education Committee of the Government Council for Roma Minority Affairs also participated in the creation of the module. The MEYS also mentioned that teachers had been trained and methodological

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32 Task part of the Roma Equality, Inclusion and Participation Strategy 2021–2030 [online]. Available at: [https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021---2030---ukolova-cast\\_2.pdf](https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021---2030---ukolova-cast_2.pdf) [retrieved on: 2022-02-20].

33 Akční plán inkluzivního vzdělávání na období 2019–2020 (*Inclusive Education Action Plan for 2019–2020*) [online]. Available at: <http://www.inkluzevpraxi.cz/files/APIV/APIV-2019-2020-web.pdf> [retrieved on: 2022-02-20].

34 Cf. the course offering of the National Pedagogical Institute of the Czech Republic (formerly the Czech National Institute for Education) within the implementation of the Inclusive Education Action Plan (APIV) [online]. Available at: <https://objednavky.nuv.cz/element/32-projekt-apiv-a-akcni-plan-inkluzivniho-vzdelavani> [retrieved on: 2022-02-20].





material had been created during pilot testing of the modules. According to the MEYS, the modules were positively received by the professional community.

The Defender considers the pilot testing of these modules to be a success. He will further monitor whether the modules become part of the standard offer of continuing education for teaching staff.

Ensuring the creation of a comprehensive continuous module in the system of continuing education for teaching staff in the area of Roma education is also one of the tasks following from the Roma Equality, Inclusion and Participation Strategy 2021-2030, with the deadline for completion in 2022.<sup>35</sup>

## 1.2 Number of Roma pupils in preschool education

The indicator consists of the following values:

- a. Proportion of Roma pupils in the compulsory year of preschool education in relation to all pupils in that year (percentage).
- b. Proportion of Roma pupils in the non-compulsory years of preschool education in relation to all pupils in those years (percentage).

The Advisory Committee of the Framework Convention for the Protection of National Minorities issued its Fifth Opinion for the Czech Republic in the past year.<sup>36</sup> The Committee appreciates that an amendment to the Schools Act introduced compulsory attendance in the last year of preschool education and guaranteed placement of children in kindergartens from three years of age. The vast majority of Roma children are now enrolled in compulsory preschool education, which prepares them better for primary education and improves their prospects for successful study careers, according to the Committee. However, the Committee urges authorities to further strive to ensure that Roma children's enrolment in kindergartens is also supported in their families and to identify obstacles causing the absence of some children in this type of education.

### **Estimates of the proportion of Roma pupils in relation to the total number of pupils in preschool education<sup>37</sup>**

	2017/2018	2018/2019	2019/2020	2020/2021
In the compulsory year	<b>3.73%</b>	<b>3.77%</b>	<b>3.51%</b>	<b>3.29%</b>
In non-compulsory years	<b>1.29%</b>	<b>1.37%</b>	<b>1.23%</b>	<b>1.20%</b>

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35 See footnote 32, *ibid.*

36 See footnote 5, *ibid.*

37 The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of Roma pupils in kindergartens, and primary and secondary schools every year.





The data from the school year 2020/2021 show that the percentage of Roma children has been decreasing in both compulsory and non-compulsory years (note: given the absolute numbers on which the proportions are based, this is an actual decrease).

At a roundtable on the education of Roma children organised by the Defender in October 2021,<sup>38</sup> the participants identified money as one of the biggest obstacles to Roma children's access to education. They also agreed that the COVID-19 pandemic has exacerbated the financial distress of families lacking sufficient resources. One of the participants stated that it was often a challenge for children from socially disadvantaged backgrounds to master all the skills required by kindergartens for admission (the "high entry threshold"). The lower proportion of Roma children in non-compulsory years is also related to the high unemployment rate among Roma women. If they are at home with their child, kindergartens often refuse to accept the child.

According to the participants, the way Roma families perceive the whole aspect of education and development of the child's abilities is also an important factor. The non-compulsory years of preschool education may be considered redundant. According to the participants, this also owes to the fact that many Roma parents fail to motivate their children to achieve more than primary education so they can become economically independent as soon as possible. The participants in the roundtable also shared their observations from practice that some Roma parents do not place their children in non-compulsory years of kindergartens because they fear that the children would be in a negative and unpleasant environment.

According to the members of the Expert Forum on the execution of the judgment in D.H., communication with the parents is crucial to the participation of Roma children in preschool education, as they may not be sufficiently informed about the compulsory last year or are not motivated to enrol their children in kindergarten at all. Greater co-operation between kindergartens and social pedagogues or social workers from schools would also be beneficial for families with Roma children as they would thus receive mainly social support. The founders, i.e. municipalities, should also become involved and remove possible financial obstacles to kindergarten attendance, e.g. by cancelling payments for meals for younger children or increasing territorial and financial availability of public transport.

The MEYS dealt with non-participation in compulsory preschool education and the consequences of its introduction in a research survey carried out in co-operation with the Technology Agency of the Czech Republic.<sup>39</sup> Among other things, the survey also analysed the reasons why children required to attend kindergarten in the last year of preschool education had failed to comply with this duty.

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38 The roundtable "Education of Roma Children – Monitoring Activities of the Public Defender of Rights" was organised by the Public Defender of Rights on 6 October 2021. The invitation and the schedule are available at: [https://test.ochrance.cz/dalsi-aktivita/archiv-vzdelavacich-akci/?tx\\_odcalendar%5Buid%5D=374&cHash=a62c84939b2d28c8e7d5db6e69d11f30](https://test.ochrance.cz/dalsi-aktivita/archiv-vzdelavacich-akci/?tx_odcalendar%5Buid%5D=374&cHash=a62c84939b2d28c8e7d5db6e69d11f30).

39 The basic description of the project is available in the STARFOS search engine of the Technology Agency of the Czech Republic [online]. Available at: <https://starfos.tacr.cz/cs/project/TITSMST801#project-main> [retrieved on: 2022-02-20].



The survey focused, among other things, on what measures should be taken to ensure that children had access to preschool education in a kindergarten close to the place of their residence. This form of compulsory preschool education of children from socially disadvantaged backgrounds is considered the best. The survey aimed to also analyse the following topics: providing information and support to legal representatives so that they formed appropriate attitudes to this topic; the schools' approach to education of children from socially disadvantaged backgrounds; enrolment; involvement of field workers; financial support; and a more specific definition of the outcomes of compulsory preschool education, especially with regard to verifying the level of expected skills in individual education.

