



EQUAL TREATMENT

2020

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Introduction

The extraordinary year 2020 was marked by the Covid-19 pandemic, the Government-declared state of emergency and the related restrictions. Many of us are understandably quite tired of hearing and reading about the pandemic. Unfortunately, it continues to have an impact on all our lives and it can hardly be avoided when looking back at last year. The first chapter provides an overview of issues brought by the pandemic in the area of discrimination.

The second chapter presents an interview with Ladislav Bouček, who was denied remuneration for his work due to being past the legal retirement age. He successfully defended himself against the employer's procedure. You can read more about how he did that and what he thinks about the whole situation now.

We managed to publish three surveys on equal treatment in the previous year. The first survey concerned the decision-making of Czech courts in discrimination disputes from 2015 to 2019 and focused on civil court proceedings. Besides other interesting statistical data, the survey dealt with important cross-cutting topics such as the shared burden of proof, financial compensation for intangible damage and the courts' regard for the Defender's legal opinions. The second survey was conducted in the area of municipal housing, because the Defender is often approached by people in housing distress. The Defender was interested in the rules for renting flats used in various municipalities and the associated social work. The third survey set out to map the municipalities' procedure in approving and providing reserved parking spaces to people with disabilities. If you are interested in the results, read them here or follow the links to complete survey reports.

The following chapters will present many interesting facts about important court decisions in the area of equal treatment rendered in the Czech Republic and abroad in 2020, the people who received the Defender's help last year and the current trends in the area of equal treatment.

This publication aims to raise awareness of the progress achieved in equal treatment in 2020.¹ For more detailed information on the activities of the Public Defender of Rights, please see the Defender's Annual Report for 2020.

We hope this text will be an inspiration to you.

¹ Based on the duty of the Public Defender of Rights to promote the right to equal treatment by publishing reports on discrimination-related matters pursuant to Section 21b (c) of the Public Defender of Rights Act.

1. Equal treatment in a pandemic

Are you interested in the areas where people most often complained about discrimination during the pandemic?

Over the duration of the state of emergency, the Defender was contacted by hundreds of people raising objections and complaints in many walks of life. The following text discusses some selected problems involving complaints against discriminatory procedures or discriminatory effect of restrictions or the related amendments to legislative rules.



Schools

The pandemic brought situations that schools never had to face before. Some parents criticised the amended Schools Act, which included restrictions of face-to-face teaching and incorporated mandatory distance learning from autumn 2020. Parents disagreed with measures introduced by the Government and its individual departments, and often also with steps taken by teachers and headteachers regarding online learning. The Defender cannot inquire into such rather personal complaints against particular schools. He could only look into the subsequent procedure of the Czech Schools Inspectorate.

There have also been complaints regarding a possible discriminatory impact of the measures enacted during the state of emergency, especially mandatory wearing of face masks by small children and students with disabilities. Complaints also concerned different approaches in

decision-making on the closure of kindergartens, primary and special schools, both in the spring of 2020 and later during the second wave of the pandemic in the autumn. In the spring, the Minister announced re-opening of ordinary schools, while classes and schools for children with disabilities remained closed. There was no relevant reason to adopt a different approach with regard to the aforementioned types of schools and, therefore, the Defender recommended to change it. Children with disabilities need to go to school as much as able-bodied children. The Defender's intervention led to the re-opening of special schools and classes.

[Press release](#) of 13 May 2020

However, opinions differ with regard to the aforementioned issues. Some teachers are afraid of teaching face-to-face due to the risk of infection and some parents are likewise afraid of sending their children to primary schools and kindergartens. Others claim that school closures violate the children's right to education. The proportionality of these measures must be assessed by courts.

The “COVID – Culture” subsidy programme

The Ministry of Industry and Trade announced a subsidy programme aimed at supporting entrepreneurs in the field of culture who had lost their income due to measures to combat the pandemic. In the Defender's opinion, the conditions for the one-off grant provided to art professionals were discriminatory because of the requirement that the applicant be a Czech citizen or a foreign national with permanent residence in the Czech Republic. The Defender notified the Minister of Industry and Trade and recommended to change the conditions. Thanks to the changed conditions, EU citizens with temporary residence in the Czech Republic may now also apply for the grant.

Defender's [Recommendation](#): File No. 31/2020/SZD

Extraordinary measures and the provision of goods and services

The fear of the virus, extraordinary measures and the easing of restrictions have also affected the provision of goods and services. In the spring already, prior to the outbreak in the Czech Republic, the Defender dealt with complaints against accommodation establishments which refused to check in tourists from countries with most Covid-19 cases (Italy, South Korea and China). Subsequently, after partial re-opening of the shops, the Defender was contacted by a man who complained against the fact that a retail chain re-opened only the women's clothes section and kept the men's clothes section closed in order to comply with the shopping area limit. In this and similar cases, we explained the competences of the Czech Trade Inspection Authority, which may conduct inspections and impose penalties for discriminatory conduct.

Another problem appeared at the end of the year, when the Government ordered shops to limit the number of shoppers per shopping area. In keeping up with the rules, the shops made the use of shopping carts and baskets mandatory in order to count the number of persons inside. This practice adversely impacted some people with disabilities. For instance, the Defender was contacted by a blind woman using a white cane and a man using forearm crutches. Neither could reasonably use their mobility aids with a shopping cart/basket. For

this reason, the Defender issued a press release where he urged retailers to make provisions for these cases and ensure that disabled people had access to their shops.

[Press release](#) of 11 December 2020

Being an employee during the pandemic

The Government's measures imposed restrictions on the activities of many employers. Some had no other choice than to lay off their employees. Many employees found out what working from home was like for the first time in their professional lives. The Defender continued receiving complaints from people who felt discriminated against. The fear of an unknown virus is illustrated by the case of a woman who came to the Czech Republic for work. Even though she had not left the country for many months, the employer forced her to perform work completely at odds with her employment contract in order to isolate her from the other employees. In cold months, the woman was ordered to do cleaning work outside the employer's offices. She was not the only one to be treated this way; the employer did the same with all other foreigners, regardless of whether they had recently travelled to outbreak areas.

Another employee felt discriminated against because he was the only one ordered to take a leave of absence at a time when he had to spend it at home due to the lockdown. The employer wanted to shield him as in the employer's opinion, the employee was more at risk from Covid-19 due to his older age. However, the employee objected that he could have carried out his work safely under basic preventive measures, without being at a higher risk as compared to, for example, shopping for groceries. Consequently, he wanted to continue working like his younger colleagues and use his annual leave for travelling when it would become possible again.

In both cases, the employees only contacted the Defender to learn about their options, and the Defender thus did not have to launch a formal inquiry.

Registered partnerships (civil unions) during the state of emergency



The state of emergency declared by the Government imposed restrictions on concluding marriages and registered partnerships. However, the Defender found in the autumn of 2020

that the conditions for entering into marriage and registered partnership were not set equally. While marriages could be concluded in an essentially standard fashion (with some restrictions regarding the number of participants at the wedding ceremony and reception), registered partnerships could only be entered into in urgent circumstances (impending death of one of the partners, expiry of a foreign national's residence permit, etc.). No such restrictions were imposed on standard marriages.

The Defender found no reasonable grounds for such discrimination. He therefore requested that the Minister of the Interior correct the procedure at the Government level. In response to the request and complaints from other stakeholders, the Government soon remedied its error.

Defender's [Facebook message](#) posted on 20 November 2020

International response

[Equinet](#), the European equality body network, also responded to the pandemic. In order to facilitate information sharing, it created an online database of discrimination cases and launched a blog on current issues (the impact of the pandemic on women, the elderly, people with disabilities, etc.). Equinet also [recommended](#) an equality-compliant response to the crisis.

2. Interview “The employer paid back the bonuses owed to me and other retired employees.”

What is it like to be a victim of discrimination?

Mr Ladislav Bouček was a long-term employee at a sugar mill. He decided to stay with the employer for a few more years after reaching the legal retirement age.

