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Ref. No.: KVOP-17060/2020/S

Report of the Public Defender of Rights on Activities in the 1st Quarter of 2020

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

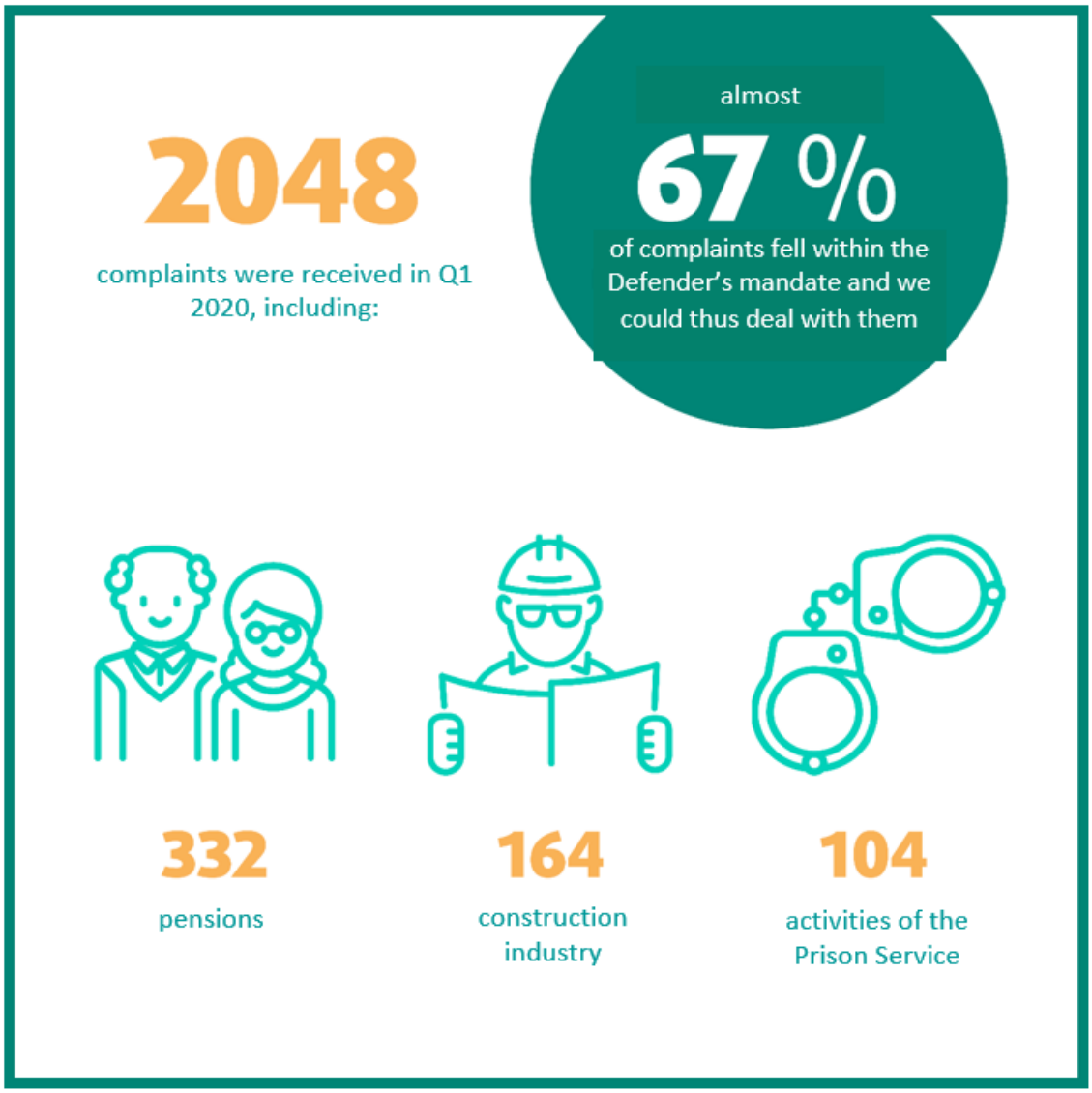
A. Defender's activities in numbers

During the 1st quarter of 2020, we received a total of **2,048** complaints (130 fewer than during the same period last year). The share of complaints falling within our mandate (**66.79%**) remains slightly below the average for 2019 (71%). As in previous years, most of the complaints concerned social security – especially pensions and benefits (332), construction projects (164) and activities of the Prison Service (104).