### 1.2.1 Indirect indicators for Indicator 1.2

#### **Financial and transport accessibility of kindergartens for Roma children**

- a. Sufficient preschool education capacity (qualitative assessment).

Building the necessary capacity is one of the key activities of Strategy 2030+ to increase the participation of children in preschool education.<sup>40</sup> By including this activity in the strategy, the MEYS wants to provide support to kindergarten founders in fulfilling their statutory duty to ensure sufficient capacity of preschool education. The support should take especially the form of correct setting of the conditions and criteria of subsidy programmes and IROP 2021-2027 calls, where capacity building and modernisation of kindergartens is one of the main activities.<sup>41</sup> The MEYS will also help the founders to identify any significant gaps in capacity (which may, among other things, owe to a rapid increase in the number of children in the given municipality or its part), define the criteria of necessity and provide methodological guidance for sharing capacities within the region and municipal associations. According to the Strategy, this activity has to be implemented by the end of 2023.

- b. Addressing the catchment area issue – ensuring conditions for the attendance of Roma children with an actual place of residence different from their officially recorded place of permanent residence in a financially accessible, close-enough kindergarten (qualitative evaluation).

The Strategy 2030+ also deals with the catchment area issue, although it is framed only as a means of combating segregation and disparity in primary education.<sup>42</sup> However, there was no change in this topic in the period under review. All children continue to be entitled to preferential admission to a kindergarten exclusively on the basis of their permanent residence.<sup>43</sup>

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40 See footnote 31, *ibid*.

41 Cf. information on the website of the Integrated Regional Operational Programme 2021-2027 [online]. Available at: <https://irop.mmr.cz/cs/irop-2021-2027> [retrieved on: 2022-02-20].

42 See footnote 31, *ibid*.

43 Pursuant to Section 34 (3) of the Schools Act.



The Public Defender of Rights has already pointed out that although municipalities have a great degree of discretion as to how they define school districts, children need not attend their catchment school.<sup>44</sup> However, the parents' ability to choose a kindergarten for their child may augment the problem of separate education of children from different socio-economic, cultural and ethnic backgrounds. These negative consequences of the option to choose a school can be mitigated by adjusting the education system. The Defender identified special financial support for schools focusing on education of children with disadvantages, including social disadvantages, as one of the possible strategies. If schools received more funds for each such pupil, they might be more interested in admitting them. Then, the representation of pupils from different backgrounds would be more evenly spread across schools.

- c. Conducting an investigative survey into the barriers to the inclusion of children from excluded areas in the compulsory year of preschool education and publishing the resulting recommendations by the Ministry of Education, Youth and Sports in co-operation with the Technology Agency of the Czech Republic (YES/NO).

## **NO**

In the next period, the MEYS considers it important to increase the percentage of children participating in compulsory preschool education, especially in its full-time form, and to remove the obstacles that are behind non-participation of these children in education.<sup>45</sup>

The project "Verification of the impact of the introduction of the mandatory final year of pre-school education", whose main objective is to map and describe the specific impacts of and obstacles to the implementation of compulsory preschool education, was commissioned through the Technology Agency of the Czech Republic. The research has been carried out in the last three years by the Faculty of Education of Charles University.<sup>46</sup> Based on the results of the survey, measures will be taken to increase the percentage of children involved in preschool education with a focus on social disparity areas. These measures should focus primarily on the activities of school assistants, social workers and mediators ensuring communication with the child's legal representatives. The MEYS also wants to provide for methodological guidance and education of teaching staff in communication and co-operation with the parents and other school partners. Last but not least, it plans to strengthen public communication about the education and socialisation aspects of kindergarten attendance and its importance for the development of the child's competences in future life. However, the outcome could also include a commitment to better support school founders towards defining suitable catchment districts for kindergartens.

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44 Recommendation of the Public Defender of Rights on inclusive education of Roma and non-Roma children of 12 December 2018, File No. 86/2017/DIS/VB, ref. No. KVOP-53237/2018. Available at: <https://eso.ochrance.cz/Nalezene/Edit/6670>.

45 See footnote 19, *ibid.*

46 See footnote 39, *ibid.*



According to the MEYS, the results of the survey, which are now being finalised, are to be published in 2022.

- d. Ensuring financial support for children from socially excluded areas in the form of free lunches or paying the fees for preschool education (qualitative evaluation).

In its statement sent to the Defender, the MEYS noted that children from families lacking sufficient resources, either in the long-term or temporarily, were supported in kindergartens within subsidy programmes targeting specific areas. Using these subsidy programmes, the MEYS thus supported meals in preschool education centres in the Karlovy Vary and Ústí Regions with an amount of CZK 20 million in 2021.

Financial support aimed at increasing the participation of children from financially disadvantaged families in preschool education is an appropriate measure, but not the only one possible. In addition, the subsidy programmes could also cover other regions, since socially excluded areas exist across the country in all its regions. In the years to come, the intermediary support units can help to set up subsidy programmes and identify the needs of schools in the regions. These are to be established at the district level within the framework of the Education Strategy 2030+<sup>47</sup> and to operate as a communication and methodological intermediary between the central administration and the regions.

### 1.3 Number of schools with a high proportion of Roma pupils

The indicator consists of the following values:

- a. Number and share of primary schools with over 34% Roma pupils (absolute number and percentage).
- b. Number and share of primary schools with over 50% Roma pupils (absolute number and percentage).
- c. Number and share of primary schools with over 75% Roma pupils (absolute number and percentage).
- d. Number and share of primary schools with over 90% Roma pupils (absolute number and percentage).

#### Shares of schools with a high proportion of Roma pupils in relation to the total number<sup>48</sup>

	2018/2019	2019/2020	2020/2021
Total number of primary schools	<b>4,169</b>	<b>4,189</b>	<b>4,211</b>
with over 34% share of Roma pupils	<b>147 (3.7%)</b>	<b>133 (3.2%)</b>	<b>136 (3.2%)</b>
with over 50% share of Roma pupils	<b>70 (1.7%)</b>	<b>69 (1.6%)</b>	<b>77 (1.8%)</b>

<sup>47</sup> Ibid.