The sugar mill incentivises its employees by means of bonuses paid if the enterprise reaches the production campaign objectives set for the given year. The conditions for the bonus are specified annually in a collective bargaining agreement. Mr Bouček repeatedly became eligible for the bonus over his years of employment. This, however, changed when the collective bargaining agreement was amended to include a clause according to which employees receiving retirement pension were not eligible for the bonus.

Why did you decide to stay employed even after reaching pensionable age? What did you like about your work at the sugar mill?

I wanted to continue working even after I reached my retirement age because I really liked my job at the sugar mill. My position was called “machinery vibration diagnostician” and I was responsible for the whole mill, which means I checked on all our machinery and collected operational data over the course of the production campaign. I then assessed the data and drew a report on the machinery’s condition, including maintenance recommendations. I wanted to continue working there also because of the great team of people we had in the company. The employer also wanted me to stay and, naturally, there was also the money from the salary.

Did the nature of your work change in some way after you reached pensionable age?

I was assigned a colleague to train as my replacement, otherwise the job description didn’t change much.

How did you feel when you lost eligibility for the performance bonus tied with the production campaign goals? What bothered you the most about the employer’s approach?

I didn’t mind that I lost eligibility for the bonus all that much, to be honest. What I really disliked is that the employer didn’t say it openly and tried to hide it using loopholes in the collective bargaining agreement. These agreements had been changed repeatedly in the years before, denying the performance bonus to employees working under fixed-term contracts. But before changing the agreement, the employer had offered a bonus to all employees over the legal retirement age who would agree to work under fixed-term contracts.

The problematic clause denying the bonus to people receiving retirement pension was included in the collective bargaining agreement and the trade union had to approve it. Were you surprised when you learnt about it?

Not really. None of the trade union officials even noticed it. They finally realised what was going on only after I had asked about the legitimacy of that clause. In their response, they agreed that the clause was discriminatory and promised to deal with it in the next collective bargaining agreement.

You first tried to settle the issue with your employer. Did the employer respond to your complaint? And if he did, in what way?

Yes, he did, but the CEO's response missed the point completely. He did not address the point of my complaint, it seemed like he hadn't even read the collective bargaining agreement in the first place.

When the employer failed to address your complaint, you contacted the Public Defender of Rights. How did this option occur to you? How did you know that the Defender deals with discrimination?

From the media, I suppose. I considered contacting the Defender as the easier option compared to a legal action, which I wouldn't have dared initiate.

The Defender told you how to defend against the employer's practice. After considering your options, you decided to lodge a complaint with the Labour Inspectorate, which then carried out an inspection of the employer. Did the Inspectorate inform you about the results? What did it say?

Yes, I was informed of the inspection's results. I learnt that the employer had violated provisions of the Labour Code according to which no employee may be discriminated against. The Inspectorate said that they had forced the employer to amend the collective bargaining agreement.

Was there some problem that the Inspectorate's intervention failed to solve?

The employer did not pay back the bonuses owed for the previous years.

So you again contacted the Defender to inquire if the employer had not breached the principle of non-discrimination when it failed to pay back the owed bonuses. What were your expectations? Did you consider a lawsuit to force the issue?

From various articles, I learnt that the Defender could assist people in discrimination cases so I asked for help. I wasn't considering a legal action, really.

Were you worried about pursuing legal action? What were your concerns?

When not even the Labour Inspectorate manages to help you, you simply lose trust in other legal means. The lawsuit would probably have dragged on for years with uncertain results.

The Defender accepted your request for assistance and contacted the employer in order to assess his conduct. Did that help you?

The employer paid back the bonuses owed to me and other employees in retirement age. Without the Defender's intervention, we would probably have achieved nothing.

What would you recommend to people dealing with a similar problem? Is it worth it, defending yourself against discrimination?

They should get the Defender to back them up. For me, this was the best option. Without the Defender, the whole thing would have fizzled out. I think that otherwise, the people in charge would simply "scratch each other's backs" and walk away from the problem.



We thank Mr Bouček for his time and the trust he has given us. Lack of confidence in a successful solution to discrimination cases is the main reason why only [11% of victims](#) defend themselves. Even though the process is rarely simple, this case proves that it is worth it. Mr Bouček deserves recognition because it was his proactive approach that helped not only himself, but also his other colleagues in retirement age. You can learn more about the case in the [Defender's Opinions Register \(ESO\)](#) under File No. 1897/2018/VOP.

In 2020, the Defender also dealt with the conduct of an employer whose internal regulations denied bonuses and a contribution towards supplementary pension insurance to persons receiving disability pension. Denying bonuses or other rewards to disability pension receivers means that the employer commits direct discrimination.

Defender's [Report](#): File No. 2791/2019/VOP

An employer's internal regulation or collective bargaining agreement has the potential to discriminate against some employees, by denying them certain benefits, for instance. The target groups in this sort of discrimination often include older employees, disabled employees or employees who care for children or other dependants. Discrimination motivated by other reasons is not typical of such documents, but it cannot be ruled out.

If you encounter discrimination, you should seek help from the trade union organisation, contact your employer and [the Labour Inspectorate](#), or initiate a lawsuit. If you are not sure whether your case could be classified as discrimination or how you should defend yourself against the employer's conduct, contact the [Public Defender of Rights](#).

3. Promoting the right to equal treatment

We help achieve fair solutions to problems. Where possible, we try to advise, explain and seek amicable settlement.

Help in securing a fair offer of substitute accommodation

The Defender dealt with a case involving suspected discrimination on the grounds of ethnicity. He was contacted by a man living in a rented municipal flat. The building was to be renovated and the municipality offered him temporary accommodation in a flat situated in a worse (busier and dustier) neighbourhood compared to the other tenants. He was also the only Roma person among the tenants. The municipality denied any discrimination and refused the notion that the flat it had offered was situated in a worse neighbourhood compared to the flats offered to the other tenants. Nevertheless, it then offered the complainant a temporary flat in the same neighbourhood it provided to the other tenants. He moved there shortly thereafter.

Defender's [Report](#): File No. 4817/2019/VOP

Making a sports stadium more accessible

The Defender helped achieve an amendment to the visitor rules at a sports stadium. A wheelchair user informed the Defender about visitor rules at a sports stadium according to which the holders of the Czech disability card (ZTP/P) and persons with significantly reduced mobility could enter the stadium only if accompanied by another person. Such a provision constituted indirect discrimination on grounds of disability. Therefore, the Defender recommended to the stadium's operator to change the visitor rules, which he promised to do.

Defender's [Report](#): File No. 5708/2019/VOP

Amicable settlement in the case of non-renewal of employment contract due to age

The Defender was contacted by a complainant who objected to age discrimination in connection with his employer's decision not to renew his employment contract. The Defender inquired into the procedure of the Labour Inspectorate, which had previously been contacted by the complainant, and found a number of errors consisting especially in insufficient investigation of the alleged discrimination. Based on these conclusions, the complainant decided to file a lawsuit. The Defender's arguments helped to achieve amicable settlement of the dispute. The settlement also included compensation for intangible damage, the amount of which remains confidential.

Defender's [Report](#): File No. 5676/2018/VOP

Dealing with segregation in the school district system

The Defender addressed a problem in the way school districts were drawn in a city. According to a generally binding ordinance, children from hostels and dormitories housing poor people in the city centre were to go to school (mostly attended by Roma students) at the outskirts of the city, despite the fact two other schools were closer to the dormitories. The Defender contacted the Ministry of the Interior, which exercised its supervisory powers and found the ordinance unlawful. The city authorities subsequently amended the ordinance, but failed to resolve its segregating aspects. The Ministry thus again ruled it unlawful. In the end, the city authorities modified the generally binding ordinance and added the dormitories situated in the city centre to nearby school districts. The Ministry found this final version of the ordinance compliant with the law.

The Defender's [report](#) on activities for the 2nd quarter of 2020, p. 14

Removal of unlawful traffic signs

The Defender contributed to the removal of unlawful traffic signs ordering wheelchair users to only drive if accompanied by another person.

Defender's [Report](#): File No. 6905/2019/VOP



4. Decision-making of Czech courts in discrimination cases

Independent courts play a key role in Czechia in protecting citizens against discrimination.