In **79** complaints, people objected to unequal treatment, of which **50** related to grounds prohibited by the Anti-Discrimination Act. In **21** cases, we also provided information and analyses related to discrimination to international parties and national bodies.

We visited **3 facilities**. We monitored **1 case of expulsion** of a foreign national and examined **1,898** expulsion decisions.

The following figure illustrates the numbers of complaints:



B. Election of the Public Defender of Rights

JUDr. Stanislav Křeček was elected the Public Defender of Rights by the Chamber of Deputies on 12 February 2020. He then **assumed the office on 19 February 2020** by taking an oath before the Deputy Speaker of the Chamber of Deputies. The new Defender thus replaced Mgr. Anna Šabatová, Ph.D., whose six-year mandate had ended.

On 24 February 2020, the Defender exercised his power under Section 2 (4) of the Public Defender of Rights Act and authorised his deputy, Mgr. Monika Šimůnková, to perform a part of the Defender's competence. At the same time, he reserved competence for himself in specific cases he would determine.

The Defender retained competence, e.g., in the area of social security, construction law, protection of the environment, consumer protection, equal treatment and protection against discrimination. He simultaneously entrusted his Deputy with powers, for example, in the area of protection of children's rights, work and employment, foreigner issues, as well as supervision over places where people are restricted in their freedom, and protection of the rights of persons with disabilities.

More detailed information on the division of competences can be found on the Defender's website (link).

C. Public administration

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

C.1 Release of persons from forensic treatment in institutional form (File No. 7781/2018/VOP)

If a court releases a patient from forensic treatment, the court is required to follow up on the resolution promptly with some further steps. Once the resolution enters into legal force, the court has to issue forthwith a release order and deliver it to the relevant psychiatric hospital.

A psychiatric hospital informed the former Defender of delays in releasing patients from institutional forensic treatment. The hospital noted that these persons were thus restricted in their freedom without a legal ground and that there were also problems with reimbursement of the costs of their stay by health insurance companies. As an example, it mentioned a case where the psychiatric hospital had been served with the court resolution and release order only 5 business days after the resolution entered into legal force (9 days, weekends included).

The Defender approached the court in whose district the psychiatric hospital was located and asked it to check all the files where the court had made a decision on release from forensic treatment in 2018. Based on the ensuing review, the court's vice-president for the criminal section then found delays in almost half of the cases. He therefore advised the judges and judicial officers of the need to pay increased attention to the release of these persons and to proceed similarly as in cases of remand. The heads of criminal-law offices were requested to store each file concerning release from institutional treatment separately from other files, and to constantly monitor the fluency in dealing with these cases. Six months after the measures were adopted, the court's vice-president informed us that there were no longer any protractions in these cases.

C.2 Exemption from emission limit values for the Chvaletice Power Plant (File No. 5689/2019/VOP)

Based on a decision rendered by the Regional Authority of the Pardubice Region, the operator of the Chvaletice Power Plant was granted an exemption from future emission limit values for mercury and nitrogen oxides. The former Defender learnt this from the media and decided, on her own initiative, to check whether or not the authority had erred when granting the exemption, as the decision was causing public controversy in view of the topical issue of climate change. The Defender therefore decided to inquire into the matter even though the Regional Authority's decision had yet to enter into legal force (several parties to the proceedings had appealed).

The Defender focused her inquiry on several problematic aspects of the decision, such as incorrect specification of the daily limit value for nitrogen oxides, and also on the fact that the authority had granted the exemption even though evaluation of the exemption based on the relevant ministry's methodology had been highly negative with regard to mercury emissions. The Defender also concentrated on a procedural error made by the Regional Authority as the parties to the proceedings had not been allowed to comment on the underlying documents furnished by the applicant after the initial application had been filed.

During the inquiry, the Ministry of the Environment as the superior authority cancelled the Regional Authority's decision to grant the exemption. The reasons for the cancellation were almost identical with the individual issues on which the Defender had focused her inquiry. Moreover, the Regional Authority was declared biased in the case and the Ministry therefore delegated the case to the Olomouc Region.

In her inquiry report, the Defender then noted that the objective of the inquiry – cancellation of the unlawful exemption – had been achieved. The Defender also presented the inquiry report to those responsible for implementing the State's energy and climate policies (i.e. primarily the Ministers of the Environment and of Industry and Trade).

C.3 Tax enforcement of a claim for outstanding balance of salary (File No. 3003/2017/VOP)

The tax administrator cannot refuse to refund amounts taken from a tax entity in a debt collection (enforcement) procedure on the grounds that the tax entity has a tax debt if the collected funds are not subject to debt collection in the first place.