<sup>48</sup> The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of Roma pupils in kindergartens, and primary and secondary schools every year.



with over 75% share of Roma pupils	<b>31 (0.7%)</b>	<b>34 (0.8%)</b>	<b>32 (0.8%)</b>
with over 90% share of Roma pupils	<b>13 (0.3%)</b>	<b>16 (0.4%)</b>	<b>17 (0.4%)</b>

The number of primary schools in the Czech Republic continued to grow in the 2020/2021 school year. However, there was also a growing number of schools with a higher proportion of Roma pupils. With the exception of schools with more than 75% of Roma pupils, whose number slightly decreased, the number of schools in all other monitored groups increased.

The figures show that, in the Czech Republic, Roma children are still educated mostly separately from other children. Moreover, according to the Office of the Government of the Czech Republic, all the schools with more than 75% of Roma pupils (i.e. including schools with more than 90% Roma pupils) are located in the Ústí and Moravian-Silesian Regions.<sup>49</sup> In the Roma Integration Strategy 2021-2030, the Government noted that this situation had its roots not only in the setup of the education system, but also in the areas of housing, employment, social exclusion and healthcare.

As the Government states in the task part of the Roma Integration Strategy 2021-2030, no tools have been set up systematically and no solutions have been defined to ensure the joint education of Roma and non-Roma pupils.<sup>50</sup> This reduces Roma children's contact with their peers from mainstream society in education processes that would ensure mutual knowledge and sharing and use of pedagogical approaches to encourage tolerance, respect and acceptance with a different socio-cultural background.

However, many schools are not prepared or willing to educate Roma children and are concerned about losing their prestige should they accept them. The children are then more likely to get into schools that "know how to work with them".<sup>51</sup> However, this approach leads to a reduction in the quality of education of Roma children and lower preparedness for future life. Efforts to ensure inclusive education are therefore crucial, together with appropriate measures in the areas of housing, social system and healthcare.

### 1.3.1 Indirect indicators for Indicator 1.3

#### **Preventing further segregation of primary schools and reducing existing segregation through effective control of the schools' founders**

- a. Supervision of municipalities (as the founders) by the Ministry of the Interior to draw school districts in a manner that excludes segregation (qualitative evaluation).

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49 Office of the Government of the Czech Republic. Zpráva o stavu romské menšiny za rok 2019 (Report on the Status of the Roma Minority in 2019) [online]. Prague: Government of the Czech Republic 2020 [retrieved on: 2022-02-20]. Available at: <https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/Zprava-o-stavu-romske-mensiny-2019.pdf>.

50 See footnote 32, *ibid*, description of measure C.2.1.

51 See footnote 32, *ibid*, description of measure C.2.3.



In 2017, the Ministry of the Interior already issued a methodological guideline on the delimitation of school districts.<sup>52</sup> The guideline described the rules applicable to generally binding decrees that define school districts, as well as the duties of municipalities, as the school founders, in preventing discrimination.

In its most recent information on the outcomes of an inquiry into the exercise of independent competence in 2021<sup>53</sup>, the Ministry does not mention any inspections related to a possible discriminatory delimitation of school districts. However, given the persistent high number of schools in which the proportion of Roma pupils exceeds 34%, 50%, 75% or even 90%, it would seem desirable to reinforce the monitoring of the relevant decrees.

- b. Proposing desegregation measures in the framework of the post-2020 action plan for inclusive education (qualitative evaluation).

No post-2020 action plan for inclusive education has been created. The issue of reducing segregation in schools is now included in Strategy 2030+. In this respect, the MEYS committed to intensify methodological work in catchment area regulation, to increase the availability of data on segregation in education, and to ensure the supervision of and methodological support for school counselling centres.<sup>54</sup>

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52 Metodické doporučení k činnosti územních samosprávných celků: Tvorba obecně závazných vyhlášek, stanovení školských obvodů spádových mateřských a základních škol (*Methodological recommendation for territorial self-governing units: Creating generally binding decrees, defining school districts for catchment kindergartens and primary schools*) [online]. Department of Public Administration, Supervision and Inspection of the Ministry of the Interior. Available at: <https://www.mvcr.cz/odk2/soubor/metodicke-doporuceni-c-6-tvorba-obecne-zavaznych-vyhlasek-stanoveni-skolskych-obvodu-spadovych-materskych-a-zakladnich-skol.aspx> [retrieved on: 2022-02-20].

53 General information on the results of inspections performed by the Department of Public Administration, Supervision and Inspection of the Ministry of the Interior for 2021 [online]. Available at: <https://www.mvcr.cz/odk2/soubor/obecne-informace-o-vysledcich-kontrol-odboru-verejne-spravy-doзору-a-kontroly-za-rok-2021-zverejmeno-na-zaklade-26-zakona-c-255-2012-sb-o-kontrole-kontrolni-rad.aspx> [retrieved on: 2022-02-20].

54 See footnote 47, *ibid.*



## 2. Equal pay for women and men

Further developments occurred in the area of equal pay for women and men in 2021, and not only in the Czech Republic.

### International trends

In March 2021, the European Commission submitted a proposal for a directive implementing the principle of equal pay for equal work or work of equal value between women and men.<sup>55</sup> The proposal will now be discussed in the European Parliament and the European Council. If adopted, the directive will be a major breakthrough, affecting primarily the employers' duties towards their employees. It will newly require the employers to advertise any job together with the remuneration offered, the duty of major employers to issue reports on differences in women's and men's remuneration, and the employees' right to know the average remuneration for their position. It will also increase the protection of employees who bring a lawsuit against their employer, and extend the scope of facts that the employer would have to prove in litigation. However, the directive cannot be expected to be approved sooner than in a few years.

The declaration by the Committee of Ministers on equal pay and equal opportunities for women and men in employment is also important.<sup>56</sup> The Committee of Ministers issued this declaration following the decision of the European Social Committee in the case of a collective complaint by the University Women of Europe against 14 member states of the Council of Europe, including the Czech Republic.<sup>57</sup> The Committee found that the Czech Republic had violated several provisions of the European Social Charter by failing to ensure the transparency of remuneration, to enable job comparison, to achieve any measurable progress in promoting equal opportunities for women and men in the area of equal pay, and to prove sufficient progress in ensuring a balanced representation of women in the decision-making bodies of private companies. Moreover, the Committee of Ministers issued recommendations for each of the countries with a view to remedying the situation and implementing its decision<sup>58</sup>, including the introduction of measures aimed at salary transparency or the support of representation of women in company management.

