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Public Defender of Rights

MONITORING OF RIGHTS OF PEOPLE WITH DISABILITIES

2019

REPORT OF THE PUBLIC DEFENDER OF RIGHTS AS THE MONITORING BODY UNDER THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

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Explanatory notes:

🌐 link to a webpage

📖 reference to a printed material

Public Defender of Rights

monitoring of rights of people with disabilities

Social Services Act – Act No. 108/2006 Coll., on social services, as amended

Healthcare Services Act – Act No. 372/2011 Coll., on healthcare services and the conditions of their provision, as amended

Medical Records Decree – Decree No. 98/2012 Coll, on medical records, as amended

Decree on detailed conditions of completion of secondary school education – Decree No. 177/2009 Coll., on detailed conditions of completion of education in secondary schools through a school-leaving examination, as amended

Decree on education of students with special educational needs – Decree No. 27/2016 Coll., education of students with special educational needs and exceptionally gifted students

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Public Defender of Rights

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MISSION OF THE PUBLIC DEFENDER OF RIGHTS

This report deals solely with the Defender's activities in the role of a monitoring body under the Convention on the Rights of Persons with Disabilities, which she assumed on 1 January 2018. However, Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, also gives the Defender a further, broader range of powers.

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

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

In 2009, the Defender became the national body responsible for equal treatment and protection against discrimination (equality body) pursuant to EU law. 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. The Defender provides assistance to victims of discrimination, carries out research and surveys, issues recommendations with respect to matters of discrimination and ensures international exchange of available information on equal treatment.

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

The special powers of the Defender include the right to file a petition with the Constitutional Court seeking the abolishment of a secondary legal regulation, the right to become an enjoined party in Constitutional Court proceedings on annulment of a law or its part, the right to lodge an administrative action to protect a general interest or to file an application to initiate disciplinary proceedings with the president or vice-president of a court. The Defender may also make recommendations to the Government concerning adoption, amendment or repealing of a law.

The Defender is independent and impartial, and accountable for the discharge of his or her office to the Chamber of Deputies, by which he or she was appointed. The Defender has one elected deputy, who can be authorised to assume some of the Defender's competences. The Defender regularly informs the public of his or her findings through the media, Internet, social networks, professional workshops, roundtables and conferences. The most important findings and recommendations are summarised in the Annual Report on the Activities of the Public Defender of Rights submitted to the Chamber of Deputies.

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

FOREWORD

Just like everyone else, people with disabilities have the right to lead dignified and full-fledged lives. However, the second year of our activities as a monitoring body under the UN Convention on the Rights of Persons with Disabilities – as summarised in the present Annual Report – showed us that Czech society still had a long way to go in this regard.

One of the most pressing issues I can see in this regard is the slowing deinstitutionalisation of care and support for disabled people. The Convention on the Rights of Persons with Disabilities assumes that people with disabilities should live together with others in normal society, while receiving help and support enabling them to be as self-reliant as possible. Nonetheless, the transformation of social services in this country has been proving to be a lengthy process and many people with disabilities are thus forced to live in institutions which by far do not resemble a normal home. What is painfully lacking is the will to change things, together with specific plans and a clear conception. And what is even worse, deinstitutionalisation is currently not a priority either for politicians or for society.

Changes are very slow. This has been confirmed by our surveys and debates we held with disabled people and organisations advocating for their rights. For years, people with disabilities and the obstacles they encounter in their everyday lives were out of the spotlight and there is thus a lot to catch up with. This is well illustrated by our surveys concerning, for example, violations of disabled people's right to vote, availability of social services for children with disabilities and their families, as well as by surveys on employment of people with disabilities in the public sector. The last example showed us that although public administration should lead by example in creating working conditions for employees with disabilities, the reality is completely different. Public administration is not prepared to employ people with work performance limitations; people with more serious limitations are not employed in public administration at all.

Society's view of people with disabilities cannot be turned around without awareness raising. Last year, we therefore also strived to provide the public with as much information as possible on topics related to the lives of people with disabilities, their rights and obstacles they were facing. Without understanding the needs of disabled people, we will never overcome our biases and stereotypes which stand in the way of full involvement of these people in society.

Two years of activities focused on the rights of people with disabilities are too short a period to change what was neglected for years. But we managed to start a debate in society, identify the issues and raise topics that need to be addressed. I believe this is a way to gradually improve the situation and get to understand that disabled people are part of our society, live among us and have the same rights as everybody else.

Anna Šabatová
Public Defender of Rights

1. Basic overview

Within our monitoring of the Convention on the Rights of Persons with Disabilities, we conducted a survey aimed to map any potential systemic shortcomings related to the rights of people with disabilities, and formulate recommendations to improve the current situation. In doing so, we co-operated with our advisory body, non-profit organisations advocating for the rights of people with disabilities and also these people themselves.

We informed the UN Committee on the Rights of Persons with Disabilities of our findings. Within our international co-operation, we regularly share experience with other monitoring bodies.

Our main tasks also include enlightenment and awareness raising with regard to the rights of disabled people. On this note, we organised seminars and lectures, published articles, created awareness raising videos and actively communicated a number of topics on social networks. Along with monitoring how the Convention is implemented, we also dealt with the steps usually taken by municipalities when acting in the position of public guardians.

In the past period, we:

Organised 1 conference

Carried out 4 surveys

Organised 5 roundtables

Organised 4 meetings of the advisory body

Received 55 complaints pointing out systemic shortcomings with respect to the individual articles of the Convention

Translated 55 articles of the Convention into the Czech Sign Language (as the first ones in the Czech Republic)

Organised 4 meetings on the rights of people with psychosocial disabilities

Organised 2 meetings for 60 non-profit organisations

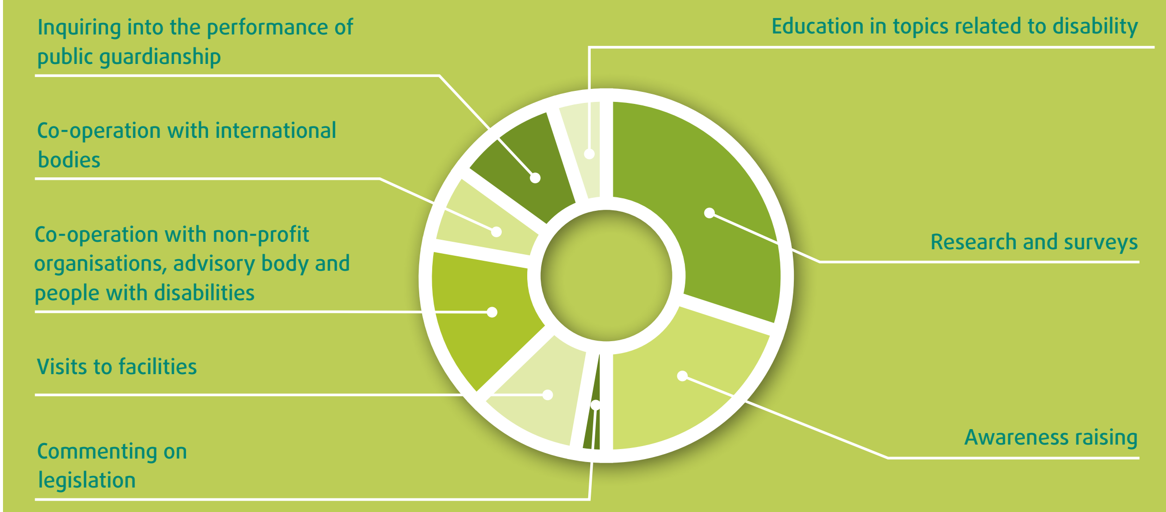
Published 2 bulletins with information on our activities

