

# Implementation of the Right to Equal Treatment and Protection against Discrimination

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**Final Report 2023**





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# 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 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, 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

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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, Internet, social networks, professional workshops, roundtables and conferences. The most important findings and recommendations are summarised in the Annual Report on the Activities of the Public Defender of Rights, submitted to the Chamber of Deputies.

# Foreword

This monitoring report is the conclusion of the Defender's activities aimed at systematic monitoring of the implementation of the right to equal treatment and compliance with the prohibition of discrimination.<sup>1</sup> I focused on three areas: Roma education, equal pay for women and men, and certain procedural issues of protection against discrimination.

The Defender currently does not have the mandate of a national human rights institution, which is an independent institution for monitoring and promoting the protection of human rights. However, it can be expected that the Defender will be granted this mandate in the future. The monitoring also aimed at helping the Defender and the staff of the Office of the Public Defender of Rights to prepare for this new role.

This report follows up on the second interim monitoring report which I issued in June 2023,<sup>2</sup> on the first interim monitoring report from April 2022<sup>3</sup> and on the initial monitoring report from April 2021.<sup>4</sup> In the initial 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 and second interim report, I summarised and assessed the trends and changes in the values of the relevant indicators in the areas concerned for the years 2021 and 2022. In the present report, I focus on the trends in 2023 and summarise the conclusions and recommendations following from the entire monitoring period beginning in 2020. It is therefore necessary to read the present report in the context of all the previous reports.

On the basis of the four-year monitoring process, I have made certain recommendations that will, once implemented, result in improved satisfaction of the right to equal treatment. My recommendations are addressed to the Office of the Government of the Czech Republic, the Ministry of Education, Youth and Sports, the Ministry of Labour and Social Affairs, the Ministry of Justice, the Czech School Inspectorate and the individual municipalities as school founders.

Brno, 4 December 2023

JUDr. Stanislav Křeček  
Public Defender of Rights

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- <sup>1</sup> 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.
  - <sup>2</sup> Implementation of the Right to Equal Treatment and Protection against Discrimination, a monitoring report of the Public Defender of Rights of 13 June 2023, File No. 16/2023/DIS, [eso.ochrance.cz](https://eso.ochrance.cz).
  - <sup>3</sup> 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, [eso.ochrance.cz](https://eso.ochrance.cz).
  - <sup>4</sup> 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, [eso.ochrance.cz](https://eso.ochrance.cz).





# Recommendations

On the basis of the monitoring activities between 2020 and 2023, I give the following recommendations pertaining to the areas under review.

## 1. Roma education

I recommend that **the Ministry of Education, Youth and Sports:**

- » methodically lead the school counselling centres 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;
- » initiate the establishment of a working group tasked with developing methodological materials for diagnosing and overcoming social disadvantages in children and pupils;
- » 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;
- » take active steps to fulfil its commitment to provide stable funding for school psychologists, special educators, social pedagogues and others from the State budget from 2025 onwards;
- » re-establish the practice of regularly publishing reports on qualified estimates of the proportion of Roma pupils in primary schools, as it did until 2017, with a view to ensuring greater transparency regarding the data collected from schools, the manner of their collection, and the challenges faced by teachers and headteachers in submitting the estimates.

I recommend that **the Czech School Inspectorate:**

- » systematically monitor the use of diagnostic tools by school counselling centres and encourage them to use modern diagnostic tools;
- » in view of the repeated recommendations given by the Ministry of Education, Youth and Sports not to use the WISC-III diagnostic tool, check during inspections of school counselling centres whether they use this tool and, if so, insist that measures be taken to remedy this shortcoming and, in case of their failure to do so, impose a fine for the resulting infraction;

- » file a request for revision of the recommendations of school counselling centres which used the WISC-III diagnostic tool to diagnose mild mental disability.