The complainant won a court dispute with his former employer and the employer was ordered to additionally pay the complainant for overtime work. However, the complainant never received the payment because a tax authority subjected the entire claim granted to the complainant to a tax enforcement procedure through assignment of another pecuniary claim. An entitlement to a salary balance may only be affected by deductions from salary; however, a certain "non-attachable amount" must be calculated for individual months with regard to such deductions. Based on an inquiry carried out by the then Defender, the tax authority discontinued the tax enforcement procedure and awarded the complainant interest for its unlawful procedure. But the complainant did not receive the attached salary or interest because the tax authority had set off these amounts against the complainant's owed income taxes.

We therefore dealt with the question of whether the tax administrator could retain the collected funds if they should not have been subject to debt collection in the first place. We believe that, in general, a tax administrator cannot refuse to refund collected funds on the grounds that the tax entity has a tax debt. Based on the Defender's inquiry, the General Tax Directorate changed its legal opinion and ordered the tax administrator to obtain underlying documents for the calculation of non-attachable amounts of salary for the individual months. The tax administrator ascertained that a civilian enforcement officer had also conducted an enforcement procedure against the complainant in the given years and the complainant had thus received non-attachable amounts. However, based on the findings

obtained in this case, we also presented a comment regarding a draft amendment to the Tax Rules, which the Ministry of Finance accepted. The Tax Rules should newly specify that the tax administrator will always automatically refund any collected funds which could not have been subject to the enforcement in the first place.

C.4 Contact between children and parents after their placement in substitute care (File No. 6950/2018/VOP)

Although parents have the right to be in contact with their children even after they have been placed in substitute care, the court may restrict or prohibit such contact. If justified and desirable in a specific case (in the interest of the child), the body for social and legal protection of children has to file a motion or recommendation for such an intervention with the court, while relying on its findings and experience with the family.

The former Defender was approached by the parents of two children (a 9-year-old boy and a 4-year-old girl), who had been removed from the parents and entrusted to foster care of their mother's mother because of the parents' inappropriate approach to education and general neglect. This was a continuation of a case already inquired into in 2013, when the boy had been the only child in the family. Even then, the parents had been unable to cope with parenthood.

The parents were examined by an expert and the ensuing reports were not too good in terms of the structure of their personality and abilities to raise a child. From the very beginning, their contact with the children had not been legally established and since they had not had a good relationship with the mother's mother and father, they did not get to see their children at all.

The Defender found that the body for social and legal protection of children (hereinafter also the "BSLPC") had known that the parents and grandparents would be unable to agree on contact with the children, but nevertheless left it up to them to agree. From the foster parents' point of view, however, there was a danger that the parents could come to their household at any time and demand contact with the children, to which they were legally entitled. And if the parents had actually done so, they would have very likely caused a further breakdown of the family relationships, and this would again have negatively reflected on the children. On the other hand, the parents were unaware whether and when they could visit the children. They therefore never came and repeatedly asked the court to make a preliminary arrangement for their relationships. As a result of this uncertainty on both sides, the children and the parents did not see each other at all from Christmas 2017 to the beginning of May 2018, i.e. for a period of four and a half months.

After the inquiry report was issued, the authority assured the Defender that social workers would adopt a more *ad hoc* approach in assessing (and even perceiving) the contact between children and their parents, from whom they had been removed, and that they would be more active in terms of initiating a court arrangement of mutual contact.

C.5 Communication between a health insurance company and an insured person (File No. 3330/2016/VOP)

The complainant complained to the Defender about the lack of effort and poor communication on the part of a health insurance company. The complainant, who was self-employed, had run into financial difficulties and had failed to pay advances on health insurance premiums since 2011. He had thus owed premiums and the ensuing penalties continued growing. By examining the account of premiums or any other documents he had received every year, he had not been able to determine that the health insurance company had transferred and used advances on premiums he had paid with regard to his self-employment to settle previously outstanding premiums. The health insurance company had thus used the advances he had paid to discharge a previous debt. In 2016, the complainant had visited the health insurance company with a view to settling his debts once and for all. Although, following his visit, he believed he had paid all his debts to the health insurance company, he nevertheless received yet another notice of owed premiums. He had objected that the health insurance company had failed to sufficiently and comprehensibly inform him of the current amount of the premiums owed. He was therefore unable to properly pay the debt at a time when he already had enough money available. As a result, he had also been unsuccessful with an application for a waiver of penalties.