The following summary includes the most important court decisions rendered in the area of discrimination in 2020. We also present to the readers the previous year's Defender's survey on the decision-making of Czech courts in discrimination disputes from 2015 to 2019. The survey report provides a comprehensive overview of the decision-making of Czech civil courts on actions where the plaintiffs pleaded discrimination.

CFO job open only to men

A woman felt discriminated against in access to employment. In a selection procedure for a CFO, she was found to be a good candidate, but the company's Board of Directors did not select her for the job. The selection procedure was discontinued and a new one was opened, where a man was eventually selected. The complainant had some circumstantial evidence that certain members of the Board of Directors did not want a woman for this job. The first-instance court as well as the appellate court granted the plaintiff's action and confirmed she had been discriminated against on the grounds of sex. However, they only awarded her a public apology, arguing she had no claim to financial compensation for intangible damage. In 2020, the appellate review (3rd instance) court examined this aspect of the case. It concluded that the lower instances had failed to sufficiently assess all the criteria that needed to be taken into account when dealing with such a claim (e.g., that the effectiveness of public apology as a means of satisfaction may be significantly reduced by the fact that the employer's conduct took place over 10 years ago) and, therefore, their conclusions had necessarily been incorrect. The Supreme Court returned this part of the case to the first-instance court for further proceedings.

Judgement of the Supreme Court of 21 January 2020, File No. 21 Cdo 2770/2019

Drivers in Olomouc must receive the same compensation as drivers in Prague, if they are employed by the same employer

The Labour Code provides for the principle of equal pay for the same work, which employers must apply in all cases, not only in areas regulated by the Anti-Discrimination Act. A driver from Olomouc sued his employer because he received lower salary as compared to his colleagues in Prague. The courts found that this situation constituted unequal pay. Therefore, the employer breached its obligations regardless of the fact that the costs of living in Prague and environs are higher compared to Olomouc. This fact cannot be reflected in considerations as to whether any two employees perform the same or comparable work. This conclusion was confirmed by the Supreme Court, which dismissed in July 2020 the employer's application for appellate review.

Judgement of the Supreme Court of 21 July 2020, File No. 20 Cdo 3955/2018

Educating Roma and non-Roma students in two separate buildings

In 2016, several current and former Roma students of one of Ostrava's primary schools went to court claiming discrimination on the grounds of ethnicity. They saw discrimination in the practice where they had been physically separated from non-Roma students, which resulted in *de facto* ethnic segregation. According to the plaintiffs' allegations, the school comprised two main buildings, one of which was attended mostly by Roma students. This did not correspond to the ethnic composition of the school's catchment area (school district). In June 2020, the Regional Court in Ostrava upheld the decision of the first-instance court. While the courts generally consider segregation unlawful, they found no segregation in the case at hand. The courts stated that all the plaintiffs except one could not have been educated in the other building (teaching in that building started only after they had been enrolled in the school and their parents did not ask for them to be moved there). In the case of one of the plaintiffs, the court held it proven that the school had not divided students into classes based on their ethnicity; they had not been separated due to discriminatory reasons and, therefore, the conduct could not have constituted unlawful segregation.

[Judgment](#) of the Regional Court in Ostrava of 30 June 2020, File No. 57 Co 433/2019

Administrative authorities must take conscientious objection to vaccination on religious grounds into consideration

A minor child's legal representatives sued a kindergarten in Prague for refusing to accept the girl. On account of her parents' Buddhist faith based on the principle of Ahimsa (non-violence), the girl did not receive compulsory vaccination. The supervisory authority agreed with the kindergarten's procedure. According to the plaintiffs, the administrative authorities did not take their conscientious objection into account. The first-instance court found the procedure unlawful and ordered the appellate administrative body to re-assess the plaintiffs' case in the light of their conscientious objection. The Supreme Administrative Court confirmed this conclusion in December 2020. It stated that in cases such as this one, administrative authorities had to carefully examine the applicant's conscientious objection and had to weigh the cogency of the applicant's arguments (whether they were extraordinary serious, certain and proven) against the society's interest in the protection of public health and the health of other children in the kindergarten.

[Judgment](#) of the Supreme Administrative Court of 10 December 2020, File No. 9 As 62/2020

An advertisement depicting women as furniture is discriminatory

Equal treatment in the marketing of goods and services also covers discriminatory advertising. In 2016, the Trade Licensing Authority fined a company selling motorcycle gear after it had found its advertising to be discriminatory and at variance with good morals. Advertising pictures published by the company depicted naked women posing as pieces of furniture and home accessories. The Ministry of Industry and Trade confirmed the conclusion reached by the first-instance authority. In June 2020, the Municipal Court in Prague dismissed the administrative action lodged by the company. It noted that the administrative authorities acted in conformity with the law and agreed that the advertisement in question showed signs of discrimination on grounds of sex by reducing

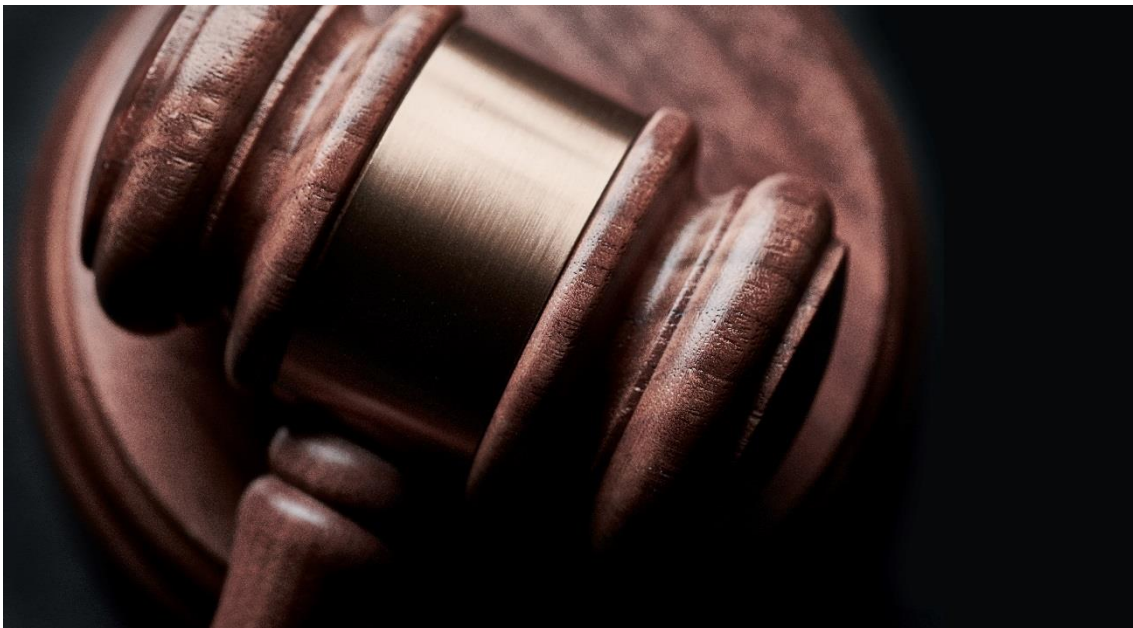
women (in contrast to the depicted men) to the status of mere objects in a degrading manner. Such an advertisement is at variance with good morals and, as such, impermissible.

[Judgement](#) of the Municipal Court in Prague of 17 June 2020, File No. 6 A 115/2016

Segregation in housing is not in the purview of administrative courts

Two Roma plaintiffs went to court seeking legal protection against unlawful steps taken by Olomouc city authorities. They objected to the fact that the city had taken no steps to desegregate a socially excluded neighbourhood and its housing policy had contributed to maintaining social exclusion and segregation of the plaintiffs. Both plaintiffs spent a significant part of their lives renting a flat in one of the municipal dormitories situated in an excluded neighbourhood. They also considered this to constitute ethnic discrimination in the area of housing. The first-instance court rejected their action and the Supreme Administrative Court upheld its judgement in June 2020. According to the court, no specific breach of the city's legal duties was established. There is no individual legal title to housing that could have been interfered with unlawfully with respect to the plaintiffs. A municipality is not obligated to provide housing to all persons in need within its limits. With regard to discrimination in the area of housing, the plaintiffs should have lodged an anti-discrimination action with a civil court.