I recommend that municipalities with a high proportion of pupils from socially disadvantaged backgrounds:

- » adopt a desegregation plan, set up school districts appropriately, and pay attention to schools that do not educate Roma pupils.<sup>5</sup>

## 2. Equal pay for women and men

I recommend that the Ministry of Labour and Social Affairs:

- » submit an amendment to the Labour Code to explicitly provide for nullity of juridical acts whereby employees agree to maintain confidentiality of their salary or pay;
- » focus on drafting a law transposing the new European directive on pay transparency and consult the Defender during the preparation of the draft law.

## 3. Procedural issues

I recommend that the Office of the Government of the Czech Republic:

- » analyse the efficiency of the Defender as the national equality body and assess whether the Defender's current powers are sufficient to carry out this mandate;
- » following analysis and identification of shortcomings, propose legislative changes to the Defender's powers so that the Defender's mandate can be effectively exercised in accordance with the approved European legislation and the legislation under preparation (pay transparency, standards for equality bodies).

I recommend that the Ministry of Justice:

- » prepare a draft law amending the provisions of Section 133a of the Code of Civil Procedure so that the burden of proof is shifted with regard to all the protected grounds of discrimination and all areas covered by the Anti-Discrimination Act in order to ensure equal access to justice for victims of discrimination;
- » prepare a draft law amending the rates specified by the Court Fees Act so that the court fee for an appeal against a court decision in anti-discrimination actions equals CZK 1,000, i.e. the same amount as the fee for an application to initiate such proceedings.

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<sup>5</sup> Inspiration can be found in the Recommendation of the former Public Defender of Rights on inclusive education of Roma and non-Roma children of 12 December 2018, File No. 86/2017/DIS, [eso.ochrance.cz](https://www.eso.ochrance.cz).

# Trends in areas under review

This section focuses on the progress in each of the areas under review – Roma education, equal pay for women and men, and certain procedural issues. Each subchapter describes international and national activities pertaining to the given topic in 2023. The overview then concludes with a description of the Defender’s activities in the past year.

In previous monitoring reports, the Defender also addressed specific indicators and their development over the period under review. However, some of the data were not published until after the editorial deadline of this final report. Therefore, the list of indicators in all areas under review is provided only in the final chapter Overview of indicators and their initial and final values. The list also includes a comparison of the initial and final values for the entire monitoring period from 2020 to 2023. Final values are based on the latest available data (not necessarily 2023 data).

Each subchapter concludes with a summary for the whole period under review beginning in 2020. The above recommendations are based on the experience from the whole monitoring process and a more detailed justification is provided in the present report and the three previous monitoring reports.<sup>6</sup>

## 1. Roma education

The first topic under review is the education of Roma children. International monitoring bodies have repeatedly criticised the Czech Republic for shortcomings in this area. Judgment of the European Court of Human Rights in the case of D. H.<sup>7</sup> is still subject to “enhanced monitoring”. This means that according to the Committee of Ministers of the Council of Europe, it represents a significant structural problem. In the area of education of Roma children, we monitor three main indicators – the number of Roma pupils educated in programmes with reduced outcomes, the number of Roma pupils in preschool education, and the number of schools with a high proportion of Roma pupils.

<sup>6</sup> Implementation of the Right to Equal Treatment and Protection against Discrimination, a monitoring report of the Public Defender of Rights of 13 June 2023, File No. 16/2023/DIS, [eso.ochrance.cz](https://www.eso.ochrance.cz). 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, [eso.ochrance.cz](https://www.eso.ochrance.cz). 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, [eso.ochrance.cz](https://www.eso.ochrance.cz).

<sup>7</sup> Judgment of the Grand Chamber of the European Court of Human Rights of 13 November 2007 in case D.H. and Others v. the Czech Republic (application no. 57325/00).

## International trends

During 2023, the Committee of Ministers of the Council of Europe did not comment on the execution of the judgment in case D. H. A new edition in the series of reports whereby the Government regularly updates the Committee on the implementation of the measures to enforce the judgment is not yet available.