In her inquiry, the Defender concluded that the health insurance company had erred by failing to properly notify the complainant of several changes it had made in the order of payments made towards premiums, which was at variance with the Public Health Insurance Premiums Act. By doing so, the health insurance company had also violated the principles of good governance – the principles of predictability, persuasiveness and helpful approach. Some of the overviews of payments had also failed to comprise unambiguous information on the current balance of premiums (and penalties).

A health insurance company, which is not in an equal position with an insured person, should provide every insured person with appropriate information on facts it determines and on his/her obligations towards the health insurance company, and inform him/her about its steps in such a way that everything is clear to the insured person. The health insurance company should strive to provide accurate and up-to-date information so as not to mislead anyone. It would help honouring the principle of persuasiveness if official documents were written in a simple and clear language so that the addressees understood them easily, and if the communications were clear, comprehensible and unambiguous.

The health insurance company adopted remedial measures only after the Defender's final statement was issued. The chief executive officer of the health insurance company informed us that within the development of its information system, the company would enclose, with the accounts it sent and, depending on their nature, also with other documents addressed to the payers of premiums, a separate overview of the balance of debts towards the health insurance company existing as of the current date. At the same time, the health insurance company sent information to the complainant on the current balance of his insurance account so that he could settle any further debts he had towards the health insurance company.

C.6 Removal from the register of jobseekers (File No. 3750/2019/VOP)

A labour office must always bear in mind that removal of a jobseeker from the records must – as a form of punishment – be proportionate to the gravity of his/her breach of a legal duty.

The complainant was treated by a physician on 9 May 2018. According to the law, she was obliged to notify the labour office that, because of her sickness, she was temporarily unable to comply with the duties she had as a jobseeker, and was to make that notification on the date when the physician issued his report, i.e. on 9 May 2018. The complainant notified the labour office of this fact on 10 May 2018, i.e. one day later. She stated that she had neither a telephone nor an internet connection at home, and that her current medical condition did not enable her to perform the duty immediately, i.e. on the date of issue of the report. The labour office removed her from the records of jobseekers on the grounds of non-compliance with her statutory duty to make this notification without a serious reason, and this decision was also confirmed by the Ministry of Labour and Social Affairs based on an appeal.

In her inquiry report, the former Defender pointed out that the Supreme Administrative Court also accentuated – as opposed to interpretation used by administrative authorities – the principle of proportionality between the consequences of removal from the records and the gravity of the breach of jobseeker's duties. Administrative authorities have to reflect assessment of this proportionality in the notion of "serious reason".

The Defender explained the criterion of proportionality in more detail with reference to a recent ruling of the Supreme Administrative Court (File No. 3 Ads 349/2017). The conclusions of the decision can be applied to breach of any legal duty borne by a jobseeker, i.e. not only the duty to appear at the labour office on the set dates, but also, e.g., the above-specified notification duty on the part of the complainant. The complainant's removal from the records does not correspond to the low gravity of breach of her duty and, therefore, can be considered disproportionate. The administrative authority should have reflected the negligible gravity of the complainant's breach, who performed her duty on 10 May, instead of 9 May, her commendable conduct to that date as well as proper performance of her duties in interpretation of the notion of "serious reason", and should have assessed these facts as reasons deserving special attention. There can be no doubt that the complainant failed to comply with her duty in due time, but her failure lacks any features of a purpose-driven evasion of duties and is not proportionate to the harshness of the punishment that followed.

The Minister of Labour and Social Affairs agreed with the above arguments and, in spite of a negative opinion of the appellate committee, cancelled the decision on removal of the complainant from the records of jobseekers within review proceedings.

C.7 Debts cannot serve as a reason for not appointing a tutor (File No. 15/2020/SZD)

The Constitutional Court confirmed that "sins of youth" could not be taken into account when deciding on appointment of a tutor, and cancelled previous rulings of

the municipal and regional courts, which had refused to appoint the complainant a boy's tutor although she had been affectionately taking care of him for a long time.

The complainant has been taking care of a ten-year-old boy with a hearing impairment, attention deficit disorder and mental disability almost since his birth. But the care is significantly hindered by the fact that she is not the boy's legal representative. She thus cannot act on his behalf, e.g., in matters of education, grant consent to provision of healthcare, etc. She thus asked to be appointed the boy's tutor. However, both the Municipal and Regional Courts in Brno denied her request with an explanation that although she had a clean criminal record and had sufficient educational capacity, and had been diligently and affectionately caring for the boy, she was nevertheless not suitable for appointment as a tutor and did not guarantee that she would be able to perform the tutorship in accordance with the child's interests. This, according to the courts, was because she had problems with handling money, as the complainant and her husband had debts exceeding CZK 300,000, which were subject to an official debt collection procedure. The complainant disagreed with the courts' decision and turned to the Constitutional Court. She pointed out, among other things, that errors had been made by the current tutor, the Statutory City of Brno, as found by the Defender in her 2019 inquiry.