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55 Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms of 4 March 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0093> [retrieved on: 20-02-2022].

56 Declaration by the Committee of Ministers on equal pay and equal opportunities for women and men in employment of 17 March 2021. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=0900001680a1cb97](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a1cb97) [retrieved on: 2022-02-20].

57 Decision of the European Social Committee on collective complaint No. 128/2016, University Women of Europe (UWE) v. the Czech Republic, of 5 December 2019 [online]. Available at: [https://www.justice.cz/documents/12681/771376/UWE\\_CZ-rozh+ECSR\\_p%C5%99eklad.pdf/56d0dcfa-de78-4b0a-b23d-5a04a3de4868](https://www.justice.cz/documents/12681/771376/UWE_CZ-rozh+ECSR_p%C5%99eklad.pdf/56d0dcfa-de78-4b0a-b23d-5a04a3de4868) [retrieved on: 2022-02-20].

58 Recommendation of the Committee of Ministers of the Council of Europe of 17 March 2021 in connection with the Decision of the European Social Committee on the collective complaint UWE v. the Czech Republic of 9 December 2019. Available at:





## Czech Republic

The Gender Equality Strategy for 2021-2030, approved by the Government in March 2021, undoubtedly has a great potential to contribute to reducing the gender pay gap in the Czech Republic.<sup>59</sup> In an extensive document with ambitions for the next decade, the Government looks at the causes, the current state of affairs and, in particular, the goals it wants to achieve in the area of gender equality. In addition to education, healthcare, safety and representation in decision-making positions, the Government also deals broadly with its strategy in the area of work and care. This includes equal pay and the related labour market segregation, part-time work and childcare. The task part of the strategy is essential, since it sets out specific measures and deadlines for their implementation. These include, for example: approval of the Action Plan for Equal Pay, drawing up a policy for a systematic increase in salaries and pay in female-dominated fields with a deadline at the end of 2022, and the adoption of at least one of the measures listed in European Commission Recommendation 2014/124/EU, also by the end of this year.

Czech courts issued no important decisions concerning equal pay in the past year. There was also no fundamental legislative development in this area. What deserves praise is the continuing project of the Ministry of Labour and Social Affairs “22% Towards Equality”, where the Ministry’s team issued several expert analyses and publications in recent years and participated in further awareness-raising activities. However, the expected Action Plan for Equal Pay, which is also being developed within the project, has not yet been approved.

### Activities of the Public Defender of Rights

The employees of the Office of the Public Defender of Rights actively participated in the preparation of the Action Plan for Equal Pay within the “22% Towards Equality” project. The Defender also addresses gender pay inequalities and related phenomena in his new recommendation *Parenthood and discrimination at work*.<sup>60</sup> Furthermore, the Defender dealt with issues related to the status of women in employment in several of his suggestions.<sup>61</sup>

#### 2.1 Gender pay gap in the Czech Republic

The Defender considers the gender pay gap to be the key indicator of progress in this area. This is an umbrella figure that can be used to observe where a country stands in the area of

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[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a1d25f#globalcontainer](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a1d25f#globalcontainer) [retrieved on: 2022-02-20].

59 Gender Equality Strategy for 2021-2030 of 8 March 2021. Government of the Czech Republic. Available at: <https://www.vlada.cz/assets/ppov/gcfge/Gender-Equality-Strategy-2021-2030.pdf> [retrieved on: 2022-02-20].

60 Rodičovství a diskriminace v práci: praktická příručka práva na rovné zacházení pro rodiče na pracovním trhu (*Parenthood and discrimination at work: practical guide for parents regarding their right to equal treatment in the labour market*) Recommendation of the Public Defender of Rights of 16 February 2022 [online]. Available at: [https://www.ochrance.cz/dokument/rodicovstvi\\_a\\_diskriminace\\_v\\_praci/rodicovstvi-a-diskriminace-doporuceni.pdf](https://www.ochrance.cz/dokument/rodicovstvi_a_diskriminace_v_praci/rodicovstvi-a-diskriminace-doporuceni.pdf) [retrieved on: 2022-02-20].

61 Cf. footnote 69 below.





pay and gender, while also allowing for international comparison. It is therefore the only direct indicator in this area.

According to Eurostat, the difference in remuneration between women and men (the pay gap) in the Czech Republic was 18.9% in 2019.<sup>62</sup> Compared to the 2018 figure (20.1%), the progress was relatively small, but still noticeable. According to a different data methodology of the Czech Statistical Office, the difference decreased further in 2020 (from 18% in 2019 to 15.9% in 2020).<sup>63</sup> The causes may vary, however, according to the Czech Statistical Office, where the main cause was a higher salary growth in sectors where women form a majority, such as education, healthcare and social services. This growth may also have been influenced by one-off bonuses paid for a heavier workload during the COVID-19 epidemic and may thus not be indicative of a long-term trend. This information must therefore always be viewed in a broader context.

The average gender pay gap across the European Union was 14.8% in 2018 and 14.1% in 2019. The Czech average thus dropped slightly faster than the average for the EU, which is a positive trend. However, further work is necessary towards its further decrease, which can also be supported by the newly adopted Gender Equality Strategy for 2021-2030.

### 2.1.1 INDIRECT INDICATORS

a. Approval of the Action Plan for Equal Pay (YES/NO).

**NO**

The Action Plan for Equal Pay, which is being developed within the Ministry of Labour and Social Affairs' project "22% Towards Equality", has yet to be approved by the Government. The COVID-19 epidemic delayed the meetings of the working group involved in developing the plan. However, the draft Action Plan has already been finalised and an internal consultation procedure is currently underway. This will be followed by an interdepartmental consultation procedure; the draft plan will then be submitted to the Ministry's senior officials and then to the Government for approval.

The Action Plan consists of six strategic objectives:

1. Transparency of remuneration systems.
2. Remuneration in public administration and institutional arrangement of equal pay.
3. Inspections focusing on equal pay.
4. Work-life balance.

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62 European Institute for Gender Equality. Gender Statistics Database – Gender Pay Gap [online]. Available at: [https://eige.europa.eu/gender-statistics/dgs/indicator/ta\\_livcond\\_inc\\_earn\\_gpg\\_tesem180](https://eige.europa.eu/gender-statistics/dgs/indicator/ta_livcond_inc_earn_gpg_tesem180).