In March 2023, the Government sent its report under the sixth monitoring cycle to the Committee of the Framework Convention for the Protection of National Minorities.<sup>8</sup> The report provided, inter alia, an overview of accredited training programmes for teachers and other teaching staff to support Roma children and children from a socially disadvantaged background. It also summarised information already contained in other more detailed material, such as the Government reports on the execution of the judgment in the case of D. H. or reports on the status of the Roma minority.

## Czech Republic

A new Government report on the execution of the judgment in case D. H. was due by September 2023. However, the report was not yet available at the time of the editorial deadline for the present monitoring report. According to earlier information, the Government should describe in the report the specific actions taken and planned in view of the conclusions and recommendations of the Expert Forum on the execution of the judgment in the case of D. H., 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.

Regarding the Roma Integration Strategy 2021–2030, in March 2023, the Government issued the Report on the Status of the Roma Minority in 2021, including the first information on the implementation of the Strategy for the given year.<sup>9</sup> In the context of activities to support the participation of Roma children in preschool education, the Government described the benefits of activities of non-governmental non-profit organisations and its project to support free lunches in the Karlovy Vary and Ústí nad Labem administrative regions. As a measure supporting the fulfilment of several other objectives of the strategy in the area of supporting Roma education, the Government also mentioned a project to provide methodological support to 400 schools with a high proportion of pupils from a socially disadvantaged background. The project is financed from the National Recovery Plan and is implemented in co-operation with the National Pedagogical Institute.

Regarding decision-making of the Czech courts, mention should be made of Supreme Court judgment issued in 2022.<sup>10</sup> The Supreme Court overturned the judgment of the Regional Court in Ostrava, which had ruled, in agreement with the first-instance court, that the school and its founder had not discriminated against the Roma plaintiffs. The following headnotes of the Supreme Court's judgment, describing the conditions under which certain conduct can be classified as racial segregation, are particularly noteworthy:

“The separation or segregation of members of a particular group characterised by racial or ethnic aspects constitutes unacceptable segregation even if it is not justified or motivated by racial aspects, unless the factual result of such treatment is not based on a legitimate objective, and even if it pursues a legitimate objective, but the means of achieving it are not appropriate and necessary or disproportionately interfere with the legitimate interests of the disadvantaged (segregated) persons.”

“In the case of racial segregation, the separation (segregation) of members of the given racial or ethnic minority in itself constitutes less favourable treatment, and it therefore need not

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8 Sixth State Report on the Implementation of the Principles Laid Down in the Framework Convention for the Protection of National Minorities, Government of the Czech Republic [online]. Available at: <https://rm.coe.int/6th-sr-czech-republic-en/1680aac123> [retrieved on 2023-12-04].

9 Zpráva o stavu romské menšiny za rok 2021 (Report on the Status of the Roma Minority in 2021) of 6 April 2023, Government of the Czech Republic [online]. Available at: <https://www.vlada.cz/cz/ppov/zalezitosti-romske-komunity/aktuality/zprava-o-stavu-romske-mensiny-v-ceske-republice-za-rok-2021-204244/> [retrieved on 2023-12-04].

10 Judgment of the Supreme Court of 5 May 2022, File No. 25 Cdo 473/2021, [nsoud.cz](https://nsoud.cz).

necessarily include worse material or non-material conditions for the segregated group; in the case of segregation in the provision of education, this means worse educational opportunities or less favourable material and other resources in the relevant school.”

In terms of legislative developments, attention should be drawn to the amendment to the Decree on Primary Education,<sup>11</sup> effective from 1 January 2023. For schools that are not founded by the State, administrative region, a municipality or association of municipalities (i.e., private and church schools), it introduces the option to assess children’s abilities upon enrolment or to require their presence at enrolment and select children on the basis of the qualities they show upon enrolment. In extreme cases, this option may result in excluding children from a socially disadvantaged background from access to education. In this sense, the Defender commented on the 2022 amendment to the Decree.<sup>12</sup>

What is also noteworthy is the Czech School Inspectorate’s thematic report of May 2023 on children with a different first language (mother tongue) focused on Ukrainian. Many of the proposed measures could be applied analogously to Roma pupils with a first language other than Czech. This may include providing funding for teaching and learning materials in such first language, providing funding for tutoring, and increasing the capacity of school counselling centres to provide quality diagnostics.

