

Implementation of the Right to Equal Treatment and Protection against Discrimination

Monitoring Report 2022

Contents

Mission of the Defender	4
Foreword	6
Trends in areas under review	8
1. Roma education	8
1.1 Number of Roma pupils educated in programmes with reduced outcomes.	11
1.2 Number of Roma pupils in preschool education	16
1.3 Number of schools with a high proportion of Roma pupils	19
2. Equal pay for women and men	23
2.1 Gender pay gap in the Czech Republic	24
3. Procedural issues	29
3.1 Introducing a legislative basis for a national human rights institution in the Czech Republic in any form	29
3.2 Legislative expansion of the list of protected characteristics under the Anti-Discrimination Act	30
3.3 Legislative expansion of the list of grounds for sharing the burden of proof in the Code of Civil Procedure	30
3.4 Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings	31
3.5 Introducing a legislative provision allowing legal entities active in the area of protection against discrimination / the Public Defender of Rights to lodge anti-discrimination actions in public interest	31
3.6 Legislative reduction of the judicial fee paid for appeals in anti-discrimination disputes	32
3.7 Legislative abolition of subsidiarity of compensation for intangible damage	32
Conclusion	34
Overview of indicators and their initial values	36

Mission of the Defender

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 conditions ascertained and elimination of ill-treatment, if applicable, are directed both to the facilities themselves and their operators as well as to central governmental authorities.

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

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

In January 2018, the Defender became a monitoring body for the implementation of rights recognised in the Convention on the Rights of Persons with Disabilities, also helping European Union citizens who live and work in the Czech Republic. The Defender provides them with information on their rights and helps them in cases of suspected discrimination on grounds of their citizenship.

The special powers of the Defender include the right to file a petition with the Constitutional Court, seeking the annulment of a secondary legal regulation; the right to become an enjoined party in Constitutional Court

proceedings on the 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 recommend that a relevant public authority issue, amend or cancel a legal or internal regulation. The Defender advises the Government to amend laws.

The Defender is independent and impartial, and accountable for the performance of his or her office to the Chamber of Deputies, which elected him or her as the Defender. 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, web, 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.

Foreword

This second interim monitoring report¹ describes how the Defender monitors systematically the implementation of the right to equal treatment and compliance with the prohibition of discrimination. We focus on three selected areas: Roma education, equal pay for women and men, and procedural issues.

Although the Public Defender of Rights currently does not play the role of the national human rights institution, as presented in more detail in the initial monitoring report, there is a possibility that this mandate will be granted to him in the coming years. Monitoring activities can help us prepare for this role.

This report follows up on the first interim monitoring report which I – as the Public Defender of Rights – issued in April 2022², and on the initial monitoring report from April 2021³. In that report, I summarised the commitments of the Czech Republic under international law in the area of equal treatment and prohibition of discrimination, and set out qualitative and quantitative indicators to monitor the selected topics. In the first interim report, I summarised and assessed the trends and changes in the values of the relevant indicators in the areas concerned for the year 2021. In the present report, I focus on the trends in 2022. It is therefore advisable to read the present report in the context of the first interim and initial monitoring reports.

Only ad hoc changes occurred in each area over the past period. While in 2020 and 2021, our efforts were complicated by the COVID-19 pandemic, the year 2022 was marked by the ongoing invasion of Russian troops in Ukraine. The arrival of roughly half a million Ukrainian refugees in the Czech Republic has induced and will continue to bring significant changes in the areas of education, employment and domestic protection of human rights. The central Government, as well as local and regional governments, companies, NGOs and all other stakeholders will need to respond to these and other challenges.

Brno, 13 June 2023

I wish you a pleasant reading.

JUDr. Stanislav Křeček
Public Defender of Rights

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- ¹ The monitoring process is conducted in relation to the project “Reinforcing the activities of the Public Defender of Rights in the protection of human rights (with the aim of establishing a National Human Rights Institution in the Czech Republic)”, No. LP-PDP3-001. The project is part of the Human Rights Programme financed from the 2014–2021 Norway grants through the Czech Ministry of Finance.
 - ² Implementation of the Right to Equal Treatment and Protection against Discrimination, a monitoring report of the Public Defender of Rights of 22 April 2022, File No. 89/2021/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/10620>.
 - ³ Implementation of the Right to Equal Treatment and Protection against Discrimination, a monitoring report of the Public Defender of Rights of 6 April 2021, File No. 62/2020/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/9218>.

Trends in areas under review

1. Roma education

In 2022, the topic of Roma education in the Czech Republic was scrutinised especially by international bodies. This topic temporarily lost the spotlight in Czech circles, probably due to the new Roma integration strategy adopted early that year, which will first have to be understood and absorbed by authorities and the public.

International trends

In June 2022, the Committee of Ministers of the Council of Europe, which oversees the execution of judgments of the European Court of Human Rights, was due to discuss supervision over the execution of the judgment in case D. H. However, the hearing was postponed and the Committee did not issue its latest decision on this ruling until September 2022⁴.

In its decision, the Committee expressed concern that the declining trend in the proportion of Roma pupils educated according to the Framework Education Programme with Outcomes Adjusted to Mild Mental Disability (the "FEP PE RD") still had not been stabilised and that the proportion of those educated outside mainstream schools and classes had yet to be significantly reduced. The Committee further noted that it was difficult for school counselling centres to distinguish between cases of mild mental disability and the impact of different socio-cultural backgrounds and living conditions, and called for urgent steps aimed to avoid further misdiagnosis. The Committee also called on the Government to continue removing barriers to the access of Roma children to preschool education, including by reinforcing inter-ministerial co-operation and collecting data on the proportion of Roma children who do not participate in preschool education. The Committee welcomed the fact that the research it had recommended – which aims to achieve understanding of the overrepresentation of Roma children educated according to the FEP PE RD outside of mainstream schools and classes – would be completed shortly. It called on the Government to consider carefully the recommendations ensuing from the research and to report them to the Committee, together with appropriate measures aimed to integrate these pupils into mainstream classes and schools. Finally, the Committee commended the work of the Expert Forum and urged the Government to support its further activities aimed at ensuring meaningful dialogue.

4 Decision of the Committee of Ministers of the Council of Europe of 22 September 2022 in Case D. H. and Others v. the Czech Republic (Application No. 57325/00), CM/Del/Dec(2022)1443/H46-10, available at [https://hudoc.exec.coe.int/eng#{"EXECIdentifier":\["CM/Del/Dec\(2022\)1443/H46-10E"\]}](https://hudoc.exec.coe.int/eng#{).

At the end of 2022, the European Commission against Racism and Intolerance (ECRI) issued its conclusions on the status of the Roma minority in the Czech Republic.⁵

In its sixth monitoring report addressed to the Czech Republic,⁶ ECRI recommended that the Government put an end to all segregation of Roma children in schools. It was suggested that the Government draw inspiration from the Public Defender of Rights' recommendation on inclusive education⁷ and ECRI General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma.⁸ However, in its 2022 conclusions, ECRI found that the recommendation had not been implemented. ECRI stated that it had been informed by the Government about the measures planned under the Education 2030+ Strategy⁹ and a survey commissioned to determine the reasons for the high proportion of Roma pupils being educated outside mainstream classes and schools. According to ECRI, however, the Government had yet to report any tangible results of these activities. It also pointed out that there were still about 80 schools where Roma pupils formed the majority, although that proportion did not correspond to a higher representation of this minority in the given school district. ECRI recognised in general the Government's efforts to introduce measures and increase financial resources from the State budget aimed to address this problem at the level of strategic plans and policies, but in its view, these efforts were still insufficient, also with reference to the execution of the judgment in Case D. H. and Others v. the Czech Republic.

The Czech Republic also has a deadline by which it is expected to send a report under the sixth monitoring cycle to the Committee of the Framework Convention for the Protection of National Minorities. The Government was to send its report on the implementation of the Convention to the Committee by 1 March 2023.¹⁰

Czech Republic

After formulating its conclusions at the end of 2021, the Expert Forum did not meet during 2022. The Forum's conclusions and recommendations were submitted to the Ministry of Education, Youth and Sports (MEYS) for written comments in January 2022. Together with the conclusions, the Government submitted to the Council of Europe's Committee of Ministers its report on the execution of the judgment in case D. H.,¹¹ in which – as a follow-up on the judgment – it informed the Committee about the latest developments in the introduction of measures to ensure equal access of Roma pupils to education. In response to the Government's report, the Committee then issued the above-described decision in late 2022. The next Government report is due by September 2023. The report should describe the specific actions taken and planned in view of the conclusions and recommendations of the Expert Forum, based on the results of a survey recommended by the Committee. The execution of the judgment will be listed for oral hearing before the Committee in December 2023.

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- 5 Conclusions of the European Commission against Racism and Intolerance on the implementation of its recommendations in respect of the Czech Republic of 7 December 2022, CRI(2023)03 [pdf document]. Strasbourg: Council of Europe, ECRI [retrieved on: 2023-03-12]. Available at <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendation-in-respec/1680aa6865>.
 - 6 Report of the European Commission against Racism and Intolerance within the sixth monitoring cycle of 1 October 2020 [pdf document]. Strasbourg: Council of Europe, ECRI [retrieved on: 2023-03-12]. Available at <https://rm.coe.int/ecri-6th-report-on-the-czech-republic/1680a0a086>.
 - 7 Recommendation of the Public Defender of Rights on inclusive education of Roma and non-Roma children of 12 December 2018, File No. 86/2017/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/6670>.
 - 8 European Commission against Racism and Intolerance – General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma, adopted on 24 June 2011 and revised on 1 December 2020 [pdf document] Strasbourg: Council of Europe, ECRI [retrieved on: 2023-03-12]. Available at <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.13>.
 - 9 Strategie vzdělávací politiky České republiky do roku 2030+ (Strategy for the Education Policy of the Czech Republic up to 2030+) [pdf document]. Prague: MEYS [retrieved on: 2023-03-12]. Available at https://www.msmt.cz/uploads/Brozura_S2030_online_CZ.pdf.
 - 10 Monitoring deadlines for the Framework Convention for the Protection of National Minorities [pdf document]. Strasbourg: Council of Europe [retrieved on: 2023-03-12]. Available at <https://rm.coe.int/tableaux-monitoring-status-for-the-website/16809f0346>.
 - 11 The Czech Republic's report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2022. Communication from the authorities (03/06/2022) in the case of D. H. AND OTHERS v. the Czech Republic (Application No. 57325/00) [online]. Strasbourg: Council of Europe [retrieved on: 2023-03-12]. Available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a6c36f.

No public output similar to the annual Information on the implementation of the Roma Integration Strategy for the Period up to 2020 has yet been published with regard to the new Roma Integration Strategy.¹² The Report on the Status of the Roma Minority in 2021 was not published in 2022 either; this report was only made available to the public in April 2023.¹³

In January 2022, the Czech Schools Inspectorate (CSI) published a thematic report on the use of diagnostic tools and recommended supporting measures in school counselling centres.¹⁴ In the report, the CSI describes comprehensively what diagnostic methods are used by pedagogical and psychological counselling centres and special counselling centres in their activities, and what supporting measures are most frequently recommended to pupils. The investigation was attended by the directors of these centres in the Czech Republic. Its results can thus be considered conclusive. The Defender already followed from the CSI report in the preparation of the first interim monitoring report for 2021.

