Veřejný ochránce práv
OMBUDSMAN

Information on the activities of the Public Defender of Rights submitted

pursuant to Section 24 (1)(a) of Act No. 349/1999 Coll., on the Public Defender of Rights, as amended,

for the first quarter of 2015

A Number of complaints, investigations

A total of **2128** complaints were received in the first quarter of 2015, which is **102** more than in the same period last year. The number of complaints in the area of public administration has increased– the **1319** complaints received represent an increase of **184** compared to the third quarter of 2014. The percentage of complaints about matters outside the Defender's mandate delimited by the Public Defender of Rights Act has decreased slightly (809, i.e. 38%, in Q1 2015 compared to 891, i.e. 44%, in Q1 2014).

Of these, a total of **59** complaints claimed unequal treatment by public administration and private entities. The number of complaints directed against discrimination in the sense of the Anti-discrimination Act reached **28**. In the area of protection against discrimination, co-operation was provided to international entities and national authorities in a total of **21** cases.

Moreover, **7** systematic visits were made in the framework of the agenda of supervision over restrictions of personal freedom. In connection with the Defender's activities in the field of monitoring of the detention of foreigners and administrative expulsion, **971** decisions to monitor were submitted. My colleagues monitored the surrender (repatriation) of one foreign national.

In the public administration agenda, most complaints received, 346 in total, were again related to social security, followed by complaints relating to construction proceedings and land-use planning (118), and by complaints relating to the prison system, the police and the army (117).

B Activities of the Defender

B.1 Public administration

In relation to public administration, in particular the following recommendations and statements were issued during the first quarter of 2015:

B.1.1 Assistance in material need

A complainant objected against the procedure of the Labour Office of the Czech Republic, the regional branch in Ústí nad Labem (hereinafter the "Labour Office"), which **asked the complainant to produce a certificate of inclusion in the register of jobseekers, the decision on provision of unemployment relief, and notice of the amount of housing allowance** in order to evaluate the complainant's entitlement to subsistence support. However, the **Labour Office can obtain all this information from the official records.**

In my investigation I concluded that the applicant for the subsistence support must prove all the above-mentioned facts. Nevertheless, **(s)he may ask the Labour Office to find the necessary information in its records on his/her behalf,** in accordance with the principle of efficiency. **The authority providing assistance to persons in material need has the duty to inform the applicant for subsistence support** that it will obtain the information necessary for evaluation of the existence of entitlement for subsistence support and its amount (i.e. the certificate of inclusion in the register of jobseekers, certificate of provision of unemployment relief and requalification, and certificate of the existence of entitlement to State social support).

The Labour Office has adopted remedial measures and now informs all persons in material need that certain facts relevant for decision on entitlement for assistance in material need can be obtained from official records by the Labour Office itself, if the applicant so requests.

B.1.2 Appropriate compensation for unreasonable length of proceedings

I received a complaint against the procedure of the Ministry of Labour and Social Affairs (hereinafter the "Ministry") where the complainant claimed appropriate compensation in a case of failure of the Labour Office of the Czech Republic, regional branch in Brno (hereinafter the "Labour Office"), to meet the statutory deadline for issuing a decision on provision of allowance for care. The wife of the complainant filed an application for the allowance in August 2012, but the Labour Office reached a decision only in July 2013 and the Ministry decided about the appeal against the decision in January 2014. The Ministry refused to provide the compensation and the complainant was dissatisfied with this situation. On my request, the Ministry stated that it did not dispute the existence of delays in proceedings, but it rejected the complainant's right to claim compensation for the intangible damage incurred, stating that it was a personal claim pertaining solely to the wife of the complainant who, however, had died in November 2013. In its statement, the Ministry argued that the mere acknowledgement that a right had been breached was sufficient.

I based my investigation on the assumption, which was confirmed by the judgement of the Supreme Administrative Court of 9 October 2014, ref. No. 9 Ads 119/2014-50, at www.nssoud.cz, that both spouses, i.e. the husband and the wife, were parties to the proceedings on allowance for care. In the notice of provision of assistance, the complainant is indicated as the person providing care to the applicant, therefore the complainant became the procedural successor to his deceased wife already in the course of proceedings before administrative authorities. I thus concluded that if the complainant had been the successor of his wife in

proceedings on the allowance for care, there can be no doubt that he was also a person authorised to raise his own claim for appropriate compensation for undue delays in proceedings.