## Activities of the Public Defender of Rights

In 2023, authorised employees of the Office of the Public Defender of Rights participated in the Expert Forum on the execution of the judgment in case D. H. The establishment of three working groups – on desegregation, consultancy, and support for schools – was discussed at the June meeting. The first working group, i.e. the working group on desegregation, held a meeting in November under the auspices of the Ministry of Education, Youth and Sports and the PAQ Research agency. The aim of the working group is to prepare a “desegregation card” – a working document with specific steps to address the higher number of Roma pupils in segregated schools. After verifying its applicability in practice, the desegregation card should be made available to all founders who have a segregated school in their territory.

The Defender commented on the planned reduction in the maximum number of hours of teaching financed from the State budget and the change in the pay class for teaching assistants and other teaching staff.<sup>13</sup> He criticised the fact that the proposed changes would negatively affect pupils with disabilities, pupils with a different first language, pupils from socially disadvantaged backgrounds and pupils from ethnic minorities.

Back in 2022, the Defender also commented on an amendment to the Teaching Staff Act and criticised the fact that the Act did not take into account the position of social pedagogues.<sup>14</sup> The Ministry of Education, Youth and Sports did not include social pedagogues in the Act. However, it promised to support the position financially, evaluate the position’s benefits in practice from time to time, and consider incorporating it in the Act in the future.

## Summary for 2020 to 2023

During the period under review, a comprehensive module in the system of continuing education for teaching staff in the area of methodological support in relation to Roma pupils was created. This should also positively contribute to ensuring that Roma pupils are not educated in programmes with reduced outcomes without a

11 Decree No. 48/2005 Coll., on primary education and certain requisites of compulsory school education.

12 Comment of the Public Defender of Rights on the draft decree amending Decree No. 48/2005 Coll., on primary education and certain requisites of compulsory school education, as amended (submitter’s Ref No. MŠMT-2132/2022-3) of 17 March 2022, File No. 21105/2022/S, [eso.ochrance.cz](https://www.ochrance.cz).

13 The Public Defender of Rights. Ombudsman nesouhlasí s plánovanými změnami ve školství – zhorší kvalitu výuky a zasáhnou především samotné žáky (The Defender disagrees with the planned changes to the education system – they will worsen the quality of teaching and primarily affect the pupils). Online. In: Public Defender of Rights | Ombudsman. 24 November 2023. Available at: [https://www.ochrance.cz/aktualne/ombudsman\\_nesouhlasí\\_s\\_planovanými\\_změnami\\_ve\\_skolství\\_zhorší\\_kvalitu\\_vyuky\\_a\\_zasáhnou\\_především\\_samotné\\_žáky/](https://www.ochrance.cz/aktualne/ombudsman_nesouhlasí_s_planovanými_změnami_ve_skolství_zhorší_kvalitu_vyuky_a_zasáhnou_především_samotné_žáky/) [retrieved on 2023-12-04].

14 Comment of the Public Defender of Rights on the draft law amending Act No. 563/2004 Coll., on teaching staff and on amendments to certain laws, as amended, and Act No. 561/2004 Coll., on preschool, primary, secondary, higher vocational and other education (the Schools Act) (submitter’s Ref. No. MSMT-3172/2022-1) of 23 March 2022, File No. 22292/2022/S, [eso.ochrance.cz](https://www.ochrance.cz).

legitimate reason. The Faculty of Education of Charles University conducted a survey into the barriers to the inclusion of children from excluded areas in the compulsory year of preschool education.<sup>15</sup> Implementing the recommendations resulting from the survey should improve the participation of Roma children in preschool education.