[Judgment](#) of the Supreme Administrative Court of 30 June 2020, File No. 7 As 40/2019



Survey: Decision-making of Czech courts in discrimination disputes 2015–2019

The Defender often receives questions concerning judicial protection from discrimination. How many lawsuits were brought? What did the plaintiffs seek? What was their success rate? These and many other questions were answered in a survey titled “Decision-making of Czech Courts in Discrimination Disputes 2015–2019”, the results of which were published by the Defender in autumn 2020. The Defender provides methodological assistance to victims of discrimination. For this reason, he needs to know if and how the Czech courts decide in similar cases.

The report follows up on the [survey report](#) titled “Discrimination in the Czech Republic: Victims of Discrimination and Obstacles Hindering their Access to Justice”, published by the Defender in 2015. However, the scope of the present survey was narrower as the Defender focused exclusively on decisions rendered in civil court proceedings. The narrower scope of research questions made it possible to review the cases in more detail.

The Defender analysed a total of 204 anonymised court decisions rendered in the period from 2015 to 2019, which were provided by civil courts of all instances and the Constitutional Court. The analysis of the court decisions yielded (among others) the following conclusions:

- One half of the plaintiffs claiming discrimination were unsuccessful in court. Still, the number of cases where the plaintiff was at least partially successful at the court of first instance increased.
- Most lawsuits were filed in the area of work and employment, with disability being the most frequently cited discrimination ground.
- The Constitutional Court made several important contributions to developing a constitutional interpretation of the principle of shared burden of proof. This interpretation can increase the likelihood of success in court for some discrimination victims.
- Victims face more challenges in proving discrimination in cases where individuals (such as employers) have a broad discretion and are not required to state reasons for their final decisions.
- Plaintiffs most often sought financial compensation for intangible damage (ca. 55% of cases). The courts upheld such claims in 29% of cases. In each case, the court in question referred to a violation of the Charter of Fundamental Rights and Freedoms and cited the seriousness of the violation.
- In 64% of the cases where the Defender had previously inquired, the courts agreed with the Defender’s opinion.

The survey report also analyses some cross-cutting issues (sharing of the burden of proof, financial compensation for intangible damage) and key decisions in the individual areas covered by the Anti-Discrimination Act.

The Defender also collected a set of follow-up recommendations to incite expert discussion on certain issues related to court protection from discrimination. He also recommended to change some legislative provisions, publish all court decisions in an anonymised form, train judges and attorneys-at-law in the area of discrimination, and check the effectiveness of the new system of free legal aid.

Defender’s [survey](#): File No. 61/2019/DIS

Defender’s [press release](#) of 1 October 2020

5. Decision-making of European courts in discrimination cases

We follow news from the highest courts in Europe and international experience

The Defender monitors the activities of the Court of Justice of the European Union (CJ EU) and of the European Court of Human Rights (ECtHR) in the area of equal treatment and non-discrimination. We selected a number of judgments rendered in 2020 which could influence the Czech legislation, court decision-making and the Defender's own work. This chapter also contains some other interesting decisions in the area of equal treatment adopted by European institutions.

Court of Justice of the European Union

Statements made by an attorney-at-law in a radio programme to the effect that he would not employ a homosexual do constitute discrimination

An Italian association of attorneys-at-law advocating the rights of LGBT+ persons filed a lawsuit against a local lawyer due to his comments made in a radio programme. The lawyer had made comments to the effect that he would not wish to work with homosexual persons in his law firm. The case ended up before the Court of Cassation (supreme court in Italy). The court referred a question to the CJ EU for preliminary ruling concerning the interpretation of the framework directive's concept of "conditions for access to employment [...] or to occupation".

The CJ EU concluded that the comments made by the Italian attorney-at-law fell within the material scope of the directive, regardless of the fact that there was no current or planned recruitment procedure at that time. According to the CJ EU, statements suggestive of a homophobic recruitment policy fall within the "conditions for access to employment ... or to occupation", even if made by a person who does not have the legal capacity to define the recruitment policy of the employer. However, the CJ EU emphasised that the link between those statements and the recruitment policy could not be merely hypothetical. National courts should take all relevant circumstances into consideration.

[Judgment](#) of the CJ EU (Grand Chamber) of 23 April 2020 in Case C-507/18

Granting maternity leave beyond the scope of the law exclusively to mothers is not necessarily discriminatory to fathers

Based on a collective bargaining agreement, a French insurance company granted to its female employees who had at least six months' seniority benefits consisting in compensation for salary and additional leave beyond the scope of statutory maternity leave. When his child was born, a male employee also applied for a leave provided for in the collective bargaining agreement. This application was rejected by the insurance company on the ground that the leave was only meant for female employees bringing up their child

on their own. The employee thus sought, through the trade union organisation, that the collective bargaining agreement be extended to male employees in a comparable situation. Because the insurance company did not comply, the trade union organisation sued it at a labour court. The French Court of Cassation then decided that the purpose of the relevant provisions of the collective bargaining agreement was to protect the special relationship between a woman and her child. The case returned to the labour court which later referred the question to the CJ EU for a preliminary ruling.

The CJ EU recalled that it could not review the compliance of a collective bargaining agreement with EU law. It could, however, advise the court on how to assess the case. The CJ EU also noted that the parents' status was comparable as far the bringing up of children was concerned. If a mother were granted extra leave only to protect the special relationship between a woman and her child (as the insurance company argued), this would indeed discriminate against fathers. On the other hand, the CJ EU noted that providing additional leave to women with regard to the consequences of pregnancy was not at variance with EU law. The CJ EU considers it important that national courts always establish the aims of the intended measure. National courts must also consider, among other things, the conditions for granting a leave, taking the leave, etc.

[Judgment](#) of the CJ EU of 18 January 2020 in case C-463/19

[Opinion](#) of Advocate General Michal Bobek



European Court of Human Rights

Failure to investigate homophobic comments on the Internet constitutes discrimination

A man in Lithuania uploaded a photo on Facebook showing him kissing his boyfriend. The picture stirred many reactions, among which were hundreds of hateful comments against

LGBT+ persons in general and threats against the couple. The couple thus contacted an advocacy NGO dealing with the protection of LGBT+ rights to file a criminal complaint in the matter. Law enforcement authorities decided not to investigate the case since they considered the couple's behaviour to be provocative. Although they considered the comments unethical, criminal prosecution was not required, in their view. The courts upheld this opinion and labelled the couple's behaviour as eccentric and deliberately provocative. In their decisions, the courts referred to traditional family values and noted that the couple could have expected that a photo of two men kissing would not be received well.

According to the ECtHR, the courts in Lithuania made a direct link between the couple's sexual orientation and the fact hate speech was not investigated. The ECtHR concluded that the bigotry behind the hateful comments was also discernible in the conduct of the Lithuanian authorities and courts. Their conduct was found at variance with the Convention due to discrimination on the grounds of the couple's sexual orientation.

[Judgement](#) of the ECtHR of 14 January 2020, Application No. 41288/15

A mental illness is not automatically a reason to deny contact with a child

A citizen of Romania suffers from a chronic mental illness. When divorcing his wife, he applied that his four-year-old daughter live with him or that she could at least regularly visit him in his home. However, the court only allowed a very limited contact in public places and in the presence of the mother. It based its decision solely on medical records of his illness and the mother's claim that the man would often get aggressive due to his illness. The man appealed, objecting that the lower-instance court based its decision solely on medical records, and asserted he had never been violent towards his wife or the child. The appellate court upheld the lower court's decision.

According to the ECtHR, the limitation of the contact between the man and his daughter was based solely on his mental illness, not on any actual capability to take care of her. The Romanian courts had not proven that the man represented a danger to his daughter. The courts' decisions were not based on any new expert findings on the nature of his illness and offered no alternatives with regard to contact with his daughter. The ECtHR further noted that people with disabilities are a vulnerable group whose rights deserve special considerations, especially with regard to the United Nations Convention on the Rights of Persons with Disabilities, to which Romania is a party.