I concluded, correspondingly to the judgement of the Supreme Administrative Court of 5 October 2010, file No. 30 Cdo 4815/2010, at www.nssoud.cz, that if the legal successor of a party to delayed proceedings raises his own claim for appropriate compensation in money for intangible damage, the Ministry must also take into account the duration of the proceedings held with his legal predecessor. In evaluating further conditions necessary for the liability for intangible damage caused by undue delays in proceedings to arise, I further referred to the Opinion of the Civil and Commercial Division of the Supreme Court of the Czech Republic of 13 April 2011, file No. Cpjn 206/2010, No. 5/2011 Coll. of the SC, at www.nsoud.cz.

Following the publication of my investigation report, the Minister of Labour and Social Affairs reconsidered the complainant's request and awarded him an appropriate compensation in an amount exceeding CZK 13,000.

B.1.3 Taking DNA samples from police officers

I was approached by an anonymous officer of the Police of the Czech Republic from the Plzeň Region, who called attention to an **internal memorandum** sent by his superiors to all members of the complainant's territorial department which ordered them to provide a DNA sample or face termination of their service relationship (dismissal).

I initiated investigation into the matter and contacted the head of the Regional Police Directorate in the Plzeň Region. He stated that **this was a misinterpretation of Instruction of the Police President** No. 250/2013, on identification details, where this instruction provided for collection of the police officers' DNA. However, this is to be done purely on a **voluntary basis and only in case of those police officers** whose service position in the Police carries a risk of DNA contamination of objects collected from crime scenes.

With regard to the ensuing misunderstanding, the head of the Regional Police Directorate in the Plzeň Region issued his own internal procedural guidelines specifying unified rules for all the organisational units of the Regional Police Directorate.

Since the head's statement credibly demonstrates that DNA sampling is not generally required from all the members of the Police of the Czech Republic in the Region, much less under threat of any kind of sanction, I closed my investigation with the conclusion that although errors had been made within the relevant territorial department, they had been remedied by the Regional Police Directorate of the Plzeň Region.

B.1.4 Nuisance caused by operation of an industrial plant

The complaint in this matter was raised by a civic association as well as an individual complainant. Both called attention to the nuisance caused by the operation of an industrial plant situated in their home municipality. Specifically, they were

bothered by **noise caused by the manufacturing activities carried out within the plant** and **noise and vibrations caused by transport servicing** of the plant (lorries were going through the municipality, the access road was in a bad state of repair and unsuitable for this kind of transportation). The complainant also objected to permitting the construction of more buildings within the plant which, as a result, would lead to an increase in manufacturing and thus the volume of (the already problematic) transportation. They also pleaded variance with the land-use plan.

My deputy carried out a thorough investigation in which he issued statements concerning the procedures of the Regional Authority of the Zlín Region, the municipal authority of Bílovice (hereinafter the "construction authority"), the Kněžpole municipality acting in the role of the road administration authority, the Regional Public Health Station of the Zlín Region, and the Ministry for Regional Development.

He did not agree with the authorities' opinion that the term **"associated non-agricultural manufacturing"** *(in Czech: přidružená nezemědělská výroba)* as used in the municipal land-use plan can be interpreted in such a way that would permit construction of buildings used for a purpose other than agriculture (i.e. buildings used purely for industrial manufacturing unrelated to agriculture).

Concerning the access road to the plant, my deputy concluded that in issuing permits for further construction or change of use of existing buildings, the **construction authority must evaluate whether the access road to the plant is (still) sufficient in terms of its capacity**. He recommended that the construction authority obtain at least a non-binding expert **opinion of the competent road administration authority** or a transportation department at one of the larger municipal authorities as an underlying document for its decision-making.

He further found that the developers operating the relevant plant have ignored in a number of cases the construction-law requirements and requests of the construction authority (they initiated construction and continued in construction without permit). A number of buildings lacking proper documentation were constructed within the plant. On recommendation of my deputy, the construction authority carried out inspection of the whole plant, included the buildings within the plant into the plan and indicated with each individual building whether and based on what acts they had been permitted. It also addressed the issue of correspondence between the permitted and real use of the relevant buildings. Acting on the basis of these findings, it began implementing remedial measures in the form of proceedings on removal of some of the non-permitted buildings. Changes in the staff of the construction authority occurred during the course of the investigation.

