EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX





Case Document No.4

International Association Autism-Europe v. Czech Republic
Complaint No. 245/2025

OBSERVATIONS BY THE PUBLIC DEFENDER OF RIGHTS ON THE MERITS

Registered at the Secretariat on 31 October 2025

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Observations of the Public Defender of Rights and the Deputy Public Defender of Rights and Defender of Children's Rights as a third party on Collective Complaint No. 245/2025 – International Association Autism-Europe v. Czech Republic

I. Introduction

1. Based on the consent of the President of the European Committee of Social Rights ("the Committee"), we, the Public Defender of Rights and the Defender of Children's Rights, hereby submit these joint third-party observations under Rule 32A of the Committee's Rules in relation to collective complaint No. 245/2025 – *International Association Autism-Europe v. Czech Republic*, invoking the European Social Charter ("the Charter") in the interest of persons with disabilities.

2. The Public Defender of Rights is an independent institution that has long been active in the protection of fundamental rights and freedoms in the Czech Republic. When inquiring into complaints about the performance of State administration, the Defender also addresses complaints from persons with disabilities. As a national preventive mechanism under the Optional Protocol to the Convention against Torture (OPCAT), the Defender regularly visits facilities where people may be deprived of their liberty – including residential health and social services facilities – to strengthen protection against ill-treatment. As an independent monitoring mechanism under Article 33 (2) of the UN Convention on the Rights of Persons with Disabilities ("the Convention"), the Defender monitors the Czech Republic's compliance with its obligations under the Convention, promotes the protection of the rights of persons with disabilities, and proposes measures to reinforce these rights. The Defender also acts as the national equality body and body for the protection against discrimination; since July 2025, the Defender has been performing the role of national human rights institution (not yet accredited under the Paris Principles).[1]

3. The Defender of Children's Rights operates under an extensive mandate to protect children's rights, including those set out in the Convention on the Rights of the Child. Until a dedicated Defender of Children's Rights is appointed, this role is carried out by the Deputy Public Defender of Rights.[2]

4. The complaint by the International Association Autism-Europe against the Czech Republic points to an alleged lack of accessible and adequate social services for persons with disabilities. This issue is directly related to the right to live independently and to be included in the community under Article 19 of the Convention; in the complaint, this matter is further connected to Article 14 (1) and (2) of the Charter. The complaint also concerns the rights set out in Articles 23 and 28 of the Convention, which are linked in the complaint to Article 16 of the Charter. The complaint also

1 For the Defender's mandate, see Section 1a (1) of Act No. 349/1999 Coll., on the Public Defender of Rights and on the Defender of Children's Rights.

2 Pursuant to Section 2a (1) of the Public Defender of Rights and Defender of Children's Rights Act. For the Defender of Children's Rights' mandate, see Section 1a (2) of the Act.

mentions alleged discrimination, with reference to the Preamble of the Charter and Article 5 of the Convention.

5. These observations focus on those aspects of the complaint where we have relevant reference materials and verified findings. In our monitoring of the implementation of the Convention, we have repeatedly pointed to shortcomings in the availability of community social services, which are essential to ensuring that persons with disabilities can live dignified and independent lives outside institutional settings. The Defender's advisory body, which contributes to monitoring the rights of persons with disabilities, has also expressed concerns in this regard.[3] The advisory body has repeatedly urged us to advocate for the development of community services, the completion of deinstitutionalisation and transformation, and the implementation of systemic support for "informal carers".

6. Our position is based primarily on the Convention, whose principles are closely linked to those of the Charter, as the Committee itself has concluded in its decisions. The lack of accessible social services, which is the main subject-matter of the complaint, constitutes an issue that concerns both the above instruments and their fundamental principles.

7. The present observations follow the structure of the complaint. Part II.1 addresses the right to access social care services, divided into four subsections covering the areas raised in the complaint. Part II.2 focuses on the right of families to social, legal, and economic protection, i.e. the rights of carers. Part II.3 deals with the issue of discrimination from the perspective of Czech anti-discrimination law.[4] Each subsection begins with an overview of the relevant obligations under the Convention, followed by a summary of our findings and concluded with a brief assessment.