63 Cf. the records and outcomes of the press conference of the Czech Statistical Office of 4 June 2021 on the topic of salaries in the COVID-19 crisis [online]. Available at: <https://www.czso.cz/csu/czso/pokud-si-zamestnanci-udrzeli-praci-jejich-mzdy-rostly> [retrieved on: 2022-02-20].



5. Awareness raising and education.
6. Publication of data.

Approval of the Action Plan is one of the measures listed in the new Gender Equality Strategy, with the deadline for implementation being 31 December 2021.<sup>64</sup> This deadline was not met. However, given its state of progress, it can be assumed that the Government could approve the plan this year. The Government should do so without delay.

- b. Implementation of the Action Plan for Equal Pay (YES/NO with regard to individual objectives).

**NO**

As the Government has yet to approve the Action Plan, the Defender cannot monitor its implementation.

- c. Preparing a policy for continuous systematic salary/pay increases in female-dominated fields (YES/NO).

**NO**

The policy has not yet been prepared. However, its preparation is one of the measures set out in the new Gender Equality Strategy with the deadline for implementation being 31 December 2022. The policy should set up a system of gradual increases in salaries and pay in female-dominated fields, especially in education, healthcare and social services. In the past period, salaries and pay in these fields grew faster in connection with the efforts to overcome the COVID-19 pandemic. However, the policy would help to ensure that the growth is maintained and does not stop once the COVID-19 epidemic is completely over.

- d. Introducing tax incentives for employers providing part-time jobs for parents of children up to 3 years of age and persons caring for dependent family members (YES/NO).

**NO**

No change occurred in this indicator in the past period. At one point, this measure was supposed to form a part of the new Gender Equality Strategy, but it was eventually not included in the text approved by the Government. There is thus currently no formal obligation to implement such a measure.

However, the new Government appointed after last year's elections on 17 December 2021, states in its coalition agreement that support for shorter working hours by providing a relief in insurance contributions is one of the Government's priorities.<sup>65</sup> Although it is not clearly mentioned in this commitment how employers will be motivated to offer part-time jobs, it

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64 See footnote 59, *ibid*.

65 Coalition agreement entered into by and between ODS, KDU-ČSL, TOP 09 (the SPOLU coalition), the Czech Pirate Party and the STAROSTOVÉ AND NEZÁVISLÍ movement (the Piráti a Starostové coalition) for the electoral term 2021-2025 [online]. Available at: [https://www.pirati.cz/assets/pdf/KOALICNI\\_SMLOUVA.pdf](https://www.pirati.cz/assets/pdf/KOALICNI_SMLOUVA.pdf) [retrieved on: 08-02-2022].



can be expected that the Government will be active in this field and will directly propose or at least support a corresponding amendment to the law.

In its statement sent to the Defender, the Ministry of Labour and Social Affairs (hereinafter the “MLSA”) referred to the deadline for transposition of the Directive of the European Parliament and of the Council on work-life balance for parents and carers.<sup>66</sup> It will be necessary to amend Section 241 of the Labour Code<sup>67</sup> to ensure flexible working arrangements for carers. The Directive should be transposed by 2 August 2022.

The MLSA also pointed out the ongoing FLEXI project (“Support for flexible forms of employment”) implemented by the Czech Labour Office. This project provides, among other things, a financial contribution to employers who create a shared position. The project will be implemented by June 2023.

- e. Amendment to the Civil Service Act making work in the civil service more flexible – possibility to freely divide a systematised allocated position into part-time positions, modification of the so-called supplementary position (YES/NO).

## **NO**

The new Gender Equality Strategy does not contain any similar measures. However, the new Government’s coalition agreement promises more flexible working conditions,<sup>68</sup> where public administration institutions and organisations should lead by example.

In the past year, the Public Defender of Rights dealt with several complaints filed by employees whose job positions were cancelled as vacant although they were on maternity or parental leave. In this case, the complainants saw this as discrimination on the grounds of their gender. The Public Defender of Rights therefore initiated an inquiry at the authorities concerned and assessed the individual claims of discrimination. He concluded that if vacant positions of employees in civil service bodies who are currently taking maternity or parental leave are cancelled within the framework of systemisation, this amounts to discrimination on the grounds of parenthood.<sup>69</sup>

Such cases show that mothers and parents in general who work in civil service bodies face obstacles associated with their parenthood. The possibility to freely divide a systemised position into several part-time jobs seems to be a desirable measure aimed at achieving greater flexibility of work in civil service bodies, which would allow parents to combine work and childcare.

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66 Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

67 Act No. 262/2006 Coll., the Labour Code, as amended.

68 See footnote 65, *ibid.*

69 Report of the Public Defender of Rights of 1 February 2021, File No. 7036/2018/VOP/HB, 7186/2018/VOP/HB 3665/2019/VOP/HB. Available at: <https://eso.ochrance.cz/Nalezene/Edit/9104>.



- f. Introducing an obligation to publish information about the salary/pay in job advertisements (YES/NO).

**NO**

This measure is included in the task part of the new Gender Equality Strategy.<sup>70</sup> The amount of the basic salary or pay should be included in the job advertisement. However, according to the Strategy, this obligation should only apply to large employers. It can be assumed that, similar to other measures in the area of equal pay, this would cover employers with 250 or more employees. The measure should be implemented by the end of 2023 by means of an amendment to the Act submitted by the Ministry of Labour and Social Affairs. It is also part of the proposed wording of the Action Plan for Equal Pay.

The Directive on strengthening the principle of equal pay for equal work or work of equal value proposed by the European Commission this year approaches this duty in broader terms.<sup>71</sup> It directly enshrines the right of any job seeker to learn the initial amount or range of the remuneration that he or she will receive if hired. Similar to the Czech strategy, information on remuneration should be available in a way that applicants need not ask about it, e.g., directly in the job offer or in the invitation to the interview. However, the Directive in no way limits this duty only to employers with a high number of employees. If this employers' duty, or the employees' right, were transposed into the Czech legislation, this would be a fundamental measure in the area of recruitment, ensuring a greater balance in negotiations regarding initial salary or pay.

- g. Introducing a legislative provision on the nullity of a confidentiality clause on remuneration in employment contracts (YES/NO).