On the basis of the above-mentioned facts, my deputy concluded the investigation. Nevertheless, he concluded that while problems of nuisance caused by operation of the industrial plant were not completely solved, the procedure of the administrative authorities had contributed to at least some progress in the issue and that the administrative authorities were active in implementing remedial measures. He also informed the complainants of the possibility to initiate a private-law action (the "neighbourhood suit").

B.1.5 Announcing increase in the price of utilities

The complainant requested investigation of the procedure of the Energy Regulatory Office, to which he had sent a complaint against the procedure of an energy supplier in announcing an increase in energy prices. The complainant argued that he had not been informed of the **price increase** since it **had only been announced online on the supplier's website and at the supplier's establishment**, which was very distant from the complainant's place of residence. He stated that in so doing the supplier had infringed on his right to withdraw from the service contract on the basis of increase of energy prices. However, the Energy Regulatory Office found no error in the energy supplier's procedure. It concluded that the supplier acted in accordance with the Energy Act[1], which lets suppliers choose whether they inform the customers specifically or generally (the method used does not affect the deadline within which the customer may withdraw from the contract due to increase in price).

My deputy initiated investigation where he addressed the issue of whether the price of energy may be changed unilaterally, without there being prior agreement on the reason for the change in the contract, and further whether the energy supplier is obliged to announce the increase in energy price to the customer specifically, or a general publication of the notice (e.g. on the supplier's website) is sufficient.

He concluded that the **conditions of the energy service contract executed by the customer may be changed unilaterally if changes are agreed in advance in the contract and, at the same time, the contract stipulates reasonable causes for such changes in order to ensure their predictability.** The above conclusion follows from EU directives and Euro-conforming interpretation of the Civil Code (its provisions concerning unreasonable agreements). The Energy Regulatory Office agreed with the conclusion.

In the second issue of informing customers of changes specifically, my deputy concluded that the relevant provision of the Czech Energy Act is not in accordance with the European energy directives, which stipulate the **obligation for the energy suppliers to inform the customers of any increase in charges directly, at an appropriate time and in a comprehensible manner.** Therefore, I **commented on the draft amendment to the Energy Act** and recommended to introduce a duty of the energy supplier to specifically inform the customers of each increase in charges (unless the customers do not wish to be informed specifically). The Ministry of Industry and Trade accepted my recommendation and agreed to amend the Energy Act in order to impose a duty on suppliers to specifically inform the customers of increases in energy prices. The Energy Regulatory Office welcomed the amendment.

[1] Act No. 458/2000 Coll., on the conditions for operating business and on the performance of State administration in energy sectors and on amendment to certain laws.

B.2 Supervision over restrictions of personal freedom and monitoring of expulsions

B.2.1 Supervision over restrictions of personal freedom

B.2.1.1 Systematic visits

The employees of the Office of the Public Defender of Rights performed seven systematic visits in the first quarter of 2015 within supervision over restrictions of personal freedom. They visited police cells operated by the District Department of the Police of the Czech Republic in Olomouc I., Olomouc III. and cells operated by the Territorial Department of the Police of the Czech Republic in Kladno. They also visited two prisons: Břeclav Prison and Jiřice Prison. These two visits concluded the series of systematic visits to prisons taking place in 2014 and 2015 in the course of which 7 prisons in total were visited. After the individual reports are drawn up, a summary report from visits in prisons will be prepared to summarise the findings and present general recommendations to the Prison Service of the Czech Republic and other authorities. My authorised employees have also visited the Facility For Detention Of Foreigners in Bělá-Jezová and a hospice in Hradec Králové. Visit to the facility in Hradec Králové is the first in a series of visits to hospices to be gradually carried out during the second quarter of this year.

B.2.1.2 Evaluation of visits to the unregistered social services facilities

In February, **I published the summary report** "Accommodation Facilities providing Care without Authorisation, Report on Systematic Visits Carried Out by the Public Defender of Rights". The report summarises the results of visits to nine accommodation facilities providing, without registration, services corresponding to "residential social services" or "special regime home". The **report describes the most common shortcomings, analyses the evasion of the mandatory registration** and describes and explains the possibilities for punishment of the operators of unregistered facilities; the report also **formulates recommendations** for specific subjects such as the unregistered facilities themselves, Regional Authorities, regional branches of the Labour Office, regional Public Health Stations, Trade Licensing Authorities, municipal authorities of municipalities with extended competence, and providers of health care services.