II. Findings from the Public Defender of Rights' practice

II.1. The right to access social care services

II.1.1. Institutional social services

8. Article 19 of the Convention guarantees every person with a disability the right to live independently and to be included in the community. **The State is required to ensure that persons with disabilities are not forced to live in a specific environment** –

3 The Public Defender of Rights' advisory body for monitoring the rights of persons with disabilities consists of representatives of organisations advocating those rights and of persons with disabilities themselves. Its task is to support the Defender in carrying out the role of the independent monitoring mechanism under the Convention.

4 Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination.

meaning any kind of institutional setting.[5] This implies an obligation to gradually abandon the system of institutional social services and replace it with services that enable people to live ordinary lives outside institutions.

9. Our survey has shown that the number of persons with disabilities living in institutional care has not been decreasing in the long term in the Czech Republic. On the contrary, the current developments indicate stagnation or even a slight increase in the number of people living in institutions.[6] Additionally, we have observed a trend of transfers between different institutional services, rather than transitions from institutional care into community settings, as required by the Convention.[7]

10. Specialised institutions for children under the age of three – the "children homes for children below the age of 3"[8] – operated in the Czech Republic until the end of 2024.[9] We found that the majority of children in these facilities were not infants requiring intensive medical care, as officially intended, but rather older children, sometimes entire groups of siblings, for whom no suitable social service placement was available.[10] We therefore welcomed the legislative amendment effective from January 2025, which prohibits the placement of children under four years of age in institutional facilities,[11] with this prohibition being extended to children under seven as of January 2028. This represents an important step towards implementing the rights of children, including those with disabilities. However, its success will depend on whether the State ensures the development of accessible community services so that children are not simply moved to other types of institutions.[12]

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5 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017) on living independently and being included in the community. CRPD/C/GC/5, paragraph 16 (c).

6 Deputy Public Defender of Rights' Survey Report of 17 June 2025, File No. 73/2024/OZP, How Czechia Fulfils its Obligations under the Convention on the Rights of Persons with Disabilities. Human Rights Indicators-Based Analysis, eso.ochrance.cz, pp. 76 *et seq*.

7 Ibid, p. 86.

8 See also the ECSR's decision on the merits of collective complaint No. 157/2017 – European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic.

9 According to data from the Ministry of Labour and Social Affairs, 410 children were living in infant care centres as of 31 March 2023.

10 Deputy Public Defender of Rights' Summary Report of 29 April 2024, File No. 36/2024/OZP, Children's homes for children under 3 years of age – current and future challenges, eso.ochrance.cz.

11 Transitory provisions introduced by Act No. 363/2021 Coll., Article II.

12 Public Defender of Rights – Ombudsman. *The reality of ending infant care centres – preschool children outnumber seriously ill infants.* Online press release. 22 May 2024. Available (in Czech) at: https://www.ochrance.cz/aktualne/realita_koncicich_kojeneckych_ustavu_misto_vazne_nemocnych_batolat_prevazuji_predskolaci/ [retrieved on 2025-10-17].

11. **The above findings show that the number of people living in institutional care in the Czech Republic has not been declining.** Partial changes are taking place, but only in relation to children. Other groups of persons with disabilities are not affected by the changes. These findings clearly show that – contrary to Article 19 of the Convention – the institutional model of care remains unchanged. The State should therefore focus on developing appropriate social service support and work towards closing institutional facilities which are not in compliance with the Convention.

II.1.2. Lack of appropriate social services

12. As stated above, Article 19 guarantees the right of every person with a disability to live in the community and to **make independent decisions about their life.** Persons with disabilities must have the **opportunity to choose where and with whom they will live**, with a **wide range of support services** available in their everyday environment. To ensure that this right is fully implemented, there must be **real alternatives to institutional care** – services that make it possible to live outside institutions and that**, in practice, do not push people towards institutional solutions**. Such alternatives must be **available, acceptable, affordable, accessible and adaptable to individual needs**.[13] The State has an **obligation to actively create** these conditions, i.e. to remove barriers that prevent persons with disabilities from exercising their choice,[14] and to ensure the development of community services that enable full inclusion in society.[15]

13. Services that constitute an alternative to institutional care must be provided in accordance with the Convention. Such support services must therefore be individualised, enabling their recipients to develop and to make decisions about their own lives, and ensuring that these decisions are respected.[16] The services should be flexible enough to adapt to each client and their requirements, not the other way round.[17] Further, the Convention does not allow for "transformed" or "package" institutional services, meaning those that combine residential and support services.[18]

14. Based on our findings, we have repeatedly pointed out the lack of appropriate social services for persons with disabilities. A 2018 survey on the availability of services for people with autism spectrum disorder confirmed a lack of services for both children

13 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), para. 15 (h).