Czech courts issued no important decisions concerning Roma education in 2022. However, the final report on the impact of the introduction of a compulsory final year in preschool education¹⁵ was already published at the beginning of 2023, based on research conducted by the Faculty of Education of Charles University together with the PAQ research organisation. The Defender comments on this report with regard to Indicator 1.2.1.c. In late 2022, PAQ also launched the Desegregace.cz project,¹⁶ which should serve as a catalogue of interventions for better education of all children.

Activities of the Public Defender of Rights

In September 2022, the Defender issued a press release informing the public of the second monitoring report. Among other things,¹⁷ he referred again to the Czech Schools Inspectorate's thematic report on the use of diagnostic tools and recommended supporting measures in school counselling centres of January 2022.¹⁸ The overwhelming majority of respondents from pedagogical and psychological counselling centres and special education centres still use tests known as WISC-III to diagnose children's intellectual abilities. However, the Government has already described this diagnostic tool as outdated and discontinued its funding. The Defender believes the Ministry of Education should support school facilities in terms of both finances and methodology so as to ensure more frequent use of modern diagnostic tools that can better detect potential social disadvantage.

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- 12 E.g. Information on the implementation of the Roma Integration Strategy for the Period up to 2020 in 2017 [pdf document]. Prague: Office of the Government of the Czech Republic, 2018 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/dokumenty/Informace-o-naplnovani-Strategie-romske-integrace.pdf>.
 - 13 Zpráva o stavu romské menšiny v České republice za rok 2021 (Report on the Status of the Roma Minority in the Czech Republic in 2021) [pdf document]. Prague: Office of the Government of the Czech Republic, 2023 [retrieved on: 2023-06-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/Zprava-o-stavu-romske-mensiny-2021_fin.pdf.
 - 14 "Využívání diagnostických nástrojů a doporučovaná podpůrná opatření ve školských poradenských zařízeních" ("The use of diagnostic tools and recommended supporting measures in school counselling centres"), a thematic report by the Czech Schools Inspectorate of 4 January 2022 [online]. Prague: Czech Schools Inspectorate, 2021 [retrieved on: 2023-03-12]. Available at <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-ch-nastroj-ov>.
 - 15 Ověření dopadů zavedení povinného posledního ročníku předškolního vzdělávání, Závěrečná výzkumná zpráva (Verification of the impact of the introduction of a compulsory final year in preschool education, Final Research Report) [online]. Prague: Faculty of Education of Charles University, MEYS, 2022 [retrieved on: 2023-03-12]. Available at <https://www.edu.cz/vysledky-vyzkumu-overeni-dopadu-zavedeni-povinneho-posledniho-rocniku-predskolniho-vzdelavani/>.
 - 16 PAQ Research. Desegregace.cz [online]. Prague [retrieved on: 2023-03-12]. Available at <https://www.desegregace.cz/>; Gargulák, Karel. Desegregace.cz. Spouštíme katalog intervencí, které pomohou k lepšímu vzdělávání pro všechny děti. (Desegregace.cz. Launching a catalogue of interventions helping to achieve better education for all children. www.paqresearch.cz [online]. Prague: PAQ Research, updated on 27 December 2022 [retrieved on: 2023-03-12]. Available at <https://www.paqresearch.cz/post/desegregace>.
 - 17 Public Defender of Rights' press release of 8 September 2022. www.ochrance.cz [online]. Brno: Office of the Public Defender of Rights, 2023 [retrieved on: 2023-03-12]. Available at <https://www.ochrance.cz/aktualne/zastarala-diagnostika-v-pedagogicko-psychologickych-poradnachs-nemusi-u-romskych-zaku-spravne-odlisit-vrozene-rozumove-schopnosti-a-vliv-prostredi-upozornuje-ombudsman/>.
 - 18 "Využívání diagnostických nástrojů a doporučovaná podpůrná opatření ve školských poradenských zařízeních" ("The use of diagnostic tools and recommended supporting measures in school counselling centres"), a thematic report by the Czech Schools Inspectorate of 4 January 2022 [online]. Prague: Czech Schools Inspectorate, 2021 [retrieved on: 2023-03-12]. Available at <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-ch-nastroj-ov>.

In 2022, the Defender received only a few complaints regarding discrimination on the grounds of Roma ethnicity in the area of education. Further complaints including this objection were related to the areas of work and employment, and social security.

1.1 NUMBER OF ROMA PUPILS EDUCATED IN PROGRAMMES WITH REDUCED OUTCOMES.

The indicator consists of the following values:

- a) Qualified estimate of the proportion of Roma pupils in primary schools relative to all pupils in primary schools (percentage).
- b) Qualified estimate of the proportion of all Roma pupils educated according to adjusted outcomes of the Framework Education Programme for Primary Education in relation to all pupils educated in the same programme (percentage).
- c) Qualified estimate of the proportion of Roma pupils educated according to adjusted outcomes of the Education Programme for Primary Education in the 1st grade in relation to all pupils educated in the same programme in the 1st grade (percentage).

The main goal is to ensure that the values relating to the proportion of Roma pupils among all pupils educated according to the FEP PE RD correspond to the values for the overall proportion of Roma pupils in primary schools.

Estimated proportion of Roma pupils in primary schools¹⁹

	2019/2020	2020/2021	2021/2022	2022/2023
Proportion of Roma pupils in primary schools	3,5 %	3,6 %	3,6 %	3,5 %
Proportion of Roma pupils relative to all pupils receiving education under the FEP PE RD	24,2 %	25,3 %	26,9 %	26,2 %
Of those in the 1st grade	14,5 %	19,1 %	16,9 %	17 %

According to MEYS' data, a total of 35 352 Roma pupils were educated in primary schools in the 2022/2023 school year, which represents 3.5% of the total number of pupils in primary schools. This proportion has been fluctuating only marginally and indicates that Roma children still participate in primary education to a similar extent.

However, the proportion of Roma pupils educated under the Framework Education Programme with Outcomes Adjusted to Mild Mental Disability (FEP PE RD) was 26.9% of all pupils thus educated in the school year 2021/2022, and 26.2% in the school year 2022/2023. This represents an increase of around two percentage points compared to the previous two years. The difference from the general representation of Roma pupils among all educated children, which has decreased slightly this school year, is thus further increasing. The fact

¹⁹ The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of the numbers of Roma pupils in kindergartens, and primary and secondary schools every year.

that the proportion of Roma pupils educated according to the FEP PE RD is not declining or at least stagnating, but is rather increasing, is alarming.

The proportion of Roma pupils relative to all pupils educated under the FEP PE RD in the 1st grade has been fluctuating by several percentage points around 17% year-on-year, but has stabilised at that proportion in the last two school years. In absolute numbers, around two hundred Roma children enter first grade each year. Considering the overall share of Roma pupils in primary schools, which remains almost unchanged from year to year and oscillates around 3.5%, the above proportion is still unsatisfactory, as was true in previous years. As the Defender already pointed out in the first interim monitoring report, a connection needs to be sought between early diagnostics and the child's family environment, on the one hand, and their (non-)participation in preschool education, on the other.

Further data should be added to the table above to understand the context.

A total of 12.5% of all Roma pupils in primary schools were educated under the FEP PE RD in the 2022/2023 school year. This, together with the share of 12.6% for the school year 2021/2022, is a significant increase over the values of 11.7% and 10.8% for the school years 2020/2021 and 2019/2020, respectively. The gradual increase in the proportion of Roma pupils educated according to the FEP PE RD can therefore be described as a trend. For comparison, the proportion of non-Roma pupils educated under FEP PE RD in relation to all non-Roma pupils equalled only 1.32% in the 2022/2023 school year. Just like in previous years, Roma pupils are thus still roughly 10 times more likely to be diagnosed with mild mental disability.

Of Roma pupils studying under the FEP PE RD, 80.8% were educated in the 2022/2023 school year in classes or schools established pursuant to Section 16 (9) of the Schools Act.²⁰ This is an increase by 5 percentage points compared to 2020/2021. These pupils receive education outside the main educational stream, i.e. separately from most pupils in primary schools. On the basis of these figures, the Committee of Ministers of the Council of Europe, acting within the framework of its supervision over the execution of the judgment in case D. H., requested the Czech Government to provide an analysis of the reasons for this phenomenon.²¹ The Expert Forum was also consulted on the research proposal. The research is conducted by the MEYS in co-operation with the PAQ research organisation and STEM – Institute for Empirical Research. It was finalised in early 2023.

1.1.1 INDIRECT INDICATORS FOR INDICATOR 1.1

Ensuring objective diagnosis and adequate supporting measures

Starting in 2013, the MEYS has regularly announced a development programme entitled "Equipping school counselling centres with diagnostic tools", aimed to improve and unify the quality of counselling services across the regions and to expand the diagnostic base of school counselling centres with standardised modern tools. In the latest report on the execution of the judgment in case D. H. of 2022²², the Government stated that diagnostic tools most frequently purchased from the development programme's funds were tools to diagnose intellectual and cognitive abilities known as IDS, IDS-P, Woodcock-Johnson IV; CAS2, TOMAL-2 and fluid intelligence diagnostic tools KIT and CFT 20-R. The ACFS dynamic testing tool was also purchased.

The Government also stated in the report that its long-term goal was to ensure sufficient funding for the operation of school counselling centres (SCCs). Until 2025, the funding of SCC positions should be supported by European funds using funding "templates". Starting in 2025, the funding for school psychologists, special educators, social pedagogues and others should be provided regularly from the State budget.

20 Schools and classes established pursuant to Section 16 (9) of Act No. 561/2004 Coll., the Schools Act, are intended for children with special educational needs.

21 Decisions of the Committee of Ministers of the Council of Europe of 1 and 3 December 2020 in Case D. H. and Others v. the Czech Republic (Application No. 57325/00), CM/Del/Dec(2020)1390/H46-8, available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a090bf.

22 The Czech Republic's report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2022. Communication from the authorities (03/06/2022) in the case of D. H. AND OTHERS v. the Czech Republic (Application No. 57325/00) [online]. Strasbourg: Council of Europe [retrieved on: 2023-03-12]. Available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a6c36f.

The following text describes specific indicators.

- a) Setting a standard for the work of school counselling centres in terms of assessing special educational needs and adequate support for pupils with different living conditions and from different cultural backgrounds (qualitative evaluation).

NO

In the report²³ of the Committee of Ministers on the execution of the judgment in case D. H. of 2022, the Government vowed that in June 2022, it would launch a working group tasked with developing methodological materials for diagnosing and overcoming social disadvantages in children and pupils. The objective will be to use these methodological materials in preference to any diagnostics of mental disability, with special attention paid to Roma children. The outputs of the working group are not yet known to the Defender.

- b) Proportion of school counselling facilities using the WISC-III diagnostic method (percentage).

In its report to the Committee of Ministers on the execution of the judgment in case D. H. of 2022, the Government stated that, according to the CSI, the WISC-III tool was being used by 88.7% of pedagogical and psychological counselling centres and 83.7% of special education centres. It referred in this regard to the CSI thematic report of January 2022, which, however, gives slightly higher figures²⁴ – 98% counselling centres and 92.5% special education centres. The figures quoted by the Government do not appear in the CSI report in relation to the use of the WISC-III tool by school counselling facilities. The Defender is not familiar with any data on the use of the WISC-III by such facilities that would be more recent than those presented in the CSI report.

As the Defender already stated in his first interim monitoring report for 2021, this is still an alarming proportion, especially given that the Government itself has designated the tool as obsolete and ended its financing.²⁵ The proportion of school counselling facilities using the WISC-III diagnostic method should be minimised.