I sent the summary report to a wide range of institutions (Ministries, all Regional Authorities, district courts, regional Public Health Stations, all of the regional branches of the Labour Office, psychiatric hospitals, regional State Attorney's Offices, and professional associations) and I continue to promote its findings and strive to ensure adoption of the measures I recommend. I also asked the Ministry of Labour and Social Affairs as the guarantor of Czech social policy to issue a statement to my report.

I have found ill-treatment in some form in all of the visited facilities. Therefore, my report focuses in detail on the possibilities of repression (punishment) of provision of social services without authorisation and the possibilities of prevention against infringement of the rights of individuals. At the same time, however, I believe the **solution** to the problem of unregistered residential social services facilities and ill-treatment occurring in them **does not lie in repression**. The available demographic

data show that the demand for social services for the elderly and persons with dementia will only grow in the coming years. **The state** as the guarantor of the quality of social services **should**, in accordance with government responsibilities in the area of social rights, **react to the situation** by supporting legal social services and families and community services in order to enable a person dependent on care to remain in their natural environment for as long as possible. The state must address the problem of unregistered residential social services facilities right now through providing support to people who have found themselves in these institutions or those who are about to enter them. I believe than for this support to be effective, it must include financial help.

After carrying out four systematic visits in unregistered facilities where I found suspected criminal offences, I considered it necessary to (pursuant to Section 21a (3) of the Public Defender of Rights Act) file an instigation to the prosecuting bodies as the "competent authority". These involve for example the criminal offences of bodily harm caused by negligence, unauthorised operation of a business, and restriction of personal freedom. Concerning the effectiveness of repression, I have to repeat what I stated also in the summary report: it is my concern that the administrative and/or criminal punishment could affect the employees of the unregistered facilities or other participating persons while simultaneously the persons responsible for organising and managing these activities would escape punishment. Therefore, in relation to the agenda of the January and March session of the Chamber of Deputies, **I sent a letter to the chairman of the Committee on Legal and Constitutional Affairs to call attention to the relationship between ill-treatment and criminal liability of legal entities.** I believe that in amending the Corporate Criminal Liability Act[2], one must not lose sight of the necessity to ensure that criminal liability for ill-treatment affects the legal entities which are actually responsible for causing the ill-treatment.

B.2.1.3 International co-operation

In March 2015, employees of the newly established national preventive mechanism of Hungary visited Brno (the Hungarian ombudsman has acted in the role of the national preventive mechanism pursuant to OPCAT[3] since January 2015). The predominantly study visit for the benefit of our Hungarian colleagues has also brought, due to the scope of the original competence of the Hungarian ombudsman, some valuable experience for our own institution. The Hungarian ombudsman has developed a detailed framework for co-operation with NGOs, including the Bar Association. The Hungarian ombudsman plans to address the issue of administrative detention of foreign nationals since the current migrant wave (with large numbers of Kosovo nationals) is causing considerable strain to the system of detention. The Hungarian ombudsman challenges the detention of families with children. The Hungarian ombudsman will (after anonymisation) publish each of the reports on visits in a facility.

[2] Act No. 418/2011 Coll., on criminal liability of legal entities and proceedings against them, as amended

[3] Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Memorandum of the Ministry of Foreign Affairs No. 78/2006 Coll. Int. Tr.)

I was likewise visited by the Croatian ombudswoman. We discussed a number of topics, but the agenda of the national preventive mechanism was at the forefront. The Croatian ombudswoman is planning to use her competence to address the issue of protection of rights of the elderly, to which end I gave her my reports from 2014 and 2015.

B.2.2 Monitoring of expulsions

On 4 – 5 February 2015, the authorised employees of the Office of the Public Defender of Rights monitored the administrative expulsion of a citizen of the Federal Republic of Nigeria, who was repatriated to Nigeria as part of a return operation co-ordinated by the European Agency for the Management of External Borders. The employees of the Office of the Public Defender of Rights monitored the entire expulsion process, which encompassed the release of the foreign national from the Facility For Detention of Foreigners in Bělá-Jezová, handover of the foreign national at the Czech – Austrian border crossing at Mikulov – Drasenhofen, securing the foreign national in a police cell at the Vienna International Airport in Schwechat, air escort from Vienna to the Madrid Barajas International Airport (Spain) and air escort from the Madrid Barajas International Airport to Murtala Muhammed International Airport in Lagos, the Federal Republic of Nigeria.