However, key indicators for the area of Roma education have remained unchanged or even worsened. The data were provided by the Ministry of Education, Youth and Sports. In 2019, it was estimated that Roma pupils made up 24.2% of all pupils in programmes with reduced outcomes.<sup>16</sup> In 2022, the estimated number was 26.2%, i.e. two percentage points higher. Of that amount, Roma pupils in the 1st grade of primary school accounted for 17% and 14.5% in 2022 and 2019, respectively. Therefore, the proportion of Roma pupils in 1st grade educated in programmes with reduced outcomes increased by 3.5 percentage points in the period under review. The proportion of school counselling centres using the WISC-III diagnostic tool also increased (from 94.6% in 2017 to 98% in 2020). The proportion of Roma children in the compulsory year of preschool education in relation to all children in that year decreased (from 3.51% in 2019 to 3.14% in 2022), and the proportion of Roma children in the non-compulsory years of preschool education also declined (from 1.23% in 2019 to 1.18% in 2022).

The number of primary schools with a high proportion of Roma pupils increased as well. In 2019, there were 133 schools with over 34% Roma pupils, while in 2020 there were 136 such schools. The number of schools with over 50% Roma pupils increased from 69 to 77. The number of schools with 75% or more Roma pupils decreased from 34 to 32, and the number of schools with more than 90% Roma pupils grew from 16 to 17. Unfortunately, it was not possible to obtain more recent data than for the 2020/2021 school year.

## 2. Equal pay for women and men

Another area under scrutiny is equal pay for women and men. One of the reasons why the Defender focused on this issue is the criticism from the European Committee of Social Rights of December 2019. The Committee stated that the measurable progress in promoting equal opportunities for women and men in the area of equal pay in the Czech Republic had been insufficient and transparency in pay had been lacking.<sup>17</sup> The main indicator monitored in this area is the gender pay gap.

### International trends

In April 2023, the EU Council finally adopted the Pay Transparency Directive. It was published in the Official Journal of the European Union on 10 May 2023.<sup>18</sup>

Under the Directive, companies with more than 250 employees are required to draw up an annual report on the gender pay gap and submit it to the competent national authority. This duty (albeit with a reduced frequency) will also apply to companies with 150 or more employees and, two years after the expiry of the transposition period, also to companies with 100 or more employees. Such companies will only submit the report every three years.

Employers will now be obliged to inform job applicants of the amount or range of remuneration for advertised positions, either directly in the job advertisement or prior to the job interview. Employees will have the right to information on the average pay levels for categories of employees performing the same work or work of equal value broken down by gender, and also the right to information on the criteria used to determine the amount of remuneration and career advancement, which must be objective and gender-neutral.

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. Available at: <https://www.edu.cz/vysledky-vyzkumu-overeni-dopadu-zavedeni-povinneho-posledniho-rocniku-predskolniho-vzdelavani/> [retrieved on 2023-12-04].

16 According to the adjusted outcomes of the Framework Education Programme for Primary Education.

17 Decision of the European Committee of Social Rights of 5 December 2019 in case No. 128/2016, University Women of Europe (UWE) v. Czech Republic.

18 Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 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.

Member States were given three years to transpose the Directive. The Czech legislation should thus reflect the obligations not later than in June 2026.

## Czech Republic

Since February 2023, employers enjoy a 5% reduction in social security contributions for certain part-time workers, including parents of small children.<sup>19</sup> The State thus intends to support employment of these groups and, at the same time, motivate employers to offer more part-time jobs. The preparation for the transposition of the new directive on pay transparency will be a crucial legislative task in the future.

The Ministry of Labour and Social Affairs' "Equal Pay" project, which directly builds on the work of the former "22% Towards Equality" project team, continues to run until 2026, when the Pay Transparency Directive is due to be transposed. The project team is also working to implement the Action Plan for Equal Pay,<sup>20</sup> which should help prepare the State for the new legislation. The individual chapters of the Action Plan deal with increased transparency in both public and private sectors. The Action Plan also deals with effective checks of employers by governmental authorities.

