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veřejná ochránkyně práv

Statement of the Public Defender of Rights

Concerning the preparation of a List of Issues related to the supplementary report on meeting the obligations under the Convention on the Rights of Persons with Disabilities

Role of the Public Defender of Rights

The Public Defender of Rights protects persons against the conduct by authorities and other institutions if such conduct is contrary to the law, does not correspond to the principles of democratic rule of law and good governance, or in case the authorities fail to act. In addition, as the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Defender also performs preventive systematic visits to places where freedom of persons could be restricted and seeks to promote respect for their fundamental rights. The Defender also contributes to the enforcement of the right to equal treatment and protection against discrimination.

As from 1 January 2018, the Defender has competence in the area of monitoring the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter the “Convention”) pursuant to Article 33 (2) of the Convention.

Specific proposed questions

A. General principles and obligations (arts. 1–4)

According to the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, the Ministry of Labour and Social Affairs, the Ministry for Human Rights, and the Government Committee for Persons with Disabilities were to submit to the Government a proposal for ratification of the Optional Protocol to the Convention by 31 December 2016. In April 2018, the Ministry of Labour and Social Affairs pushed the ratification proposal into a commentary procedure and it was to be resubmitted to the Government in October 2018.¹

Proposed questions for the Government:

- When is the Czech Republic planning to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities?

¹ Minutes of the meeting of the Government Committee for Persons with Disabilities of 8 October 2018, paragraph 6, available (*in Czech*) at: <https://www.vlada.cz/assets/ppov/vvzpo/zasedani-vyboru/zapis-VVZPO-2018-10-08.pdf>.

B. Specific rights

1. Equality and non-discrimination (art. 5)

If a person seeks protection from discrimination and states in the court facts indicating that the defendant has indeed discriminated against the plaintiff, the burden of proof is shifted – the defendant must prove that he/she did not violate the principle of equal treatment.² However, in cases of suspected disability-based discrimination, the aforementioned rule only concerns the area of work and labour – it does not apply to access to housing, health and social care and other goods and services. Many people with disabilities are thus essentially unable to defend themselves against discrimination in certain areas as they are denied procedural protection awarded to other victims of discrimination (i.e. people discriminated against because of their race, ethnicity or gender).

Service relationships (employment) of members of security corps³ are governed by the Service Act.⁴ This Act also includes a prohibition of discrimination within a service relationship⁵ – however, unlike the Anti-Discrimination Act⁶, it does not treat disability as a protected characteristic.

The lawmaker also included a similar prohibition of discrimination in the Professional Soldiers Act⁷ – similar to members of security corps, soldiers are not protected, either, by the applicable laws from disability-based discrimination in the service relationship.

Proposed questions for the Government:

- Why does the Czech legislation not incorporate a shift of the burden of proof to the defendant in cases where the plaintiff claims disability-based discrimination and proves unfavourable treatment in access to goods and services (including housing), education and health and social care?
- When will the Czech Republic adopt legislation to ensure protection from disability-based discrimination to members of security corps and professional soldiers?

2 Section 133a of Act No. 99/1963 Coll., the Code of Civil Procedure.

3 Security corps include the following organisations: the Police of the Czech Republic, Fire Rescue Service of the Czech Republic, Customs Administration of the Czech Republic, Prison Service of the Czech Republic, General Inspectorate of Security Forces, Security Intelligence Service, and the Office for Foreign Relations and Information.

4 Act No. 361/2003 Coll., on the service relationship of the members of security corps, as amended.

5 Section 77 (2) of the Service Act: “Direct as well as indirect discrimination on the grounds of sex, sexual orientation, language, religion or belief, political views or other opinions, membership in trade unions or other associations, property, gender, race, skin colour, nationality, ethnic or social origin, age, pregnancy and maternity, marital and family status and family responsibilities is prohibited in the service relationship. Harassment and sexual harassment is considered a form of discrimination; any conduct including instigating, inciting, instructing or causing pressure leading to discrimination shall also be considered to be discrimination.”

6 Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination and on amendment to certain laws, as amended.

7 Section 2 (3) of Act No. 221/1999 Coll., on professional soldiers, as amended: “Discrimination of candidates and soldiers on grounds of race, skin colour, sex, sexual orientation, belief and religion, nationality, ethnic or social origin, property, gender, marital and family status and family responsibilities, pregnancy and maternity, and the fact that a female soldier is breast-feeding her child is prohibited. Any conduct on the part of service authorities that is of a discriminatory nature, although not directly, but rather in its consequences, shall also be prohibited.”

2. Accessibility (art. 9)

There is no publicly available information on the **accessibility of public buildings and services** in the Czech Republic. One of the measures to ensure accessibility according to the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020 was the task given to the individual Ministries to carry out an analysis of accessibility of healthcare facilities, courts and public prosecutor's offices.⁸ The relevant Ministries have prepared the analyses, but I believe the data are not entirely accurate. Indeed, it is not clear based on what criteria or methodologies the analyses were conducted and the results are not publicly available. The only results released to the public are those concerning the analysis of healthcare facilities within the competence of the Ministry of Health; in respect of facilities operated by the regional authorities, it is only possible to find information as to whether or not the analysis has been conducted. Moreover, 5 out of 14 regions of the Czech Republic have not released information on accessibility of their healthcare facilities at all.⁹

Organisations advocating the rights of people with disabilities have also pointed out the shortcomings in accessibility,¹⁰ criticising the fact that even though there are certain minimum legislative requirements on accessibility standards for new buildings,¹¹ they are often disregarded in practice. Moreover, the organisations are not permitted to raise objections in respect of the design documents, manner of implementation and use of a structure during construction proceedings. They further note that the State is not effectively supervising that buildings approved for occupation maintain their barrier-free status.

Czech legislation does not explicitly regulate the status or the conditions for training of guide dogs to assist people with disabilities, and the rights of access of persons with **specialty-trained assistance dogs** are only partially regulated (e.g. the right of persons with assistance and guide dogs to enter healthcare facilities). Since 2016, already, the Defender has been urging the Government to propose a law to regulate certain rights of people with disabilities accompanied by specially trained dogs.¹² The Government gave this task to the Ministry of Labour and Social Affairs, which, however, remains inactive.

Proposed questions for the Government:

- What mapping methodology was used to analyse the accessibility of the buildings of healthcare facilities, courts, and public prosecutor's offices? Please provide complete results of the analyses.

8 See the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, p. 28. Available (*in Czech*) at: https://www.vlada.cz/assets/ppov/vzpo/dokumenty/Narodni-plan-OZP-2015-2020-revize-2017_1.pdf.