14 Bantekas, Ilias, Michael Ashley Stein, and Dimitris Anastasiou (eds). *The UN Convention on the Rights of Persons with Disabilities: A Commentary*. Oxford University Press, 2018, p. 548.

15 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), para. 39.

16 Ibid, para. 17.

17 Ibid, para. 28.

18 Ibid, para. 36.

and adults with autism spectrum disorder and care-demanding behaviour, as well as imbalance in service availability across the Czech Republic.[19] Inaccessible are primarily those services which are financially demanding, as they require higher staffing levels or significant material and technical adaptations. A similar shortage can therefore be expected for other groups of people with higher support needs. We have emphasised that the formal existence of services does not ensure their real availability. What matters is their capacity and the current ability to provide services in the necessary scope – otherwise, their effectiveness and impact are significantly reduced.[20]

15. In our 2020 survey on the availability of social services for children with disabilities and their families (the Survey on Service Availability for Children), we concluded that the right of children with disabilities and their families to access social services within a reasonable timeframe cannot be regarded as ensured in the Czech Republic.[21] In the case of the early intervention service for families of children with disabilities[22], we found that in the period under scrutiny, the total number of applicants exceeded the service's capacity by as much as one quarter, with considerable regional disparities and differences depending on the type of disability. The most critical situation was identified in Prague and in the South Moravian Region, with more than 100 applicants on the waiting list and waiting times exceeding 210 days (the national average was 52 days, and in some areas, there was no waiting time at all). The greatest burden was borne by providers working with families of children with autism spectrum disorder, often combined with other disabilities, as well as by providers covering the widest target groups (mental disabilities, autism spectrum disorders, physical disabilities, combined disabilities).[23]

16. The persistent lack of access to appropriate social services, for example in the Czech capital of Prague,[24] and the fact that many persons with disabilities in the Czech

19 Public Defender of Rights' Survey Report of 6 September 2018, File No. 45/2018/OZP, Availability of Social Services for Persons with Autism Spectrum Disorder, eso.ochrance.cz, p. 49.

20 Public Defender of Rights' Recommendation of 18 September 2018, File No. 45/2018/OZP, Recommendations to improve the availability of social services, eso.ochrance.cz, pp. 1–2.

21 Public Defender of Rights' Survey Report of 17 February 2020, File No. 11/2019/OZP, Availability of social services for children with disabilities and their families, eso.ochrance.cz, p. 62.

22 Early care is a social service for families of children up to 7 years of age whose development is threatened by an adverse health condition, or children with disabilities. This is a social prevention service aimed at avoiding the social exclusion of families having a child with a disability.

23 Public Defender of Rights' Survey Report of 17 February 2020, File No. 11/2019/OZP, cited above, pp. 10 and 26.

24 Resolution of the Public Defender of Rights' Advisory Body for the Protection of the Rights of Persons with Disabilities of 20 June 2024, on the availability of community-based social services in the capital city of Prague. Available (in Czech) at: https://www.ochrance.cz/dokument/usneseni_

Republic do not have the support they need,[25] have been pointed out several times by the Defender's advisory body in its resolutions of January 2023 and June 2024.

17. The State has recognised the need to address the situation of persons with challenging behaviour and has produced a national strategy document: Systemic Measures to Support Persons with Intellectual Disabilities and Challenging Behaviour for 2024–2030.[26] The Action Plan for the implementation of those systemic measures in the period 2025–2027 was adopted subsequently.[27]

18. We have found that even where social services formally exist, they often fall short of the quality required by the Convention. For example, clients of homes for persons with disabilities and special regime homes (which are, simply put, institutions for people with mental disorders) usually lack individualised support and care is often limited to basic needs.[28] In many facilities, operational priorities outweigh the clients' needs.[29] The problem lies not only in the approaches and methods of working with persons with disabilities, but also in the material conditions and location of the facilities. Many of the facilities are housed in large, historic buildings and in remote areas with insufficient available infrastructure. Such an environment promotes a collective and isolated way of life and makes it impossible for the clients to create ordinary household conditions.[30]

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k_dostupnosti_socialnich_sluzeb_komunitniho_charakteru_na_uzemi_hlavniho_mesta_prahy/ [retrieved on 2025-10-17].