Visited a total of 10 homes for people with disabilities

Organised a total of 12 awareness raising activities and campaigns

Gave lectures at 15 seminars and conferences

Main activities



2. Advisory body

The advisory body of the Public Defender of Rights for the area of protection of the rights of people with disabilities met a total of four times in 2019 at regular intervals. The members of the advisory body gradually dealt with the issues of health (Art. 25 of the Convention), education (Art. 24 of the Convention) and also work and employment of persons with disabilities (Art. 27 of the Convention). During the last meeting, the members also looked back on their work because their term in office as advisory body members is linked with the term of office of the Defender who appointed them.

The advisory body is composed of people with disabilities and disability advocates. The individual meetings thus served especially to share personal experience and mediate the experience of disabled people with the discussed topics. The members also actively brought up matters for discussion as they encountered them in their activities. They also co-operated individually in specific projects – they provided professional or personal contributions at individual meetings; they also participated in systematic visits to homes for people with disabilities and in the creation of a simplified Defender's leaflet. Members of the advisory body also provided valuable support for events we organised or even took part in them personally. These included, for example, the conference titled "Ten Years with Convention on the Rights of Persons with Disabilities" and seminars on the rights of people with psychosocial disabilities.

The advisory body further commented on Defender's specific outputs (surveys, manuals, etc.) and provided the community of disabled people with information on the Defender's activities aimed to protect their rights.

Body members also made a major contribution – as they presented various suggestions and specific comments – to the creation of a List of Issues which the Defender subsequently sent to the UN Committee on the Rights of Persons with Disabilities in February 2019 (for more details, see Chapter 6. Co-operation with the UN Committee on the Rights of Persons with Disabilities, p. 22).

Members of the advisory body during the past term of office:

Pavla Baxová
Jiří Černý
Alena Jančíková
Camille Latimier and Marek Richter
Helena Plachá
Ivana Recmanová
Pavlína Spilková
Petr Špaček
Jan Uherka
Milena Urbanová
Jiří Vencl
Agáta Zajíčková

3. Research and surveys

Research and surveys belong among the principal activities within monitoring of implementation of the Convention. In our surveys, we seek information and specific data that we can later use to evaluate various aspects of the lives led by people with disabilities, in comparison with the rest of society.

Exercise of the right to vote by people with disabilities

The Convention vests disabled people with the right to participate in political and public life to the same extent as anyone else. Indeed, restricted legal capacity does not automatically imply inability to vote. The right to vote can currently be limited only if the court explicitly states so in a judgement restricting legal capacity. However – quite in line with the Convention – this will no longer be possible under new legislation which should be adopted in near future.

Following recent municipal elections, we inquired whether clients living in homes for people with disabilities, especially those who had restricted legal capacity, had participated in the elections. We visited 7 facilities, talked with their employees and clients, and examined the relevant documentation. All our findings and recommendations regarding the exercise of the right to vote were then included in our summary report.

The clients' right to vote is often violated in homes for people with disabilities:

- some clients were unable to vote even though their voting right was not restricted; on the other hand, certain clients with a limited voting right did vote in the elections;
- the electoral rolls did not correspond to the current legislation.

Our findings relate to the fact that social workers often find it difficult to understand the court decisions on restriction of legal capacity. They also often lack up-to-date judgements. Consequently, incorrect information provided by the employees to the electoral bodies caused that the electoral rolls did not correspond to reality. To achieve a remedy, we recommended especially to train the staff and carefully keep the relevant documentation.

The facilities fail to perform their duty to help clients in exercising their right to vote:

— some facilities intentionally do not inform their clients about elections;

— the facilities lack procedures and methodologies for exercising the right to vote;

— the facilities fail to provide individual support to those clients who are unable to read, write or place the folded ballot paper in an envelope and put the envelope in the ballot box.

I recommended, among other things, that the facilities should provide information to their clients in an accessible manner, systematically lead them to exercise their right to vote, including setting the preparation for election as the clients' personal goal, and subsequently support them individually in the exercise of this right.

The exercise of the right to vote, not only by clients of homes for people with disabilities, but by all disabled people, is hindered by insufficient information and barriers to access to the polling stations.

Based on the survey, we formulated in our summary report several systematic recommendations to public authorities that should ensure better accessibility of information on elections for all people, regardless of the degree and type of their disability, and ensure barrier-free access to the polling stations. We also recommended to better define the position of assistants in elections, whether by statutory law or by a methodical instruction, so that everyone could receive support in this respect if they needed it.

Defender's Report: File No. 28/2019/VOP

Survey on availability of social services for children with disabilities and their families

We believe that both functional and accessible field social services and day care centres are essential for maintaining disabled children in their family environment. These services include, in particular, early care, home care, personal assistance, relief service (field work and day care centres) and social activation service for families with children. As part of our monitoring activities, we therefore decided to conduct a survey concerning field social services and social services provided at day care centres aimed at children with disabilities and their families. The survey also focused in more detail on early care services, in view of their comprehensive approach to disabled children and their families.

When preparing the survey, we used the Analysis of Early Care Services in the Czech Republic in 2015, drawn up by the Avast Endowment Fund, and also a survey carried out by the Public Defender of Rights with regard to Availability of Social Services for Persons with Autism Spectrum Disorders (Defender's survey: File No. 45/2018/OZP). We also examined strategic documents drawn up by individual administrative regions when planning the development of social services. In order to verify certain practical aspects of this issue, we also interviewed selected experts from among early care providers.

The survey was conducted in the form of an on-line questionnaire completed in the period from 28 June to 9 September 2019 by two groups of respondents: administrative regions and providers of early care services.

Most important findings:

1/ The providers of early care services had to reject as many as one quarter (25 %) of all the applications for the provision of this service in 2018, and even over one third of the applications (36 %) in the first quarter of 2019, all because of insufficient capacity. The highest refusal ratios (usually exceeding one half) were found on the part of providers in Prague, the South Moravian Region and the Central Bohemian Region. From the viewpoint of the target groups, the highest numbers of applicants were rejected by providers specialising in helping families of children with autism spectrum disorders (approximately one half of all applicants).