In the ensuing proceedings, the Constitutional Court asked the Defender's representative to act as a guardian *ad litem* for the boy and protect his interests, and the representative agreed. In her statement addressed to the Constitutional Court, she emphasised that, because of his disability, the boy needed special care, which he received precisely from the complainant. She also pointed out that the complainant had adopted a responsible approach towards her debts, had been paying them off and had been educating herself in terms of financial literacy. The family had proved itself in a "housing ready" project and the City of Brno had therefore assigned a municipal flat to the family. She therefore suggested that the Constitutional Court take the best interest of the child into account and grant the complaint.

The Constitutional Court concluded that the decisions of the Municipal Court in Brno and the Regional Court in Brno on the complainant's ineligibility for tutorship in view of her debts were at variance with the Charter of Fundamental Rights and Freedoms and the Convention on the Rights of the Child. Debts could be a reason for not appointing a certain person as a tutor only if account was taken of all the circumstances of the case, the origin of the debts and the debtor's approach in this regard, as well as the possible impacts of the decision on the child. The courts had not taken any of the above into account. At the same time, the Constitutional Court stated that the complainant had been trying hard to pay off the debts and that these debts did not attest to any previous irresponsible behaviour of hers (e.g. gambling, alcoholism, drug addiction or failure to pay alimony), where eligibility to be a tutor had to be evaluated especially carefully. As a matter of fact, the Constitutional Court went on to state that even the existence of such a debt would not automatically rule out eligibility to become a tutor.

D. Supervision over restrictions of personal freedom and expulsion monitoring

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

D.1 Systematic visits and monitoring of expulsion

We visited **3 facilities and** carried out **1 expulsion monitoring,** specifically on the route from **the** Prague Ruzyně Remand Prison to Václav Havel Airport in Prague.

We did not carry out any further visits we had planned because of the measures adopted in connection with COVID-19 (see below, chapter D.4).

We continued a series of visits focusing on social services facilities – **special regime homes providing care to persons with reduced self-reliance due to a chronic mental illness or addiction to dependency producing substances**. We visited a special regime home called "Oáza pokoje" in Frýdek-Místek and also the Terezín Special Regime Home.

We visited a **facility for institutional and protective education**, specifically the Diagnostic Institute and the Educational Care Centre in Prague 4. We focused on care provided to children with addictions.

D.2 Conferences, roundtables and training

At a press conference, we presented our report on visits to homes for people with disabilities. The report points out that these facilities still have the nature of institutions and do not look like normal homes. People living there lack the necessary support to maintain and develop their abilities and skills; quite the contrary, their dependence on care often increases in these facilities. We also point out that the transformation of social services has almost stopped and is no longer a social and political topic. Therefore, we request in the report that the Ministry of Labour and Social Affairs adopt appropriate measures in this regard.

D.3 Professional seminar on facilities for children requiring immediate assistance

We organised an expert seminar in Brno intended for employees who work in or co-operate with facilities for children requiring immediate assistance. We acquainted them with our findings from systematic visits to these facilities, which we presented in our last year's report. We are preparing another seminar on this topic in Prague.

D.4 Activities of the national preventive mechanism in times of the COVID-19 pandemic

In line with the "do no harm" principle, we **temporarily suspended our systematic visits to facilities**. Nonetheless, we still seek information on the measures they have adopted and any potential interference with the rights of persons restricted in their freedom or dependent on care. We thus communicate, for example, with the Prison Service of the Czech Republic, the Association of Social Services Providers, and the Refugee Facilities Administration of the Ministry of the Interior.

We issued a press release in which we thanked social service workers for their work, but also pointed out the needs of people dependent on care. We referred to the risks that, at the time of the pandemic, are inherently connected with the nature of unregistered social services facilities. We also pointed out that there should be no general prohibition of visits in school facilities.

We are looking for other possible methods of monitoring in order to fulfil our mission and protect people from ill-treatment. We are involved in an international network and share information and procedures with other national preventive mechanisms. We also presented recommendations of the European Committee for the Prevention of Torture (CPT) and the UN Subcommittee on Prevention of Torture (SPT).