25 Resolution of the Public Defender of Rights' Advisory Body for the Protection of the Rights of Persons with Disabilities of 11 January 2023, on deinstitutionalisation and the right to live independently (Article 19 of the Convention on the Rights of Persons with Disabilities). Available (in Czech) at: https://www.ochrance.cz/dokument/usneseni-2023-10-k-deinstitucionalizaci-a-clanku-19-umluvy/ [retrieved on 2025-10-17].

26 Government of the Czech Republic. Systemic Measures to Support Persons with Intellectual Disabilities and Challenging Behaviour for 2024–2030. Online. Available for download (in Czech) at: https://vlada.gov.cz/cz/ppov/vvozp/dokumenty/systemova-opatreni-pro-podporu-osob-s-intelektovym-znevyhodnenim-a-chovanim-narocnym-na-peci-na-obdobi-2024_2030-214216/ [retrieved on 2025-10-17].

27 Government of the Czech Republic. Action Plan for the Implementation of the Systemic Measures to Support Persons with Intellectual Disabilities and Challenging Behaviour. Online. Available for download (in Czech) at: https://vlada.gov.cz/cz/ppov/vvozp/aktuality/vlada-schvalila-akcni-plan-k-realizaci-systemovych-opatreni-pro-podporu-lidi-s-intelektovym-znevyhodnenim-a-chovanim-narocnym-na-peci-221324/ [retrieved on 2025-10-17].

28 Public Defender of Rights' Report on Systematic Visits of 22 October 2019, File No. 11/2017/NZ, Homes for persons with disabilities, eso.ochrance.cz, p. 7.

29 Public Defender of Rights' Report on Systematic Visits of 13 December 2023, File No. 51/2021/NZ, Summary report on visits to special regime homes, eso.ochrance.cz, p. 10.

30 Ibid.

19. **The findings obtained so far show that there is still a lack of appropriate social services for persons with disabilities in the Czech Republic.** In many regions, these services are either completely lacking, have insufficient capacity, or are not provided in adequate quality and in accordance with the Convention. The State should ensure the availability of a wide range of quality and individualised support services throughout its territory, so that persons with disabilities can truly exercise their right of choice and not rely solely on residential care.

II.1.3. Issues of social services funding

20. **The State has an obligation under the Convention to ensure sufficient funding for the development of accessible and suitable social services**.[31] This obligation was also brought to the attention of the Czech Republic by the Committee on the Rights of Persons with Disabilities (CRPD Committee) in its concluding observations.[32] The Convention also imposes an obligation to devote the maximum available resources to the exercise of economic, social and cultural rights, which are covered by Article 19. Available resources include financial resources. These measures must be taken immediately or within a reasonable time.[33] At the same time, the CRPD Committee has long emphasised **the need to gradually shift financial resources from institutional care to community-based services** and recommends **that structural and investment funds be used exclusively for the development of support services**.[34] At the same time, existing residential care facilities could be reconstructed only to the extent necessary to ensure safe conditions for their users, while the construction of new residential care facilities is wholly in contradiction with Article 19 of the Convention.[35]

21. The State has entrusted the financing of social services to regional and local governments; the same is true of their inclusion in the basic network of social services and the associated financing when such services are established or expanded.[36]

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31 Bantekas, Ilias, Michael Ashley Stein and Dimitris Anastasiou (eds.), cited above, p. 554.

32 UN Committee on the Rights of Persons with Disabilities. Concluding observations of 15 May 2015 on the initial report of the Czech Republic. CRPD/C/CZE/CO/1, paras. 39–40.

33 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), para. 41.

34 UN Committee on the Rights of Persons with Disabilities. Concluding observations on the initial reports of the European Union (of 2 October 2015, CRPD/C/EU/CO/1, para. 51), of Italy (6 October 2015, CRPD/C/ITA/CO/1, para. 48) and of Lithuania (11 May 2016, CRPD/C/LTU/CO/1, paras. 40 and 42).