## Activities of the Public Defender of Rights

As part of the Equal Pay project, authorised employees of the Office of the Public Defender of Rights are involved in the development of a methodology for equal pay audits at workplaces. The methodology should then be used by inspectors of the State Labour Inspectorate during such audits.

## Summary for 2020 to 2023

In the period under review, the gender pay gap has decreased from 20.1% (2018) to 15% (2021). The average gender pay gap across the European Union was 12.7% in 2021 and 15.3% in 2018.<sup>21</sup> The average in the Czech Republic thus dropped at a faster rate, but is still 2.3 percentage points higher than in the EU. During the period under review, the Ministry of Labour and Social Affairs also approved the Action Plan for Equal Pay and has been gradually implementing it. The Ministry also introduced tax incentives for employers providing part-time jobs for parents of children up to 10 years of age and persons caring for dependent family members.

However, there was no change in the other five indirect indicators. A policy for continuous systematic salary/pay increases in female-dominated fields has not been prepared yet. Civil service work does not make it possible to freely divide a systematised allocated position into part-time positions. There is no obligation to publish information about the salary/pay in job advertisements. Some employees are still contractually required to maintain confidentiality of their pay. So far, the European Commission's recommendation for greater wage transparency has not been implemented.<sup>22</sup>

## 3. Procedural issues

The third area to monitor involves several procedural issues. This is the broadest thematic area; in addition to the regulation of sharing the burden of proof or the subsidiarity of compensation for intangible damage in

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19 New Sections 7a to 7c of Act No. 589/1992 Coll., on contributions towards social security and the State employment policy. The amendment was made by Act No. 216/2022 Coll., amending Act No. 589/1992 Coll., on contributions towards social security and the State employment policy, as amended, and other related laws.

20 Ministry of Labour and Social Affairs. Akční plán rovného odměňování žen a mužů 2023–2026 (Action Plan for Equal Pay for Women and Men 2023–2026). Online, PDF. Ministry of Labour and Social Affairs, 2023. Available at: [https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Aknci-plan\\_2023-2026\\_jednostrany\\_nove-rozvrzeni\\_2.pdf](https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Aknci-plan_2023-2026_jednostrany_nove-rozvrzeni_2.pdf) [retrieved on 2023-12-04].

21 Gender Statistics Database – Gender Pay Gap in unadjusted form [online]. Vilnius: European Institute for Gender Equality, 2023. Available at: [https://eige.europa.eu/gender-statistics/dgs/indicator/ta\\_livcond\\_inc\\_earn\\_gpg\\_tesemi8o](https://eige.europa.eu/gender-statistics/dgs/indicator/ta_livcond_inc_earn_gpg_tesemi8o) [retrieved on 2023-12-04].

22 Commission Recommendation 2014/124/EU of 7 March 2014 on strengthening the principle of equal pay between men and women through transparency.



discrimination disputes, it also concerns the powers of the Defender and the establishment of a national human rights institution in the Czech Republic. International monitoring bodies have repeatedly drawn attention to these shortcomings. If these issues were addressed, this would contribute to better access to justice for victims of discrimination and to combating discrimination on a systemic level.

## International trends

On 12 June 2023, the EU Council agreed its position on two proposed directives on the standards of national equality bodies.<sup>23</sup> A trialogue among the European Commission, the Council, and the European Parliament is currently ongoing, which may be followed by the adoption of the Directive and its entry into force.

The Directives should set uniform minimum requirements to enable national equality bodies to carry out their mandate effectively. The powers of the Public Defender of Rights – the relevant body in the Czech Republic – should be enhanced. The Defender's powers should include, for example, the right to initiate court proceedings on behalf of victims of discrimination, if they agree.