The MEYS should therefore focus on increasing the capacity of school counselling centres in terms of funding and staffing so as to ensure that they have the capacities required for using newer and more suitable tools. The MEYS should then methodically lead them to make more frequent use of modern diagnostic tools that can better detect social disadvantages, such as the Woodcock Johnson IV method or the ACFS dynamic diagnostic method.²⁶

- c) Changing the regulations so that school counselling staff can carry out examinations of pupils directly in schools (qualitative evaluation).

NO

One of the tasks outlined in the Roma Equality, Inclusion and Participation Strategy 2021–2030²⁷ is to conduct an analysis of the potential for and possibility of using diagnostics directly in schools and, subsequently,

23 Ibid.

24 “Využívání diagnostických nástrojů a doporučená podpůrná opatření ve školských poradenských zařízeních” (“The use of diagnostic tools and recommended supporting measures in school counselling centres”), a thematic report by the Czech Schools Inspectorate of 4 January 2022 [online]. Prague: Czech Schools Inspectorate, 2021 [retrieved on: 2023-03-12]. Available at <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-nastroj>.

25 The Czech Republic’s report on the execution of the judgment in case D.H. and Others v. the Czech Republic from 2020. Communication from the authorities (07/10/2020) in the case of D.H. AND OTHERS v. the Czech Republic (Application No. 57325/00) [online]. Strasbourg: Council of Europe [retrieved on: 2023-03-12]. Available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016809fe263.

26 “Využívání diagnostických nástrojů a doporučená podpůrná opatření ve školských poradenských zařízeních” (“The use of diagnostic tools and recommended supporting measures in school counselling centres”), a thematic report by the Czech Schools Inspectorate of 4 January 2022 [online]. Prague: Czech Schools Inspectorate, 2021 [retrieved on: 2023-03-12]. Available at <https://www.csicr.cz/cz/Dokumenty/Tematicke-zpravy/Tematicka-zprava-%E2%80%93-Vyuzivani-diagnosticky-nastroj>.

27 Úkolová část Strategie romské rovnosti, začlenění a participace 2021–2030 (Task part of the Roma Equality, Inclusion and Participation Strategy 2021–2030) [pdf document]. Prague: Office of the Government [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021---2030---ukolova-cast_2.pdf.

proposing an amendment to the Schools Act, if need be. The period designated for this task is 2022–2030, which means that if any work was carried out in this regard during the past year, these were merely the first steps of the plan. Legislative enshrinement of the possibility to examine pupils in schools is thus nowhere in sight.

The need to ensure sustainable funding of school counselling positions established directly in schools has historically been one of the challenges connected with the introduction of this option.²⁸ However, with the planned termination of funding for these positions from time-limited projects and the envisaged financing from the State budget starting in 2025, it can be assumed that this obstacle will cease to exist.

Securing staff positions in schools

- d) Adopting measures to ensure systemic funding for staff positions in school counselling centres (special educator, school psychologist) and to ensure regular availability of the positions in all schools through an amendment to Act No. 563/2004 Coll., on teaching staff, and other relevant legislation (qualitative evaluation).

NO

Members of the Expert Forum agreed that school experts, such as school psychologists, special educators, and teaching assistants, were often not considered a fully-fledged teaching staff and often lacked the support and trust of their colleagues and school administration, as well as of pupils and their families. This usually happens because they work only part time and are not employed for an indefinite term.

In the previous interim monitoring report, the Defender already described the MEYS' commitment encompassed in the 2030+ Strategy²⁹ to create a system of financial support indexing for supporting positions, such as school psychologists and social pedagogues. This measure should ensure sustainable funding of the given positions for schools with pupils from disadvantaged backgrounds as compared to the currently almost exclusive funding from time-limited subsidy programmes.

A change in the source of funding for the positions in question (from individual projects to the State budget) can also be a major step forward as regards the value of this indicator. However, given the Government's plan to change the funding method from 2025, no major developments can be expected until the end of the Defender's monitoring period (end of 2023).

Act No. 563/2004 Coll., on teaching staff, was reopened in 2022, among other things, with a view to enshrining certain supporting positions (special educator, school psychologist) in the law. The Public Defender of Rights, as an institution involved in the commentary procedure, suggested to also include the position of social pedagogue in the new legislative basis. However, this comment was not taken into account during the commentary procedure.

- e) Adopting measures to secure the availability of social pedagogue/social worker positions in schools located in socially excluded areas (qualitative evaluation).

NO

Establishing a legislative anchor for the social worker's position in education and securing the necessary funding is also one of the tasks of the Roma Equality, Inclusion and Participation Strategy 2021–2030. The authorities responsible for its implementation, which should be carried out in individual steps and be completed by 2030,

28 Pursuant to Decree No. 72/2005 Coll., on the provision of counselling in schools and school counselling centres, employees of school counselling centres established directly in schools may provide information and methodological assistance to students regarding their career decisions, help to develop individual educational plans, prevent high-risk behaviour and implement supporting measures for pupils with special educational needs. They can only work independently with pupils with support needs of the first degree. In contrast, school counselling centres, which include pedagogical and psychological counselling centres and special counselling centres, can work with pupils with support needs of all degrees. Their employees are those who usually perform the diagnostics of pupils and issue recommendations for specific supporting measures.

29 Strategie vzdělávací politiky České republiky do roku 2030+ (Strategy for the Education Policy of the Czech Republic up to 2030+) [pdf document]. Prague: MEYS [retrieved on: 2023-03-12]. Available at https://www.msmt.cz/uploads/Brozura_S2030_online_CZ.pdf.

are the MEYS and the Ministry of Labour and Social Affairs (MLSA). The task should be implemented through three steps:

- » classifying the relevant position, including the definition of its competences, in Act No. 563/2004, on teaching staff;
- » expanding school counselling centres to include the social worker's position within the framework of Decree No. 72/2005 Coll., on the provision of counselling services in schools and school counselling facilities;
- » increasing the number of primary schools where the school counselling centre's staff has been reinforced.

Previously, the MEYS claimed that it was easier to ensure that schools had access to social workers, since social pedagogues had to comply with stricter education requirements. Many social workers already work for municipalities that are in the position of school founders. That is why the Strategy and the given task name municipalities as co-operating entities.

However, in the process of commenting on Act No. 563/2004 Coll., on teaching staff, the Defender was advised by the MEYS that it intended to support the positions of social pedagogues within funding "templates" – the Jan Amos Komenský operational programme; provide specific support for these positions in schools with a higher proportion of children with sociocultural disadvantages within the framework of the National Recovery Plan; and carry out research focused on specialised activities in schools in co-operation with the Technology Agency of the Czech Republic. Based on the evaluation of individual measures, the MEYS said it would propose innovations to supporting and specialised activities in education, including possible legislative changes, within the next three years.

Ensuring quality education for teaching staff

- f)** Changing the curriculum for the education of pedagogical workers at all faculties of education to train them in the education of students with different cultural backgrounds and living conditions (YES/NO, qualitative evaluation).

NO

No significant developments occurred in this topic during the period under review. However, changing the curriculum is one of the tasks of the Roma Integration Strategy 2021–2030.³⁰ In co-operation with universities, the MEYS plans to enrich the content of education at secondary schools and universities to include courses focusing on education of pupils from a different cultural and life background, specifically Roma pupils. This includes a modification of the curriculums at secondary schools dedicated to the preparation of future teachers and adding new selective and elective courses to study programmes of university fields intended for future teaching staff. According to the Strategy, the MEYS plans to achieve this change by 2025.

- g)** Creating a comprehensive module in the system of continuing education for teaching staff in the area of methodological support in relation to Roma children and pupils (YES/NO, qualitative evaluation).

YES

As part of the implementation of the Inclusive Education Action Plan for 2019–2020³¹, the National Pedagogical Institute of the Czech Republic (NPI) organised several courses for pilot testing of continuing education for teaching staff modules in the area of methodological support for Roma children and pupils in 2021. The Roma

30 Úkolová část Strategie romské rovnosti, začlenění a participace 2021–2030 (Task part of the Roma Equality, Inclusion and Participation Strategy 2021–2030) [pdf document]. Prague: Office of the Government [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021---2030---ukolova-cast_2.pdf.

31 Akční plán inkluzivního vzdělávání na období 2019–2020 (Inclusive Education Action Plan for 2019–2020) [pdf document]. Prague: MEYS, National Pedagogical Institute of the Czech Republic [retrieved on: 2023-03-12]. Available at <http://www.inkluzevpraxi.cz/files/APIV/APIV-2019-2020-web.pdf>.

Education Committee of the Government Council for Roma Minority Affairs also participated in the creation of the module. These courses included “Foundations of Roma Studies for Teachers”, “Selected Aspects of the Education of Roma Pupils and Students” and “Specifics of the Education of Roma Children and Pupils”.³²

Ensuring the creation of a comprehensive continuous module in the system of continuing education for teaching staff in the area of Roma education is also one of the tasks following from the Roma Equality, Inclusion and Participation Strategy 2021–2030.³³ The relevant task of the Strategy was fulfilled by 2022 by creating the above-mentioned modules in the system of continuing education for teaching staff. The Defender also monitors continued development of education for teaching staff in the area of methodological support in relation to Roma children and pupils.

1.2 NUMBER OF ROMA PUPILS IN PRESCHOOL EDUCATION

The indicator consists of the following values:

- a) Proportion of Roma pupils in the compulsory year of preschool education in relation to all pupils in that year (percentage).
- b) Proportion of Roma pupils in the non-compulsory years of preschool education in relation to all pupils in those years (percentage).

Estimates of the proportion of Roma pupils in relation to the total number of pupils in preschool education³⁴

	2019/2020	2020/2021	2021/2022	2022/2023
In the compulsory year	3,51 %	3,29 %	3,16 %	3,14 %
In non-compulsory years	1,23 %	1,20 %	1,13 %	1,18 %

Data for the past four school years shows that the percentage of Roma children in the compulsory year has been declining slightly but steadily (note: given the absolute numbers on which the proportions are based, this is an actual decrease). What is interesting, however, is the contrast with the participation of Roma children in non-compulsory years of preschool education, which has been more or less stagnant.

A report on the research project “Verification of the impact of the introduction of a compulsory final year in preschool education”, which was carried out 2018–2021 by a team of the Faculty of Education of Charles University, was published in February 2022.³⁵ The research focused on socially excluded areas with a generally

32 Cf. the course offering of the National Pedagogical Institute of the Czech Republic (formerly the Czech National Institute for Education) within the implementation of the Inclusive Education Action Plan (APIV) [online]. Prague: National Institute for Education, 2011/2022 [retrieved on: 2023-03-12]. Available at <https://objednavky.nuv.cz/element/32-projekt-apiv-a-akcni-plan-inkluzivniho-vzdelavani>.

33 Úkolová část Strategie romské rovnosti, začlenění a participace 2021–2030 (Task part of the Roma Equality, Inclusion and Participation Strategy 2021–2030) [pdf document]. Prague: Office of the Government [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021---2030---ukolova-cast_2.pdf.

34 The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of the numbers of Roma pupils in kindergartens, and primary and secondary schools every year.