9 See the 2017 progress report on the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, pp. 28 - 31. Available (*in Czech*) at: <https://www.vlada.cz/cz/ppov/vzpo/dokumenty/zprava-o-plneni-opatreni-narodniho-planu-vytvoreni-rovných-příležitostí-pro-osoby-se-zdravotním-postizením-na-období-2015-2020-v-roce-2017-168023/>.

10 Statements by Život bez bariér, z. ú. and Česká asociace paraplegiků – CZEPA, z. s. provided as part of the Defender's questionnaire survey (File No. 78/2018/OZP/MR).

11 Decree No. 398/2009 Coll., on the general technical requirements providing for the barrier-free use of buildings, as amended.

12 See the Defender's Opinions Register (ESO): <http://kvopap:81/KVOPEsoSearch/Nalezene/Edit/22273>.

- Is the Government planning on creating a single, publicly accessible database containing information on the accessibility of public buildings (especially healthcare facilities, courts, and public prosecutor's offices)?
- In what manner will the State ensure participation of organisations advocating the interests of people with disabilities within construction proceedings concerning public amenities?
- How does the State supervise compliance with the rules for barrier-free use of buildings after their approval for habitation? What enforcement procedures are available to the supervisory bodies? Please provide statistical data on the use thereof (including the average amount of fines imposed).
- When will the Government submit a bill regulating the status of specially-trained assistance dogs, the conditions of their use and access rights for persons accompanied by such dogs?

3. Equal recognition before the law (art. 12)

Although the adoption of the Civil Code effective from 2014¹³ represents a step forward in the perception of legal acts taken by persons with disabilities, it only represents a partial implementation of Article 12.¹⁴ However, this piece of legislation continues to confuse mental faculties and legal capacity with its newly introduced legal concepts (based partially or fully on the principle of supported decision-making)¹⁵ which continue to be based on a medical definition of disability,¹⁶ which prevents their broader utilisation.¹⁷ Moreover, the law continues to enable courts to restrict the legal capacity of persons in many areas, including disposal of property, entering into marriage,¹⁸ exercising parental responsibilities,¹⁹ decision-making on health,²⁰ and voting in elections.²¹

Four years after the new legislation came into effect, the courts still heavily prefer to interfere with legal capacity instead of using other, less restrictive measures (see Chart 1). Even the highest courts have repeatedly criticised the less restrictive measures and prefer prevention and protection over individual autonomy and support for people with

13 Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the "Civil Code").

14 This was already mentioned by the UN Committee on the Rights of Persons with Disabilities in its Concluding observations on the initial report of the Czech Republic, paragraph 23.

15 This is true especially of the concept of assistance in decision-making pursuant to Section 45 *et seq.* of the Civil Code, representative of a household member pursuant to Section 49 *et seq.* of the Civil Code, or curatorship without interference with legal capacity pursuant to Section 465 or Section 469 of the Civil Code.

16 According to the law, execution of an agreement on assistance in decision-making (Section 45 of the Civil Code) as well as establishing a representation by a household member (Section 49 of the Civil Code) is conditional on the existence of an intellectual disorder on the part of the person to whom assistance is to be provided.

17 General statement of the UN Committee on the Rights of Persons with Disabilities No. 1, Article 12: Equal recognition before the law, paragraph 29 (b).

18 Section 673 of the Civil Code.

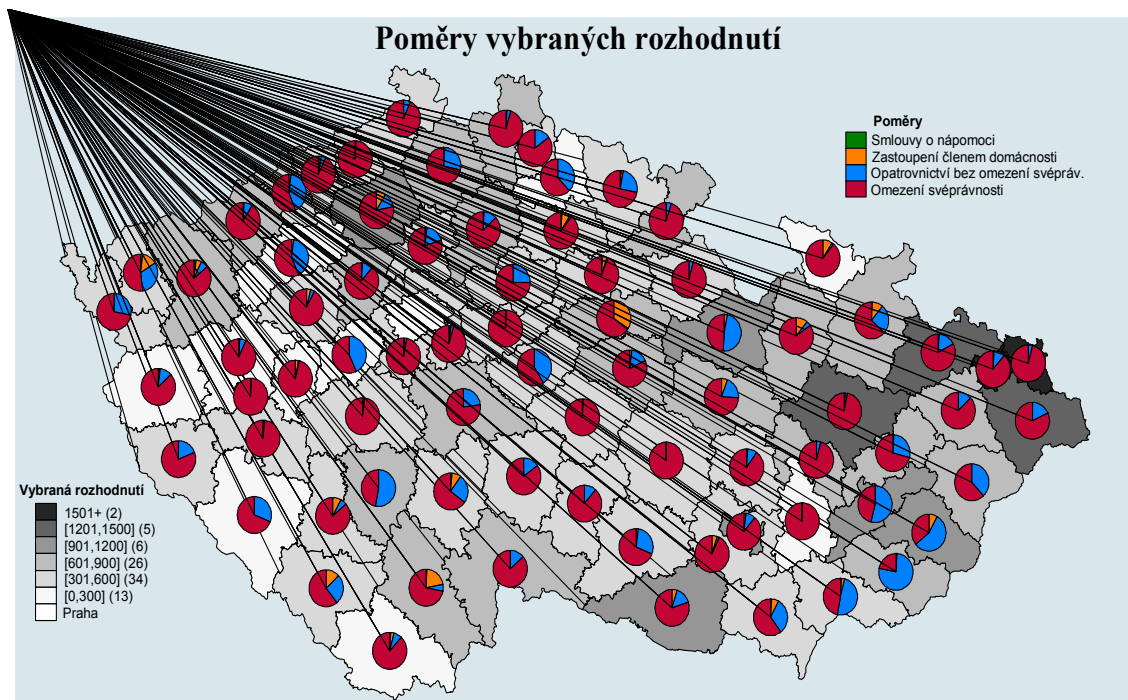
19 Section 865 (2) in conjunction with Section 868 (2) of the Civil Code.

20 See e.g. Section 28 (3)(e)(2) of Act No. 372/2011 Coll., on healthcare services and the conditions for their provision, as amended.

21 See e.g. Section 2 (b) of Act No. 247/1995 Coll., on election to the Parliament of the Czech Republic, as amended.

disabilities.²² The State is yet to prepare a clear plan of implementation of Article 12, does not provide methodological support to supporters or representatives of a household member, nor understandable and accessible information to people who need support. Moreover, there has been a significant development since the concluding observations were issued, related to the restriction of legal capacity in the area of voting rights (see commentary to Article 29) and the right to a family life (see commentary to Article 23).