2/ Almost three quarters of the providers (26 out of 38) had waiting lists for early care. A total of 422 families were on the lists as of 31 December 2018, and 358 families as of 31 March 2019. The situation was the worst in Prague and in the South Moravian Region (more than 100 applicants waiting) and among those providers who worked with families of children with autism spectrum disorders and providers focusing on the broadest target groups (mental disabilities, ASD, physical disabilities, combined disabilities).

3/ The average waiting period exceeded 210 days for providers in the Central Bohemian Region, South Moravian Region and Prague.

4/ The longest waiting times in 2018 (over 210 days) were for two providers focusing on families of children with ASD, potentially in combination with another disability.

5/ All the providers of early care operating in Prague and most providers in the Pilsen, Central Bohemian and Ústí Regions would appreciate an increased number of interventions. These are providers who specialise in working with families of children with ASD and providers focusing on families of children with hearing impairments.

6/ Only one half of the administrative regions (7 of 14) would involve users without labour-law relationships with social services providers in the creation of medium-term plans for the development of social services.

7/ In three administrative regions (the South Moravian Region, the Vysočina Region and the Olomouc Region), applications for inclusion in the regional social services network in 2019 had to be filed by the providers by the end of February 2018, i.e. ten months before the beginning of the relevant year.

8/ Almost one third of the administrative regions (29 %) did not enable providers included in the regional social services network to increase the number of “units” (beds or jobs in direct care) during 2019.

9/ Three administrative regions (South Moravian, Liberec and Olomouc Regions) do not have any instrument to ensure local and temporal availability of social services within a reasonable period of time.

The survey report will be released at the beginning of 2020. Meetings with the respondents will take place on its basis and this will be followed by presentation of our recommendations. While the primary objective of the survey was to map the given area within our monitoring activities, we hope that our description of certain problematic areas and, in particular, further discussions on the topic and implementation of the subsequent recommendations will further improve the position of children with disabilities and their families in the Czech Republic.

Survey of work rehabilitation and expert working groups

The approach of individual contact points in the provision of work rehabilitation should be unified. Expert working groups should also comprise people with disabilities.

As part of the survey, we mapped the topic of work rehabilitation. We dealt specifically with expert working groups involved in the assessment of applications for work rehabilitation. We were interested in how these working groups were composed and established, how they made their decisions, whether people interested in work rehabilitation could take part in the meetings of the groups, etc. We conducted the survey by sending an electronic questionnaire to all the contact points of the Labour Office of the Czech Republic (there are a total of 84 such contact points in the Czech Republic). All of the questionnaires were returned with answers.

We found that:

— the practice of individual contact points of the Labour Office of the Czech Republic in the provision of work rehabilitation was not unified;

— the composition of the expert working groups did not correspond to the Employment Act;

— people with disabilities had little representation in the expert working groups;

— people were in no way motivated to participate in the expert working groups;

— there was a major administrative burden associated with the provision of work rehabilitation.

We informed the General Directorate of the Labour Office of the survey results and invited them to improve the situation.

Survey on employment of people with disabilities in the public sector

Within Article 27 of the Convention, we conducted a survey mapping the conditions of and impediments to employment of people with disabilities in the public sector. Indeed, public administration should lead by example in creating appropriate working conditions for employees with disabilities.

Using a questionnaire survey and personal interviews, we wanted to obtain a better idea about the situation on the ground, approaches to the issue of employment of people with disabilities and the actual accessibility of workplaces, specific jobs for people with disabilities in the public sector, as well as the possibilities of making reasonable adjustments. We addressed all the Czech ministries, regional authorities and organisational components of the State with the questionnaire.

Data collection took place in the period from September to December 2019. The survey results show, in particular, that:

The approach of individual authorities differs significantly

The way the mandatory share required by the law is achieved varies significantly among the individual authorities. There are authorities which employ people with disabilities as little as possible and do not deal with the issue in any way. Other authorities try to avoid a penalty in the form of a levy to the State budget and adhere to the mandatory quota mostly by combining employment of people with disabilities with purchases of products and services. The last type are authorities that have experience with disabled employees and naturally exceed the mandatory four-percent quota by following specific strategies.

People with more serious limitations tend not to be employed in public administration

Persons with first- to third-degree disabilities can be found among disabled employees in public administration. In the case of higher degrees of disability, these pertain mostly to dietary limitations, cancer patients and patients with limited mobility. People with visual, hearing or mental disabilities are practically not present in public administration and do not even register for selection procedures. Authorities themselves do not actively seek them, not even if they lack workforce and have long-term vacancies.

The system is not ready for people with work performance limitations

Public authorities only have a narrow room to manoeuvre in terms of possibilities for a flexible approach to their employees. They have a fixed structure and numbers of work positions assigned to carry out their duties. This negatively reflects in the options to meet the requirements for reducing working time, dividing working time or creating new jobs for people with disabilities. The frequent impossibility to make construction modifications due to lease arrangements in public office buildings is also a limiting factor.

The principle of levies to the State budget (as penalties for not employing disabled people) is not functional in the case of public administration bodies

The penalty mechanism based on levies to the State budget, as a compensation for not employing people with disabilities, does not sufficiently motivate the authorities. On the one hand, there are authorities which always make sure that the levies do not apply to them as this would have an unfavourable impact on their budget. On the other hand, there are (usually larger) authorities for which the amounts of levies reach millions of crowns. It is also problematic that this is merely a question of transferring money between individual chapters of the State budget and the motivational effect is thus completely absent here.

Contributions towards active employment policy and contributions towards employment of people with disabilities are not intended for public administration bodies

Section 107 (2) of the Act No. 435/2004 Coll., on employment, as amended, excludes the possibility of providing contributions towards employment of people with disabilities and contributions towards active employment policy to organisational components of the State and State contributory organisations. Public administration bodies do not have financial reserves available for adapting their workplaces, working times or other reasonable adjustments that would enable them to hire disabled persons. The State therefore sets up a system for public authorities that has merely punitive effects, without providing them with adequate support for employing people with disabilities.

Survey mapping certain aspects of the clients’ lives in homes for people with disabilities

From September to December 2019, we mapped the situation in homes for people with disabilities in selected areas (employment, provision of health care, etc.). In doing so, we used the findings obtained in the previous series of visits to social services facilities such as homes for people with disabilities.

By means of an electronic questionnaire, we contacted over two hundred homes for people with disabilities with a view to evaluating problems faced by providers of this type of service in the given areas, and changes that had to be made for the situation to improve.

The survey report should be published in the first half of 2020.

Survey concerning court decision-making in the area of supporting measures in case of disrupted capacity of an adult to make juridical acts

In connection with monitoring compliance with Article 12 of the Convention (Equal recognition before the law), we conducted a survey concerned with proceedings on restriction of legal capacity and the use of other supporting measures pursuant to the Civil Code. We requested a total of 256 decisions from all district courts and analysed them in detail based on pre-determined criteria. We focused not only the results of the proceedings, but also, for example, on who had initiated the proceedings, who had taken part in the proceedings and what evidence had been taken by the courts. We found that courts would still prefer restriction of legal capacity to possible alternative options. Although the law requires individual (ad hoc) assessment of capacity of the person in question, up to 40 % of the judgements were conceived as all-encompassing measures, i.e. the decision interfered with all areas of legal conduct. The courts restricted the given person's capacity to dispose of property in all of the cases, and in as many as 90 % of cases, the restriction also affected decision-making on the choice of healthcare services. More than 70 % of people were also restricted in the exercising of their right to vote. Although the courts did also take other evidence, in 9 out of 10 cases, the judge based his/her decision on a proposal submitted by an expert in the field of psychiatry.