[Judgement](#) of the ECtHR of 18 February 2020, Application No. 3891/19

Advanced age must not be the sole reason for denial of training or dismissal

A Croatian citizen of Serbian ethnicity was a teacher in the part of Croatia where the Serbian language was also historically used. He taught classes in Serbian. After an inspection focusing exclusively on teachers using Serbian, teaching in Serbian was prohibited to the applicant and he was later dismissed. The school had no other suitable job for him and due to his advanced age (he was 55 years old at the time), the school argued he could not be expected to learn to teach in Croatian. The man contested his dismissal before courts for years, culminating in proceedings before the Constitutional Court of Croatia in 2011, to no avail.

According to the ECtHR, neither the school nor the courts sufficiently explained why they rejected the option of additional training for the man solely based on his age. The court concluded that given the proximity of the two languages, as well as the fact that the applicant had lived and worked in Croatia for most of his professional life, the decision was difficult to understand. National courts further failed to conclusively establish which language the applicant had been expected to teach in at the material time.

[Judgement](#) of the ECtHR of 17 December 2020, Application No. 73544/14

European Committee of Social Rights

By failing to adopt measures to remove the gender pay gap, the Czech Republic violated the European Social Charter

The European Committee of Social Rights unanimously concluded that the Czech legislation did not sufficiently ensure transparency in pay consisting in providing information on remuneration and the possibility to compare jobs across private companies. The Czech Republic thus violated the right to equal pay for work of equal value under the European Social Charter and the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.

According to the Committee, the Czech Republic is not sufficiently dealing with the gender pay gap. The committee also warned that the Czech Republic has not adopted legislative measures to promote representation of women in decision-making positions in private companies.

[Decision](#) of 5 December 2019, Complaint No. 128/2016 and [annotation](#)

UN Committee on the Rights of Persons with Disabilities

A child with Down syndrome is entitled to inclusive education

A boy with Down syndrome attended a standard Spanish school with the support of a special education assistant and had good relations with his classmates. Over time, the boy's performance started to deteriorate, also on account of inappropriate behaviour of the class teacher, physical abuse and withdrawal of the special education assistant. His new class teacher did not consider that he needed one. The authorities decided to enrol the boy to a special education centre in spite of his parents' objections. His parents also unsuccessfully challenged the decision before administrative courts.

In 2017, the father and the boy took their case to the UN Committee on the Rights of Persons with Disabilities. In September 2020, the Committee found the complaint justified and concluded that Spain had violated the Convention on the Rights of Persons with Disabilities. The Committee noted that the Spanish authorities had failed to thoroughly assess the boy's special educational needs and the reasonable accommodations he would have required to be able to continue attending a mainstream school. The Committee requested that Spanish authorities ensure the boy receives inclusive education, is given financial compensation, and that his allegations of abuse are effectively investigated. The Committee also recommended a number of systemic reforms of the Spanish education system.

This was the very first individual decision of the UN Committee on the right to inclusive education. Spain has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities, which enables filing individual complaints. This option is not yet available in the Czech Republic.

[Decision](#) of 30 September 2020, communication No. 41/2017 and [press report](#)

6. Survey: Equal access to municipal housing

Municipalities can play an important role in dealing with a housing crisis. However, discriminatory rules for assigning flats mean that some municipalities deny access to municipal housing to those citizens who are most at risk.



The Defender is often contacted by people in housing distress. For many, renting a municipal flat is one of the few options for getting a home. Their applications are, however, often rejected because they are unable to comply with the rules set up by municipalities for assigning such flats. In some cases, the rules violate the principle of non-discrimination. Since the housing crisis is escalating, the Defender decided to carry out a survey to learn more about the situation in the area of municipal housing. He focused especially on the **assessment of rules for assigning municipal flats in terms of the right to equal treatment**. A part of the survey also focused on the **condition of municipal housing in general**, as well as the **social work** carried out with clients in housing distress. Limited availability of municipal housing is closely related with housing distress.

Did you know that...

... over 50,000 of Czech households find themselves in housing distress each year? Housing distress does not necessarily mean complete homelessness, but can also refer to living in inadequate housing or accommodation in shelters and dormitories.

Housing distress most often affects single mothers and fathers with small children, and older people. Despite this fact, **municipalities often prefer to assign their flats to gainfully employed applicants**. Only some municipalities give equal opportunities to people whose income is dependent on retirement pension, parental allowances or maternity benefits. Some municipalities even penalise applicants with this kind of income. In so doing, they may be discriminating against them on the grounds of disability, age or sex (in the form of maternity/paternity).

Most municipalities also **make assignment of a flat conditional on no debts towards the municipality**, even in cases of social housing. In some municipalities, **the applicants must be neither subject to a debt collection procedure nor insolvent**. While the no-debt requirement is not directly discriminatory, the statutory duty of a municipality is to try and meet the housing needs of all its citizens. This is important with regard to the fact that a significant part of the Czech society has problems with debts. To ensure that the new tenants will be able to pay the rent, municipalities can resort to less severe measures such as individual assessment of each application, offering assistance by social workers and directly covering the cost of housing allowance. **Indiscriminate exclusion of people with debts is disproportionate**.

Lower-income people are also facing disadvantages reflected in the methodology used to select tenants. Almost a quarter of municipalities uses what is called the “envelope method”, where a flat is assigned to the applicant who offers to pay the highest rent (the offer is submitted in a sealed envelope). Some municipalities choose the winners on the basis of their willingness to pay up a debt accumulated by the previous tenant or renovate the flat at their own expense. Sometimes the municipalities even ask for a donation or other “financial contribution” towards the municipality in exchange for the possibility to be assigned a municipal flat. Such an approach is at variance with the municipality’s social role.

Aside from the aforementioned rules, municipalities often apply other conditions that are at variance with the prohibition of discrimination. For instance, they require that the applicants be Czech citizens or indiscriminately exclude persons with restricted legal capacity or mental illness.



Based on the survey results, the Defender formulated several **recommendations to municipalities** as to how to avoid discrimination in the rules for municipal housing. Social work should, according to the Defender, help the recipients deal with their debts as this poses a major obstacle to securing municipal housing. The Defender also recommended that the Government re-evaluate its opinion towards passing the social housing bill.

A [conference](#) was organised by the Defender to share his findings with the expert community. Representatives of the Ministry of the Interior, which supervises the independent competence of municipalities, including the rules for assigning municipal flats, also took part in the conference. The participants also mentioned experience from several municipalities where housing distress was being dealt with responsibly using municipal housing.

Defender's [survey](#): File No. 69/2019/DIS

7. Protecting EU citizens from discrimination

Living and working in another country often entails various problems and this was especially true in 2020. We try to make sure that the obstacles existing in Czechia are manageable.



Systemic topics

The spring wave of the Covid-19 pandemic brought about unprecedented restrictions to free movement of people across national borders. Similar restrictions were imposed in the Czech Republic, too, and affected mostly workers commuting regularly across national borders on a daily or weekly basis, students and also families and partners of people living in other countries. The Defender monitored the measures taken by the Ministry of the Interior, Ministry of Health and the Government and assessed them in terms of fairness and proportionality. The Defender notified the ministers about contentious or otherwise problematic measures. The restrictions were gradually eased and no such strict rules for cross-border movement were adopted during the autumn pandemic wave.

Defender's [recommendation](#): File No. 17/2020/SZD

The Defender persuaded the Minister of Industry and Trade to change the “COVID – Culture” subsidy programme, which was put in place in autumn to compensate entrepreneurs in the area of culture. Its conditions did not allow foreign nationals (EU citizens) to apply even if they had been staying in the Czech Republic for a long time, but did not have a permanent residence permit. The Defender found this condition unlawful.