**NO**

This measure is also part of the new Gender Equality Strategy.<sup>72</sup> According to the Strategy, the MLSA should submit a corresponding amendment to the Labour Code by the end of 2023. If the employees agree to maintain confidentiality of their salary or pay, the amendment should provide for nullity of such a juridical act.

The Strategy also includes related measures increasing the number of labour inspectorates' inspections focused on equal pay and negotiation of confidentiality clauses.<sup>73</sup> This measure may supplement suitably the amendment to the law and ensure that such arrangements are no longer included in the contracts despite the newly imposed duty.

This measure is also part of the proposed wording of the Action Plan for Equal Pay.

- h. Implementing European Commission Recommendation 2014/124/EU (YES/NO).

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70 See footnote 59, *ibid.*

71 See footnote 55, *ibid.*

72 See footnote 59, *ibid.*

73 See footnote 59, *ibid.*



**NO**

In its 2014 recommendation, the European Commission formulated four key measures that should contribute to greater transparency of pay. These include the employees' right to know the average earnings of people working in the same position; the employers' duty to inform employee representatives regularly of the average remuneration in individual positions; audits of remunerations at larger employers; and the duty to include issues of equal pay in collective bargaining.

Fulfilment of at least one of the salary and pay transparency measures is also part of the new Gender Equality Strategy with the implementation deadline being the end of 2022.<sup>74</sup> However, the European Commission is ambitious and, instead of a recommendation, it has already submitted to the Member States a proposal for a directive on pay transparency, which – if approved – will require implementation of all these measures in the Czech legislation. A higher level of pay transparency is necessary in the Czech Republic and it is therefore desirable that measures be adopted as soon as possible within the framework of the implementation of the Gender Equality Strategy and, if appropriate, also the Action Plan for Equal Pay.

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<sup>74</sup> See footnote 59, *ibid.*



### 3. Procedural issues

There were only negligible developments in this area in the period under review. It must be borne in mind, however, that all the set indicators are of a legislative nature. Their values can thus only change if a corresponding law is amended. The legislative procedure is usually quite long. Moreover, it can also be difficult for the politicians to reach an agreement to ensure that the relevant changes can actually be implemented.

#### 3.1 Introducing a legislative basis for a national human rights institution in the Czech Republic in any form

##### NO

There was no national human rights institution in the Czech Republic as of January 2022. This owed especially to the fact that the Government had failed to discuss the material titled *“Analysis of the Possibilities for Establishing a National Institution for the Protection and Promotion of Human Rights in the Czech Republic under the Paris Principles”*<sup>75</sup> to be included in its agenda in 2021. This internal document was drawn up in 2020 by the Department for Human Rights and Minority Protection of the Office of the Government of the Czech Republic. The document underwent a regular consultation procedure in 2020 and was submitted to the Government in November 2020. However, it was never placed on the agenda of the Government’s meeting.

The material contained an analysis of the possibilities of establishing a national human rights institution in the Czech Republic and, at the same time, a draft Government resolution which is required for any further steps towards its establishment.

What is worth mentioning, however, is the inspiring policy paper *“Czech Republic and NHRI: How to create a national human rights institution?”* published by Jan Lhotský of the Institute of International Relations in April 2021.<sup>76</sup> The paper deals with the importance of human rights institutions in the country and the options for its establishment in the Czech Republic.

No national human rights institution was established during the term of office of Prof. JUDr. Helena Válková, CSc., the former Government Commissioner for Human Rights. It is not yet clear what the attitude will be in this regard of the person who will replace her.<sup>77</sup>

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75 Analysis of the Possibilities for Establishing a National Institution for the Protection and Promotion of Human Rights in the Czech Republic under the Paris Principles. Text drawn up by the Department for Human Rights and Minority Protection of the Office of the Government of the Czech Republic, Prague 2020. This document is not accessible to the public.

76 LHOTSKÝ, Jan. *Česká republika a NHRI: Jak vytvořit národní lidskoprávní instituci? (Czech Republic and NHRI: How to create a national human rights institution?)* [online]. Available at: <https://www.iir.cz/ceska-republika-a-nhri-jak-vytvorit-narodni-lidskopravni-instituci> [retrieved on: 2022-02-20]. The author was also an employee of the Office of the Public Defender of Rights as of the editorial deadline for this report.

77 As of 20 February 2022, i.e., the editorial deadline for this report, Prof. JUDr. Helena Válková, CSc. was no longer serving as the Government Commissioner for Human Rights, but her successor had yet to be appointed.



### 3.2 Legislative expansion of the list of protected grounds under the Anti-Discrimination Act

**NO**

The list of protected grounds under the Anti-Discrimination Act was not extended in any way in the period under review. Neither the Government nor the Deputies submitted any draft law extending this list. The Chamber of Deputies started a new electoral term in November 2021 and a new Government was appointed in December 2021. The current draft of the Government's legislative work does not yet include an amendment to the Anti-Discrimination Act.<sup>78</sup>

### 3.3 Legislative expansion of the list of grounds for sharing the burden of proof in the Code of Civil Procedure

**NO**

The expansion of the list of instances where the burden of proof is shared in the Code of Civil Procedure<sup>79</sup> to all the grounds and areas protected by the Anti-Discrimination Act was part of the deputies' draft amendment to the Anti-Discrimination Act in the past electoral term.<sup>80</sup> However, the text did not reach the second reading and its deliberation was suspended with the start of the new electoral term.

Although the Public Defender of Rights has repeatedly recommended expanding the relevant provision of the Code of Civil Procedure in the past years so as to comply with the Anti-Discrimination Act,<sup>81</sup> this has yet to be achieved. The Public Defender of Rights is not aware of any current legislative initiative in this area. There was therefore no progress in this indicator during the period under review.

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78 The text of the draft Government Legislative Work Plan for 2022 is available in the eKLEP information system for employees of governmental authorities [online]. Available at: <https://apps.odok.cz/eklep> [retrieved on: 2022-20-02]. The draft had not been approved by the Czech Government by the editorial deadline for this report.

79 Act No. 99/1963 Coll., the Code of Civil Procedure, as amended.

80 Chamber of Deputies document 424/0; 8<sup>th</sup> electoral term of the Chamber of Deputies of the Parliament of the Czech Republic. Bill sponsored by a group of deputies: Monika Červíčková, Helena Válková, Radka Maxová, Roman Onderka, Ivan Jáč, Eva Fialová, Jiří Mašek, Karla Šlechtová, František Kopřiva, Olga Richterová, Věra Procházková and Ondřej Veselý, amending Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination and on amendment to certain laws (the Anti-Discrimination Act), as amended.