Chart: Comparison of the numbers of decisions according to the outcome, for men and women

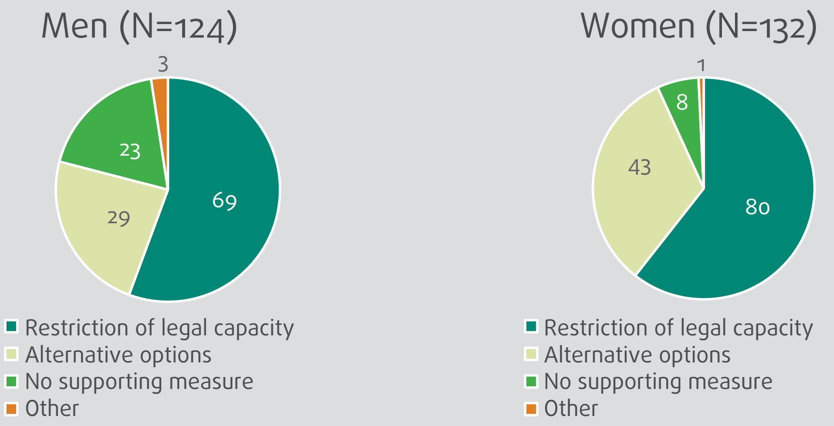
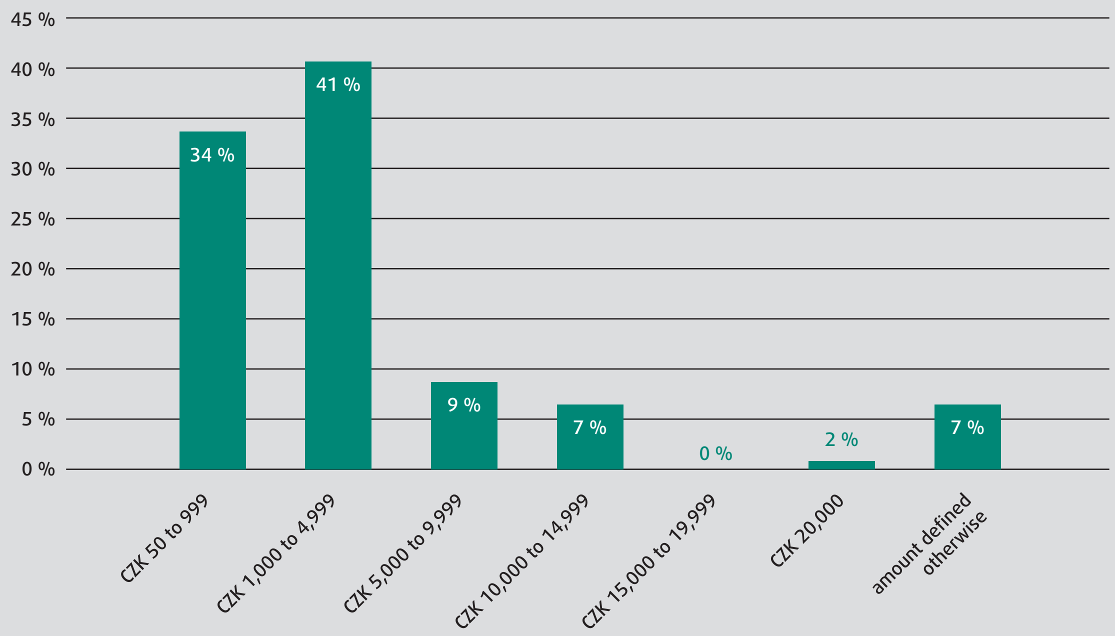


Chart: Monthly amount that a person can dispose of independently



Survey of deinstitutionalisation and transformation of social services

We initiated a survey which maps the stage of deinstitutionalisation and transformation of residential social services into community services. To this end, we contacted the administrative regions and also the Ministry of Labour and Social Affairs. We intend to determine in the survey how many facilities in the Czech Republic have initiated the process of deinstitutionalisation and how many people are actually involved, and also how the process is arranged in terms of finance and staff. We will thus be able to establish whether deinstitutionalisation is among the priorities of the State and administrative regions. The survey should show the extent of fulfilment of the obligations under Article 19 of the Convention (Living independently and being included in the community) and also of the duties laid down by the Social Services Act, stipulating that the required support and care must be ensured in an environment that is as non-restrictive as possible and aim at maximum development of self-reliance.

Survey of accessibility of railway transport for people using wheelchairs

We conducted a survey to verify whether the conditions for railway transport of people using wheelchairs were satisfactory. The survey focused on accessibility of railway buildings (stations) as well as the trains of the carriers operating in the Czech Republic – specifically, we were looking to establish whether the doors were wide enough for an electric wheelchair. As part of the survey, we also partly mapped the accessibility of information on railway transport.

We found that:

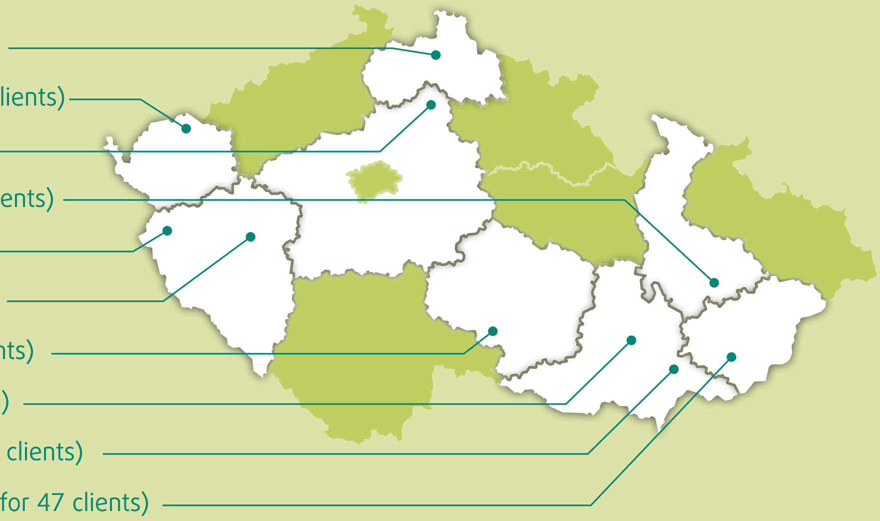
- Barrier-free access to all platforms is ensured at 504 stations/stops, which represent 20 % of the total number.
- At least one platform is accessible at 112 stations/stops, i.e. in 4 % of the total number.
- Barrier-free access to the railway building is available at 452 stations/stops, which represent 18 % of the total number.
- Barrier-free access to the railway building and also to the cash desks is available, according to information provided by SZDC (the railway administration company), at a total of 140 stations/stops, i.e. 5 % of the total number.
- In most cases, railway carriers in the Czech Republic allow for carriage of people using electric wheelchairs by modifying the cars. Only one carrier does not.
- There is no effective legal instrument to ensure that cars registered and approved prior to 1 July 2008 are made accessible for people using wheelchairs.
- When providing information on the possibilities of transport for people using wheelchairs, carriers do not show sufficient sensitivity in the terminology they employ.