Defender's [recommendation](#): File No. 31/2020/SZD

Commenting on legislation

The Ministry of Education proposed an amendment to the Higher-Education Institutions Act, according to which graduates of foreign universities would not be able to pass the *rigorosum* examination to obtain the associated academic degree even in cases where their Master's degree was recognised in the Czech Republic. The Defender notified the Ministry that the proposed legal regulation was discriminatory towards persons who exercised their right to free movement and studied abroad in the European Union or moved to the Czech Republic after completing their studies. The Ministry accepted the Defender's arguments and the problematic legal regulations were not adopted.

Did you know that...

... citizens of other EU countries can study in the Czech Republic under the same conditions as Czech citizens?

Admission to study must not be conditional on completing a lower degree in Czechia. It is sufficient that the certificate of primary, secondary or higher vocational education is accepted as equivalent and valid in the Czech Republic. The same applies to college and university degrees.

Supervision over administrative authorities

The Defender noted the incorrect approach of the Ministry of Education, which did not allow foreign nationals to apply for recognition of the validity and equivalence of a foreign education certificate prior to their arrival in the Czech Republic. Such a procedure had been possible before. No rational explanation had been given for this change in practice which made moving to the Czech Republic from another EU Member State more difficult as the foreigners were unable to arrange all the formalities prior to their arrival.

Where administrative authorities establish an administrative practice in line with the law, they cannot change it just because their interpretation of the law has changed.

Defender's [report](#): File No. 7016/2020/VOP

Survey

Nearly 250 thousand EU citizens have registered their residence in the Czech Republic, but their actual number is certainly higher – many do not register their residence as this is not mandatory. In co-operation with an opinion research agency, the Defender initiated a survey to find out how life in Czechia was for EU citizens. The survey focuses on their experience in finding employment, healthcare or dealings with the authorities. The survey will be completed in the first half of 2021.

Raising awareness

The Defender also informs EU citizens living in Czechia about their rights and the ways in which he can help them. For instance, the Defender posted a [series](#) on social media describing the situations where EU citizens could contact his office to get help.



“
Czech employees receive benefits: bonuses, trainings etc. We, as foreigners, do not.
V práci mají čeští zaměstnanci benefity: příspěvky, školení apod. My cizinci máme smůlu.



“
I suspended my business activity. The health insurance company told me to get private health insurance or return to Poland.
Přerušila jsem podnikání. Zdravotní pojišťovna mi řekla, ať si platím soukromé pojištění, nebo se vrátím do Polska.



“
An internet company refused to set up internet connection for my flat as I only have a German ID.
Do mého bytu mi odmítli připojit internet, protože mám německý občanský průkaz.



“
The school principal refused to enrol our son because he doesn't speak Czech well yet.
Ředitel školy nechtěl syna přijmout, protože ještě neumí moc dobře česky.



8. Survey: Reserved parking spaces for people with disabilities

Disapproval of the road owner was found to be the most common hindrance preventing the establishment of reserved parking spaces.

In 2012, the Defender published a [recommendation](#) regarding the fulfilment of the right to equal treatment in establishing reserved parking spaces on local roads. Creating a reserved parking space is conditional on a permit issued by the roads administration authority, as well as approval by the owner of a local road, i.e. a municipality. While there is no legal entitlement to such a permit/approval, municipalities have to observe the Roads Act and the Road Traffic Act, as well as the Anti-Discrimination Act. The latter requires municipalities to adopt reasonable accommodations to remove obstacles faced by people with disabilities. Indirectly, the municipalities thus have a duty to create reserved parking spaces if this does not constitute a disproportionate burden.

In response to his recommendation and a number of complaints, the Defender decided to conduct a systematic survey into the procedure of municipalities in approving and creating such parking spaces. The Defender contacted 474 municipalities, towns and cities (including all 26 statutory cities, 362 type-II municipalities and city ward authorities in Brno and Prague). The Defender's findings were as follows:

- General criteria, conditions and rules based on which a road owner grants approval to establish reserved parking spaces for people with disabilities are formalised only in 41% of the surveyed municipalities.
- Disapproval of the road owner was found to be the most common hindrance preventing the establishment of reserved parking spaces.
- Merely 9 percent of municipalities consider non-holders of ZTP (*severe health disability*) and ZTP/P (*severe health disability requiring special assistance*) cards to be entitled to apply for a reserved parking space. Other municipalities require this card.
- A total of 64 percent of municipalities require that the applicant permanently reside in the building adjacent to which he or she wants the reserved parking space to be established. A half of the surveyed municipalities will accept other evidence of the applicant's connection to the building.
- A total of 28 percent of the surveyed municipalities issue reserved parking permits linked to the expiry date of ZTP and ZTP/P cards.
- A total of 46 percent of municipalities require the users to procure and put in place traffic signs. Over a half of the municipalities require them to pay for the costs of the associated traffic signage (in full or in a proportional amount).
- Twenty percent of municipalities do not maintain the reserved parking spaces nor remove snow from them in winter.

Defender's [survey](#): File No. 18/2020/DIS

Next year, the Defender will follow up on the survey by issuing updated recommendations. In order to take into account the experience of municipalities, roads administration authorities and the Ministry of the Interior, the Defender organised a [roundtable](#) to discuss topics related to reserved parking for people with disabilities.



9. Interesting news in the area of equal treatment

The Department of Equal Treatment at the Office of the Public Defender of Right presents interesting news from the area of equal treatment for the year 2020. Members of the Office's team draw attention to interesting news and facts that made them happy last year.

Equinet's first *amicus curiae* intervention to the European Court of Human Rights (Veronika Bazalová)

For the very first time, Equinet (the European Network of Equality Bodies) submitted an *amicus curiae* brief to the European Court of Human Rights regarding a specific case. The case concerned the accessibility of polling stations to a disabled man in several elections in Slovenia. The man uses a wheelchair, but the building housing the polling station was not barrier-free. The man thus complained about discrimination and violation of his right to vote. In its intervention, Equinet emphasised the states' obligation to ensure accessibility to the entire election process for people with disabilities. It described the practice common in European countries, which showed the trend of increasing the accessibility of polling stations. I am happy that we were able to participate in Equinet's intervention. However, the decision in the case is yet to be rendered.

[See Toplak v. Slovenia \(Application No. 34591/19\)](#)

[Equinet's written observations](#)

Kamala Harris and Zuzana Čaputová (Hana Brablcová)

The year 2020 was a watershed moment in the history of the United States of America as well as Slovakia in terms of women's representation in the highest political offices. For the first time in history, a woman was elected Vice President of the USA (or not, if you believe Donald Trump...). Her success as a non-white daughter of immigrants from India and Jamaica is all the more striking when viewed through the prism of American history. Our closest neighbours went one step further, so to speak, when they elected a woman, Zuzana Čaputová, as their president. The fact that they are women obviously does not mean they will serve well. However, their election sends a message to other women that politics is not a "male-only" club and they can compete and succeed. Both politicians prove that women are able to compete at the top level in a male-dominated environment. Kamala Harris was not afraid to rebuke her future running mate for his old opinions regarding desegregation busing and in a televised debate; she even strongly asked the previous Vice President, Mike Pence, not to interrupt her. Zuzana Čaputová's calm and polite demeanour proves that a political opinion can be heard even when you respect your ideological opponents.

[Video from the VP debate](#)

The European Labour Authority co-ordinates its very first concerted inspection in the EU (Iva Fellerová Palkovská)

In September 2020, the European Labour Authority (ELA) coordinated with the labour inspectorates in EU Member States the first concerted inspection aimed at undeclared work in the construction sector. The inspection was carried out in Belgium, Lithuania and Portugal. Since 2019, ELA has been a body of the European Union tasked with coordinating

concerted inspections in cases of cross-border employment. ELA's mission is to increase awareness of occupational mobility among employers and employees and make cross-border sharing of information on occupational mobility more effective. I believe that ELA's activities will have a positive effect on people's knowledge of their labour rights and that it will benefit labour inspectorates in carrying out inspections aimed at employing workers from abroad. This will, in turn, significantly reduce the number of cases where the rights of foreign workers are abused.