81 Cf. the recommendations contained in the Annual Report on the Activities of the Public Defender of Rights in 2015 [online] [retrieved on: 2022-02-08], Available at: [https://www.ochrance.cz/fileadmin/user\\_upload/ESO/Souhrnnazprava\\_VOP\\_2015.pdf](https://www.ochrance.cz/fileadmin/user_upload/ESO/Souhrnnazprava_VOP_2015.pdf); in the Annual Report of the Public Defender of Rights on Protection against Discrimination in 2017 [online] [retrieved on: 2021-01-05], Available at: [https://www.ochrance.cz/fileadmin/user\\_upload/DISKRIMINACE/Vyrocnizpravy/Vyrocnizprava\\_ochrane\\_pr\\_ediskriminaci\\_2017.pdf](https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyrocnizpravy/Vyrocnizprava_ochrane_pr_ediskriminaci_2017.pdf); and in the Decision-making of Czech courts in discrimination disputes 2015–2019, a survey conducted by the Public Defender of Rights in 2020 [online] [retrieved on: 2022-02-08], Available at: [https://www.ochrance.cz/fileadmin/user\\_upload/DISKRIMINACE/Vyzkum/2020-vyzkum\\_judikatura-DIS.pdf](https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/2020-vyzkum_judikatura-DIS.pdf).





### 3.4 Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings

#### NO

In its recommendation<sup>82</sup>, the European Commission called on the national equality bodies, including the Public Defender of Rights, to represent victims of discrimination in court.

In March 2021, the European Commission issued a working document<sup>83</sup> monitoring the implementation of the recommendation and implementation of the anti-discrimination directives.<sup>84</sup> In the document, the Commission confirmed that it would re-evaluate its previous commitment to consider during the year 2022 whether legislation should be proposed to make the national equality bodies' standards binding on the Member States in the area of equality.

The employees of the Office of the Public Defender of Rights are represented in the working group on the creation of standards for these bodies of the European Network of Equality Body (EQUINET). In addition to co-creating EQUINET's standards recommendations, the employees also participated in a survey on a proposed legislation organised by the European Commission. The European Commission is expected to publish a draft of the corresponding legislation by the end of 2022.

### 3.5 Introducing a legislative provision allowing legal entities active in the area of protection against discrimination / the Public Defender of Rights to lodge anti-discrimination actions in public interest

#### NO

This authorisation was not enshrined in legislation in any way during the period under review. The deputies' draft amendment to the Anti-Discrimination Act, which was submitted to the Chamber of Deputies in March 2019,<sup>85</sup> will not be discussed as the Chamber's electoral term has ended.

However, the European Commission stated in the above-mentioned recommendation<sup>86</sup> that independent assistance to victims of discrimination to be provided by equality bodies can

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82 Commission Recommendation (EU) 2018/951 of 22 June 2018 on standards for equality bodies.

83 Commission Staff Working Document (EU) SWD(2021) 63 final of 19 March 2021 on equality bodies and the implementation of the Commission Recommendation on standards for equality bodies [online]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0063&from=EN> [retrieved on: 2022-02-08].

84 Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

85 Chamber of Deputies document 424/0; 8<sup>th</sup> electoral term of the Chamber of Deputies of the Parliament of the Czech Republic. Bill sponsored by a group of deputies: Monika Červíčková, Helena Válková, Radka Maxová, Roman Onderka, Ivan Jáč, Eva Fialová, Jiří Mašek, Karla Šlechtová, František Kopřiva, Olga Richterová, Věra Procházková and Ondřej Veselý, amending Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination and on amendment to certain laws (the Anti-Discrimination Act), as amended.

86 See footnote 82, *ibid.*





also mean that the bodies may participate or assist in litigation. According to the Commission, such cases would be selected by the authorities themselves depending on their frequency, severity or need for legal clarification in order to address structural and systematic discrimination. Given the Commission's forthcoming assessment on whether to propose binding legislation on the standards of equality bodies, which should take place this year, we can expect a discussion at the European level and, prospectively, also at the Czech level.

### 3.6 Legislative reduction of the court fee paid for appeals in anti-discrimination disputes

#### **NO**

There was no development in this topic in the period under review. In the past, the Defender recommended<sup>87</sup> to reduce the judicial fee for an appeal against a court decision in anti-discrimination actions to the amount paid for an application to initiate court proceedings in an anti-discrimination case, i.e. CZK 1,000.

The judicial fee for filing an appeal in discrimination disputes is currently CZK 2,000, or 1% of the claimed amount of compensation for intangible damage if it exceeds CZK 200,000. The amount of the fee can significantly influence whether or not a victim of discrimination takes his/her case to court.

The amendment to the legislation is not the subject of any governmental or parliamentary draft in the new electoral term of the Chamber of Deputies. It is not part of the Draft of the Government Legislative Work for 2022 either.<sup>88</sup>

### 3.7 Legislative abolition of subsidiarity of compensation for intangible damage

#### **NO**

There was also no development in this topic in the period under review. The value of the indicator thus remains unchanged.

The Defender's survey indicates that courts usually award only a part of the amount that the plaintiff claims for intangible damage, or grant no compensation at all.<sup>89</sup> In most cases, the courts consider awarding other claims under the Anti-Discrimination Act to be a sufficient remedy.

Nevertheless, compensation for intangible damage must be seen as an equivalent claim. It should always serve as a deterrent to the party which committed unlawful discrimination. Indeed, this is also stated in the Anti-Discrimination Directive itself, according to which

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87 Cf. recommendations included in Decision-making of Czech courts in discrimination disputes 2015–2019, a survey conducted by the Public Defender of Rights in 2020 [online] [retrieved on: 2022-02-08]. Available at: [https://www.ochrance.cz/fileadmin/user\\_upload/DISKRIMINACE/Vyzkum/2020-vyzkum\\_judikatura-DIS.pdf](https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/2020-vyzkum_judikatura-DIS.pdf).