35 Ověření dopadů zavedení povinného posledního ročníku předškolního vzdělávání, Závěrečná výzkumná zpráva (Verification of the impact of the introduction of a compulsory final year in preschool education, Final Research Report) [online]. Prague: Faculty of Education of Charles University, MEYS, 2022 [retrieved on: 2023-03-12]. Available at <https://www.edu.cz/vysledky-vyzkumu-overeni-dopadu-zavedeni-povinného-posledního-ročníku-předškolního-vzdělávání/>.

high – and often majority – representation of Roma families.³⁶ The main reasons for the non-participation of Roma children in compulsory preschool education identified by the research team are as follows:

- » Many parents who live in socially excluded areas are unaware that Roma children can attend kindergartens and the same is true of children of unemployed parents;
- » Given that a number of parents living in socially excluded areas did not attend kindergartens themselves, they have no idea how kindergartens normally operate;
- » Many parents are unaware that they have an obligation to ensure that their child attends the compulsory year of preschool education; they do not know that they have to enrol their child, or they are not familiar with the date of the enrolment and what documents they have to provide; they are not aware of their right to enrol their child in a kindergarten at their place of residence, or they are not familiar with the concept of catchment areas;
- » In some areas, there are no kindergartens within a reasonable walking distance;
- » Insufficient capacities of kindergartens – this makes it particularly difficult to accept children who move in during the school year. According to the research, up to a quarter of newly enrolled five-year-olds are assigned directly to individual education. According to Section 34b of the Schools Act, it should be verified how a child is mastering the expected skills in individual education. However, the practice of kindergartens varies in this regard.

These reasons can be complemented with experience learned by NGOs dealing with the education of Roma children.³⁷ It is often a challenge for children from socially disadvantaged backgrounds to master all the skills required by kindergartens for admission (the “high entry threshold”). The lower proportion of Roma children in non-compulsory years is also related to the high unemployment rate among Roma women. If they are at home with their child, kindergartens often refuse to accept the child.

The relevant measures suggested by the members of the Expert Forum to execute the judgment in case D. H. with a view to ensuring greater attendance of Roma children in preschool education would include, in particular, increased co-operation among kindergartens and schools’ social pedagogues and social workers to ensure that families with Roma children receive mainly social support. The founders, i.e. municipalities, should also become more involved and they should remove possible financial obstacles to kindergarten attendance or increase territorial and financial availability of public transport.

1.2.1 INDIRECT INDICATORS FOR INDICATOR 1.2

Financial and transport accessibility of kindergartens for Roma children

- a) Sufficient preschool education capacity (qualitative assessment).

Building the necessary capacity is one of the key activities of Strategy 2030+ to increase the participation of children in preschool education.³⁸ By including this activity in the strategy, the MEYS wants to provide

36 Cf. Analýza sociálně vyloučených lokalit v ČR (Analysis of Socially Excluded Areas in the Czech Republic). According to the results of a 2014 survey, 24% of socially excluded areas were inhabited only by Roma people, in 37% of the areas their proportion exceeded 90%, and in 62% it was higher than 75%. See Analýza sociálně vyloučených lokalit v ČR (Analysis of Socially Excluded Areas in the Czech Republic) [pdf document]. Prague: GAC, spol. s r. o., May 2015. [retrieved on: 2023-03-12]. Available at https://www.gac.cz/userfiles/File/nase_prace_vystupy/Analýza_socialne_vyloucenych_lokalit_GAC.pdf.

37 Conclusions of the roundtable discussion “Education of Roma Children – Monitoring Activities of the Public Defender of Rights”, organised by the Public Defender of Rights on 6 October 2021.

38 Strategie vzdělávací politiky České republiky do roku 2030+ (Strategy for the Education Policy of the Czech Republic up to 2030+) [pdf document]. Prague: MEYS [retrieved on: 2023-03-12]. Available at https://www.msmt.cz/uploads/Brozura_S2030_online_CZ.pdf.

support to kindergarten founders in fulfilling their statutory duty to ensure sufficient capacity of preschool education. The support should take especially the form of correct setting of the conditions and criteria of subsidy programmes and IROP 2021–2027 calls, where capacity building and modernisation of kindergartens is one of the main activities.³⁹ The MEYS will also help the founders to identify any significant gaps in capacity (which may, among other things, owe to a rapid increase in the number of children in the given municipality or its part), define the criteria of necessity and provide methodological guidance for sharing capacities within the region and municipal associations. According to the Strategy, this activity has to be implemented by the end of 2023.

In a statement sent to the Defender, the MEYS noted that the capacity of preschool education was the focus of a special working group. The kindergartens' capacities in the Czech Republic were being analysed as part of the implementation of Strategy 2030+. The MEYS stated that data obtained for the individual regions through regional authorities – which was compared with data on the actual capacity of kindergartens as of 30 September 2021 – had been unified in March 2022. However, the analysis of the kindergartens' capacity was complicated by the ongoing invasion of Ukraine by Russian troops and the related arrival of Ukrainian families in the Czech Republic. According to MEYS, an inquiry was therefore carried out to identify the maximum possible capacities of kindergartens, and this will continue in 2023.

- b) Addressing the catchment area issue – ensuring conditions for the attendance of Roma children with an actual place of residence different from their officially recorded place of permanent residence in a financially accessible, close-enough kindergarten (qualitative evaluation).

The Strategy 2030+ also deals with the catchment area issue, although it is framed only as a means of combating segregation and disparity in primary education.⁴⁰ All children continue to be entitled to preferential admission to a kindergarten exclusively on the basis of their permanent residence.⁴¹

The Public Defender of Rights has already pointed out that although municipalities have a great degree of discretion as to how they define school districts, children need not attend their catchment school.⁴² However, the parents' ability to choose a kindergarten for their child may augment the problem of separate education of children from different socio-economic, cultural and ethnic backgrounds. These negative consequences of the option to choose a school can be mitigated by adjusting the education system. The Defender identified special financial support for schools focusing on education of children with disadvantages, including social disadvantages, as one of the possible strategies. If schools received more funds for each such pupil, they might be more interested in admitting them. Then, the representation of pupils from different backgrounds would be more evenly spread across schools.

In a statement sent to the Defender, the MEYS pointed out that it was negotiating with the MLSA about the possibilities and conditions for setting up systemic support for attendance at kindergartens, with special focus on children from families in an unfavourable social situation.

- c) Conducting an investigative survey into the barriers to the inclusion of children from excluded areas in the compulsory year of preschool education and publishing the resulting recommendations by the Ministry of Education, Youth and Sports in co-operation with the Technology Agency of the Czech Republic (YES/NO).

YES

The project “Verification of the impact of the introduction of a compulsory final year in preschool education”, whose main objective was to map and describe the specific impacts of and obstacles to the implementation of compulsory preschool education, was commissioned through the Technology Agency of the Czech Republic.

39 Cf. information on the website of the Integrated Regional Operational Programme 2021–2027. See the IROP 2021–2027 Infosite [online]. Prague: Ministry of Regional Development, 2023 [retrieved on: 2023-03-12]. Available at <https://irop.mmr.cz/cs/irop-2021-2027>.

40 Strategie vzdělávací politiky České republiky do roku 2030+ (Strategy for the Education Policy of the Czech Republic up to 2030+) [pdf document]. Prague: MEYS [retrieved on: 2023-03-12]. Available at https://www.msmt.cz/uploads/Brozura_S2030_online_CZ.pdf.

41 Pursuant to Section 34 (3) of the Schools Act.

42 Recommendation of the Public Defender of Rights on inclusive education of Roma and non-Roma children of 12 December 2018, File No. 86/2017/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/6670>.

The main findings of the research are described by the Defender under Indicator 1.2. The research was carried out over the past three years by the Faculty of Education of Charles University. The full research report, including proposals for legislative and non-legislative measures, is publicly available at Edu.cz, the information website of the MEYS.⁴³

This indicator was met.

- d) Ensuring financial support for children from socially excluded areas in the form of free lunches or paying the fees for preschool education (qualitative evaluation).

On the basis of the Strategy 2030+ priorities, the MEYS allocated CZK 20 million for a project to support meals in preschool education centres in the Karlovy Vary and Ústí Regions in 2021.

However, in a statement sent to the Defender, the MEYS noted that only one applicant had applied for support from the project, asking for an amount of CZK 49 600. In view of this poor result, the MEYS modified the call and extended it in 2022 to also cover further activities. Support can now also be provided for activities promoting an all-round personal development of children with social disadvantages and children whose family is in an unfavourable financial situation either in the long term or temporarily. Support is also available for measures aimed to establish co-operation with the family and to remove other financial barriers – transport to kindergartens, teaching aids, etc. After evaluating the results of this call in 2023, the MEYS will decide on the possibility of extending the call or similar support to other regions.

1.3 NUMBER OF SCHOOLS WITH A HIGH PROPORTION OF ROMA PUPILS

The indicator consists of the following values:

- a) Number and share of primary schools with over 34% Roma pupils (absolute number and percentage).
- b) Number and share of primary schools with over 50% Roma pupils (absolute number and percentage).
- c) Number and share of primary schools with over 75% Roma pupils (absolute number and percentage).
- d) Number and share of primary schools with over 90% Roma pupils (absolute number and percentage).

The main goal is to reduce the number and share of primary schools with a higher representation of Roma pupils so that Roma and non-Roma children can be educated together as much as possible.

43 Ověření dopadů zavedení povinného posledního ročníku předškolního vzdělávání, Závěrečná výzkumná zpráva (Verification of the impact of the introduction of a compulsory final year in preschool education, Final Research Report) [online]. Prague: Faculty of Education of Charles University, MEYS, 2022 [retrieved on: 2023-03-12]. Available at <https://www.edu.cz/vysledky-vyzkumu-overeni-dopadu-zavedeni-povinneho-posledniho-rocniku-predskolniho-vzdelavani/>.

Shares of schools with a high proportion of Roma pupils in relation to the total number⁴⁴

	2019/2020	2020/2021	2021/2022	2022/2023
Total number of primary schools	4 189	4 211	–	–
with over 34% share of Roma pupils	133 (3,2 %)	136 (3,2 %)	–	–
with over 50% share of Roma pupils	69 (1,6 %)	77 (1,8 %)	–	–
with over 75% share of Roma pupils	34 (0,8 %)	32 (0,8 %)	–	–
with over 90% share of Roma pupils	16 (0,4 %)	17 (0,4 %)	–	–

Data for the 2021/2022 and 2022/2023 school years were not ascertained by the Defender. The data for previous years were obtained by the Defender from the Government's reports on the execution of the judgment in case D.H. As from 2022, however, the Government's reports no longer include the number of schools with a higher share of Roma pupils in the total number of pupils.

According to the available figures, the numbers and proportions of primary schools with a higher representation of Roma pupils are stagnating, which is undesirable given the goal of achieving joint education of Roma and non-Roma children.

For several years, qualified estimates of the proportion of Roma pupils in primary schools were also part of the public reports on qualified estimates of Roma pupils in primary schools.⁴⁵ However, for many years now, the MEYS has only been issuing these reports for internal needs. Nonetheless, it would be advisable to make the data and the resulting facts publicly available so as to inform the public and enable non-governmental entities working with Roma children (non-governmental NGOs, interest associations, etc.) to use these data. The report should also include an explanation of the methodology of data collection for making qualified estimates and a description of the challenges associated with their informative value.

In a statement to the Defender, the MEYS noted that under component 3.2. Support for schools, of the National Recovery Plan (NRP), methodological support would be provided to 400 schools with a higher representation of pupils from socially disadvantaged backgrounds. This support would start in September 2022 and would be organised in co-operation with the National Pedagogical Institute (NPI). The Defender welcomes the large scope of this measure – given that the number of schools with a significantly higher proportion of Roma pupils is roughly 130, support will be available to all these schools, and also many others. However, it is necessary to ensure that the increased funding for schools leads to a real solution to the issue of separate education of Roma and non-Roma children.