[Press release](#)

Legalisation of abortion in Argentina (David Janků)

At the end of 2020, Argentina legalised free and legal abortions up to the 14th week of pregnancy. The country thus became only the third country in South America which allows women to have abortion for other than the previously permitted reasons. Beforehand, abortions were only permitted in cases of rape or when the mother's health was at serious risk from the pregnancy. These restrictions meant that many women were forced to have an abortion illegally under unsatisfactory conditions, which caused harm or even death to many women. The legalisation newly gives women choice to decide for themselves, safely. It represents a watershed moment also because Argentina is a traditionally Catholic country and the Catholic Church has long opposed abortion. However, Argentina has a sad counterpoint in Poland. Polish society, which is also largely Catholic, was stirred up by protests which in 2020 erupted against the decision of the Constitutional Court to further reduce the right to have an abortion. At present, abortion may take place only under certain specified reasons, as was the case in Argentina before. We should strive to protect women's rights, not restrict them. That is why I hope that Poland will find inspiration in the Argentinian experience.

[ČT24 article](#)

Czech Schools Inspectorate's thematic report on disadvantaged students' education (Lenka Kříčková)

The Czech School Inspectorate (CSI) published a thematic report evaluating successful strategies for primary schools in educating disadvantaged students. The report is a result of a comprehensive monitoring and inspection activities aimed to educate students from disadvantaged backgrounds (e.g., from what is known as socially excluded areas). The CSI uses the schools' practical experience to illustrate a diversity of strategies to support disadvantaged students. Strategies featured in the report include removing financial barriers for students, offering leisure time activities and tutoring, empathic communication and cultivating a relationship of trust with the students' families. The CSI also identifies problems faced by schools working with students from disadvantaged backgrounds and formulates recommendations for school managements, their operators and the Ministry of Education. The thematic report is a useful source of information on the education of this distinctive group of students and offers an inspiration for improving the situation in future.

[Thematic report](#)



Backup child maintenance payment (Barbara Kubátová)

After many years, what is called “backup child maintenance” was finally approved this year. In 2020, the bill successfully passed through the Government, the Chamber of Deputies and the Senate and was finally signed into law by the President. What it means is that if a parent of a child is not paying the specified child maintenance to the parent with custody of the child, a “backup” payment (up to CZK 3,000 a month per child for the maximum period of two years) will be provided by the State via the Labour Office. Single parents (most of whom are women) taking care of children will thus not be deprived of money they need to provide for their offspring. The child maintenance owed by the non-paying parent will be collected from the debtors by the state itself. While the new piece of legislation contains several limitations, I am happy it passed, since it will at least partially improve the often quite desperate financial position of many single mothers – who were, moreover, especially gravely affected by the pandemic.

[Backup child maintenance legislation](#)

The first ever strategy for LGBT+ equality introduced by the European Commission (Karel Suda)

The European Commission, and namely the Equality Commissioner, Helena Dalli, has introduced the very first strategy to create a European area where any LGBT+ person can feel safe, has equal opportunities in life and can fully participate in society. The *LGBTIQ Equality Strategy 2020-2025* published in autumn 2020 is based on four pillars, which the Commission considers to be of key importance – tackling discrimination, ensuring LGBTIQ people’s safety (especially protection from hate-motivated violence), building inclusive societies and leading the call for LGBTIQ equality around the world. For these individual areas, the Commission has defined specific measures it intends to adopt itself by 2025 and

other measures where it will support the Member States in doing so. I believe this and other steps taken by the European Commission will motivate Member States to come up with their own comprehensive strategies to improve the status of LGBT+ people and ensure their application in real life.

[Czech version of the strategy](#)

The #PRVNÍCH100LET project (Anna Katerina Vintrová)

The *Prvních 100 let* (The First 100 Years) project was launched in 2020 to celebrate the upcoming 100th year since the first female Czech lawyer graduated from Masaryk University in Brno. The project aims to connect inspiring women from the legal world and public life and to commemorate the lives of women shaped by their profession. The project also includes nominations of Czech and Slovak women for the *Flamma 2021* award for inspiring women in the field of law or those women whose work has had a significant impact on the community of female lawyers. The winners will be announced in spring 2021.

[Information on the project](#)

Monograph on the 10th anniversary of the Anti-Discrimination Act (Martin Šmíd)

I am happy that we managed to publish the “Right to Equal Treatment: Ten Years of the Anti-Discrimination Act” monograph. It was not easy because the Covid-19 pandemic made the whole process more complicated. My thanks go especially to all the authors and reviewers, who volunteered to contribute to the publication free of charge.

[Right to Equal Treatment: Ten Years of the Anti-Discrimination Act – contents](#)

Equality is not a rocket science (Jana Kvasnicová)

Equality does not have to be a subject only discussed at scholarly conferences and by politicians and lawyers. It can also have a funny, less serious side. Inequalities in public life inspired jokes in the *Branky, body, kokoti* (meaning literally “Goals, Points, Dicks”, in reference to a popular sports news bulletin regularly aired after the main news programme) programme hosted by Tereza Dočkalová and written by a team led by Brigita Zemen. They made a total of sixty episodes where they employ humour and hyperbole to poke fun at sexist comments uttered by politicians and other public figures. While the format is definitely not for everyone, the number of followers show that the creators are not the only women fed up with similar comments being an accepted part of public life. On a similar note, the *Everyday Patriarchy Bullshit* launched by Alena Julie Novotná lets people join a Facebook group. Its members can then share their experience from personal lives, media, politics and culture, and also let others know about important events. This platform serves a community of over 3,000 members, sharing various obstacles and gender-based hindrances in public life. If you have encountered something of that sort, do apply for membership and share it with others.

[“Branky, body, kokoti” archive](#)

[Everyday Patriarchy Bullshit Facebook group](#)

NHL 2020 draft and the American Sign Language (Jan Slavíček)

The NHL 2020 draft of talented young ice hockey players took place entirely online. The San Jose Sharks team announced the results of its first pick in the draft (the one most closely watched by the media) using the American Sign Language. This was a welcome surprise not just to the player himself, but especially to his deaf mother who uses ASL to communicate.

[Article including video of the announcement in sign language](#)

Collective candidacy for the office of director of the National Gallery (Michaela Lysková)

An unusual application was received as part of a selection procedure for the new director of the Czech National Gallery: a joint candidacy of ten female scholars and experts. The candidacy of a team comprising art theorists, curators, critics, producers and artists disrupted expectations about who should lead such an institution. It also highlighted a number of social topics that the art scene reflects with a strong sense of urgency – accessibility of art to people with health or financial disadvantages, fair representation among artists and employees, environmental issues and sustainability, as well as a sensitive approach to cultural heritage. And even though the candidates did not win the selection procedure, an interview with members of the team Anna Remešová and Vjera Borozan was a breath of fresh air to me. I was surprised how simply you could disrupt the limits of what is possible, be it in traditional institutions or leadership positions in general.

[Interview with members of the candidacy team](#)

Helping refugee children then and now (Jana Mikulčická)

Refugee camps in Greece also house unaccompanied minors. Some have lost their parents to death, others were separated from them by another course of events. The children are growing up in unsuitable conditions of the refugee camps without hope for a happy childhood and without the support of family. A group of Czechs led by Hanka Pospíšilová, a physician, therefore founded the Pomoc dětem na útěku (Help for Fleeing Children) initiative. The initiative teamed up with a Greek organisation and decided to provide help to at least 144 kids cared for by the organisation. They organised a fundraiser and plan to use the money from Czech donors to provide better food, healthcare and also education and language teaching to the children so that they have a better opportunity to find their place in society and avoid ending up homeless in future. Barbara Winton, daughter of Sir Nicolas Winton, who helped save 669 mostly Jewish children from occupied Czechoslovakia from death in concentration camps, became the project's patron. Barbara Winton thus symbolically confirmed that Sir Winton's legacy continues to resonate among Czechs even with regard to children from elsewhere.