We formulated recommendations to improve the overall situation, which we addressed to the Ministry of Transport, the railway authority and the carriers. We wish to ensure that:

- the obligation to order any transportation with a wheelchair in advance is restricted;
- awareness is raised among passengers with disabilities as to their rights;
- enforceable regulation for accessibility of trains manufactured before 1 July 2008 is introduced;
- accessibility in smaller towns and rural areas is ensured;
- all stakeholders use more sensitive language and terminology towards people with disabilities.

4. Monitoring visits

We visited the following facilities for people with disabilities



Harcov home (for 25 clients)

DOZP in Mariánská (for 140 clients)

DOZP Lipník (for 31 clients)

DOZP Dřevohostice (for 90 clients)

DOZP Milíře (for 65 clients)

Zbůch home (for 120 clients)

Kopretina home (for 149 clients)

DOZP Kociánka (for 40 clients)

DOZP Horizont Kyjov (for 205 clients)

DOZP Kunovice – Na Bělince (for 47 clients)

Last year, a team of lawyers from the Office of the Public Defender of Rights, together with external experts, made unannounced visits to a total of ten homes for people with disabilities. The homes were selected according to the target groups so that children would also be among the clients.

The aim of the visits was to verify how the given social service contributed to the education of children and adult clients, what specific features there were in the provision of services to children, how the service arranged healthcare for its clients (from its own resources or from external entities), and to what extent the given service supported clients in the exercise of their right to lead an independent life.

The visits to the homes took two to three days in each case and included an inspection of the home, observation of life in the home, interviews with the employees and clients, and examination of documents.

Each of the homes we visited will receive a report with individual findings from the visit and recommendations for improvement of the care it provides. In February 2020, the managers will be invited to a roundtable to discuss systemic problems faced by the providers of this type of service. The findings from the facilities we visited and outputs from the roundtable, together with the results of the follow-up research mapping the lives of clients of homes for people with disabilities (see Chapter 3, p. 13), will then be included in the summary report on homes for people with disabilities. The summary report should be published in the first half of 2020.

»»»»» 5. Co-operation with disabled people and their organisations

In 2019, we worked on improving co-operation with organisations of people with disabilities and organisations advocating for their rights.

In June and November, we organised meetings which involved more than fifty representatives of various organisations in each case. During the first meeting, we asked what forms of co-operation with the Defender the representatives present considered suitable and beneficial for the joint efforts aimed at improving the situation of people with disabilities in society. Space was also given for individual inquiries and debates on topics related to the rights of people with disabilities.

The second meeting was already focused on certain topics, specifically the functioning of organisations for people with disabilities on an international and European scale, and the possibility of utilising these organisations' activities in defending the rights of people with disabilities in the Czech Republic. The participants again presented specific suggestions and together we discussed the current situation of people with disabilities in the Czech Republic.

We then followed up on the suggestions from both meetings throughout the year; many of them also influenced the choice of our activities and topics for the following year.

Suggestions from co-operating organisations

We also conducted several joint awareness raising campaigns with organisations of people with disabilities (theatre performance and author's reading on the occasion of the World Down Syndrome Day, a happening related to the European Parliament election, etc.), shared experience (for example, in a meeting aimed to discuss the experience of sheltered residence facilities and homes for people with disabilities regarding the transformation and transition of people to normal lives), and consulted them on suitable solutions to specific systemic problems (e.g. with respect to sexuality of disabled people). We also contacted individual co-operating organisations, according to their respective focus, in the creation of various information materials concerning the rights of people with disabilities and when preparing our comments on draft legal regulations.

Just like last year, we issued an electronic bulletin aimed to maintain active communication with the co-operating organisations. In two issues published in the months of March and August, along with providing information on our activities, we also invited the organisations to participate in various events and further activities of the Defender in the area of monitoring of the rights of people with disabilities.

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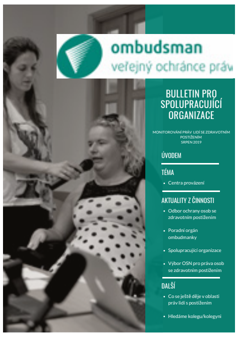
BULLETIN PRO SPOLUPRACUJÍCÍ ORGANIZACE

MONITOROVÁNÍ PRÁV LIDÍ SE ZDRAVOTNÍM POSTIŽENÍM
BŘEZEN 2019

ÚVODEM

PŮSOBNOST V OBLASTI MONITOROVÁNÍ PRÁV LIDÍ SE ZDRAVOTNÍM POSTIŽENÍM
- Poradní orgán
- Spolupracující organizace
- Výzkumy
- Doporučení
- Osvětová činnost

AKTUALITY Z ČINNOSTI
- Co se již letos podařilo
- Plán na 1. polovinu roku 2019
- Co se chystá v nejbližší době



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BULLETIN PRO SPOLUPRACUJÍCÍ ORGANIZACE

MONITOROVÁNÍ PRÁV LIDÍ SE ZDRAVOTNÍM POSTIŽENÍM
SRPEN 2019

ÚVODEM

TÉMA
- Centra provázení

AKTUALITY Z ČINNOSTI
- Odbor ochrany osob se zdravotním postižením
- Poradní orgán ombudmanky
- Spolupracující organizace
- Výbor OSN pro práva osob se zdravotním postižením

DALŠÍ
- Co se ještě děje v oblasti práv lidí s postižením
- Hledáme kolegu/kolegyni

http://bit.ly/informacni-bulletin

We met three times in 2019 with people suffering from psychosocial disabilities and with organisations dealing with the protection of their rights. We discussed the topics of legal advice for patients of psychiatric hospitals and systematic visits carried out by the Department of Supervision over Restriction of Personal Freedom at the Office of the Public Defender of Rights. We will make use of the participants' suggestions in our further activities aimed to improve the legal position of people with psychosocial disabilities. As part of the joint work of this group, materials were also created summarising the basic tasks in monitoring as well as the fundamental rights of patients in psychiatric hospitals and related questions.

Monitoring of the rights of patients in psychiatric hospitals – meeting held on 20 September 2019

Information and access to legal advice – meeting held on 7 June 2019

6. Co-operation with the UN Committee on the Rights of Persons with Disabilities

Suggestions regarding the List of Issues

In February 2019, the Defender sent her suggestions to the UN Committee on the Rights of Persons with Disabilities related to the List of Issues to be drawn up for the Czech Republic. We provided an overview of specific topics and problems related to the rights of disabled people in the Czech Republic, which we compiled on the basis of our own findings and also in co-operation with organisations of people with disabilities.