According to earlier information from the Office of the Czech Government, all the schools with more than 75% of Roma pupils (i.e. including schools with more than 90% Roma pupils) are located in the Ústí nad Labem

⁴⁴ The Public Defender of Rights received this data from the MEYS, which collects qualified estimates of the numbers of Roma pupils in kindergartens, and primary and secondary schools every year.

⁴⁵ Cf. e.g. Zpráva ze zjišťování kvalifikovaných odhadů počtu romských žáků v základních školách ve školním roce 2016/2017 (Report on the Collection of Qualified Estimates of Roma Pupils in Primary Schools in the School Year 2016/2017) [pdf document]. Prague: MEYS, November 2016 [retrieved on: 2023-03-12]. Available at <https://www.msmt.cz/file/39658/>.

and Moravian-Silesian Regions.⁴⁶ This phenomenon owes to the fact that Roma people make up most of the population in socially excluded areas (80 to 85%).⁴⁷ According to the latest data from the Government's Office⁴⁸, the Ústí nad Labem Region exhibits the highest ratio of municipalities with extended competence that have socially excluded areas in their respective districts to the total number of municipalities with extended competence in the given administrative region; the second highest ratio is in the Karlovy Vary Region. At least one socially excluded area is located in all municipalities with extended competence in these two administrative regions. The number of such municipalities with a socially excluded area decreased in 2021 (compared to 2020) in the Moravian-Silesian,⁴⁹ Olomouc, Pilsen and Central Bohemian Regions; this can be considered a positive trend. On the other hand though, the number of these municipalities increased in the Hradec Králové Region. It is possible that the high concentrations of Roma pupils in individual schools will also drop as a result of the declining number of socially excluded areas. It would be appropriate to examine the interrelationship between the existence of socially excluded areas and schools with a high proportion of Roma pupils within their reach.

As the Government states in the task part of the Roma Integration Strategy 2021–2030, no tools have been set up systematically and no solutions have been defined to ensure the joint education of Roma and non-Roma pupils.⁵⁰ This reduces Roma children's contact with their peers from mainstream society in education processes that would ensure mutual knowledge, sharing and use of pedagogical approaches to encourage tolerance, respect and acceptance with a different socio-cultural background.

However, many schools are not prepared or willing to educate Roma children and are concerned about losing their prestige should they accept them. The children are then more likely to get into schools that "know how to work with them".⁵¹ However, this approach leads to a reduction in the quality of education of Roma children and lower preparedness for future life. Efforts to ensure inclusive education are therefore crucial, together with appropriate measures in the areas of housing, social system and healthcare.

1.3.1 INDIRECT INDICATORS FOR INDICATOR 1.3

Preventing further segregation in primary schools and reducing existing segregation through effective control of the schools' founders

- a) Supervision of municipalities (as the founders) by the Ministry of the Interior to draw school districts in a manner that excludes segregation (qualitative evaluation).

46 Zpráva o stavu romské menšiny za rok 2019 (Report on the Status of the Roma Minority in 2019) [pdf document]. Prague: Office of the Government of the Czech Republic, 2020 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/Zprava-o-stavu-romske-mensiny-2019.pdf>.

47 Zpráva o stavu romské menšiny za rok 2018 (Report on the Status of the Roma Minority in 2018) [pdf document]. Prague: Office of the Government of the Czech Republic, 2019 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/dokumenty/Zprava-o-stavu-romske-mensiny.pdf>.

48 Zpráva o stavu romské menšiny v České republice za rok 2021 (Report on the Status of the Roma Minority in the Czech Republic in 2021) [pdf document]. Prague: Office of the Government of the Czech Republic, 2023 [retrieved on: 2023-06-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/Zprava-o-stavu-romske-mensiny-2021_fin.pdf.

49 Municipalities with extended competence located in the Moravian-Silesian Region have been improving their work with disadvantaged children thanks to the administrative region's increased and longer support in this regard. The town of Krnov is considered one of the best examples of a municipality's approach to the education of Roma children. Cf. Dvořák, Tomáš, Prokop, Daniel. Vzdělávací neúspěšnost a socioekonomické problémy ORP: Typologie obcí (The Lack of Success in Education and Socioeconomic Problems of Municipalities with Extended Competence: Typology of Municipalities) [pdf document]. Prague: PAQ Research, 2021 [retrieved on: 2023-03-12]. Available at https://drive.google.com/file/d/1FIBGPwIBH4Cu-VZM-CPA7jocmcbiCh_/view.

50 Úkolová část Strategie romské rovnosti, začlenění a participace 2021–2030 (Task part of the Roma Equality, Inclusion and Participation Strategy 2021–2030) [pdf document]. Prague: Office of the Government, description of Measure C.2.1. [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/aktuality/05-Strategie-romske-rovnosti--zacleneni-a-participace-2021--2030---ukolova-cast_2.pdf.

51 Ibid, description of Measure C.2.3.

In 2017, the Ministry of the Interior already issued a methodological guideline on the delimitation of school districts.⁵² The guideline described the rules applicable to generally binding decrees that define school districts, as well as the duties of municipalities, as the school founders, in preventing discrimination.

However, in its most recent information on the outcomes of an inquiry into the exercise of independent competence in 2022⁵³, the Ministry of the Interior yet again provided no data on inspections related to a possible discriminatory delimitation of school districts.

In its statement to the Defender, the MEYS noted that as part of the implementation of Measure 2 “Reducing segregation tendencies in primary education” of the implementation card titled “Improving the quality of education in structurally affected regions”, it would organise methodological seminars and provide support to school founders (municipalities) on the topic of desegregation.

The MEYS also established closer co-operation with the MLSA in the framework of a working group dedicated to addressing early departures from the education sector. It is also working on linking support across several operational programmes and the NRP to improve equal access to education. As part of these programmes, the ministries are planning methodological seminars for school founders as regards catchment areas and the desegregation process.

The MEYS also created an updated map of the catchment areas of individual municipalities in ArcGIS as part of the “Comprehensive Evaluation System” project.⁵⁴

b) Proposing desegregation measures in the framework of the post-2020 action plan for inclusive education (qualitative evaluation).

No post-2020 action plan for inclusive education has been created. The issue of reducing segregation in schools is now included in Strategy 2030+. In this respect, the MEYS committed to intensify methodological work in catchment area regulation, to increase the availability of data on segregation in education, and to ensure the supervision of and methodological support for school counselling centres.⁵⁵

As of 1 January 2022, the MEYS established a new unit for equal access to education within its Regional Education Management Department. The unit focuses mainly on supporting Roma integration, desegregation, support for pupils with social disadvantages, and a programme of comprehensive support for schools with a higher representation of pupils from families with a low socioeconomic status.

52 Metodické doporučení k činnosti územních samosprávných celků: Tvorba obecně závazných vyhlášek, stanovení školských obvodů spádových mateřských a základních škol (Methodological recommendation for territorial self-governing units: Creating generally binding decrees, defining school districts for catchment kindergartens and primary schools) [pdf document]. Prague: Ministry of the Interior of the Czech Republic, Department of Public Administration, Supervision and Inspection, 2017 [retrieved on: 2023-03-12]. Available at <https://www.mvcr.cz/odk2/soubor/metodicke-doporuceni-c-6-tvorba-obecne-zavaznych-vyhlasek-stanoveni-skolskych-obvodu-spadovych-materskych-a-zakladnich-skol.aspx>.

53 Obecné informace o výsledcích kontrol odboru veřejné správy, dozoru a kontroly Ministerstva vnitra České republiky za rok 2022 (General information on the results of inspections performed by the Department of Public Administration, Supervision and Inspection of the Ministry of the Interior for 2022) [pdf document]. Prague: Ministry of the Interior of the Czech Republic, 2022 [retrieved on: 2023-03-12]. Available at <https://www.mvcr.cz/soubor/obecne-informace-o-vysledcich-kontrol-odboru-verejne-spravy-dozoru-a-kontroly-za-rok-2022-zverejneno-na-zaklade-26-zakona-c-255-2012-sb-o-kontroly-kontrolni-rad.aspx>.

54 <https://experience.arcgis.com/experience/ob6of691c6974d7ca4dbddf673bb506>.

55 Strategie vzdělávací politiky České republiky do roku 2030+ (Strategy for the Education Policy of the Czech Republic up to 2030+) [pdf document]. Prague: MEYS [retrieved on: 2023-03-12]. Available at https://www.msmt.cz/uploads/Brozura_S2030_online_CZ.pdf.

2. Equal pay for women and men

There were some developments in the area of equal pay for women and men in 2022, especially at the European level. Late last year, the European Parliament and the EU Council reached political agreement on a proposal for an EU Directive that would significantly strengthen pay transparency in the EU.

International trends

In March 2021, the European Commission submitted a proposal for a directive implementing the principle of equal pay for equal work or work of equal value between women and men.⁵⁶ In December 2022, the European Parliament and the EU Council also reached political agreement on the proposed legislation.⁵⁷ The proposal must now be formally approved by the European Parliament and by the EU Council.

The main elements of the proposal include improved transparency of the remuneration offered in job advertisements; the employees' right to information on the average level of remuneration in the given organisation; the employers' duty to report any gender pay gap; and the duty to evaluate pay gaps exceeding 5%. The proposal also improves access to justice for victims of pay discrimination through more balanced sharing of the burden of proof between the employee and the employer, and the possibility for national equality bodies to represent victims of pay discrimination before courts and authorities.

Czech Republic

After numerous postponements, in December 2022 the Government approved⁵⁸ its Action Plan for Equal Pay.⁵⁹ The plan was created as part of the 22% Towards Equality project, which is being implemented by the Ministry of Labour and Social Affairs. In its individual chapters, it focuses on improving transparency in the public sector and companies, and on more effective control by governmental authorities. The development of the action plan is addressed by the Defender in a separate indicator.

The Strategy for Gender Equality 2021–2030 was approved in March 2021.⁶⁰ No summary information on its implementation has been issued as yet. However, the transposition of the envisaged EU Directive will be an important milestone for the Czech Republic with regard to pay transparency.

Czech courts issued no important decisions concerning equal pay in the past year. There was also no fundamental legislative development in this area.

However, the "Equal Pay" project was approved. The project builds directly on the work of the 22% Towards Equality project team and will run from 2023–2026. The work of the project team is very valuable in the context of the topic of equal pay for women and men, and the successful development of the Action Plan for Equal Pay for Women and Men is mainly this team's achievement. Further activities are planned and implemented within the project, such as intensified support for regional labour inspectorates in equal pay inspections, equal pay audits at employers or companies, and the development of methodologies for employers to interpret the concept of "work of equal value".

56 Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms of 4 March 2021, 2021/0050 (COD). Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0093>.

57 European Commission press release of 15 December 2022 [online]. Available at https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7739.

58 Resolution of the Government of the Czech Republic of 21 December 2022, No. 1097, on the Action Plan for Equal Pay for Women and Men 2023–2026.

59 Akční plán rovného odměňování žen a mužů 2023–2026 je schválený! (The Action Plan for Equal Pay for Women and Men 2023–2026 has been approved!) [online]. Prague: Ministry of Labour and Social Affairs 22 January 2023 [retrieved on: 2023-03-12]. Available at <https://rovnaodmena.cz/akcni-plan-rovneho-odmenovani-zen-a-muzu-2023-2026-je-schvaleny/>.