[“Pomoc dětem na útěku” Facebook pages](#)



A survey of (hate-motivated) violence against people with disabilities (Jana Vomelová)

“In IUSTITIA” is an organisation that has long been helping victims of hate-motivated violence. In 2020, it released a *survey report on violence and hate crimes against people with disabilities from the perspective of organisations helping this target group of people*. A total of 325 organisations working with people with various kinds of disabilities participated in an online questionnaire survey. Workers employed by these organisations described their experience with (hate-motivated) violence against their clients and the types of attacks, and shared information on (under)reporting of violent acts, as well as their opinions on specific measures that could improve the situation. While the results of the survey are not exactly encouraging (52% of the interviewed organisations have had experience with violence committed against people with disabilities in the previous three years and over a third of them also encountered hate-motivated violence in the same period), I am glad In IUSTITIA came up with this initiative. The survey is an important contribution to the debate on this serious, yet still not very widely studied problem. I strongly believe that this initiative will encourage other researchers, raise public awareness of the issue and perhaps even prompt the responsible authorities to take specific steps to improve the situation.

[Survey report](#)

Men’s Laws – a new publication (Lucie Obrovská)

Kateřina Šimáčková is a prominent figure in Czech judiciary and I admire her as a person, lecturer and a judge. She inspires me also by her curiosity in opposing views. We do not always agree, but discussing issues with her is always valuable. What makes her a great lecturer? Her classes are always interesting and she treats her students as equal partners for discussion. What makes her an innovative judge? She can promote minority opinions

and she pays attention in her decision-making to the weaker party. I am happy that she joined with another inspiring lawyer, Pavla Špondrová, to write *Men's Laws (Mužské právo)*. The book was released in the milestone year 2020 and I find it very interesting, also because it contains contributions not only from gender-aware female lawyers, sociologists and other women scholars, but – perhaps surprisingly – also male experts who are often similarly critical of current legal rules. Is the Czech legal system biased towards men? Are legal rules made for men? One would believe that the contemporary Central European legal environment only contains non-discriminatory legal rules. But is that really the case? Read some of the contributions included in the book to see for yourself. The book does not have a single overarching aim; it is more a collection of ideas and topics which the authors believe manifest gender discrimination. Despite its title, the book is not dogmatic and encourages readers to think about certain problematic areas in Czech law and justice.

[Men's Laws – stories](#)

Glossary of useful terms

Anti-Discrimination Act – Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination and on amendment to certain laws (the Anti-Discrimination Act). This is a general law that prohibits discrimination in the areas it defines (e.g. work and employment and access to goods and services) and provides the underlying definitions of discrimination and the associated terminology.

Czech Schools Inspectorate (CSI) – an administrative body responsible for inspection and evaluation of the quality of education in the Czech Republic. The CSI consists of the headquarters in Prague and 14 regional inspectorates.

Grounds of discrimination – one of the grounds listed by the Anti-Discrimination Act (i.e. race, ethnicity, “nationality” (*národnost*), sex, sexual orientation, age, disability, religion, faith or worldview, nationality of migrant workers) or some other legal regulations, which may not be used to discriminate between individuals.

European Court of Human Rights – a Strasbourg-based court established by the Council of Europe, of which the Czech Republic is a member. It decides especially on applications lodged by individuals against the Member States. Its decisions identify (non-)violation of the European Convention and the court can also award damages to the applicant.

European Convention – the Convention for the Protection of Human Rights and Fundamental Freedoms is the most important convention agreed within the framework of the Council of Europe and serves as the basis for regional protection of human rights under international law in Europe. Cases of its violation are heard by the European Court of Human Rights.

European Committee of Social Rights – an international body tasked with monitoring compliance with the European Social Charter, an important international treaty on social and economic rights ratified by the member states of the Council of Europe. Monitoring takes place by means of reviewing collective complaints, as well as evaluating regular national reports submitted by the parties to the Charter.

Equality body – a public institution set up in each EU Member State and tasked with helping victims of discrimination, raising awareness and promoting the right to equal treatment. The Public Defender of Rights serves as the equality body in the Czech Republic.

Gender pay gap (GPG) – the average difference between men’s and women’s wages or salaries (in relation to the men’s average salary or wage). It is indicated as a percentage (%). Higher GPG does not necessarily indicate discrimination. To a large degree, the gap may be explained by other factors that affect men and women differently (education, profession, employment, number of hours worked, etc.).

Heterosexuality – emotional and sexual attraction to persons of the opposite biological sex. A heterosexual woman is attracted to men while a heterosexual man is attracted to women. Heterosexuality is currently considered a social norm.

Homophobia – a set of intolerant, hateful attitudes towards gays and lesbians including loathing, hate and aversion. By its nature, homophobia is similar to sexism and racism and can thus be included under the general category of xenophobia.

Inclusive education – inclusion of all children into the learning process, without exceptions, i.e. educating children without “special educational needs” together with children with a different mother tongue, exceptionally gifted, with learning difficulties, socially disadvantaged or with disabilities, all in the same classroom. An inclusive school educates all kinds of children together and approaches each one individually according to their needs, which are regularly evaluated.

LGBT+ – an internationally used abbreviation representing four groups of persons – lesbians (L), gays (G), bisexuals (B) and transgender persons (T). The “+” symbol denotes potential inclusion of other diverse sexual orientations and identities, as well as potential sexual fluidity.

Hate speech – a term which is not defined either in national or international law. It is usually understood as a type of verbal expression motivated by prejudice and stereotypes towards certain groups of people. The reason for such hate may be, for example, the skin colour of the victim, their nationality or ethnicity, gender, sexual orientation, faith, religion or age. Hate speech can be included in a broader category of hate violence, which also includes physical attacks motivated by hatred towards certain vulnerable groups. Some hate attacks can be classified crimes in the sense of the Criminal Code.

Parking card – a holder of the ZTP card (other than people who are deaf or nearly deaf) or a holder of the ZTP/P card is entitled to a “parking” card. Any driver of a marked vehicle being used by a holder of this card may, under certain conditions, ignore some road traffic rules (e.g., no parking and no-entry signs). Only these vehicles may park at the general parking spaces reserved for people with disabilities. A person with this parking card and other persons may be allowed by a public authority to use some part of a road as an individual reserved parking space for a specific vehicle.

ZTP and ZTP/P cards – in the Czech Republic, these are certificates issued to people with a long-term illness or disability that significantly reduces their ability to move (walk) or orient themselves in space. These cards are issued by the Labour Office based on an application.

Prejudice (stereotype) – an entrenched opinion or conviction in society that is not based on reliable knowledge, but rather on mere assumptions and generalisations. People accept certain opinions that are commonly mentioned or are instilled in them by a person of authority without an individual being willing to check whether these opinions and judgments are based on reality.

Framework Directive – an abbreviation of the Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Registered partnership – a Czech legal concept representing a legal union of two persons of the same sex. The law anticipates this union to be lasting, but unlike marriage, it does not anticipate it to facilitate raising children.

Shared burden of proof – a legal concept used in some discrimination court disputes (under Section 133a of the Code of Civil Procedure). Sharing of the burden of proof is a procedure where, after the plaintiff alleging discrimination proves less favourable treatment under suspicious circumstances, the defendant must demonstrate that the principle of equal treatment was not violated. For the defendant to be successful in such a case, it must assert and put forward evidence that the difference in treatment was not motivated by protected characteristics.

Segregation – separation of various social groups into distinct areas; in educational contexts, this means placing children in schools or classes according to their ethnicity.

Sexual orientation – permanent emotional and sexual preference (attraction) for men, women or both sexes.

Court of Justice of the European Union (CJEU) – the court tasked with interpreting EU law in order to ensure its uniform application in all Member States, as well as settling legal disputes between the individual Member States and institutions of the European Union. Its mission is to ensure that the Member States and authorities of the European Union adhere to EU law.

School district – municipal area, parts of a municipality or multiple municipalities defined by the municipality in a generally binding ordinance.

UN Committee on the Rights of Persons with Disabilities – a body established to monitor compliance with the Convention on the Rights of Persons with Disabilities. Its main roles are to evaluate national reports on compliance with the Convention's obligation submitted by the parties and issue recommendations.

Reserved parking space – parking space reserved exclusively for a certain group of users. If only a specific vehicle may stop and park at the reserved parking space, then it is called an "individual" reserved parking space. Parking spaces for vehicles transporting holders of the parking card are called "general" reserved parking spaces.



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