For example, in terms of accessibility, we advised the UN Committee that there was no publicly available information on accessibility of public buildings and services, and that the Czech legislation had yet to explicitly provide for the status and conditions of training of dogs intended for accompanying people with disabilities.

In connection with Article 12 of the Convention, which guarantees legal capacity of people with disabilities on an equal basis with others, we informed the UN Committee that the Czech Republic still allowed restriction of legal capacity. Moreover, courts tend to restrict legal capacity far more often than they opt for less restrictive supporting measures, such as representation by a household member or support in decision-making.

We also proposed to the Committee to verify how the Czech Republic intended to provide for actual accessibility of social services (especially with respect to field services and day centres) so that people with disabilities could enjoy as much self-reliance as possible, living outside institutions. In the area of education, we pointed out that the issue of providing certain healthcare services (e.g. administration of medication, insulin, etc.) in schools was still not resolved.

The UN Committee took our suggestions into account in the List of Issues for the Czech Republic, which it published on its website on 29 April 2019. The Czech Republic is obliged to draw up a written report based on the List of Issues and submit it to the UN Committee not later than in April 2020.

Suggestions for the UN Committee

Questionnaire from the UN Special Rapporteur on the rights of persons with disabilities on "the rights of older persons with disabilities"

For the UN Special Rapporteur, we prepared an overview of the relevant legislation and information on the situation of older people with disabilities. We pointed out especially the situation of older people living in residential social services facilities and the Defender's earlier findings from a series of systematic visits to these facilities. We described the system of restricting legal capacity, where the Czech Republic still had not fully complied with Article 12 of the Convention (Equal recognition before the law) and allowed interference with legal capacity. As part of our response to the Special Rapporteur, we also elaborated on the situation in the Czech Republic in terms of availability of healthcare services, especially if they were to be provided at home. Last but not least, we emphasised the insufficient capacities of day care centres and field services which enabled older people to stay and live at home, and not in an institution.

Questionnaire from the UN Special Rapporteur on the rights of persons with disabilities on "bioethics and disabilities"

The UN Special Rapporteur on the rights of persons with disabilities, Catalina Devandas Aguilar, is preparing a study on Bioethics and Disabilities. At her request, we informed her about the situation in the Czech Republic, including legislation, availability and practice in the area of prenatal testing, abortions performed due to disability, and experimental treatment of people with disabilities.

7. Co-operation with further international entities – co-operation with ENHRI

At an international level, we actively participated in the activities of the European Network of National Human Rights Institutions, of which the Defender is a member.

Creation of an overview of activities of the European Union suitable for presenting issues of people with disabilities

We were actively involved in seeking activities and processes taking place at the EU level in which this European network could participate and thus influence the situation of people with disabilities also on the European level. The various options we found for ENHRI's possible involvement were then presented by our Finnish colleagues to the members of the network during the Work Forum on the implementation of the UN Convention on the Rights of Persons with Disabilities, which took place in May in Brussels. We recommended, for example, how to effectively contact new members of the European Parliament regarding the rights of people with disabilities, how to monitor the legislative process of the European Parliament and how to intervene, where appropriate.

Compendium on Article 12 of the Convention

We co-operated in the preparation of a comprehensive document dealing with best practice in the area of implementing Article 12 of the Convention (Equal recognition before the law) prepared by an ENHRI working group in co-operation with Mental Health Europe. The material contains a description of specific legal regulations applicable in selected European countries, as well as experience with practical application of the new legislation under Article 12 of the Convention. In connection with the preparation of the material, we also met with our colleagues from the Austrian Ombudsman Board, who described to us how new support instruments operated in their country. The material should be published at the beginning of 2020.

We draw inspiration from foreign practice

In monitoring the rights of people with disabilities and their active involvement in this activity, especially in the preparation of the report for the UN Committee, we wish to draw inspiration from experience gained by other monitoring bodies. Therefore, we contacted the ENHRI with a request for co-operation and used its mediation to send an electronic questionnaire to the members in order to find out how our European colleagues carried out their duties. We asked these 42 partners about the functioning of the advisory body and their visits to facilities where people with disabilities were living in the long term. We plan to continue with similar activities in other areas in the future.

8. Awareness raising

Conferences

- In February, we attended a conference organised by the Faculty of Law of Charles University where we presented a paper entitled "People with disabilities as a new minority?", focusing on how society approaches people with disabilities and whether these people are in a disfavoured social position, which can be seen as a typical feature of a minority. We stated in the paper that social perception of people with disabilities was evolving and it was important to change it so that people with disabilities were not treated as a minority.

- We actively participated in the conference titled "Education, Employment and Community Life of the Deaf" organised as part of the celebration of the 100th anniversary of foundation of Masaryk University and community work of people with hearing impairments in Brno. Our contribution covered a variety of human rights set out in the Convention on the Rights of Persons with Disabilities, which also concerns people with hearing impairments.

- At the beginning of November, we visited various events held within Rehaprotex 2019, a trade fair focusing on rehabilitation, compensation, prosthetic and orthopaedic aids. At the fair, we learned interesting new information and found inspiration in various novel products and approaches. As part of the trade fair, we took part in a press conference on accessibility of railway transport, organised by Národní rada osob se zdravotním postižením ČR, z.s. (Czech National Council of Persons with Disabilities), and also attended a seminar titled "Family Life, Intimacy and Sexuality of Persons with Disabilities", prepared by the Ministry of Labour and Social Affairs.

- In November, we participated in the three-day Prague Educational Festival held at the Prague

Exhibition Grounds (https://www.pref.cz/). We heard a number of interesting contributions and participated in debates concerning, for example, the State's schools policy, inclusion and integration, the future of education and the necessary changes in the system. We also participated in several of the many workshops offered.

— On 1 November 2019, we organised a conference titled Ten Years with the Convention on the Rights of Persons with Disabilities on the occasion of the tenth anniversary of ratification of the Convention by the Czech Republic. Together with the participants, we discussed the ways in which the Convention had changed the lives of people with disabilities in the Czech Republic, as well as what was necessary to fulfil the rights of people with disabilities in terms of accessibility of public administration, products and services, and work and employment on the regular labour market. Inspiring stories of people with disabilities were presented in the concluding part of the conference. All these presentations shared the idea that it is people with disabilities themselves who have to fight for their rights and better integration in society.

Roundtables

Roundtable on Excusing students with disabilities from physical education classes

We organised a roundtable focused on the issue of excusing of disabled students from physical education classes. The main goal was to gain knowledge from the professional public about the existing practice, discuss possible solutions to the situation and then formulate recommendations so that disabled students could be involved in all school activities and subjects.

Roundtable on a survey of availability of dental care for people with mental disabilities and an autism spectrum disorder

In 2018, we co-operated with the Equal Treatment Department on a survey focusing on the provision of dental care in general anaesthesia to people with mental disabilities and people with an autism spectrum disorder.