B.2.2.1 Medical examinations of foreign nationals leaving a reception centre

Through my report from expulsion monitoring, I informed the Healthcare Facility of the Ministry of the Interior – Regional Healthcare Facility in Brno, which provides health care services to the refugee Reception Centre in Zastávka u Brna, that **asylum-seekers** leaving the centre in order to be transferred to the Member State of the European Union competent to assess their asylum application under Dublin III regulation[4] **are not provided with a checkout medical examination**. This occurs despite the fact that checkout medical examination may reveal health risks associated with the manner of escort (land, air) and health risks associated with the stay of the foreign national outside of the Reception Centre. Another important reason for the medical examination is the verification of the condition of the person leaving the facility, where his/her freedom was restricted on a statutory basis. Revealing potential health risks is also related to protection of public health, as the asylum-seeker will be in contact the public following the release from the centre. **The Healthcare Facility of the Ministry of the Interior** – Regional Healthcare Facility in Brno **has accepted my recommendation**. I secured that the foreign nationals leaving the Reception Centre for the purpose of transfer under Dublin III will be given (with their consent) a checkout medical examination.

[4] Regulation (EU) of the European Parliament and of the Council of 26 June 2013, establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (hereinafter "Dublin III Regulation").

B.3 Protection against discrimination

B.3.1 Indirect discrimination on the grounds of age

A complainant filed his complained already in 2011, where he pleaded violation of the right to equal treatment. He complained that his previous employer decided during a board meeting to reduce personal bonuses by 50 % to all workers with a parallel employment relationship. This measure affected also persons receiving old-age pension. The complainant considered this measure to be an instance of indirect discrimination on the grounds of age.

My predecessor, JUDr. Pavel Varvařovský, acting on the basis of an investigation carried out in 2011, concluded that **indirect discrimination on the grounds of age could have occurred if the reason for the reduction of the complainant's personal benefits had been his parallel income in the form of the old-age pension, and the employer could not provide a different, legitimate reason for this measure** (e.g. unsatisfactory performance). The complainant subsequently approached the Labour Inspectorate, which did not find any discrimination at the workplace. This is why in 2013 the complainant approached the Defender again with a request for investigation into the procedure of the Labour Inspectorate.

The inspection carried out by the Labour Inspectorate revealed that personal benefits were reduced to all employees within the control sample (18 employees, of which half were receiving old-age pension), therefore the Inspectorate did not find the measure discriminatory with respect to the employees receiving old-age pension. The inspector stated that, within the inspection, one employee receiving old-age pension was always compared against one employee not receiving old-age pension (cross-checking).

I agreed with the Inspectorate's conclusion that the employer had not indirectly discriminated the complainant provided that the measure had not put recipients of old-age pension at a disadvantage in comparison with the other employees. This is because, in this case, the basic feature of indirect discrimination, i.e. discriminatory effect of a neutral measure, was not present. However, I concluded that the regional branch of the Labour Inspectorate made an **error in that it had failed to adapt the inspection procedures to the specific circumstances of indirect discrimination**. In cases of indirect discrimination, it is necessary to evaluate whether a measure has a more severe impact on a specific group sharing a protected trait than on other groups. Adapting the procedure in cases where indirect discrimination in pay on the grounds of age is pleaded could mean, for example, that the inspectors compare the whole group of employees receiving old-age pension with a group of employees who lack the trait which is being discriminated against (i.e. older age associated with receiving old-age pension).

I likewise criticised the Inspectorate for not including in the inspection protocol a description of the established facts related to the alleged discrimination, including the reasoning of the inspectors' conclusions. The inspectors further erred during the inspection in that they **failed to address the possible variance between reducing and withdrawing personal benefits with the mandatory provisions of the Labour Code on determining the amount of pay**. The State Labour Inspectorate

made an error by agreeing with the incorrect procedure of the regional branch of the Labour Inspectorate and failed to provide sufficient expert guidance in the matter.

The Labour Inspectorate reacted to the interim investigation report with an assurance that it agreed with my conclusions and would adhere to them in further inspections. I consider this measure sufficient.

