

Where the Defender can assist and where he can't

He can assist:

- When you disagree with the decision or the procedure of an authority
- When an authority is inactive – i.e. it has not issued a decision by the set deadline, has not commenced proceedings, etc.
- When you consider that you should have been a party to proceedings but were not invited
- When you consider that an authority or official is arrogant to you or behaves inappropriately

The events to which the complaint relates should not be older than one year.

He can't assist:

- With decision-making of self-governing municipalities and cities (e.g. in the assignment of municipal flats, disposal of municipal assets, approval of zoning plans, etc.)
- With the decision-making of courts
- With distraintment
- With civil-law matters (e.g. disputes with neighbours, loans, purchase contracts, repayment of debts, etc.)
- With labour-law matters (conclusion or termination of employment, etc.)
- With criminal law matters (for example when you disagree with the imposed punishment, commencement/non-commencement of criminal proceedings or the progress of investigation, etc.)
- When you have objections to a law

Most common authorities and institutions falling within the Defender's mandate:

- ministries
- municipal and regional authorities
- Czech Social Security Administration
- social departments of local authorities
- bodies of social and legal protection of children (BSLPC)
- building authorities
- environmental departments
- public health stations
- heritage preservation authorities
- cadastral authorities
- registry offices
- labour offices
- health insurance companies
- foreign police

- customs authorities
- courts (only in cases involving delays in proceedings, inappropriate behaviour of judges, etc., not as regards the decision-making of courts)
- Police of the Czech Republic (not in criminal proceedings)
- the Prison Service of the Czech Republic (prisons)
- facilities where protective or institutional education is exercised
- the Czech Trade Inspection Authority
- the Council for Radio and Television Broadcasting
- bodies of state administration of courts (the presiding judge or the deputy presiding judge of a court)

The Defender can be addressed by persons with complaints about all authorities that perform state administration (ministries, regional, metropolitan or municipal authorities, other specialized authorities – e.g. educational, mining, etc.).

The Defender is independent and impartial – he does not yield to political pressures and is accountable only to the House of Deputies. While conducting inquiries into complaints, he is entitled to inspect official or court documents, request authorities to provide explanations, and he can conduct local inquiries without prior notification, and so on. Thanks to these powers, he is able to analyse a problem in a thorough way, uncover its causes and propose solutions. Although he is not entitled to issue decisions, cancel or change erroneous decisions of authorities, in most cases his inquiries lead to a successful conclusion and authorities usually remedy their errors themselves.

In this section you will find information about how to lodge a complaint to the Defender, where the Defender can assist and where he cannot, what authorities and institutions the complaints can concern, or how inquiries are conducted. The Defender also publishes some fundamental statements containing his legal opinion and reasoning.

By acceding to the **Optional Protocol of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)** the Czech Republic was obliged to establish an independent body that would perform systematic visits to facilities where persons are restricted in their freedom. The Option Protocol became valid for the Czech Republic on 9 August 2006 and on 1 January 2006 the Public Defender of Rights became that independent, so-called **national preventive mechanism**.

The aim of systematic visits is to strengthen the protection of persons restricted in their freedom against torture, cruel, inhuman or degrading treatment or punishment or other [ill-treatment](#).

When performing visits the Defender and employees duly authorized by him may enter all areas in a facility, study all files, including medical files, ask all persons (employees, patients, clients or imprisoned persons) and conduct private interviews. Systematic visits are made without prior notice and the head of a facility is informed on the spot. Visits are carried out in

any time of the day (for example also at nighttime or early in the morning), and also during non-working days.

The findings and recommendations related to the conditions in a certain type of a facility are generalized in summary **reports on visits**. Proposals for improvement of the ascertained conditions are directed toward individual facilities and promoters of the facilities as well as toward the central state administration bodies.

When preparing and carrying out systematic visits, the Defender collaborates with outside experts – doctors, psychiatrists, nurses, inspectors of the provision of social services and so on.

Within the scope of international activities and by joining the Peer – to – Peer Network project of the Council of Europe’s Commissioner for Human Rights, the Defender established cooperation with “national preventive mechanisms” in other European countries, which enables him to obtain new knowledge and get acquainted with various methodologies. For information concerning individual meetings of national preventive mechanisms held in the premises of the Office of the Public Defender of Rights are to be found here.

The Public Defender of Rights has been a national equality body pursuant to the law and applicable directives of the European Union (e.g. 2000/43/EC, 2000/78/EC etc.) since 2009. The provision of sec. 21b of Act on the Public Defender of Rights stipulates: *The Defender shall contribute to promotion of the right to equal treatment of all persons regardless of their race or ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions.*

To comply with the statutory requirements for the protection of persons against discrimination and promotion of the right to equal treatment, **the Department of Equal Treatment** was established within the Office of the Public Defender of Rights. The Department has 11 employees.