In 2023, the protection of human rights in the Czech Republic was also the subject of the Universal Periodic Review by the United Nations Human Rights Council. One of the main points emphasised by the Czech Government itself (in response to other countries' statements on the situation in the Czech Republic) is the lack of a national human rights institution. The Government agrees to provide for such an institution in the Czech legislation by assigning a new mandate to the Defender.<sup>24</sup>

## Czech Republic

In June 2023, the Minister of Legislation submitted an amendment to the Public Defender of Rights Act for inter-ministerial comment procedure. The amendment confers on the Defender the competence of a national human rights institution and a children's ombudsman. According to the explanatory memorandum, the institution should respect the principles of independence, representativeness and participation.<sup>25</sup> The Defender should have the power to protect human rights (to deal with their violations, investigate individual complaints), promote human rights through education and awareness-raising, and advise Government bodies and the Parliament. The children's ombudsman should have analogous powers and ensure a helpful and open attitude towards children. The amendment is still at the stage of addressing comments.

## Activities of the Public Defender of Rights

The Defender commented on the amendment to the Public Defender of Rights Act, which entrusts the Defender with the competence of a national human rights institution and children's ombudsman.<sup>26</sup> The Defender considers the establishment of both institutions necessary and supports the aim of the amendment. However, he warned against the establishment of these institutions merely "pro forma", without adequate staffing and funding for their activities. At the time of the present monitoring report, the Defender's comments were yet to be addressed.

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23 Council of the EU. Standards for equality bodies: Council agrees its positions. Online, press release. 12 June 2023. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2023/06/12/standards-for-equality-bodies-council-agrees-its-positions/> [retrieved on 2023-12-04].

24 Cf. the report of the Government of the Czech Republic on the Universal Periodic Review in accordance with UN Human Rights Council Resolutions 5/1 and 16/21 of 3 November 2022 [online]. Available at: <https://www.ohchr.org/en/hr-bodies/upr/cz-index> [retrieved on 2023-12-04].

25 Office of the Government of the Czech Republic – Minister and Chairman of the Legislative Council of the Government. Explanatory memorandum to the draft law amending Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, and other related laws, submitter's Ref. No.: 28515/2023-UVCR. Version for commentary procedure. Online. Office of the Government of the Czech Republic, 14 June 2023. Available at: <https://odok.cz/portal/veklep/material/ALBSCSSKUT84/ALBSCSSKXDR5> [retrieved on 2023-12-04].

26 The Public Defender of Rights. Comments of the Public Defender of Rights to the draft law amending Act No. 349/1999 Coll., on the Public Defender of Rights, as amended, and other related laws, Ref. No.: KVOP-26068/2023/S. Online. Office of the Public Defender of Rights, 13 July 2023. Available at: <https://odok.cz/portal/veklep/material/pripominky/ALBSCSSKUT84/> [retrieved on 2023-12-04].

In November 2023, the Defender further commented on the Plan of Government Legislative Work for 2024 and proposed the addition of two tasks for the Ministry of Justice. First, to amend the Code of Civil Procedure and unify the rules for the shared burden of proof in discrimination disputes. The objective is to level the procedural position of discrimination victims and eliminate the existing inconsistency in the legislation. Second, to amend the Court Fees Act to reduce the fee for filing appeals in anti-discrimination actions. The fee for an appeal should be the same as the fee for filing an anti-discrimination action, i.e. CZK 1,000.

## Summary for 2020 to 2023

None of the seven indicators changed in the period under review. However, the Government presented an amendment to the Act establishing the national human rights institution. It can be expected that the amendment will be submitted to Parliament after resolution of the comments.