35 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), para. 49.

36 Sections 3 (i) and 95 (h) of Act No. 108/2006 Coll., on social services.

Therefore, the State (the Ministry of Labour and Social Affairs) lacks any instrument that could realistically influence the availability of social services.[37]

22. A 2023 survey on the approach of the administrative regions and the Ministry of Labour and Social Affairs to the deinstitutionalisation of social services as reflected in strategy documents (the DEI Survey) identified the set system of financing operations as the main obstacle to deinstitutionalisation, and therefore to the development of social services. The system relies on multiple resources. State subsidies have (only) a one-year duration and are governed by strict rules that often change. This results in uncertainty and unpredictability, and prevents effective planning for the long-term development of services that meet the quality requirements set by the Convention.[38] In its resolution of June 2024, the Public Defender of Rights' advisory body also expressed concern about the funding of social services. In particular, it highlighted the incorrect practice prevailing in Prague, which continues to invest in the development of services of institutional nature outside its territory (especially in border areas of the State territory).[39]

23. The above facts show that the **Czech Republic has been systematically failing to fulfil its obligations under Article 19 of the Convention**. The current system of funding social services not only prevents the development of community-based care, but actually **perpetuates the institutional model**. The lack of coordination and strategic management by the State undermines equal access to essential support for persons with disabilities and runs counter to the principle of independent living within the community. Despite repeated warnings from the Defender and international bodies, **the State has failed to take effective legislative or financial measures** to reform the social services system in line with the Convention. The State should reform the system of funding social services to make it multiannual and stable, enabling long-term planning of supportive services and preventing regional disparities. At the same time, it should restrict renovations of existing institutional facilities to measures that ensure

37 Public Defender of Rights' Recommendation of 18 September 2018, File No. 45/2018/OZP, to improve the availability of social services, eso.ochrance.cz, p. 2.

38 Deputy Public Defender of Rights' Survey Report of 25 March 2024, File No. 27/2022/OZP, Deinstitutionalisation and transformation of social services – approach of the administrative regions and the Ministry of Labour and Social Affairs, as reflected in strategy documents, eso.ochrance.cz, p. 16.

39 Resolution of the Public Defender of Rights' Advisory Body for the Protection of the Rights of Persons with Disabilities of 20 June 2024, on the availability of community-based social services in the capital city of Prague. Available (in Czech) at: https://www.ochrance.cz/dokument/usneseni_k_dostupnosti_socialnich_sluzeb_komunitniho_charakteru_na_uzemi_hlavniho_mesta_prahy/ [retrieved on 2025-10-17].

safe conditions for their users. Funding should be directed towards the development of community-based services.

II.1.4. Weaknesses in social service planning

24. **Article 19 of the Convention is subject to the principle of gradual (progressive) implementation**. This means that the State is not required to fully ensure the right to independent living and access to appropriate social services immediately. **However, it has an immediate obligation to plan strategically and systematically for the development** of these services and to phase out those that are not compatible with this right.[40] One of the key elements of this obligation is the **development and implementation of an effective, time-bound strategic deinstitutionalisation plan** with clearly defined objectives, allocated resources, and mechanisms for monitoring progress.[41] As recommended by the CRPD Committee, this process must be carried out in close consultation with persons with disabilities and their representative organisations,[42] and accompanied by measures introducing a moratorium on new placements in institutional care.[43] The Committee also emphasised the need to establish a clear timetable for the deinstitutionalisation process, along with specific implementation criteria that are regularly and effectively monitored, in its concluding observations for the Czech Republic.[44]

25. As part of our monitoring activities, we have found that the State and administrative regions have been failing to adequately plan social services for persons with disabilities. The Czech Republic has yet to adopt a long-term strategy for deinstitutionalisation and the development of social services that meets the above-mentioned requirements of the Convention.[45] The strategy documents of the State and the administrative regions lack clear goals,[46] a timetable, and a commitment to full

40 CRPD, general comment No. 5, paras. 39 and 42.

41 Bantekas, Ilias, Michael Ashley Stein and Dimitris Anastasiou (eds.), cited above, p. 538.

42 Ibid.

43 UN Committee on the Rights of Persons with Disabilities. Concluding observations on the initial reports of Lithuania (of 11 May 2016, CRPD/C/LTU/CO/1, para. 40), France (of 4 October 2021, CRPD/C/FRA/CO/1, para. 41), Estonia (of 5 May 2021, CRPD/C/EST/CO/1, para. 39) and Moldova (of 18 May 2017, CRPD/C/MDA/CO/1, para. 37) and on the periodic reports of Ukraine (of 2 October 2024, CRPD/C/UKR/CO/2–3, para. 39).