60 Strategie rovnosti žen a mužů na léta 2021–2030 (Strategy for Gender Equality for 2021–2030) [pdf document]. Prague: Office of the Government of the Czech Republic, February 2021 [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Strategie_rovnosti_zen_a_muzu.pdf.

The deadline for the transposition of the Directive of the European Parliament and of the Council of the European Union on work-life balance for parents and carers,⁶¹ which required an amendment to Section 241 of Act No. 262/2006 Coll., the Labour Code, also expired in August 2022. However, the Directive has yet to be transposed. It requires, for example, the employers to state reasons for any refusal or postponement of requested flexible working arrangements. Under the Directive, people working on the basis of an agreement on work performed outside an employment relationship will also be able to ask their employers to justify unilateral termination of the agreement if they believe that the reason for the termination was their request for or taking maternity, paternity or carer's leave. The Government is working on a corresponding bill. However, until the amendment is in force, the Czech Republic is at risk of infringement proceedings initiated by the European Commission.

Activities of the Public Defender of Rights

The employees of the Office of the Public Defender of Rights actively participated in the preparation of the Action Plan for Equal Pay within the 22% Towards Equality project. In December 2022, the staff of the Defender's Office met with representatives of the 22% Towards Equality project to discuss the project's activities, its future direction and mutual co-operation. Representatives of the Defender's Office also actively discussed this topic at the MLSA conference "Gender Pay Gap: What has been achieved and where to go from here" in November 2022.⁶²

The Defender addresses gender pay inequalities and related phenomena in his recommendation "Parenthood and discrimination at work" of January 2022.⁶³

2.1 GENDER PAY GAP IN THE CZECH REPUBLIC

The Defender considers the gender pay gap to be the key indicator of progress in this area. This is an umbrella figure that can be used to observe where a country stands in the area of pay and gender, while also allowing for international comparison. It is therefore the only direct indicator in this area.

According to Eurostat, the difference in remuneration between women and men (the pay gap) in the Czech Republic was 16.4% in 2020.⁶⁴ Compared to the 2019 figure (19.2%), this is a relatively significant year-on-year decrease. A similar value (17.6% in 2019) was also reached by researchers who examined the gender pay gap in 15 countries around the world, including the Czech Republic, Germany, the U.S.A. and Japan, in a study⁶⁵ published in the journal *Nature Human Behaviour* at the end of 2022.

The average gender pay gap across the European Union was 14.1% in 2019 and 13% in 2020.⁶⁶ The average in the Czech Republic thus dropped at a slightly faster rate, but is still several percentage points higher than in the EU. However, with the implementation of the Action Plan for Equal Pay and the envisaged European legislation on pay transparency, we can expect a further reduction in the gap.

61 Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

62 The conference "Gender Pay Gap: What has been achieved and where to go from here" will be held this year on the occasion of the European Equal Pay Day. Press release [pdf document]. Prague: Ministry of Labour and Social Affairs, 8 November 2022 [retrieved on: 2023-03-12]. Available at https://www.mpsv.cz/documents/20142/2786931/TZ_konference+gender_o81122.pdf/8bdd1b6f-dc17-82e4-defc-7dc5965836cf.

63 Recommendation of the Public Defender of Rights of 29 November 2021, Parenthood and discrimination at work: practical guide for parents regarding their right to equal treatment in the labour market, File No. 63/2020/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/10724>.

64 Gender Statistics Database – Gender Pay Gap in unadjusted form [online]. Vilnius: European Institute for Gender Equality, 2023 [retrieved on: 2023-03-12]. Available at https://eige.europa.eu/gender-statistics/dgs/indicator/ta_livcond_inc_earn_gpg_tesem180.

65 Penner, A.M., Petersen, T., Hermansen, A.S. et al. Within-job gender pay inequality in 15 countries. *Nat Hum Behav* 7, 184–189 (2023) [online]. [retrieved on: 2023-03-12]. Available at <https://www.nature.com/articles/s41562-022-01470-z>.

66 Gender Statistics Database – Gender Pay Gap in unadjusted form [online]. Vilnius: European Institute for Gender Equality, 2023 [retrieved on: 2023-03-12]. Available at https://eige.europa.eu/gender-statistics/dgs/indicator/ta_livcond_inc_earn_gpg_tesem180.

2.1.1 INDIRECT INDICATORS

a) Approval of the Action Plan for Equal Pay (YES/NO).

YES

The Action Plan for Equal Pay for Women and Men 2023–2026,⁶⁷ which was developed as part of the MLSA's 22% Towards Equality project, was approved by the Government at the end of 2022. The chapters of the plan follow the strategic objectives that were already identified in its preparation:

- » transparency of remuneration systems;
- » inspections focusing on equal pay;
- » remuneration in public administration;
- » work-life balance;
- » education;
- » data unavailability.

The Action Plan is a strategic document of the Czech Government. It is therefore addressed especially to the relevant central government authorities, which are tasked by the plan for the 2023–2026 period.

Many of the tasks identified in the Action Plan correspond to the measures proposed in the 2014 European Commission Recommendation⁶⁸ and the proposal for a directive of 2021.⁶⁹ The Action Plan is therefore a suitable complement to the envisaged European legislation and will help the State to prepare for the upcoming duties or even meet them in advance.

This indicator was met.

b) Implementation of the Action Plan for Equal Pay (YES/NO with regard to individual objectives).

NO

Given that the Government only approved the Action Plan in late 2022, the ministries could not yet start its implementation. In addition, all the tasks included in the Action Plan have a deadline of 2026. Nonetheless, the Defender will monitor the progress achieved by the ministries and if some tasks are implemented earlier or at least partially by the relevant authorities, the Defender will provide the relevant information.

c) Preparing a policy for continuous systematic salary/pay increases in female-dominated fields (YES/NO).

NO

The policy has not yet been prepared. Its preparation is one of the measures set out in the new Strategy for Gender Equality with the deadline for implementation of the measures being 31 December 2022. The ministries competent for its elaboration are the MEYS, the MLSA and the Ministry of Health with regard to the most affected areas (education, social services and healthcare, respectively).

67 Akční plán rovného odměňování žen a mužů 2023-2026 je schválený! (The Action Plan for Equal Pay for Women and Men 2023–2026 has been approved!) [online]. Prague: Ministry of Labour and Social Affairs 22 January 2023 [retrieved on: 2023-03-12]. Available at <https://rovnadomena.cz/akcni-plan-rovneho-odmenovani-zen-a-muzu-2023-2026-je-schvaleny/>.

68 European Commission Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency, 2014/124/EU. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014H0124>.

69 Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms of 4 March 2021, 2021/0050 (COD). Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0093>.

The Defender already stated in the first interim monitoring report that the development of this policy would help to ensure the sustainability of salary and pay increases in female-dominated fields. The recent increase was largely due to the COVID-19 pandemic, and it is therefore necessary to ensure continued growth in post-pandemic times. As part of the monitoring, the Defender will therefore inquire the ministries about the progress achieved in the policy's development, its main elements and future availability to the public.

- d) Introducing tax incentives for employers providing part-time jobs for parents of children up to 3 years of age and persons caring for dependent family members (YES/NO).

NO

No change occurred in this indicator in the past period. At one point, this measure was supposed to form a part of the new Strategy for Gender Equality, but it was eventually not included in the text approved by the Government. There is thus currently no formal obligation to implement such a measure.

The current Government states in its coalition agreement of 17 December 2021 that support for shorter working hours by providing a relief in insurance contributions is one of the Government's priorities.⁷⁰ In its updated Programme Declaration of 1 March 2023,⁷¹ the Government repeatedly mentions part-time work and its support.

In the chapter titled Public Finance and Support for Employees and Business, the Government committed to support part-time work by reducing social security contributions. In the Family Policy and Employment section, which forms part of the chapter on Social and Family Policy, the Government vows to promote more flexible working arrangements for parents and opportunities to achieve work-life balance. More specifically, the Government intends to support shorter working hours through more favourable taxation, a discount on insurance contributions and an overall increase in the flexibility of the Labour Code in the interests of both employers and employees.

- e) Amendment to the Civil Service Act making work in the civil service more flexible – possibility to freely divide a systematised allocated position into part-time positions, modification of the so-called supplementary position (YES/NO).

NO

This Measure is not included in the Strategy for Gender Equality. However, the new Government's coalition agreement promised to ensure more flexible working conditions,⁷² where public administration institutions and organisations should lead by example. The updated Programme Declaration of 1 March 2023 includes the same commitment. However, there have been no relevant legislative changes so far.

The Public Defender of Rights has long been dealing with the issue of vacant posts being cancelled as part of the systemisation policy in cases where the given employees are on maternity or parental leave.⁷³ The possibility to freely divide a systemised position into several part-time jobs would be a suitable measure in this regard, aimed at achieving greater flexibility of work in civil service bodies and work-life balance.

70 Coalition agreement entered into among ODS, KDU-ČSL, TOP 09 (the SPOLU coalition), the Czech Pirate Party and the STAROSTOVÉ AND NEZÁVISLÍ movement (the Piráti a Starostové coalition) for the electoral term 2021-2025 [online]. Občanská demokratická strana 1991-2023 (Civic Democratic Party 1991-2023) [retrieved on: 2023-03-12]. Available at <https://www.ods.cz/koalicioni-smlouva-2021-2025>.

71 Program Declaration of the Government of the Czech Republic; [pdf document]. Prague: Government of the Czech Republic, March 2023 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/jednani-vlady/programove-prohlaseni/Aktualizovane-Programove-prohlaseni-vlady-.pdf>.

72 Coalition agreement entered into among ODS, KDU-ČSL, TOP 09 (the SPOLU coalition), the Czech Pirate Party and the STAROSTOVÉ AND NEZÁVISLÍ movement (the Piráti a Starostové coalition) for the electoral term 2021-2025 [online]. Občanská demokratická strana 1991-2023 (Civic Democratic Party 1991-2023) [retrieved on: 2023-03-12]. Available at <https://www.ods.cz/koalicioni-smlouva-2021-2025>.

73 Report of the Public Defender of Rights of 1 February 2021, File Nos. 7036/2018/VOP, 7186/2018/VOP and 3665/2019/VOP, available at <https://eso.ochrance.cz/Nalezene/Edit/9104>.

Measures aimed to promote work-life balance in civil service were further discussed by the Defender in his 2018 recommendation.⁷⁴ The implementation of certain measures is also addressed in Civil Service Regulation No. 3/2019 issued by the Deputy Minister of the Interior for the Civil Service in 2019 and supplemented in 2021.⁷⁵

f) Introducing an obligation to publish information about the salary/pay in job advertisements (YES/NO).

NO

The measure is part of the task section of the Strategy for Gender Equality and of the Action Plan for Equal Pay for Women and Men, and also one of the principles guiding the envisaged European Directive on pay transparency.

The measure consists in mandatory publication of the basic component of salary or pay in job advertisements. According to the Strategy, the measure should be implemented by the end of 2023 by means of an amendment to the Act submitted by the MLSA. The proposal for an EU directive, which is currently being discussed, directly enshrines the right of any job seeker to learn the initial amount or range of the remuneration that he or she will receive if hired. Candidates should not receive this information only on request, but it should rather be mentioned directly in the advertisement or in the invitation to an interview.