We found that both adults and children with mental disabilities and an autism spectrum disorder who have to receive dental treatment under general anaesthesia due to their disability have to wait for treatment for four months on average, with the waiting time exceeding one year in certain regions. Individual facilities also apply different criteria and reimbursements for such treatment. We further found that, save for a few exceptions, patients would not lodge official complaints about the waiting times or other aspects of the treatment with the facilities they had contacted, and that there was no comprehensive system of training for dentists in respect of the needs of patients with a mental disability or an autism spectrum disorder in their treatment.

Based on the results, we formulated a set of recommendations for central governmental authorities, the Czech Dental Chamber, health insurance companies and other key stakeholders.

On 28 February 2019, we also held a roundtable to discuss the individual recommendations with their addressees. The joint meeting yielded the following results:

— It is necessary to define specialised facilities that will provide treatment of tooth decay in general anaesthesia.

— The Ministry of Health pledged to create procedures for providing dental care to people with disabilities.

— The Ministry of Health will initiate refinement of the rules for reimbursement of this treatment from health insurance.

— Health insurance companies declared that they had decided to increase the reimbursements for treatment of people with disabilities to dentists and hospitals.

Before the commencement of the roundtable, the Defender received a letter from the President of the Czech Dental Chamber, doc. MUDr. Roman Šmucler, concerning the measures agreed between the Chamber and the health insurance companies. These measures aim to ensure that sedatives administered directly in the dentist's office are used to enable treatment of a majority of children, whether with a mental disability, an autism spectrum disorder or suffering from anxiety. This form of treatment should be newly covered from health insurance. Furthermore, the Chamber has been negotiating with the health insurance companies concerning a network of facilities that would be created to provide one-day dental surgery.

These measures should improve the availability of dental care for people with mental disabilities or autism spectrum disorders.

Defender's survey File No. 51/2017/DIS

Roundtable on the results of a survey concerning the exercise of the right to vote by clients in homes for people with disabilities

On 10 April, we organised a roundtable with representatives of homes for people with disabilities that had been visited by employees of the Office in October of the previous year. We pointed out certain systemic shortcomings in the exercise of the right to vote by people with disabilities, as well as the best practice in supporting clients of residential social services in voting in elections. The roundtable was also attended by representatives of the Ministry of the Interior, the Ministry of Labour and Social Affairs, and Skok do života (Jump into Life) and Společnost pro podporu lidí s mentálním postižením v ČR (Czech Society Supporting People with Mental Disabilities), i.e. organisations who are engaged in the creation of accessible information materials and direct support for people living in the natural environment.

Roundtable on sexuality of people with disabilities

In June, we organised a roundtable on the topic of "Current Issues in Sexuality of People with Disabilities". The event was attended not only by experts on this topic, but also by people with personal experience. The participants' contributions related to various areas, such as the role and activities of sexual educators, the legal framework for disability sexual assistance and questions of guardianship related to sexuality of the person being supported by the guardian. The participants also shared real experience with the lives of people with disabilities.

Lectures, seminars, education of public administration

— In co-operation with patients' organisation SMÁCI, z. s., which supports people with spinal muscular atrophy, we organised webinar called "Convention on the Rights of Persons with Disabilities and the monitoring activities of the Public Defender of Rights". Along with listening to the lecture, the participants could use their computers to follow a presentation related to the lecture, and also actively enter the debate. This form of education is advantageous because anyone can participate from their homes, with just

an Internet connection and a computer. Twenty-five families used the opportunity to participate.

- Awareness raising concerning the rights of people with disabilities must also apply to children with disabilities, which is why we lectured for children with hearing impairments from three countries – the Czech Republic, Lithuania and Latvia. The children had the opportunity to learn about the Defender's mandate and also about their own rights under the Convention on the Rights of Persons with Disabilities.

- Two years ago, Austria enacted new regulation of support for adult persons in making decisions; this new regulation is quite progressive in many ways (its main objective is to maintain the Convention's slogan "nothing about us without us"). We therefore returned to the seat of Austrian Ombudsman Board (Volksanwaltschaft) in November in order to learn more about the regulation. We were interested in how decision-making was supported in Austria and which parts of the best practice ensuing from the new regulation could be used in the Czech Republic.

- Together with our colleagues from the Department of Supervision over Restriction of Personal Freedom, we presented our findings from visits to homes for people with disabilities, e.g., within the professional conference "Disabilities in the Context of Social Work" organised by Sts Cyril and Methodius Faculty of Theology Faculty, and to students of the Faculty of Social Studies of Masaryk University in Brno within a course focusing on data collection in hardly accessible populations.

- We took part in a methodological meeting organised by the Ministry of Labour and Social Affairs on the topic of "Partner relations, intimacy and sexuality of clients of residential social services". At this event, we presented findings from visits to homes for people with disabilities concerning family life and sexuality of clients in these facilities. The methodological meeting was intended for representatives of social services providers and also for employees of cities and towns.

- Together with several academicians, politicians, representatives of certain administrative regions, people with disabilities and also the director of a residential social service in transformation, we participated in a panel discussion on the issue of deinstitutionalisation in the Czech Republic. The panel took place within the "Festival of Democracy" held on the occasion of the 30th anniversary of the Velvet Revolution. The debate aimed to map the situation in the Czech Republic, show the roots of Czech institutionalism and discover why the process of deinstitutionalisation was not moving forward in the Czech Republic. We ultimately summarised what activities related to deinstitutionalisation we were engaged in – e.g. systematic visits to residential social services facilities and performance of surveys mapping certain aspects of the clients' lives in homes for people with disabilities.

- We also trained public guardians and the methodology officers on the rights and duties of public guardians in terms of the Public Defender of Rights, and support for parents with restricted legal capacity.
- As part of the Mental Health Weeks, we lectured in Rychnov nad Kněžnou on the rights of people with psychosocial disabilities under the Convention on the Rights of Persons with Disabilities and on our related activities.

World awareness raising days

Rare Disease Day

We became involved in a campaign on the occasion of the Rare Disease Day (28 February). Specifically, we attended a meeting organised by Debra ČR, z.ú. devoted to "Building bridges between health and social care for people with rare diseases". As part of the meeting, we delivered a presentation on the right of people with disabilities to independent living. Together with children from the children's group of the Office of the Public Defender of Rights, we also shared pictures of painted faces on social networks, a traditional token of support for people with rare diseases.

World Down Syndrome Day

World Down Syndrome Day is an opportunity to raise awareness among the general public about the genetic disorder called Down syndrome and the needs of the people who were born with it. Together with the Aldente Theatre, we organised a play of "Who's afraid of DS" and an author's reading of the work of an author with Down syndrome. We commemorated this world day and spread its message on social networks by sharing a series of photographs with bright and colourful socks, the symbol of Down syndrome.