88 Cf. footnote 78, *ibid.*

89 Footnote 87, *ibid.*



penalties should be effective, proportionate and dissuasive.<sup>90</sup> This conclusion was also confirmed several times by the European Court of Justice.<sup>91</sup>

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90 Pursuant to Article 15 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; pursuant to Article 17 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and pursuant to Article 8d of Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

91 Cf. judgment of the Court of Justice of the European Union of 17 December 2015 in Case C-407/14, paragraph 33; and judgment of the Court of Justice of the European Union of 15 April 2021 in Case C-30/19, paragraph 39.



## Conclusion

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In this first interim monitoring report, the Defender evaluated the developments that occurred during the first period under review, i.e. the year 2021. Within his evaluation, he also described whether there had been a change in the values of the indicators set out in the initial monitoring report.

Most of them did not change, but this does not necessarily mean that there was no development. Many measures are planned to help achieve systemic changes, whether in the short or the long term. It is now important to actually implement the measures while taking into account the new challenges that are gradually emerging in society.

The Government usually has no room to open new topics close to the end of its electoral term. However, a new Government took office at the end of 2021. This creates an opening for approaching the topics being monitored from a new perspective and to strive for a positive change.

During 2022, the Defender plans to contact representatives of the institutions concerned, hold several meetings to inform them about his activities in more detail and discuss the topics under scrutiny.

At the beginning of 2023, the Defender will issue another monitoring report in which he will evaluate the developments in 2022.



## Overview of indicators and their initial values

Paragraph	Description of the indicator	Initial value	Current value
1.1.a.	Qualified estimate of the proportion of Roma pupils in primary schools relative to all pupils in primary schools	3.5% (2019/2020)	3.6% (2020/2021)
1.1.b.	Qualified estimate of the proportion of all Roma pupils educated according to the reduced outcomes of the Framework Education Programme for Primary Education in relation to all pupils educated in the same programme	24.2% (2019/2020)	25.3% (2020/2021)
1.1.c.	Of those in the 1 <sup>st</sup> grade	14.5% (2019/2020)	19.1% (2020/2021)
1.1.1.a.	Setting a standard for the work of school counselling centres in terms of assessing special educational needs and adequate support for pupils with different living conditions and from different cultural backgrounds	NO	NO
1.1.1.b.	Percentage of school counselling centres using the WISC-III diagnostic method	94.6% (2017/2018)	98% (2020/2021)
1.1.1.c.	Changing the regulations so that school counselling staff can carry out examinations of pupils directly in schools	NO	NO
1.1.1.d.	Adopting measures to ensure systemic funding for staff positions in school counselling centres and to ensure regular availability of the positions in all schools	NO	NO

1.1.1.e.	Adopting measures to secure the availability of social pedagogue/social worker positions in schools situated in socially excluded areas	NO	NO
1.1.1.f.	Changing the curriculum for the education of pedagogical workers at all faculties of education to train them in the education of students with different cultural backgrounds and living conditions	NO	NO
1.1.1.g.	Creating a comprehensive module in the system of continuing education for teaching staff in the area of methodological support in relation to Roma pupils	NO	YES
1.2.a.	Proportion of Roma pupils in the compulsory year of preschool education in relation to all pupils in that year	3.51% (2019/2020)	3.29% (2020/2021)
1.2.b.	Proportion of Roma pupils in the non-compulsory years of preschool education in relation to all pupils in those years	1.23% (2019/2020)	1.20% (2020/2021)
1.2.1.a.	Sufficient preschool education capacity	not specified	not specified
1.2.1.b.	Addressing the catchment area issue – ensuring conditions for the attendance of Roma children with an actual place of residence different from their officially recorded place of permanent residence in a financially accessible, close-enough kindergarten	not specified	not specified
1.2.1.c.	Conducting an investigative survey into the barriers to the inclusion of children from excluded areas in the compulsory year of preschool education and publishing the resulting recommendations by the MEYS in co-operation with the Technology Agency of the Czech Republic	NO	NO
1.2.1.d.	Ensuring financial support for children from socially excluded areas in the form of free lunches or paying the fees for preschool education	not specified	not specified

1.3.a.	Number of primary schools with over 34% Roma pupils	133 (2019/2020)	136 (2020/2021)
1.3.b.	Number of primary schools with over 50% Roma pupils	69 (2019/2020)	77 (2020/2021)
1.3.c.	Number of primary schools with over 75% Roma pupils	34 (2019/2020)	32 (2020/2021)
1.3.d.	Number of primary schools with over 90% Roma pupils	16 (2019/2020)	17 (2020/2021)
1.3.1.a.	Supervision of municipalities (as the founders) by the Ministry of the Interior to draw school districts in a manner that excludes segregation	not specified	not specified
1.3.1.b.	Proposing desegregation measures in the framework of the post-2020 action plan for inclusive education	NO	NO
2.1.	Gender pay gap in the Czech Republic	20.1% (2018)	18.9% (2019)
2.1.1.a.	Approval of the Action Plan for Equal Pay	NO	NO
2.1.1.b.	Implementation of the Action Plan for Equal Pay	NO	NO
2.1.1.c.	Preparing a policy for continuous systematic salary/pay increases in female-dominated fields	NO	NO
2.1.1.d.	Introducing tax incentives for employers providing part-time jobs for parents of children up to 3 years of age and persons caring for dependent family members	NO	NO
2.1.1.e.	Amendment to the Civil Service Act making work in the civil service more flexible – possibility to freely divide a systematised allocated position into part-time positions, modification of the so-called supplementary position	NO	NO

2.1.1.f.	Introducing an obligation to publish information about the salary/pay in job advertisements	NO	NO
2.1.1.g.	Introducing a legislative provision on the nullity of a confidentiality clause on remuneration in employment contracts	NO	NO
2.1.1.h.	Implementing European Commission Recommendation 2014/124/EU	NO	NO
3.1.	Introducing a legislative basis for a national human rights institution in any form	NO	NO
3.2.	Legislative expansion of the list of protected grounds under the Anti-Discrimination Act	NO	NO
3.3.	Legislative expansion of the list of grounds for sharing the burden of proof in the Code of Civil Procedure	NO	NO
3.4.	Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings	NO	NO
3.5.	Introducing a legislative provision allowing legal entities active in the area of protection against discrimination / the Public Defender of Rights to lodge anti-discrimination actions in public interest	NO	NO
3.6.	Legislative reduction of the court fee paid for appeals in anti-discrimination disputes	NO	NO
3.7.	Legislative abolition of subsidiarity of compensation for intangible damage	NO	NO