C Legislative recommendations and special powers of the Defender

C.1.1 Senate draft law amending Act No. 111/2006 Coll., on state social assistance, as amended (parliamentary press No. 156)

In relation to discussion of the above Senate draft law, I warned the chair of the Committee on Social Policy of the Chamber of Deputies against the possible negative impacts this draft would have, if passed into law. With regard to the conclusions of the Constitutional Court in judgement File No. Pl. ÚS 1/12 of 27 November 2012, I expressed my doubts as to **whether or not the newly proposed regulation of community service is at variance with the prohibition of forced labour (Article 9 of the Charter of Fundamental Rights and Freedoms) and with the right to fair remuneration for work (Article 28 of the Charter of Fundamental Rights and Freedoms)**. In order for community service to be compatible with the above constitutional principles, it has to be **voluntary**, not mandatory, and its performance must be for consideration, e.g. in that for each hour of community service, the recipient of assistance in material need receives certain increase in the amount of subsistence support.

In my opinion, **the Senate draft law is unfair in that it proposes to reduce subsistence support to persons who are in material need for longer than 6 months** and did not perform any community service, voluntary service or employment, **where the Labour Office does not have to verify if the given municipality offers community service or whether the person in material need can perform it** (e.g. in relation to health problems). In raising these objections, I continue in the work of my predecessor JUDr. Otakar Motejl, who in his 2009 Summary Report on the Activities of the Defender expressed similar objections to then-applicable legal regulation.

In its 19th meeting held on 30 January 2015, the Committee on Social Policy of the Chamber of Deputies discontinued the discussion of the draft. I subsequently met with the Minister of Labour and Social Affairs and we agreed to introduce changes which would strengthen the principle of positive motivation through financial incentives for performing community service and take into account the situations where community service is not available in some areas or it is not suitable for a given person due to his/her medical condition.

Taking account of my comments, the Ministry of Labour and Social Affairs subsequently prepared another draft in collaboration with Zuzana Kailová, MP, which would remove the above-described negative impacts of the Act. This draft was discussed by the Committee on Social Policy on 15 April 2015, but it was not approved by the required majority of MPs. I continue to support the changes in this

proposed amendment since if the Senate draft law is adopted as it stands now, the new regulation will bring along many unfair consequences for persons in material need.

C.1.2 Comments on the draft law on protection of health against the harmful effects of tobacco, alcohol and other dependency-producing substances, on integrated anti-drug policy and amendment to related laws

The above draft law **amends also Act No. 372/2011 Coll., on healthcare services and the conditions for their provision**, as amended. In relation to this draft, I proposed to **supplement Section 39 (3) of the Act and include the obligation of providers to keep** and evaluate **central records of use of restrictive measures**; these records are not part of medical documentation. This request was raised in respect of the Ministry of Health already by my predecessor, JUDr. Pavel Varvařovský, in his Report On Systematic Visits to Children's Psychiatric Clinics (2013) and I repeated it in my Report on Systematic Visits to Drunk Tanks (2014). **The calls of the Public Defender of Rights as the national preventive mechanism have not been heeded**, even though the Defender repeatedly provided explanations based on findings of violations of the patients' rights.

I have to state, concerning the obligation to keep records, that **I have repeatedly found cases of breach of the health care providers' duties** under Section 39. The practice of use of restrictive measures must be subject to internal as well as external supervision, which is the purpose of keeping central records in the facilities. The primary goal is to ensure protection of the patients against misuse of instruments which have only been given to the providers for use in extreme cases and which, in my opinion, are overused in many facilities. Central records would enable easy monitoring of the staff workload and allow to look for suitable measures in the areas of organisation of care and personnel in order to create a therapeutic, non-restrictive environment where overuse of restrictive measures is not necessary. It is also important to note that monitoring of work with restrictive measures can lead to substantial cost savings. Less frequent use of restrictive measures leads to an increase in work safety, which in turns reduces the risk of traumatising the staff; this contributes to an overall improvement in the safety of health care services in general. Finally, I have to conclude that the **Czech Republic does not keep track of the use of restrictive measures** and its trends in any official capacity. This means the country is an easy target for criticism of any nature and the Ministry of Health cannot report on how widespread the use really is.

The claim that providers of health-care services already keep central records is false. Some types of medical documentation software enable generating such records, but this is not true in all cases. Some providers of health-care services keep central records (using a piece of software or "on paper"), but many of them do not and virtually none of the providers have adopted procedures for assessing the cases of use of restrictive measures. The providers of health care services assess and evaluate the procedures followed by the staff only very occasionally.

Since this issue concerns central records which are not part of medical documentation, the proposed measure **in no way affects the area of personal data protection.**

I add that considering the variety among providers and their operators, the rule must be stipulated by law; no other regulation is binding to all types of providers. Methodical Guideline of the Ministry of Health No. 37800/2009, which in Art. 2 recommends to keep central records, is not a sufficient instrument for these purposes.