E. Protection against discrimination

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

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

E.1 Hate speech on the Internet (File No. 67/2018/DIS)

Offensive verbal speech that incites to or spreads hatred towards a certain group of people or an individual are an inauspicious phenomenon of the present time, which can be encountered most often online, in various discussion forums and in comments on social media.

Over the past few years, the former Defender put this matter, which she considers extraordinarily serious, under closer scrutiny. She communicated with the competent governmental authorities and the non-profit sector, organised awareness raising events and meetings focusing on this topic. Based on the information and findings she had collected and as a conclusion of her activities, the Defender decided to issue a set of recommendations pursuant to Section 21b (c) of the Public Defender of Rights Act, which she believes could contribute to improvement of the situation in the area of preventing and combating hate speech. She sent her recommendations to the Ministry of the Interior, the Ministry of Justice, the Supreme Public Prosecutor's Office; the Ministry of Education, Youth and Sports; the Police Presidium of the Czech Republic; the Supreme Court, the Union of Public Prosecutors; the Judicial Union; the Judicial Academy; the Institute of Criminology and Social Prevention; the Czech Science Foundation (GACR); and the Technology Agency of the Czech Republic.

E.2 Exclusion of employees on maternal and parental leave from certain benefits (File No. 5973/2019/VOP)

Every employer must comply with the prohibition of discrimination in remuneration of employees. Employee benefits provided by an employer voluntarily and beyond the scope of the duties imposed on the employer by the Labour Code are also considered such remuneration.

The complainant approached us with the question of whether an employer could exclude employees on maternity leave and parental leave from benefits provided beyond the scope of the Labour Code. The complainant referred to a ruling of the European Court of Justice in

Lewen, according to which such an employer's course of action could be considered discriminatory in certain cases.

According to the former Defender, an employer may basically link the provision of benefits to the performance of work. But if the employer decides to proceed in this way (i.e. not to provide benefits to employees on maternal or parental leave), the employer must also approach in the same way other employees in a comparable situation (e.g. employees who are sick for a long time, employees taking unpaid leave).

E.3 The Czech Trade Inspection Authority inquired into possible discrimination in Prague music clubs (File No. 21/2017/VOP)

The former Defender decided to deal with possible discrimination occurring in Prague music clubs based on two motions in which the complainants claimed they had been denied entry to such clubs because of their ethnic origin. However, she was unable to proceed any further in these specific cases as the complainants had nothing to support their allegations with. Having gathered information from non-profit organisations and publicly accessible sources (e.g. clubs' websites), the Defender eventually short-listed three clubs where discrimination might be taking place, and asked the Czech Trade Inspection Authority (hereinafter also the "CTIA") to inspect these clubs. The Defender also discussed with representatives of the CTIA what the most suitable method of inspection would be.

With reference to organisational problems associated with an inspection involving "mystery shoppers" in music clubs, the CTIA denied the Defender's request. Following repeated requests, the CTIA carried out at least certain pre-inspection steps and scrutinised the situation in the clubs' vicinity. But in doing so, it did not find that any of the visitors would be disadvantaged because of their ethnic origin. The Defender did not question this approach as such (even if an inspection proper would be more suitable for determining the practice used by these clubs, the Defender nevertheless acknowledged that performing such an inspection would be a demanding task), but she found it inappropriate that the CTIA had taken the relevant steps (i.e. inquired into the alleged discrimination) only long after the discrimination had purportedly occurred – an inspection should have been carried out when the likelihood of finding unlawful conduct and the risk of recurrence were the highest.

The Inspectorate's Director acknowledged the error and promised to continue dealing with the situation in music clubs.

E.4 Municipal housing through the prism of the right to equal treatment and the role of municipalities in addressing housing need (File No. 69/2019/DIS)

Housing need and unavailability of housing have recently come into the forefront of public interest. This reflects the fact that access to independent and dignified housing is becoming more and more difficult for a constantly increasing part of the population. Especially in cities, the growing rents and prices of real estate no longer affect only the poorest people. Housing is a basic life need. Without accessible and quality housing, people will find it harder to access all other assets, from healthcare to education and employment.

In 2010, the Defender issued a recommendation on exercising the right to equal treatment of applicants for lease of a municipal flat. But in spite of the recommendation, complainants continued to allege that the procedure followed by municipalities in assignment of flats was discriminatory. In some cases, they pointed out in their complaints to the Defender that the municipality directly refused to assign a flat to them based on one of the prohibited grounds (e.g. disability). However, discrimination is also often linked with the criteria used to assign municipal flats as they place certain groups of people at a disadvantage. Moreover, the approach taken by individual municipalities to the issue of municipal housing varies significantly. There is no legislation that would impose unambiguous and specific duties on municipalities in the area of housing.