The activity of the Public Defender of Rights as an equality body rests on **3 pillars**:

- **To inform**
- **To educate**
- **To assist**

Within the first pillar *to inform* the Defender makes **recommendations** and **statements** and carries out **research** in the area of equal treatment. **Recommendations** are intended for the general public; they comment on specific manifestations of discrimination in the society and contain recommendations on how to prevent such acts. **Statements** serve the same purpose as recommendations but they are intended for the expert public. They contain more complex legal argumentation, references to judicial decisions etc. The principal activity within the pillar to inform is to carry out **research** concerning questions related to the problem of discrimination.

Within the second pillar *to educate* the Defender carries out a number of educational activities, including thematic seminars, workshops and trainings intended for non-profit organisations, state administration, employees and providers of services. In collaboration with the Faculty of Law of Masaryk University, the Defender is the head of “the Anti-

discrimination Law Clinic” – courses for students enrolled in the Law and Legal Science programme of study.

Regarding activities of the Defender in the area of fighting discrimination, the third pillar – *to assist* the victims of discrimination – is crucial. Every person has the right to address the Defender with his or her problem related to discrimination free of charge. The Defender addresses the case from the legal point of view, states whether discrimination occurred according to his observations and makes suggestions on a possible further course of action. Hereby the task entrusted to the Defender pursuant to the provision of sec. 21b (a) is fulfilled; *The Defender shall provide methodical assistance to victims of discrimination in lodging their proposals for commencement of proceedings concerning discrimination.* In providing methodical assistance the Defender collaborates with non-profit organisations [Pro bono alliance](#) and [The Czech Bar Association](#) .

Regarding the right to equal treatment and protection against discrimination:

The vision of the Defender: Society knowledgeable about discrimination. In such society discrimination occurs only sporadically.

The mission of the Defender: An efficient assisting body for equal treatment and serious inclusion of the issue of discrimination in a society-wide discussion. Information and educational activities lead to successful inclusion.

In case of any queries related to discrimination, please contact lawyers from the Department of Equal Treatment – more information is provided in Contacts.

With the ratification of the Convention on the Rights of People with Disabilities on 28. 9. 2009 arose the responsibility to establish independent monitoring body for this Convention. Its aim is to monitor the fulfilment of the rights of people with disabilities within the meaning of Article 33/2 of the Convention.

The Czech Republic fulfilled this responsibility by the amendment n. 198/ 2017 Coll. of the Law 349/1999 Coll. on the Public Defender of Rights and expanded the Defender’s mandate with the obligation to monitor the rights of persons with disabilities.

In the scope of the mandate as monitoring body the Public Defender is systematically dealing with the theme of rights of the people with disabilities and safeguards its fulfilment. The Defender carries out the research, issues recommendations on this topic and proposes the measures to ensure the protection of the people with disabilities. For this purpose the Defender establishes his Advisory body.

In connection with the so-called “Returns Directive” of the European Parliament and of the Council, since 1 January 2011 the Defender has been monitoring the detention of foreigners and the enforcement of administrative expulsion, surrender of detained foreigners

or their transit across the Czech Republic, and the penalty of expulsion of foreigners who were placed in pre-expulsion custody or are serving imprisonment (hereinafter only the “monitoring of expulsion”).

What is the so-called “Returns Directive”

It is Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. The Directive requires the Member States to introduce an effective system for monitoring forced returns. In the Czech Republic, the Public Defender of Rights became the body entrusted with supervision over observance of the rights of foreigners laid down in the Returns Directive.

Powers of the Defender

The Police of the Czech Republic and the Ministry of the Interior are obliged to advise the Defender sufficiently in advance of any expulsion, surrender, transit of foreigners across the territory of the Czech Republic and render necessary assistance to the authorised employees of the Office of Public Defender of Rights. The Defender receives copies of all decisions on the detention of foreigners, extension or discontinuation of detention and decisions on the placement of a detained foreigner in a section with the strict regime. At the same time, he also receives copies of court judgments concerning actions against detention lodged by foreigners.

Employees authorised by the Defender monitor the treatment of foreigners during their detention and in the course of expulsion.

Goal

- Ensure that the rights of foreigners who are detained and being expelled are respected
- Ensure that international obligations of the Czech Republic in the area of detention and expulsion of foreigners are observed
- Raise the standard of treatment of persons who are being expelled
- Strengthen the protection of persons who are especially vulnerable, such as unaccompanied minors, disabled persons, victims of sexual violence, victims of torture or other form of violence, or applicants for international protection
- Act preventively