Chart 1: Comparison of the number of decisions to restrict legal capacity and use of other supportive measures in 2014 – 2016²³



[Ratios of selected decisions: green – agreements on assistance in decision-making; orange – representation by a household member; blue – curatorship without interference with legal capacity; red – restriction of legal capacity]

Proposed questions for the Government:

- Is the government planning to adopt a plan for gradual full implementation of Article 12?
- When will the current legislation be evaluated and amended in order to ensure full compliance with Article 12 and the other articles of the Convention, including

22 Recently e.g. judgment of the Supreme Court of 28 November 2017, File No. 30 Cdo 836/2017, or the judgement of the Constitutional Court of 5 December 2016, File No. IV. ÚS 1580/16, which both repealed decisions of general courts which had restored a person's full legal capacity and appointed a curator representing the person in certain legal acts.

23 Ministry of Justice: Deciding on legal capacity: Statistical data from 2014 – 2016 with a commentary, available (*in Czech*) at: <https://www.justice.cz/documents/12681/724488/Zpr%C3%A1va+ke+sv%C3%A9pr%C3%A1vnostem+final+pro+web.pdf/82964de5-60af-4a24-bb78-ba6c0ed48586>.

ensuring access to a broad range of supportive measures to all who need them and introduction of effective legal safeguards against misuse?

- In what way will the State ensure information and methodological support and guidance to persons who participate in supported decision-making schemes and other alternatives to a restriction of legal capacity, including people who use the support or wish to do so?

4. Liberty of movement and nationality (art. 18)

Applicants for international protection with a disability who lodge their application at an airport may be placed in the airport's detention facility for up to 120 days.²⁴ Vulnerable persons with a disability that prevents them from being placed in such a facility are exempt from the rule.²⁵ However, the law does not specify the type or scope of the disability. In practice, identification is often based merely on the basis of a visual examination and answers to the question "What is your medical condition?"²⁶ Disabilities that are not readily visible, i.e. hearing, intellectual and psychosocial impairments, are often only discovered later or never.²⁷ The position of people with disabilities placed in detention is further worsened by the fact that they receive no reasonable adjustments (accommodating measures corresponding to their medical condition).²⁸

Proposed questions for the Government:

- How will the State ensure that foreign nationals with disabilities who are placed in detention receive reasonable adjustments (accommodating measures corresponding to their medical condition)?
- How will the state ensure that the type and scope of the disability preventing placement in an airport detention facility is determined in a transparent and consistent manner?

5. Living independently and being included in the community (art. 19)

A persistent problem of the Czech Republic is a lack of accessible housing for persons with disabilities and of services provided at home or in a community. The Social Housing Act, which is supposed to expand accessible housing also to people with disabilities, has not been adopted yet. People with disabilities have difficulties in accessing municipal flats, either due

24 Section 73 (1) and (4) of Act No. 325/1999 Coll., on asylum, as amended.

25 Section 74 (1) of the Asylum Act.

26 Judgments of the Supreme Administrative Court of 27 January 2016, File No. 6 Azs 81/2015-63, and of 20 August 2015, File No. 1 Azs 123/2015-47, available (*in Czech*) at: www.nssoud.cz.

27 ASIM: Study on treatment of persons with special needs within proceedings on international protection in the Czech Republic, 2009, pp. 16-18. Available (*in Czech*) at: http://aa.ecn.cz/img_upload/224c0704b7b7746e8a07df9a8b20c098/UNHCR_ZachazeniSOsobami.pdf, Association for Integration and Migration: Vulnerable groups in facilities for detention of foreigners, 2010, p. 16. Available (*in Czech*) at: https://www.migrace.com/docs/brozura_migrace_13proklad_1ak_1328544430.pdf, cf. decision of the Supreme Administrative Court of 1 June 2017, Ref. No. 1 Azs 110/2017-42.

28 Judgment of the Supreme Administrative Court of 27 January 2016, File No. 6 Azs 81/2015-63. Available (*in Czech*) at: www.nssoud.cz.

to the lack of barrier-free flats²⁹ or because many municipalities disfavour recipients of disability pension or lower-income groups in selection of potential tenants.³⁰

The Defender's survey shows that within the administrative regions, there is a lack of social services for children and adults with an autism spectrum disorder who have severe behavioural problems.³¹

The Defender has encountered situations where the lack of suitable residential social services results in children with disabilities being placed in the long term in in-patient wards or unsuitable school facilities (educational institutions).³²

According to information provided by organisations of people with disabilities, other groups of people with disabilities also face difficulties. An insufficiently developed network of field social services³³ leads to a situation where thousands of people with various disabilities are forced to stay in institutions, either voluntarily or against their will. Once a person is placed in a residential social services facility, there is no regular review by an independent body concerning the possibility of returning the person into his or her natural social environment, unless the person manifests a serious opposition to staying in the facility.³⁴ However, this effectively excludes such a review in cases of those persons with disabilities who cannot express their disagreement or can do so only with a great difficulty, and those who lack a place to stay at and support of the community, which also often forces them to remain institutionalised. Furthermore, the duty to find out whether people agree with the stay and report to the courts cases where opposition has been expressed is given to the social services providers.³⁵ The provider is thus in a conflict of interests since there is a motivation on its part to keep clients in its care.

If a person is staying in a social services institution, the contribution towards care for this person is paid to the institution in the full amount.³⁶ This means that the person in question then lacks any means to provide for a personal assistant outside the institution. An effective participation of the person in social life, such as community or cultural activities outside the institution, is thus completely dependent on the social services provider, which may result in complete isolation of the person, except for the institution-organised events.

29 A total of 77.4% of municipalities with municipal flats do not offer barrier-free flats (as of 30 November 2016). For more details, see p. 62

https://www.mpsv.cz/files/danky/31590/Analyza_struktury_obecnich_bytu_v_CR_TB05MPSV008.pdf.

30 For example, Brno-Jundrov city ward awards a lower point score to those applicants for a municipal flat who receive disability pension, as opposed, e.g., to employed persons or retirees. For more details, see http://www.jundrov.info/assets/File.ashx?id_org=80912&id_dokumenty=2298.

31 The survey is available (*in Czech*) at: https://www.ochrance.cz/fileadmin/user_upload/CRPD/autismus/Vyzkum-autisti.pdf.

32 See the Report of the Public Defender of Rights on visits to school facilities for institutional and protective education (2011). Available (*in Czech*) at: https://www.ochrance.cz/fileadmin/user_upload/ochrana_osob/2012/2012_skolska-zarizeni.pdf.

33 Services provided in a person's natural environment.

34 Section 91b of Act No. 108/2006 Coll., on social services, as amended.

35 Section 91b (3) of Act No. 108/2006 Coll., on social services.

36 Section 73 (4) of Act No. 108/2006 Coll., on social services.

Even though the Czech Republic subscribes to the idea of deinstitutionalisation, it has not yet adopted a long-term strategy with a clear timeframe and allocations of funding (even beyond EU funding). The strategies used to date have always been tied to projects dependent on external funding and their long-term sustainability is therefore in doubt. No government paper contains the final goal of the deinstitutionalisation process, i.e. complete replacement of institutional care by services provided in a community in respect of all departments (social services, healthcare facilities, child services, etc.).