The former Defender therefore decided to conduct a survey aimed at obtaining a more comprehensive overview of the status of municipal housing, especially the rules followed by municipalities in assignment of municipal flats and their evaluation in terms of the right to equal treatment. The research part consists of two main analytical chapters. The objective of the first part was to examine the municipalities' view of municipal housing, the state of housing need and the performance of social work in addressing housing need. The second part aimed to determine the conditions applied by municipalities in assigning municipal flats and assess them from the viewpoint of the right to equal treatment. We also inquired whether or not these rules disadvantaged people whose social situation could improve if they were assigned a municipal flat or whom this would help overcome a housing need.

Based on the findings from this survey, the Defender then formulated several recommendations for municipalities in the area of self-government, municipal authorities in the performance of social work and the Government.

E.5 Important meetings

We discussed with the **Ministry of Health** the issue of availability of dental care for people with mental disabilities and autism spectrum disorder (in connection with survey report File No. 51/2017/DIS).

We met with **representatives of authorities in the South Moravian Region** to prevent and deal with sexual harassment in civil service offices (materials).

E.6 Awareness raising

In January, we presented a paper at a **workshop** for lawyers specialising in labour law. We talked about the prohibition of discrimination in access to employment. We also organised an interactive **workshop** on social work.

In February, we hosted a lecture at a **seminar** on occupational mobility on the EU labour market. We presented a paper at **an expert seminar** on the Convention on the Rights of Persons with Disabilities in the activities of labour inspectorate bodies. We acquainted the labour inspectorates with the most important cases of discrimination against people with disabilities heard before Czech courts and in the activities of the Defender (materials). We delivered lectures at a one-day session of "**Human Rights Live**", an educational event intended for students of law faculties.

In March, we were on the jury of the **"Human Rights Olympics"** essay contest. One of the topics dealt with by secondary school students in their essays was hate speech on the Internet (news). A representative of the Public Defender of Rights presented an introductory speech at a **conference** on inclusive education organised by the Canadian Embassy (press release).

E.7 Conferences, roundtables and training

In co-operation with the Meta organisation, we held a **conference** titled "Ignorance of language excuses no one?!" on the topic of educating students with a different mother tongue (materials, press release).

We organised a **conference** on municipal housing from the viewpoint of the right to equal treatment and on social work with clients in housing need (materials, press release, in connection with survey report File No. 69/2019/DIS).

At **a roundtable**, we discussed the forms of co-operation between labour inspectorate bodies and non-profit organisations in combating discrimination on the labour market (materials).

We also pointed out the still **missing law** that would protect people with disabilities using assistance and guide dogs (press release).

F. Monitoring of rights of people with disabilities

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

F.1 Surveys and recommendations

- **Media Communication Handbook: How to write and speak with and about people with disabilities**

In co-operation with disabled people, experts in communication, special teachers and linguists, we prepared a Communication Handbook intended not only for the media, but generally for anyone interested in communication. The Handbook contains an overview of the principles of writing and speaking about people with disabilities. The principles are followed by examples of expressions that we recommend to either use or avoid. In the Handbook, we also provide tips on how to proceed in personal communication with people with disabilities, also in view of the nature of the individual types of disabilities. Last but not least, the Handbook provides guidance on how people with disabilities should be photographed and filmed. The Handbook is conceived as a set of recommendations since we are aware that parlance is constantly developing over time and that various individuals and groups might have different views as to what language should be used. We also created a summary leaflet on the Handbook.

- **Survey on availability of early care for families of disabled children**

According to Article 22 of the Convention (respect for privacy, home and family), children with disabilities and their families have the right to a timely and comprehensive support. Early care, as a social service provided to families with children up to seven years of age, plays a key role in this regard. As part of monitoring compliance with the rights of people with disabilities, we conducted a survey focusing on ensuring availability of social services for children with disabilities and their families with emphasis on early care.

Within our research survey**, we addressed all the providers of early care as well as administrative regions,** which are responsible for ensuring availability of social services.

The research confirmed the hypothesis that there exist major regional disbalances and that the situation also considerably varies with regard to the individual types of disabilities. As many as one quarter of requests for the service were rejected due to insufficient capacity in 2018. Moreover, almost three quarters of early care providers had waiting lists. The most critical situation was in the Capital City of Prague and in the South Moravian Region, where more than 100 families were waiting for the service. In **three administrative regions** (the Central Bohemian Region, the South Moravian Region and the Capital City of Prague), **applicants waited for early care for more than 210 days**. Families of children with autism spectrum disorders had to endure the longest waiting times.