The introduction of this measure into the Czech legal system is very likely in view of several strategic documents and the anticipated European legislation.

g) Introducing a legislative provision on the nullity of a confidentiality clause on remuneration in employment contracts (YES/NO).

NO

The measure is also one of the objectives of the Strategy for Gender Equality 2021–2030.⁷⁶ According to the Strategy, the MLSA should submit a corresponding amendment to the Labour Code by the end of 2023. If the employees agree to maintain confidentiality of their salary or pay, the amendment should provide for nullity of such a juridical act.

The Strategy also includes related measures increasing the number of labour inspectorates' inspections focused on equal pay and negotiation of confidentiality clauses. The staff of the 22% Towards Equality project is also involved in some equal pay inspections, together with regional labour inspectorates. Each of the eight district labour inspectorates should carry out two equal pay inspections with the assistance of the project staff in 2023. In total, according to the MLSA's instruction, district labour inspectorates should carry out 100 gender pay equality inspections per year. Expert reinforcement of the inspection teams is highly desirable given the complexity of equal pay audits.

h) Implementing European Commission Recommendation 2014/124/EU (YES/NO).

NO

In its 2014 recommendation, the European Commission formulated four key measures that should contribute to greater transparency of pay. These include the employees' right to know the average earnings of people working in the same position; the employers' duty to inform employee representatives regularly of the

74 Recommendation of the Public Defender of Rights on measures aimed to promote work-life balance in civil service of 8 June 2018, File No. 32/2018/DIS, available at <https://eso.ochrance.cz/Nalezene/Edit/6030>.

75 Service Regulation No. 3/2019 of the Deputy Minister of the Interior for the Civil Service of 20 August 2019, on creating conditions for promoting work-life balance of civil servants, amended by Service Regulation No. 2/2021 of the Deputy Minister of the Interior for the Civil Service of 2 June 2021, on more detailed rules for the performance of civil service from another location, available at <https://www.mvcr.cz/sluzba/clanek/sluzebni-predpisy.aspx?q=Y2hudWo9NQ%3d%3d>.

76 Strategie rovnosti žen a mužů na léta 2021-2030 (Strategy for Gender Equality for 2021–2030) [pdf document]. Prague: Office of the Government of the Czech Republic, February 2021 [retrieved on: 2023-03-12]. Available at https://www.vlada.cz/assets/ppov/rovnost-prilezitosti-zen-a-muzu/Aktuality/Strategie_rovnosti_zen_a_muzu.pdf.

average remuneration in individual positions; audits of remuneration at larger employers; and the duty to include issues of equal pay in collective bargaining.

The implementation of at least one of the salary and pay transparency measures is also part of the new Strategy for Gender Equality, where the implementation deadline was set for the end of 2022. However, in view of the forthcoming EU pay transparency directive, which should replace the Commission's recommendation and which aims to set binding measures to strengthen pay transparency, it would make sense for the Government to channel its efforts in this direction. The directive has yet to be finally approved. However, given that the European Parliament and the EU Council reached an agreement on the Commission's proposal in December 2022, the vote on the directive itself should be a formality.

The Government should therefore focus on drafting a law transposing the directive, which – after all – it negotiated itself during Czech Presidency of the EU Council in the second half of 2022, with a great deal of input from the MLSA delegation, including the staff of the 22% Towards Equality project.

3. Procedural issues

The development in this area was again negligible during 2022. However, it is still true that achieving legislative change is a long process, especially with regard to often neglected topics such as the right to equal treatment and protection against discrimination.

The recommendations of international bodies are clear. The Czech Republic lacks a national human rights institution. The last time the United Nations Committee on the Elimination of Racial Discrimination commented on this issue was in its letter dated April 2022.⁷⁷ In the letter, it again urged the Czech Republic to promptly choose one of the options for establishing a national human rights institution as described by the Government in its special analysis – i.e. to assign the national human rights institution mandate to the Defender or to create a separate institution. The Committee will request that during the next periodic monitoring cycle of the Convention on the Elimination of All Forms of Racial Discrimination, the Government provide information on the establishment of this institution and on whether it will be able to represent victims of racial discrimination before the courts.

3.1 INTRODUCING A LEGISLATIVE BASIS FOR A NATIONAL HUMAN RIGHTS INSTITUTION IN THE CZECH REPUBLIC IN ANY FORM

NO

There was no national human rights institution in the Czech Republic as of January 2023. The Government yet again failed to discuss the material “Analysis of the Possibilities for Establishing a National Institution for the Protection and Promotion of Human Rights in the Czech Republic under the Paris Principles”⁷⁸ in 2022. This internal document was drawn up in 2020 by the Department for Human Rights and Minority Protection of the Office of the Czech Government. The document underwent a regular consultation procedure in 2020 and was submitted to the Government in November 2020. However, it was never placed on the agenda of the Government’s meeting.

The material contains an analysis of the possibilities of establishing a national human rights institution in the Czech Republic and, at the same time, a draft Government resolution which is required for any further steps towards its establishment. The two options proposed in the analysis are (i) to assign the mandate of the national human rights institution to the Defender; and (ii) to establish a new independent institution.

According to available information, the Government’s Office is currently working on an updated version of the analysis under the leadership of Klára Šimáčková Laurenčíková, the new Government Human Rights Commissioner. However, this material was not yet available in the Government’s non-public eKLEP electronic library as of January 2023.

In its most recent report⁷⁹ submitted to the United Nations (UN) Human Rights Council in late 2022 as part of the so-called Universal Periodic Review, the Government expressed its preference to give the national human rights institution mandate to the Defender.

77 Letter from the Committee on the Elimination of Racial Discrimination to the Permanent Representative of the Czech Republic to the United Nations in Geneva of 22 April 2022, CERD/106th session/2021/FU/MK/ks [pdf document]. Geneva: Office of the High Commissioner for Human Rights [retrieved on: 2023-03-12]. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FFUL%2FCZE%2F48558&Lang=en.

78 Analysis of the Possibilities for Establishing a National Institution for the Protection and Promotion of Human Rights in the Czech Republic under the Paris Principles. Text drawn up by the Department for Human Rights and Minority Protection of the Office of the Government of the Czech Republic, Prague 2020. This document is not accessible to the public.

79 National Report of the Czech Republic of 3 November 2022, submitted in accordance with Human Rights Council Resolutions 5/1 and 16/21, A/HRC/WG.6/42/CZE/1 [pdf document]. [retrieved on: 2023-03-12]. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/577/43/PDF/G2257743.pdf?OpenElement>.

3.2 LEGISLATIVE EXPANSION OF THE LIST OF PROTECTED GROUNDS UNDER THE ANTI-DISCRIMINATION ACT

NO

The list of protected grounds under 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), was not extended in any way during the period under review. The Anti-Discrimination Act does not appear in the Government's current legislative work plan for 2023.⁸⁰ In its report to the UN Human Rights Council, the Government stated that the current list of grounds corresponded to the requirements of EU law and the Government therefore did not plan to expand it.⁸¹

3.3 LEGISLATIVE EXPANSION OF THE LIST OF GROUNDS FOR SHARING THE BURDEN OF PROOF IN THE CODE OF CIVIL PROCEDURE

NO

The expansion of the list of instances where the burden of proof is shared in Act No. 99/1963 Coll., the Code of Civil Procedure, to all the grounds and areas protected by the Anti-Discrimination Act was part of the deputies' draft amendment to the Anti-Discrimination Act in the past electoral term.⁸² However, the text did not reach the second reading and its deliberation was suspended with the start of the new electoral term. The corresponding amendment to the Code of Civil Procedure is not included in the Government's plan of legislative work for 2023 either.

Although the Public Defender of Rights has repeatedly recommended expanding the relevant provision of the Code of Civil Procedure in the past years so as to comply with the Anti-Discrimination Act,⁸³ this has yet to be achieved. The Public Defender of Rights is not aware of any current legislative initiative in this area. As in the previous year, there was therefore no progress in this indicator during the period under review.

80 Plan of Government Legislative Work for 2023, approved by the Government Resolution of 21 December 2022, No. 1075 [pdf document]. Prague: Government of the Czech Republic, March 2022 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Plan-legislativnich-praci-vlady-na-rok-2023.pdf>.

81 National Report of the Czech Republic of 3 November 2022, submitted in accordance with Human Rights Council Resolutions 5/1 and 16/21, A/HRC/WG.6/42/CZE/1 [pdf document]. [retrieved on: 2023-03-12]. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/577/43/PDF/G2257743.pdf?OpenElement>.

82 Chamber of Deputies of the Parliament of the Czech Republic. Bill sponsored by a group of deputies: Monika Červíčková, Helena Válková, Radka Maxová, Roman Onderka, Ivan Jáč, Eva Fialová, Jiří Mašek, Karla Šlechtová, František Kopřiva, Olga Richterová, Věra Procházková and Ondřej Veselý, amending 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), as amended. [pdf document]. Prague: Chamber of Deputies of the Parliament of the Czech Republic, 8th electorate term; 2017-2021; Parliamentary press No. 424/0 [retrieved on: 2023-03-12]. Available at <https://www.psp.cz/sqw/text/orig2.sqw?idd=160422>.

83 Cf. the recommendations contained in the Annual Report on the Activities of the Public Defender of Rights in 2015 [pdf document]. Brno: Office of the Public Defender of Rights, 2023 [retrieved on: 2023-03-12]. Available at https://www.ochrance.cz/dokument/2015/Souhrnna-zprava_VOP_2015.pdf; Annual Report of the Public Defender of Rights on the Protection Against Discrimination in 2017 [pdf document]. Brno: Office of the Public Defender of Rights, 2023 [retrieved on: 2023-03-12]. Available at https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyrocní_zpravy/Vyrocní_zprava_o_ochrane_pred_diskriminaci_2017.pdf; Survey of the Public Defender of Rights – Decision-making of Czech courts in discrimination disputes 2015-2019 of 24 September 2020, File No. 61/2019/DIS, available at https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/2020-vyzkum_judikatura-DIS.pdf; Annual Report on the Activities of the Public Defender of Rights in 2020 [pdf document] Brno: Office of the Public Defender of Rights, 2023 [retrieved on: 2023-03-12]. Available at <https://eso.ochrance.cz/Nalezene/Edit/10214>; Annual Report on the Activities of the Public Defender of Rights in 2021 [pdf document] Brno: Office of the Public Defender of Rights, 2023 [retrieved on: 2023-03-12]. Available at <https://eso.ochrance.cz/Nalezene/Edit/10270>.

3.4 INTRODUCING A LEGISLATIVE PROVISION ALLOWING THE PUBLIC DEFENDER OF RIGHTS TO REPRESENT VICTIMS OF DISCRIMINATION IN COURT PROCEEDINGS

NO

In December 2022, the European Commission proposed two directives on the standards of national equality bodies.⁸⁴ In the Czech Republic, the national equality body is the Public Defender of Rights.

In Article 9, both proposals refer to the Member States' duty to ensure that national equality bodies are able to initiate judicial proceedings on behalf of one or more victims, provided that the victims agree.

3.5 INTRODUCING A LEGISLATIVE PROVISION ALLOWING LEGAL ENTITIES ACTIVE IN THE AREA OF PROTECTION AGAINST DISCRIMINATION / THE PUBLIC DEFENDER OF RIGHTS TO LODGE ANTI-DISCRIMINATION ACTIONS IN PUBLIC INTEREST

NO

This authorisation was not enshrined in legislation in any way during the period under review.