It is also important for the government to increase awareness in society of the importance and positive aspects of independent life for people with disabilities. A survey conducted by the European Union Agency for Fundamental Rights (FRA) titled “From institutions to community living for persons with disabilities: perspectives from the ground”, which deals with deinstitutionalisation, identifies a change in public attitudes towards people with disabilities as a prerequisite for making the process more effective. The same survey indicates that people with disabilities themselves are often led dependency on the care of other persons or institution, instead of being taught and supported in independent living skills.³⁷ In my opinion, the State keeps failing to increase awareness among people with disabilities themselves, as well as their families and the public, about their right to independent life.

Prisoners with disabilities also suffer from a lack of available social services. The applicable legislation does not permit the provision of necessary social care through an external social service or by prison employees. Care is provided directly by other convicts who receive a corresponding training; however, the scope and quality of the care are not guaranteed. If the carer is accommodated together with the convict with disability, he or she essentially provides care non-stop, without necessary breaks or adequate compensation.³⁸ Moreover, in my opinion, this practice leads to further dependency of convicts with disabilities on other convicts, with the corresponding increase in the risk of abuse.

Proposed questions for the Government:

- When will the Social Housing Act be adopted and how will it ensure that accessible social housing is also available to people with disabilities?
- How will the State ensure that the conditions for receiving a municipal flat do not put people with disabilities at a disadvantage (directly or indirectly)?
- How will the State ensure sufficient availability (temporal, local and financial) of fully individualised services for all people with disabilities in order to support them in independent living and remaining in a person’s natural social environment?
- How will the State ensure availability of fully individualised social services for people with an autism spectrum disorder or a multiple disability with serious behavioural disorders?

37 Page 45, From institutions to community living for persons with disabilities: perspectives from the ground [online] Luxembourg [retrieved on 2019-01-16] Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-from-institutions-to-community-living-ground-perspectives_en.pdf.

38 Report of the Public Defender of Rights on systematic visits to prisons (2016). Available (*in Czech*) at: https://www.ochrance.cz/fileadmin/user_upload/ESO/14-2014-NZ-Souhrnna_zprava_z_navstev_veznic.pdf.

- How will the State ensure that no people with disabilities are forced to stay in social services facilities because they lack alternatives?
- How will the State ensure that people with disabilities living in institution facilities and being fully dependent on the care provided by these facilities due to a lack of financial support are able to participate in social and cultural activities outside the institutions, according to their individual wishes and needs?
- When will the State adopt a strategy of deinstitutionalisation with a clear timeframe and clearly allocated funding (including EU funds)?
- How, specifically, will the State ensure that people with disabilities are informed of their right to independent and community living, as well as support for people leaving institutional care, including support necessary to overcome the trauma of psychological and physical violence committed against them? How will the State increase society's awareness of the importance and positive aspects of independent life for people with disabilities?
- In what way and by when will the State ensure adequate care for convicts with disabilities?

6. Personal mobility (art. 20)

Mobility aids and assistive devices supported by the State as part of social security are defined by the Disability Benefits Act³⁹ and its implementation decree.⁴⁰ However, the list lacks aids helping persons who have become deaf later in life to integrate in society (e.g. tablets for transcription of spoken language, vibration alarms, etc.). As concerns specially-trained assistance dogs, the list only includes guide dogs; assistance and signal dogs are not supported by the State.

There are many people with serious conditions⁴¹ which significantly affect their mobility; in many cases, their condition prevents them from using mass transit, but they are not entitled to a car allowance. This is a result of the fact that this benefit is associated only with a limited range of medical conditions included in the annex to the Act.⁴² No other form of benefit provides a compensation of the extra costs of transport of these persons. A mobility allowance in the amount of CZK 550 is completely insufficient in these cases. **The list of disabilities justifying the granting of a special-aid allowance in the form of a car allowance is obsolete and completely unsuitable. The current legislation thus has to be reviewed.**

Proposed questions for the Government:

- Why are assistance and signal dogs not considered a mobility aid pursuant to the Disability Benefits Act and its implementation decree?

39 Act No. 329/2011 Coll., on granting of benefits to people with disabilities and on a mendment to related laws, as amended.

40 Decree No. 388/2011 Coll., on implementation of certain provisions of the Disability Benefits Act.

41 Of many examples, we should note persons who are immobile as a result of Parkinson's disease or multiple sclerosis.

42 Part I, paragraph (4) of the annex to Act No. 329/2011 Coll.

- How will the State ensure financial affordability of mobility aids and assistive devices (e.g. tablets for transcription of spoken language and vibration alarms) to persons who have become deaf later in life?
- Why is the special-aid allowance in the form of a car allowance associated with a narrow list of disabilities? Is the State considering expanding this list and if so, when will this happen?
- How will the State ensure that people with disabilities with severely impaired mobility who cannot use public transport are able to arrange for individual transport services allowing them to live an independent life in a natural social environment?

7. Freedom of expression and opinion, and access to information (art. 21)

Persons with hearing impairments and people who are deaf-blind have a statutory right to interpreting services in their preferred communication system⁴³ when visiting a doctor, engaging in official interactions or when arranging for other essential needs. However, this right cannot be effectively exercised unless its detailed conditions are specified. For the time being, the law also does not provide for the right to interpreting in other areas such as visiting a bank or insurance company, or in other important official interactions as specified in Article 21 (b) of the Convention. Even though the Defender has repeatedly petitioned the Government to amend the legislation to ensure compliance with the Convention, no such change has been introduced, especially since no particular Ministry is responsible for matters related to the Communication Systems Act.

There is a persisting problem posed by the lack of **qualified** Czech Sign Language interpreters. Among other things, the State has not specified the conditions for this profession and has not included it in the National Qualifications Framework⁴⁴ – for this reason, it is impossible to create a reference framework (CEFT) enabling to compare the qualification levels of interpreters.

By 23 September 2018, the Czech Republic was supposed to implement the Directive (EU) 2016/2102 of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies. This is yet to happen.

Based on a recommendation by the UN Committee on the Rights of Persons with Disabilities (hereinafter the “Committee”)⁴⁵, in 2016 the Government submitted a bill to the Chamber of Deputies amending the Radio and Television Broadcasting Act,⁴⁶ which was supposed to ensure accessibility of audio-visual TV and radio content to persons with hearing and visual impairments. The amendment was supposed to define certain terms (“closed captions”, “audio description” and “Czech Sign Language”), specify the broadcasters’ duties, and enable the Council for Radio and Television Broadcasting to effectively monitor compliance. Unfortunately, the bill was not adopted since the electoral term of the Chamber of Deputies had expired and the new Government did not resubmit the bill.