Even those providers where the waiting times were reasonable admitted that they were unable to respond to urgent problems in families. They were at the limit of their personnel capacities. Almost a half of them also stated that they would extend the assistance provided to families if they had the necessary resources.

The duty of administrative regions to ensure availability of social services follows directly from the Social Services Act. But the regions themselves admitted that the existing system of financing and planning the development of social services did not allow for a flexible response to the current needs of people with disabilities.

The survey will be followed by a series of meetings with the key stakeholders and also a roundtable.

- **Summary report on exercise of the right to vote by people with disabilities**

The report follows up on a series of systematic visits to **seven** homes for people with disabilities. The visits indicated that **people in institutional care faced many barriers in exercising their right to vote**, caused by their isolation from regular society and dependence on care. The most important findings also included the fact that judgements on restriction of legal capacity were often incomprehensible for social service providers or they did not have the judgements at their disposal. This could ultimately prevent from voting even those clients whose right to vote is in no way restricted. No information was available on the upcoming elections at the time of our visit that would be accessible also to people with mental or sensory disabilities. This was partly remedied in 2019 with regard to elections to the European Parliament, when the Ministry of the Interior finally issued a leaflet for voters in simple language.

We recommended that the relevant ministries deal systematically with the topic of exercise of the right to vote in this vulnerable group and remove all unnecessary barriers preventing people with disabilities from participating in political life.

F.2 International co-operation

We have been successful in reinforcing our co-operation with our colleagues across Europe through the **European Network of National Human Rights Institutions (ENNHRI).** Using a questionnaire survey, we have gathered and analysed the experience of seventeen European countries with regard to visits to facilities and their advisory bodies. We are now trying to put useful findings into practice and, moreover, we continue communicating with selected partners whose activities have inspired us.

We, on our part, shared our experience with the Bulgarian monitoring body, which is currently launching its operations. Our further activities within the ENNHRI network included comments and proposals regarding this year's work plan of the working group for the rights of people with disabilities. We also shared experience with our colleagues from Europe and other countries regarding the COVID-19 pandemic and its impact on the monitoring of rights of people with disabilities, and actively participated in an online conference on the same topic.

The UN Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, is currently determining how countries reflect the rights of people with disabilities in international co-operation. At her request, we provided information on the situation in the Czech Republic, especially regarding developmental and humanitarian co-operation.

F.3 Conferences, roundtables and training

In February 2020, we organised, in co-operation with the Department of Equal Treatment of the Office of the Public Defender of Rights, an expert seminar **for labour inspectorate bodies on the subject of the Convention on the Rights of Persons with Disabilities in activities of labour inspectorates**. The aim of the seminar was for the labour inspectorates to become acquainted with the importance of the Convention; to work with the social model of disability in their practice; to use the Convention as a guideline in dealing with specific cases; to apply the conclusions of the Court of Justice of the European Union on the prohibition of discrimination; and to adopt the basic principles of communication with and about people with disabilities.

In co-operation with our colleagues from the Department of Equal Treatment, we participated in the **"Human Rights Live**" event, organised by the Pro Bono Alliance. In an interactive lecture, we described the Convention on the Rights of Persons with Disabilities and the methods of its monitoring to students of the Faculty of Law of Masaryk University.

This year, the Czech Republic is to submit to the UN Committee on the Rights of Persons with Disabilities a report on how the government protects the rights of people with disabilities. To supplement the information presented by the State, the UN Committee also requires information from other entities. In addition to writing a report of our own as a monitoring body, we also organise an information campaign on social media and websites to motivate other organisations and individuals to write their reports. To this end, we have created an **information leaflet**, contribute to the media and provide further information to those who contact us. We are also preparing a training event for the summer.

We are active on **social media**, where we respond to current events, commemorate important world days (e.g. the World Down Syndrome Day and the World Autism Awareness Day), provide information on our activities and otherwise raise awareness of the rights of people with disabilities. Since the beginning of the year, we have been able to constantly increase the number of active members in our Facebook group called "Rights of People with Disabilities".

We have recently expanded our social media presence on to Twitter. Here, we administer a bilingual account Rights of People with Disabilities – Ombudsman (@s_prava).

Brno, 30 April 2020

JUDr. Stanislav Křeček
Public Defender of Rights