World Autism Awareness Day

In April, we highlighted the message of the World Autism Day both on social networks and in other media. In this regard, we actively participated in the Life with Autism conference organised by the Faculty of Health and Social Studies of the University of South Bohemia in České Budějovice. We presented the Defender's surveys concerning the rights of people with autism spectrum disorders. We deal with autism within our various tasks in the long term. We are also a member of the

Autism Working Group of the Government Committee for People with Disabilities.

European Independent Living Day

On the occasion of the European Independent Living Day, which falls on 5 May, we publicly presented Australian film documentary Defiant Lives. The film openly speaks about crucial issues concerning people with disabilities, such as involuntary life in an institution, discrimination, lack of self-reliance, and the need to change the social perception of disabled people. The documentary itself features more than 600 archive recordings and photographs from all over the world depicting public speeches, rallies and arrests of disabled people fighting for their rights. The film also shows interviews with more than 30 activists, both with and without a disability, who pointed out various problems related to the topic of disability. The screening was followed by a panel discussion with interesting guests who have a professional or personal experience related to the rights of people with disabilities. The participants actively participated in the debate not only in the projection room, but also at home, as questions could also be presented to the guests via an online chat.

Spinal Muscular Atrophy Awareness Month

During the month of August – the Spinal Muscular Atrophy Awareness Month – we published a series of posts on social networks focusing on people living with this disease both in the Czech Republic and abroad. We shared, e.g., personal stories of actors, travellers and bloggers. This awareness raising campaign also comprised a presentation informing the public of facts related to spinal muscular atrophy, such as new breakthrough therapies.

Day in Slippers

On 7 October, we put on our slippers and had our photographs taken in front of the Defender's Office. The occasion was the "Day in Slippers", which was devised to support the DOMA (AT HOME) campaign. The goal was not to amuse ourselves, but rather to enable people to spend their last moments at home while having the necessary support. This requires a sufficient range of services and experts who will be able to provide this kind of support.

Let's Not "Pigeon Hole" People

Our goal is to talk openly about problems faced by people with mental illnesses and, above all, boost our co-operation with this group within our monitoring tasks. This is why we became involved in the Neškatulkujme (Let's Not "Pigeon Hole" People) awareness raising campaign and, in co-operation with Focus Praha, organised an exhibition concerned with the rights of people with mental illnesses.

Pinwheel Day

On 21 November, we took part in a campaign held on the occasion of the European Cystic Fibrosis Awareness

Day – the "Pinwheel Day". The motto of this campaign is: "Most of us will have no problem blowing a pinwheel. But this will be virtually impossible for those who suffer from cystic fibrosis." To draw attention to the existence of cystic fibrosis, we took our pictures with pinwheels for "salty kids" with this disease and shared the photographs on social networks.

Open Doors Day at the Office of the Public Defender of Rights

On the occasion of the Human Rights Day and also to open celebration of the 20th anniversary of the appointment of the first Defender in the Czech Republic, the Office of the Public Defender of Rights organised the first Open Doors Day at the Office on 9 December 2019. Throughout the day, visitors were told about the Defender's activities, learned about the respective tasks of the individual departments of the Office, were showed around the building and were offered lectures with advice as to how certain problems and life situations could be dealt with. Lawyers from the Department of Supervision over Rights of Persons with Disabilities prepared various activities in which the visitors could try out, for example, alternative formats of communication (Braille, easy reading, written form of the Czech Sign Language, etc.) or consider what barriers could be faced by people with disabilities at various places. Anyone interested could have their memory tested or create a badge with Ombudsman's logo.

Publications, leaflets, information materials

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 comprises an overview of the basic principles that should be respected when writing or speaking about people with disabilities in the media. The principles are followed by practical examples of expressions that we recommend to either use or avoid. In the Handbook, we also provide recommendations 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 tips 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. The Handbook will be published in the first half of 2020.

Information leaflet in plain language

It is our priority to ensure accessibility of information for people with disabilities or impaired ability to understand. As part of a pilot project, we thus created a leaflet titled "Ombudsman in Simple Terms" in co-operation with experts and people with psychosocial disabilities. The leaflet tells the reader in an easily comprehensible form in what ways the Ombudsman can provide advice or help.

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Pomáháme bez rozdílu

Convention on the Rights of Persons with Disabilities in the Czech Sign Language

We were the first ones in the Czech Republic to translate the Convention on the Rights of Persons with Disabilities into the Czech Sign Language and thus make it easier to access and read by those who use the Czech Sign Language.

Videos and social networks

For two years already, we have had our own group on Facebook called Rights of people with disabilities for direct communication with people with disabilities, sharing of information and receiving suggestions concerning the rights of people with disabilities.

Posts are published in the group both by the Department for Protection of Rights of Persons with Disabilities and by group members, including people with disabilities and organisations advocating for their rights.

The posts concern our activities and also the work of organisations advocating for the rights of people with disabilities which they share with us. We illustrated our activities, for example, in a post dedicated to the Open Doors Day at the Office, publication of a survey or a post from the annual conference organised on the tenth anniversary of ratification of the Convention.

Furthermore, as part of awareness raising on social networks, we highlight international days concerning the rights of people with disabilities. In 2019, we published, for example, posts related to the European Cystic Fibrosis Awareness Day and the World Down Syndrome Day. On the occasion of the International Day of Sign Language, we published on the Defender's website the Convention on the Rights of Persons with Disabilities translated into the Czech Sign Language.

We also provide information to the group members about new legislation and recent political developments related to protecting the rights of people with disabilities, such as the establishment of the Government Council for Mental Health and publication of the European Disability Strategy 2010–2020.

A total of 346 members joined the group from September 2018 to December 2019.

9. Commenting on legislation

Decree on education of students with special educational needs

In co-operation with the Department of Equal Treatment and Protection against Discrimination, we submitted comments on a draft amendment to Decree No. 27/2016 Coll., on education of students with special educational needs and exceptionally gifted students. In particular, we pointed out the inconsistency of the proposed amendment with Article 24 of the UN Convention on the Rights of Persons with Disabilities. According to this Article, the States which have acceded to the Convention have, inter alia, to ensure that a "person with disabilities can access an inclusive, quality and free primary education and secondary education in the communities in which they live" and "receive the support required, within the general education system, to facilitate their effective education". However, the changes to be introduced with the forthcoming amendment, such as the limitation of the number of staff teaching in parallel in regular classes, or the deletion of the provision stipulating that students with disabilities shall be primarily educated in mainstream schools, do not match the idea of inclusive education enshrined in the Convention.

Draft Long-term Plan for Education and Development of the Educational System in the Czech Republic for 2019–2023

In co-operation with the Department of Equal Treatment and Protection against Discrimination, we submitted our comments on a draft of the Long-term Plan for Education and Development of the Education System of the Czech Republic for 2019–2023. In particular, we pointed out that the project paid very little attention to inclusive education and ethnic de-segregation of Czech education.

MONITORING OF RIGHTS OF PEOPLE WITH DISABILITIES 2019

REPORT OF THE PUBLIC DEFENDER OF RIGHTS AS THE MONITORING BODY UNDER THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

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