43 Act No. 155/1998 Coll., on communication systems of deaf and deaf-blind persons, as amended.

44 <http://www.msmt.cz/vzdelavani/dalsi-vzdelavani/narodni-soustava-kvalifikaci>.

45 Concluding observations on the initial report of the Czech Republic (paragraph 44)

46 Chamber of Deputies Document No. 934.

Proposed questions for the Government:

- Which measures did the Government adopt to ensure enjoyment of the right of people with hearing impairments to a free choice of communication means in official interactions, especially the availability of a sufficient number of qualified Czech Sign Language interpreters?
- When will legislation specifying detailed conditions for the enjoyment of this right be adopted?
- Why has the Czech Sign Language interpreter profession not been included in the National Qualifications Framework? How does the Government plan to ensure comparing qualification levels of Czech Sign Language interpreters?
- What measures has the Government adopted to ensure accessibility of public administration websites?
- When will the Government submit a bill amending the Radio and Television Broadcasting Act to ensure accessibility of audio-visual TV and radio content to persons with hearing and visual impairments?
- What percentage of television programmes for children and adults are subtitled, interpreted into the Czech Sign Language or furnished with an audio description?

8. Respect for home and the family (art. 23)

Despite the recommendations of the Committee, the law continues to permit restriction of legal capacity of people with disabilities with regard to the right to marriage⁴⁷ and parental rights.⁴⁸ Moreover, an amendment to the Special Court Proceedings Act adopted in September 2017 has further expanded the power of the courts in the area of parental rights, where it introduced a duty applicable to proceedings on determining the legal capacity of a parent based on which the court must automatically initiate child care proceedings and join the two sets of proceedings.⁴⁹ This change led to a situation where the courts more often interfere with parental responsibility during proceedings on a restriction of legal capacity. In 2017, parental responsibility was interfered with in 789 cases. As shown by the table below, in 75% of cases the restriction was of the most severe kind, i.e. affecting custody of the child and contact with the child.

Table 1: Number of cases where parental responsibility was restricted within proceedings on legal capacity in 2017⁵⁰

Degree of restriction of parental responsibility	Number of cases	Percent age
Restriction of parental responsibility, including restriction of the right of custody and the right to contact the child	592	75%

47 Section 673 of Act No. 89/2012 Coll., the Civil Code.

48 Section 868 (2) of Act No. 89/2012 Coll., the Civil Code.

49 Section 468a of Act No. 292/2013 Coll., on special court proceedings, as amended.

50 According to an overview of final court decisions in matters of curatorship in 2017. Information of the Ministry of Justice – overview of final court decisions in matters of curatorship.

	Restriction of parental responsibility, without a restriction of contact with the child	136	17%
	Restriction of parental responsibility, without restriction of the right of custody and the right to contact the child	61	8%
Total		789	100%

In my practice, I have encountered several cases where children were taken away from mothers with intellectual or psychosocial disabilities shortly after giving birth. The reason behind this practice lies in a lack of specialised services that could support parents with disability in child care, e.g. by temporarily accommodating such parents and their children in a safe and supporting environment. This kind of service is only offered by one shelter in the Czech Republic⁵¹ and several facilities for children under 3 years of age (former infant care centres); however, none of these facilities allow fathers or older siblings to live with the mother and the child.

Families with children also lack support in the form of long-term housing.⁵²

Another problem lies in the lack of services provided to families with children with disabilities and the lack of information on these services. Even though the early intervention service⁵³ is provided free of charge, only a third of potential clients use it (according to qualified estimates), usually because the parents are not aware of its existence.⁵⁴ Furthermore, there is no similarly comprehensive social service available for families with children over 7 years of age that would follow up on early intervention. According to advocacy organisations of people with disabilities, there is a lack of family assistance services.⁵⁵

The lack of assistance services for families results in increased institutionalisation of children with disabilities and children of parents with disabilities. The Czech Republic is still among countries with the highest number of institutionalised children in Europe. Over the past 20 years, the Government invested into development and renovation of over three hundred institutional facilities for children. The system of child care is still split among three different Ministries and there is no lower age limit for placing children in an institution.⁵⁶

51 St. Mary Magdalene Home in Jiřetín pod Jedlovou.

52 Shelters only offer accommodation for a limited period of time (maximum of 1 year).

53 Section 54 of Act No. 108/2006 Coll., on social services.

54 Hradilková, T., Klusáček, J., Klusáčková, M., & Šveřpa, M. (2016). *Analýza situace rané péče za rok 2015 (Analysis of Early Intervention Services in 2015)*. Nadační fond Avast (Avast Foundation). Available (in Czech) at: <https://nadacnifond.avast.cz/analiza>.

55 Statements by Občanského sdružení D.R.A.K., z. s., and AUTISTIK, z. s., provided as part of the Defender's questionnaire survey (File No. 78/2018/OZP/MR).

56 Information available on Lumos website: <https://www.wearelumos.org/czechrepublic/about/>.

Proposed questions for the Government:

- How will the Government ensure that people with disabilities enjoy equal rights in access to marriage and that their parental rights are not restricted unless this is necessary to protect the best interest of their children?
- Which specific measures has the Government adopted to ensure that parents with disabilities, including parents with intellectual or psychosocial disabilities, have access to assistance in child care, especially in the period after giving birth, in order to prevent separation from their children due to the parents' disability, and to prevent separation of families?
- What measures will the State adopt to prevent placement of children with disabilities separated from their parents into institutional care or other unsuitable facilities?
- Which specific measures has the Government adopted to ensure real availability of social services to families with children with disabilities (especially early intervention and assistance services) and to ensure they have sufficient information on these services, in order to support the right of children with disabilities to live in a family?

9. Education (art. 24)

On 1 September 2016, a major amendment to the Schools Act and the related legal regulations⁵⁷ came into effect, introducing **inclusive education** as a cornerstone of the education system. The Government has also adopted an Action Plan for Inclusive Education in 2016–2018,⁵⁸ which specified concrete tasks with deadlines to be implemented by the Ministry of Education, Youth and Sports and other authorities in order to create, maintain and support inclusive education. Despite the efforts that are being carried out in this area, the Czech education system is not fully inclusive within the meaning of Article 24 of the Convention. The general public sees inclusion as ill-prepared and poorly executed and perceives it mostly in negative terms.⁵⁹

Most educational institutions are not accessible in terms of layout, equipment or information provided.⁶⁰ Instead of choosing a school according to the quality of its study programmes or their home address, people with disabilities are often forced to choose a

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

58 Following up on, *inter alia*, the Education Policy Strategy 2020, the Long-term Plan for Education and Development of the Educational System in the Czech Republic 2015–2020, and the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, which prioritise reduction of inequality in education and ensuring full development of the potential of all pupils and students.