In my opinion, the current draft amendment of the Health Care Services Act defines central records clumsily, as if it was simply a summary of information on the number of uses of restrictive measures per calendar year; the wording should be more specific. To ensure improvement of the current state of use of restrictive measures, I asked the Ministry of Health to arrange for the Regional Authorities to inspect the use of these measures, to provide them with expert guidance, and to initiate expert debate on the issue.

D Other activities

D.1.1 Together towards Good Governance Project

Since 1 January 2014, the Office of the Public Defender of Rights has been implementing the Together for Good Governance project (reg. No. CZ.1.04/5.1.00/81.00007). The project is financed from the European Social Fund through operational programme Human Resources and Employment and the State budget of the Czech Republic.

The main objective of the project is to identify opportunities for **increasing effectiveness of the work of the Office of the Public Defender of Rights** with the use of international co-operation.

In particular **the following activities took place** during the first quarter of 2015 within the above project:

1) **Two individual international visits with project partners and co-operating organisations**
   - One two-day visit of international partners and co-operating organisations to the Office of the Public Defender of Rights, One two-day visit in Hungary (the Office of the Commissioner for Fundamental Rights; Equal Treatment Authority)

   Topics of individual visits – exchange of experience and sharing of good practice in the following areas:
   - comparison of organisational structures, the competences of the institutions in the area of activities of the national preventive mechanism and equal treatment
   - comparison of the working methods (legislation, structure of investigation reports, preparation for and the course of investigation in detention facilities, etc.)
   - results of the “Discrimination in the Czech Republic” survey, the concept of the “Attitudes of Czech citizens towards the Public Defender of Rights” survey
   - methods of informing the public on the Defender’s activities an and awareness-raising

- methods of communication with the public
- systematic education of employees

2) **Ten workshops for public administration in Plzeň, Prague, Zlín, Jihlava, Pardubice and Karlovy Vary**

Topics: removal of buildings, public roads, right to information and personal data protection, the Defender's findings concerning protection against noise, the Defender's findings concerning water management, local fees, monument care, and social and legal protection of children in the Defender's practice.

Total number of participants: 422.

3) **Three roundtables with public administration and non-profit organisations in Brno**

Topics: selected issues in tax distraint, together against discrimination: a co-operation and co-ordination meeting between the Defender and representatives of selected central, supervision and inspection bodies, developments in the area of combating discrimination in 2014: views of the Defender and the NGOs.

Total number of participants: 70.

4) **Three workshops within the Ombudsman Legal Clinic at the Palacký University in Olomouc and student internships at the Office of the Public Defender of Rights.**

Topics: introductory seminar – methods of the ombudsman's work, the ombudsman's activities in the area of (un)employment (deletion from the register of jobseekers, requalification options), construction law and the right to the environment – options for dealing with negative environmental impacts of industry.

Total number of students: 10.

5) **Three workshops for secondary and higher vocational schools in Hustopeče, Holešov and Prague**

Topics: the Public Defender of Rights and her activities.

Total number of students: 84.

6) **One two-day International Conference held on the occasion of the 15th anniversary of establishing the office of the Public Defender of Rights in the Czech Republic**

Total number of participants on the first day (plenary sessions): 130.

Total number of participants on the second day (workshops): 32.

7) **One informative and awareness-raising meeting with the public in the Olomouc Region entitled "We take interest in you" (with the participation of the Defender)**

Topic: social care for ageing parents.

Total number of participants: 42.

8) **Eight informative and awareness-raising meetings in municipalities below 10,000 of inhabitants (Osoblaha, Korytčany, Jablůnka, Kunovice, Štěpánov, Ždánice, Uherský Ostroh and Pavlovice u Přerova)**

Topics: unfair business practices, social care for ageing parents, nuisance through excessive noise, (un)equal opportunities in employment.

Total number of participants: 216.

9) **Four informative and awareness-raising meetings at schools in Olomouc, Osoblaha, Hustopeče and Zlín**

Topic: diversity in school environment.

Total number of participants: 170.

10) **One informative and awareness-raising meeting in a socially excluded area in Ostrava (with participation of the Defender)**

Topics: equal treatment in labour-law relationships and in access to housing.

Total number of participants: 20.

In Brno, on 28 April 2015

Mgr. Anna Š a b a t o v á, Ph.D.
Public Defender of Rights