However, the aforementioned proposed directives on the standards of national equality bodies are also relevant to the Defender's ability to start litigation in public interest.

Further, the proposals provide for the possibility of national equality bodies to initiate court proceedings in their own name, in particular in order to address structural and systematic discrimination in cases selected by the equality body because of their abundance, their seriousness or their need for legal clarification.

In the proposals, the Commission states that competence in the area of litigation shall enable equality bodies specifically to support victims in access to justice, but also to elicit legal interpretation of rules and social change via strategic litigation. Particularly important in this regard is the possibility for the bodies to act in their own name, in the public interest, in the absence of a specific victim and in support or on behalf of several victims.

The Defender will continue to monitor the development of European legislation on the standards of national equality bodies.

⁸⁴ Proposal for a Directive on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation of 7 December 2022, 2022/0400 (COD); and Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services of 7 December 2022, 2022/0401 (APP) [retrieved on: 2023-03-12]. Available at https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/tackling-discrimination/equality-bodies_en.

3.6 LEGISLATIVE REDUCTION OF THE COURT FEE PAID FOR APPEALS IN ANTI-DISCRIMINATION DISPUTES

NO

There was no development in this topic in the period under review. In the past, the Defender recommended⁸⁵ to reduce the court fee for an appeal against a court decision in anti-discrimination actions to the amount paid for an application to initiate court proceedings in an anti-discrimination case, i.e. CZK 1 000.

The court fee for filing an appeal in discrimination disputes is currently CZK 2 000, or 1% of the claimed amount of compensation for intangible damage if it exceeds CZK 200 000. The amount of the fee can significantly influence whether or not a victim of discrimination takes his/her case to court.

The amendment to the legislation is not the subject of any governmental or parliamentary draft in the new electoral term of the Chamber of Deputies. It is not part of the Draft of the Government Legislative Work for 2023 either.⁸⁶

3.7 LEGISLATIVE ABOLITION OF SUBSIDIARITY OF COMPENSATION FOR INTANGIBLE DAMAGE

NO

There was again no development in this topic in 2022. The value of the indicator thus remains unchanged.

The Defender's 2020 survey indicates that courts usually award only a part of the amount that the plaintiff claims for intangible damage, or grant no compensation at all.⁸⁷ In most cases, the courts consider awarding other claims under the Anti-Discrimination Act to be a sufficient remedy.

Nevertheless, compensation for intangible damage must be seen as an equivalent claim. It should always serve as a deterrent to the party which committed unlawful discrimination. Indeed, this is also stated in the Anti-Discrimination Directive itself, according to which penalties should be effective, proportionate and dissuasive.⁸⁸ This conclusion was also confirmed several times by the European Court of Justice.⁸⁹

85 Cf. the recommendations comprised in the Survey of the Public Defender of Rights – Decision-making of Czech courts in discrimination disputes 2015–2019 of 24 September 2020, File No. 61/2019/DIS, available at https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/2020-vyzkum_judikatura-DIS.pdf.

86 Cf. the Plan of Government Legislative Work for 2023, approved by the Government Resolution of 21 December 2022, No. 1075 [pdf document]. Prague: Government of the Czech Republic, March 2022 [retrieved on: 2023-03-12]. Available at <https://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Plan-legislativnich-praci-vlady-na-rok-2023.pdf>.

87 Cf. the recommendations comprised in the Survey of the Public Defender of Rights – Decision-making of Czech courts in discrimination disputes 2015–2019 of 24 September 2020, File No. 61/2019/DIS, available at https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/Vyzkum/2020-vyzkum_judikatura-DIS.pdf.

88 Pursuant to Article 15 of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; pursuant to Article 17 of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and pursuant to Article 8d of Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

89 Cf. judgment of the Court of Justice of the European Union of 17 December 2015, María Auxiliadora Arjona Camacho v Seguridad España SA, C-407/14, paragraph 33; and also judgment of the Court of Justice of the European Union of 15 April 2021, Diskrimineringsombudsmannen v Braathens Regional Aviation AB, C-30/19, paragraph 39.

Conclusion

In this second interim monitoring report, the Defender evaluated the developments that occurred during the second period under review, i.e. the year 2022. Within his evaluation, he also described whether there had been a further change in the values of the indicators set out in the initial monitoring report and followed during the first monitoring period.

The value of most indicators remained unchanged. A significant achievement, however, is the finalisation and publication of an extensive survey on the impact of introducing a compulsory final year of preschool education. The European Commission was the biggest driver of developments in gender pay equality and procedural issues over the past year. If the directives proposed by the Commission pass through the EU legislative process, pay transparency and the protection of the discrimination victims' rights will be significantly strengthened across Europe.

However, the establishment of a national human rights institution is a task that rests on the shoulders of the Government. If the Czech Republic really wants to rank among countries that are actively committed to protecting human rights, it should urgently proceed with the establishment of this institution. The Czech Republic's ambition to lead by example in the protection of human rights is also documented by its membership of the UN Human Rights Council since May 2022. The Czech Government was keen to fill the vacancy resulting from the Russian Federation's invasion of Ukraine.

During 2023, the Defender again plans to address and meet with representatives of the ministries that deal with the areas under review to inform them about his activities in more detail and discuss the topics under scrutiny.

At the end of the year, the Defender will issue the final monitoring report where he will assess the developments in 2023 and make recommendations based on the entire period under review.



Overview of indicators and their initial values

Paragraph	Description of the indicator	Initial value	2021	2022
1.1.a.	Qualified estimate of the proportion of Roma pupils in primary schools relative to all pupils in primary schools	3.5% (2019/2020)	3.6% (2020/2021)	3.6% (2021/2022)
1.1.b.	Qualified estimate of the proportion of all Roma pupils educated according to the adjusted outcomes of the Framework Education Programme for Primary Education in relation to all pupils educated in the same programme	24.2% (2019/2020)	25.3% (2020/2021)	26.9% (2021/2022)
1.1.c.	Of those in the 1st grade	14.5% (2019/2020)	19.1% (2020/2021)	16.9% (2021/2022)
1.1.1.a.	Setting a standard for the work of school counselling centres in terms of assessing special educational needs and adequate support for pupils with different living conditions and from different cultural backgrounds	NO	NO	NO
1.1.1.b.	Proportion of school counselling centres using the WISC-III diagnostic method	94.6% (2017/2018)	98% (2020/2021)	98% (2020/2021)
1.1.1.c.	Changing the regulations so that school counselling staff can carry out examinations of pupils directly in schools	NO	NO	NO
1.1.1.d.	Adopting measures to ensure systemic funding for staff positions in school counselling centres and to ensure regular availability of the positions in all schools	NO	NO	NO
1.1.1.e.	Adopting measures to secure the availability of social pedagogue/social worker positions in schools located in socially excluded areas	NO	NO	NO
1.1.1.f.	Changing the curriculum for the education of pedagogical workers at all faculties of education to train them in the education of students with different cultural backgrounds and living conditions	NO	NO	NO
1.1.1.g.	Creating a comprehensive module in the system of continuing education for teaching staff in the area of methodological support in relation to Roma pupils	NO	YES	YES

1.2.a.	Proportion of Roma pupils in the compulsory year of preschool education in relation to all pupils in that year	3.51% (2019/2020)	3.29% (2020/2021)	3.16% (2021/2022)
1.2.b.	Proportion of Roma pupils in the non-compulsory years of preschool education in relation to all pupils in those years	1.23% (2019/2020)	1.20% (2020/2021)	1.13% (2021/2022)
1.2.1.a.	Sufficient preschool education capacity	not specified	not specified	not specified
1.2.1.b.	Addressing the catchment area issue – ensuring conditions for the attendance of Roma children with an actual place of residence different from their officially recorded place of permanent residence in a financially accessible, close-enough kindergarten	not specified	not specified	not specified
1.2.1.c.	Conducting an investigative survey into the barriers to the inclusion of children from excluded areas in the compulsory year of preschool education and publishing the resulting recommendations by the MEYS in co-operation with the Technology Agency of the Czech Republic	NO	NO	YES
1.2.1.d.	Ensuring financial support for children from socially excluded areas in the form of free lunches or paying the fees for preschool education	not specified	not specified	not specified
1.3.a.	Number of primary schools with over 34% Roma pupils	133 (2019/2020)	136 (2020/2021)	not determined
1.3.b.	Number of primary schools with over 50% Roma pupils	69 (2019/2020)	77 (2020/2021)	not specified
1.3.c.	Number of primary schools with over 75% Roma pupils	34 (2019/2020)	32 (2020/2021)	not determined
1.3.d.	Number of primary schools with over 90% Roma pupils	16 (2019/2020)	17 (2020/2021)	nezjistěna
1.3.1.a.	Supervision of municipalities (as the founders) by the Ministry of the Interior to draw school districts in a manner that excludes segregation	not specified	not specified	not specified
1.3.1.b.	Proposing desegregation measures in the framework of the post-2020 action plan for inclusive education	NO	NO	NO
2.1.	Gender pay gap in the Czech Republic	20.1% (2018)	18.9% (2019)	16.4% (2020)
2.1.1.a.	Approval of the Action Plan for Equal Pay	NO	NO	YES
2.1.1.b.	Implementation of the Action Plan for Equal Pay	NO	NO	NO
2.1.1.c.	Preparing a policy for continuous systematic salary/pay increases in female-dominated fields	NO	NO	NO
2.1.1.d.	Introducing tax incentives for employers providing part-time jobs for parents of children up to 3 years of age and persons caring for dependent family members	NO	NO	NO
2.1.1.e.	Amendment to the Civil Service Act making work in the civil service more flexible – possibility to freely divide a systematised allocated position into part-time positions, modification of the so-called supplementary position	NO	NO	NO
2.1.1.f.	Introducing an obligation to publish information about the salary/pay in job advertisements	NO	NO	NO

2.1.1.g.	Introducing a legislative provision on the nullity of a confidentiality clause on remuneration in employment contracts	NO	NO	NO
2.1.1.h.	Implementing European Commission Recommendation 2014/124/EU	NO	NO	NO
3.1.	Introducing a legislative basis for a national human rights institution in any form	NO	NO	NO
3.2.	Legislative expansion of the list of protected grounds under the Anti-Discrimination Act	NO	NO	NO
3.3.	Legislative expansion of the list of grounds for sharing the burden of proof in the Code of Civil Procedure	NO	NO	NO
3.4.	Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings	NO	NO	NO
3.5.	Introducing a legislative provision allowing legal entities active in the area of protection against discrimination / the Public Defender of Rights to lodge anti-discrimination actions in public interest	NO	NO	NO
3.6.	Legislative reduction of the court fee paid for appeals in anti-discrimination disputes	NO	NO	NO
3.7.	Legislative abolition of subsidiarity of compensation for intangible damage	NO	NO	NO
*	Legislative expansion of the list of protected grounds under the Anti-Discrimination Act	NO	NO	NO
3.3.	Legislative expansion of the list of grounds for sharing the burden of proof in the Code of Civil Procedure	NO	NO	NO
3.4.	Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings	NO	NO	NO
3.5.	Introducing a legislative provision allowing legal entities active in the area of protection against discrimination / the Public Defender of Rights to lodge anti-discrimination actions in public interest	NO	NO	NO
3.6.	Legislative reduction of the court fee paid for appeals in anti-discrimination disputes	NO	NO	NO
3.7.	Legislative abolition of subsidiarity of compensation for intangible damage	NO	NO	NO



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ISBN 978-80-7631-107-7