59 The survey of Social Inclusion in Education indicates e.g. that a majority of respondents considered inclusion ill-prepared and poorly executed and were afraid that the students, including those subject to inclusion, would be harmed and Czech education as a whole would be negatively impacted by the change. In: Median, s.r.o. *Sociální inkluze ve vzdělávání (Social Inclusion in Education)*. Summary report on a survey conducted in co-operation with EDUin, Socialbakers and Median and supported by the Albatros Foundation, 2017. Available (in Czech) at: <https://drive.google.com/file/d/0B4CRI6qnQpfBRF12YnBTMGZvS0E/view>.

60 As follows from the complaints sent to the Office of the Public Defender of Rights by advocacy organisations of people with disabilities. This information is confirmed e.g. by the overview of accessibility of schools and school facilities operated by the South Bohemian Region, released on 31 October 2018 and available (*in Czech*) at: <https://www.kraj-jihocesky.cz/2135/prehled skol a skolskych zarizeni zrizovanych jck s bezbarierovym pristupem.htm>.

school that is accessible to them. These schools are often far away from home, which carries additional costs.⁶¹

There continues to be a lack of legislative clarity as to who should be responsible for **healthcare tasks carried out in schools**. Assistance with healthcare tasks (e.g. phlegm suction, insulin application) and monitoring of regular medication is a necessity for many children with disabilities or children with chronic illnesses, without which they cannot go to an inclusive school. Kindergartens, primary and secondary schools have a duty to provide for safety and health protection of children;⁶² however, the law does not specify who should carry out these healthcare tasks nor who would be liable for any harm potentially caused and, consequently, many schools are reluctant to provide for these tasks.⁶³ This essentially bars children with disabilities from attending such schools, which could constitute a disability-based discrimination.⁶⁴ While an interdepartmental group was already set up in 2017 to deal with the problem, there has been no progress in terms of legislative amendments or methodological guidelines for schools.

The educational system also lacks sufficient opportunities for recreational and lifelong learning for people with disabilities.⁶⁵ Insufficient expertise in inclusive learning on the part of teachers also remains a problem (especially in the area of using alternative and augmented communication and other supporting measures); there is also insufficient linkage between education and vocational training for specific jobs and insufficient funding of supporting measures.⁶⁶ All these problem areas were covered as part of the Action Plan for Inclusive Education with specific solutions; however, it is not clear how effectively these solutions have been implemented.⁶⁷

61 The limited choice of educational institutions accessible to people with disabilities has been brought to my attention especially by the Czech Paraplegic Association (CZEPA, z. s.).

62 Section 29 of Act No. 561/2004 Coll., on pre-school, primary, secondary, higher vocational and other education (the Schools Act), as amended.

63 Minutes of the meeting of the Government Committee for Persons with Disabilities of 8 October 2018, paragraph 4. Available (in Czech) at: <https://www.vlada.cz/cz/ppov/vzpo/zasedani-vyboru/zasedani-8--rijna-2018-169218/>.

64 I have dealt with this issue in the case of a student who needed regular healthcare interventions due to her disability. The school did not commit discrimination because it made sure the tasks could be performed by a teacher's assistant, who was an employee of the school. Report of 11 February 2015, File No. 105/2013/DIS, paragraph. C.2.1., available (in Czech) at: <https://eso.ochrance.cz/Nalezene/Edit/2386>.

65 Insufficient provision for recreational learning has been repeatedly pointed out to the Defender by groups advocating the rights of people with disabilities, e.g. AUTISTIK, z. s. The fact that this is one of the problem areas also follows from the Czech Schools Inspectorate's 2016/2017 thematic report, which indicates that "the provision of supporting measures to persons interested in recreational learning was sufficient only in 42.6% of the visited free-time centres. If supportive measures were provided at all, they mostly corresponded to the 1st degree of support. Supportive measures in the 2nd to 5th degrees were provided in only one of every five free-time centres. Approximately one quarter of afterschool groups and clubs did not offer any kind of supportive measures." In: Thematic Report – Inclusive Education in the School Year 2016/2017. Czech Schools Inspectorate. Ref No. ČŠIG-4552/17-G2. Available (in Czech) at: <http://www.msmt.cz/vzdelavani/15-spolecne-informace-a-aktuality>.

66 To mention several disability rights organisations, the problems were mentioned e.g. by Českomoravská unie neslyšících, z. s., Občanské sdružení D.R.A.K., z. s., and others.

67 The extent to which the goals specified in the Action Plan for Inclusive Education in 2016–2018 has not yet been evaluated.

Proposed questions for the Government:

- To what extent have the goals specified in the Action Plan for Inclusive Education in 2016–2018, Education Policy Strategy 2020, and the Long-term Plan for Education and Development of the Educational System in the Czech Republic 2015-2020 been met, especially in terms of material, information and communication accessibility of educational institutions, including institutions for recreational and lifelong learning; and material and financial accessibility of various supportive measures, ensuring teacher expertise in inclusive learning and linkage between education and the labour market?
- Who monitors the implementation of the Action Plan and how, thus supporting the fulfilment of its objectives?
- In what way does the Government inform the public of inclusive education and its benefits?
- When will the State impose on schools a legislative duty to provide for healthcare interventions during school hours?

10. Health (art. 25)

In the area of healthcare, people with disabilities struggle with the lack of available and accessible health services, ignorance on the part of physicians concerning social and human-right models of disability, and provision of health services without their free and informed consent.

Availability of specialised dental care for persons with intellectual disabilities or patients with an autism spectrum disorder is a major issue. Some of these patients need general anaesthesia for even simple dental examinations and treatments (cavities). However, our survey indicated that the waiting time for such interventions averages 6 months, or even over 1 year in some regions.⁶⁸ The situation in child psychiatry is equally bad, with waiting times for appointments for initial examination averaging 3–6 months (depending on the region) and getting longer.⁶⁹

As follows from an analysis conducted by the Ministry of Health, educational programmes for physicians and healthcare paramedical staff contain little information on patients' human rights, dignity, independence and the needs of people with disabilities.⁷⁰ This is the case despite the fact that physicians participate in decision-making on various parts of disabled people's lives (expert reports in legal capacity proceedings, care allowance proceedings or disability pension proceedings) and are in regular contact with many people

68 A report containing the results of the survey will be published in February 2019.

69 Jiří Raboch a Barbora Wenigová (eds.): Mapování stavu psychiatrické péče a jejího směřování v souladu se strategickými dokumenty České republiky (a zahraničí). Odborná zpráva z projektu (*The State of Czech Psychiatric Care and Future Development in Accordance with Czech and International Strategy Documents. Project Report*). © Česká psychiatrická společnost, o. s., 2012. pp. 121-124. Available (in Czech) at: https://www.ceskapsychiatrie.cz/images/stories/OZ_zkr_komplet.pdf

70 See the 2016 progress report on the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, pp. 90-91 Available (in Czech) at: <https://www.vlada.cz/cz/ppov/vzpo/dokumenty/zprava-o-plneni-opatreni-narodniho-planu-podpory-rovných-prilezitosti-pro-osoby-se-zdravotním-postižením-na-období-v-roce-2016-159996/>.

with disabilities or their carers. Physicians are also insufficiently equipped for communication with patients with disabilities⁷¹ and it is fairly common that they provide information only to the carers or curators instead of the patients themselves.