As regards the remaining indicators, the list of protected characteristics under the Anti-Discrimination Act remains unchanged, although some international monitoring bodies recommend expanding the list to include colour, language, social background and property. The rules for sharing the burden of proof in discrimination disputes do not correspond to the scope of protection under the Anti-Discrimination Act. The Defender is not authorised to represent victims of discrimination in court proceedings. Anti-discrimination actions cannot be filed in the public interest. The court fee for appeals in discrimination disputes is higher than the fee for filing an action. The award of compensation for intangible damage caused by discrimination is up to the court's discretion (where refrainment from discrimination, remedying the consequences of discrimination or apology is not sufficient).



# Conclusion

— This report concludes the Defender’s monitoring activities in the areas of Roma education, equal pay for women and men and procedural issues under 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.

However, the Defender’s interest in these topics does not end here. Quite the contrary. The Defender expects to be granted the mandate of the national human rights institution in the near future. Within this mandate, the Defender will be able to actively protect human rights, as opposed to the current rather passive monitoring of trends. As the national human rights institution, the Defender should contribute to the promotion and protection of human rights and have adequate powers and resources to properly carry out his mandate.

At the same time, the Defender’s role as the national equality body is expected to be strengthened, following the directives on the standards for such bodies. These are currently being discussed at the European Union level.

Going forward, the Defender plans to continue to meet regularly with representatives of ministries and other institutions. He will focus on identifying the gaps and obstacles to the effective implementation of the right to equal treatment. Where possible, he will actively contribute to their resolution with his experience and expertise.

Thank you for your support.



# Overview of indicators and their initial and final values

■ no change ■ deterioration ■ improvement

Paragraph	Description of the indicator	Initial value	Final value
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)	3.5% (2022/2023)
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)	26.2% (2022/2023)
1.1.c.	Of those in the 1st grade	14.5% (2019/2020)	17% (2022/2023)
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
1.1.1.b.	Proportion of school counselling centres using the WISC-III diagnostic method	94.6% (2017/2018)	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
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

1.1.1.e.	Adopting measures to secure the availability of social pedagogue / teaching staff positions in schools located in socially excluded areas	NO	NO
1.1.1.f.	Changing the curriculum for the education of teaching staff at all faculties of education to train them in the education of students with different cultural backgrounds and living conditions	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
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)	3.14% (2022/2023)
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)	1.18% (2022/2023)
1.2.1.a.	Sufficient preschool education capacity	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
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	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
1.3.a.	Number of primary schools with over 34% Roma pupils	133 (2019/2020)	136 (2020/2021)
1.3.b.	Number of primary schools with over 50% Roma pupils	69 (2019/2020)	77 (2020/2021)
1.3.c.	Number of primary schools with over 75% Roma pupils	34 (2019/2020)	32 (2020/2021)
1.3.d.	Number of primary schools with over 90% Roma pupils	16 (2019/2020)	17 (2020/2021)

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
1.3.1.b.	Proposing desegregation measures in the framework of the post-2020 action plan for inclusive education	NO	NO
2.1.	Gender pay gap in the Czech Republic	20.1% (2018)	15% (2021)
2.1.1.a.	Approval of the Action Plan for Equal Pay	NO	YES
2.1.1.b.	Implementation of the Action Plan for Equal Pay	NO	YES
2.1.1.c.	Preparing a policy for continuous systematic salary/pay increases in female-dominated fields	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	YES
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
2.1.1.f.	Introducing an obligation to publish information about the salary/pay in job advertisements	NO	NO
2.1.1.g.	Introducing a legislative provision on the nullity of a confidentiality clause on remuneration in employment contracts	NO	NO
2.1.1.h.	Implementing European Commission Recommendation 2014/124/EU	NO	NO
3.1.	Introducing a legislative basis for a national human rights institution in any form	NO	NO
3.2.	Legislative expansion of the list of protected characteristics under the Anti-Discrimination Act	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
3.4.	Introducing a legislative provision allowing the Public Defender of Rights to represent victims of discrimination in court proceedings	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
3.6.	Legislative reduction of the court fee paid for appeals in anti-discrimination disputes	NO	NO
3.7.	Legislative abolition of subsidiarity of compensation for intangible damage	NO	NO

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