According to disability rights organisations,⁷² there is still a lack of sign language interpreters for patients with hearing impairments. Moreover, these interpreters should be specialised in healthcare services. For example, tests in psychiatry are not available in Czech Sign Language. Test results of patients with hearing impairment may be negatively impacted by the fact the interpreter of Czech Sign Language lacks necessary competence and knowledge of psychiatric terminology.⁷³

According to HIV Justice Worldwide, the Czech Republic is one of only 8 WHO member states in Europe where HIV positive people are legally bound to inform their physician of their HIV positive status prior to each examination or treatment.⁷⁴ According to my findings, however, these persons often fall victim to discrimination in access to healthcare.⁷⁵ At the same time, there is no legislative requirement specifying additional hygiene precautions for treating HIV positive persons⁷⁶ and any healthcare provider is obliged to provide them with regular care.⁷⁷ Each person must be treated as potentially infected, also because many people are not aware of being carriers of the virus. The statutory duty of HIV positive persons to disclose their status appears to be unjustified and gives rise to doubts as to whether it could constitute a disability-based discrimination.

Proposed questions for the Government:

- What steps is the Government taking to educate physicians and paramedical staff about patients' human rights and the Convention?
- What measures will the Government adopt to increase the availability of dental care for patients with intellectual disorders and autism spectrum disorders?
- What measures will the Government adopt to protect the patients' rights to receive child psychiatric care?
- What measures will the Government adopt to ensure there is a sufficient number of Czech Sign Language interpreters specialised in healthcare?

71 E.g. according to the statement provided by the Association of People with Hearing Impairments and Their Friends (ASNEP, z. s. s.), some physician mark files pertaining to patients with hearing impairment "deaf-and-dumb".

72 Statements by the Czech Association of People with Hearing Impairment and the Services Centre for People with Hearing Impairment as part of a questionnaire survey (File No. 78/2018/OZP/MR).

73 Statement by the Czech Association of People with Hearing Impairment as part of a questionnaire survey (File No. 78/2018/OZP/MR).

74 Section 53 (4) of Act No. 258/2000 Coll., on the protection of public health, as amended.

75 69/2018/DIS.

76 Decree No. 306/2012 Coll., on the conditions for preventing occurrence and spreading of contagious diseases and the hygiene requirements for operation of healthcare facilities and institutes of social care.

77 Cf. Article 3 (3) of the Methodology for Dealing with HIV/AIDS in the Czech Republic. In: *Věstník Ministerstva zdravotnictví České republiky*, částka 10/2016. Available (in Czech) at: http://www.mzcr.cz/dokumenty/vestnik-c10/2016_13122_3442_11.html.

- Why is the Ministry of Health insisting on the duty of HIV positive persons to disclose their status? Is this a truly effective measure to stop spreading of an infectious disease? Does the measure have any other legitimate objective?
- Is the Government considering a review of public health protection rules in relation to an HIV infection to reflect new scientific understanding of the infection?
- What steps is the Co-ordinating Working Group of the National Programme for Dealing with HIV/AIDS implementing in relation to the current legislative rules?

11. Habilitation and rehabilitation (art. 26)

While the Convention stresses the need for a comprehensive rehabilitation that begins at the earliest possible stage and include a multidisciplinary assessment; however, the Czech Republic still lacks legal rules to ensure linkages and co-ordination between the individual rehabilitation components. The requirement of adopting new legal rules has been repeatedly included in the National Plan on Promoting Equal Opportunities for Persons with Disabilities, but the responsible Ministries have so far failed to reach agreement on their parameters.⁷⁸

Proposed questions for the Government:

- When will the Czech Republic adopt legal rules ensuring co-ordinated rehabilitation?

12. Work and employment (art. 27)

The Czech Republic currently has the lowest unemployment rate of all EU countries.⁷⁹ Despite that, the ratio of registered jobseekers with disabilities keeps increasing⁸⁰ and they currently make up 16.4% of all jobseekers.⁸¹ According to organisations active in the area of employment of people with disabilities, there are a number of obstacles preventing full participation of persons with disabilities in the job market – these include e.g. the lack of flexible forms of work, persisting prejudices on the part of employers, and effective obstacles such as the exclusion of people with hearing impairments from a job interview on the phone.⁸²

One of the tools for supporting employment of people with disabilities consists in the “mandatory share of the workforce” (i.e. an obligation that at least 4% of all employees are

78 See the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, pp. 50-51.

79 Euro area unemployment at 8.6%. Eurostat – Your key to European statistics [online]. European Commission – Eurostat, ©2019 [retrieved on 16. 1. 2019]. Available at: <http://ec.europa.eu/eurostat/en/web/products-press-releases/-/3-01032018-AP>.

80 The share of persons with disabilities in the jobs market is increasing. *Czech Association of Employers of People with Disabilities* [online] AZZP, © 2019 [retrieved on 16 January 2019]. Available (in Czech) at: <https://azzp.cz/roste-podil-nezamestnanych-ozz-na-trhu-prace/>.

81 The Czech Labour Office provided CZK 5.7 billion to support employment of people with disabilities. *Labour Office of the Czech Republic – press report* [online]. © 2019 Ministry of Labour and Social Affairs of the Czech Republic [retrieved on 16 January 2019]. Available (in Czech) at: https://www.mpsv.cz/files/clanky/32714/UP_CR_poskytl_loni_57_mld._Kc_na_podporu_zamestnavani_OZP.pdf.

82 Statements by the Services Centre for People with Hearing Impairment, Českomoravská unie neslyšících, z. s. (Czech and Moravian Deaf Union), and the KOLUMBUS Association as part of a questionnaire survey (File No. 78/2018/OZP/MR).

people with disabilities).⁸³ However, an employer may choose alternative ways of complying: buying products and services or placing orders with employers of people with disabilities, or by providing additional contributions to the national budget.⁸⁴ There are no publicly available statistics that could serve as a basis for evaluation of the effectiveness of this tool. According to an analysis which concerned exclusively the public sector, only two of fourteen Ministries have complied with the mandatory share fully, with other three Ministries having complied partially.⁸⁵ It is to be expected that the situation in the private sector will be the same or worse.

The Convention binds the State parties to support employment of people with disabilities in an open labour market. The National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015-2020 does not include tasks that would address the issue of employment of people with disabilities, including transferring people with disabilities from a protected labour market to an open labour market, even though supporting the employment of persons with disabilities in a protected as well as open labour market is a main objective in the area of employment.⁸⁶

Proposed questions for the Government:

- What are the Government plans in the area of employment of people with disabilities in an open labour market? Are there specific steps with the objective to transfer people with disabilities from the protected labour market to an open labour market?⁸⁷
- What is the Government plan in reducing unemployment of people with disabilities?
- Does the Government have available complete information on the compliance with the mandatory share of people with disabilities in the workforce in the private sector?
- What steps has the Government taken in relation to employment of people with disabilities in public administration?

13. Adequate standard of living and social protection (art. 28)

One of the measures ensuring adequate living standards consists in State financial support via the non-insurance system, i.e. allowances for care or special-aid allowances. The insurance system provides disability pensions to people with disabilities. For the purposes of granting the aforementioned allowances, the medical condition of the applicants has to be assessed by the medical assessment service.⁸⁸ There has been a long-term problem with **insufficient staffing of the medical assessment service**, which leads to longer deadlines for processing applications for the individual allowances, with the associated higher error rate.

83 Section 81 (1) of Act No. 435/2004 Coll., on employment, as amended.

84 Section 81 (2) of Act No. 435/2004 Coll., on employment, as amended.

85 See paragraph 13.8 of the 2017 progress report on the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015-2020.

86 National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, paragraph 4.13.

87 See paragraph 4.13 of the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015-2020.

88 Act No. 582/1991 Coll., on organisation and implementation of social security, in conjunction with Act No. 108/2006 Coll., on social services.

The average age of medical assessors is also increasing, which could lead to further paralysis of the assessment service.⁸⁹

As concerns the possibility of funding of supporting social services, people with disabilities can draw the allowance for care,⁹⁰ the amount of which is determined based on “the degree of the disabled person’s dependency on the help of another natural person”. Four dependency degrees are recognised, where even for the highest degree (“full dependency”), the amount of allowance is in many cases completely insufficient. Considering the fact that the allowance is structured as a contribution, it is not meant to cover 100% of the necessary costs and its amount is not adjusted according to the recipient’s circumstances.⁹¹

The costs of living for families with children with disabilities are naturally always higher. The “social contribution” allowance,⁹² meant to maintain the child’s reasonable living standard, has been abolished without an adequate replacement. The current situation of families with children with disabilities is thus still unsatisfactory.⁹³

Proposed questions for the Government:

- What steps has the State taken, specifically, to provide for adequate staffing of the medical assessment service to avoid delays in proceedings, especially in cases of allowances for care, contributions, and issuance of disability cards?
- What further steps will the State take to ensure sufficient staffing of the assessment service in order to ensure its continuous operation when older assessors retire?
- How will the State ensure that people with disabilities are able to pay for individualised supportive services (e.g. a personal assistant) allowing them to live an independent life in a natural social environment?
- Is the State planning to re-introduce the family allowance of “social contribution” for people with disabilities? If not, how will the State provide for a reasonable living standard of families with children with disabilities?

14. Participation in political and public life (art. 29)

Despite the Committee’s 2014 recommendations, people with disabilities continue to be excluded from the enjoyment of the right to vote. In January 2017, the Supreme Court of the Czech Republic issued a unifying opinion concerning the courts’ power to restrict the right to vote, where it confirmed the courts’ previous practice and enabled to courts to

89 Findings obtained in previous cases I have dealt with.

90 Sections 7 to 30 of Act No. 108/2006 Coll., on social services.

91 The amount of the allowance in the 4th dependency degree equals CZK 13,200 per month. An increase to CZK 19,200 is currently being discussed. The price of a supportive service, e.g. a personal assistant, is usually about CZK 120 per hour. This means that if a person needs personal assistance 24 hours a day, the monthly cost would correspond to CZK 86,400.

92 See transitory provisions of Act No. 347/2010 Coll., on amendment to certain laws in relation to the austerity measures of Ministry of Labour and Social Affairs.

93 This is mentioned e.g. by the Czech National Disability Council.

continue ad hoc assessment of the “capacity to vote” within proceedings on legal capacity.⁹⁴ The chaotic legal regulation and its interpretation leads to discrepancies in voter registers and there are no comprehensive statistics on how many people’s voting right has been restricted.

Moreover, persons without a restriction of legal capacity who live in institutional social or healthcare services facilities are often excluded from voting in elections *de facto*, due to the legal limitations to voting outside the individual voting districts⁹⁵, as well as insufficient support for the voting process. I have also encountered cases where the employees of a facility did not know the law and did not allow the clients to vote, even though their legal capacity was not restricted in that regard.⁹⁶

Effective enjoyment of the right to vote on the part of people with disabilities is also hindered by the fact that the voting process is not adjusted to the needs of a broad spectrum of voters. Electoral ballots are often complicated, and their format makes them inaccessible to people with intellectual or visual impairments, and even the elderly. The State does not even offer information on the election in an accessible readable form or in sign language. Polling stations are often not barrier-free and people with severe physical disabilities are forced to vote home or in front of the building where the polling station is located.

Proposed questions for the Government:

- When will the State ensure that all people with disabilities, regardless of the degree or type of disability or supporting legal decision-making, can exercise their right to vote and to be elected to office on an equal basis to others?
- How many persons are currently restricted in the exercise of their right to vote on the basis of their restricted legal capacity?
- How will the State ensure that elections, ballots and polling stations are accessible to all people with disabilities, including persons living in social or healthcare services facilities (in order to comply to the principle of universal design)?

In Brno, on 11 February 2019

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

94 Opinion of the civil and commercial division of the Supreme Court of 15 February 2017, File No. Cpjn 23/2016, concerning a court’s power to restrict legal capacity to exercise the right to vote, available (*in Czech*) at http://www.nsoud.cz/Judikatura/judikatura_ns.nsf/WebSearch/1C9E8AD9ABF63AD0C12580C9001FC91E?openDocument&Highlight=0

95 In municipal and regional elections, people may not use a voter’s card or portable ballot boxes for voting outside their voting district.

96 After the elections to municipal assemblies, the Office of the Public Defender of Rights visited 7 homes for people with disabilities and studied whether they had exercised their voting right. A summary report on visits to these facilities will be published in March 2019.