44 UN Committee on the Rights of Persons with Disabilities. Concluding observations of 15 May 2015 on the initial report of the Czech Republic. CRPD/C/CZE/CO/1, para. 40.

45 Public Defender of Rights' Statement of 1 February 2019, File No. 5/2019/OZP, concerning the preparation of a List of Issues related to the supplementary report on meeting the obligations under the Convention on the Rights of Persons with Disabilities, eso.ochrance.cz.

46 Deputy Public Defender of Rights' Survey Report of 25 March 2024, File No. 27/2022/OZP, Deinstitutionalisation and transformation of social services – approach of the administrative regions

deinstitutionalisation, as well as concrete measures introducing a moratorium on the admission of new clients to institutions.[47]

26. When it comes to a clear statement regarding the objective of deinstitutionalisation, the strategy documents of the regions and the Ministry of Labour and Social Affairs have two major shortcomings. First, they do not define these objectives at all, or they do so rather vaguely. Only half of the administrative regions' social services development plans contain strategic objectives aimed at abolishing institutional services and only about a fifth of them focuses on the prevention of institutionalisation.[48] Second, in our opinion, another major shortcoming is the fact that the declared deinstitutionalisation objective differs between the Ministry and the administrative regions, as well as between the individual regions.[49] When developing strategic documents, only about half of the administrative regions directly surveyed potential clients and their families to assess current needs. Some regions actively identified the needs themselves, for example through roundtable discussions or surveys of parents of children with autism spectrum disorders. Others, however, remained passive and waited for applicants or their families to reach out.[50]

27. We also examined social service planning in our 2020 survey on the availability of services for children. The administrative regions themselves admitted during the survey that the existing system of social services funding and planning could not flexibly respond to the current needs of persons with disabilities. Although some regions are working to improve the availability of social services, the system itself is so rigid that it actually hinders further progress.[51]

28. When examining how families of children with disabilities were involved in drafting medium-term (three-year) plans for the development of social services,[52] we found that none of the administrative regions directly involved the children themselves. Most regions involved representatives of social service providers (13 out of 14). Only half of

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and the Ministry of Labour and Social Affairs, as reflected in strategy documents, eso.ochrance.cz, p. 14.

47 Deputy Public Defender of Rights' Survey Report of 17 June 2025, File No. 73/2024/OZP, How Czechia Fulfils its Obligations under the Convention on the Rights of Persons with Disabilities. Human Rights Indicators-Based Analysis, eso.ochrance.cz, p. 79 and following.

48 Ibid, p. 131.

49 Ibid, p. 132.

50 Ibid, p. 29.

51 Public Defender of Rights' Survey Report of 17 February 2020, File No. 11/2019/OZP, Availability of social services for children with disabilities and their families, eso.ochrance.cz, p. 62.

52 Section 3 (h) of the Social Services Act.

the administrative regions (7 out of 14) included in the development of their plans client representatives who were not employed in any way by social service providers.[53]

29. In our interview-based survey focused on deinstitutionalisation and transformation of care, almost half of the administrative regions, as well as the Ministry of Labour and Social Affairs, told us that they do not involve persons with disabilities in planning the social services development. Neither the regions nor the Ministry have a system in place to effectively involve persons with disabilities in the process of drafting social services development plans.[54] Persons with disabilities and their representative organisations are thus not sufficiently and effectively involved in the planning for deinstitutionalisation and social services development.[55]

30. **Based on the above findings, it can be concluded that the Czech Republic has made limited progress** in recognising the principles of deinstitutionalisation and gradually integrating these objectives into its strategy documents. **However, this progress is unbalanced and insufficient;** the implementation of Article 19 of the Convention thus cannot be considered systematic and effective. **The process of deinstitutionalisation continues to be hindered by the absence of a unified national framework**, fragmented competences between the State and administrative regions, unstable funding, and limited participation of persons with disabilities themselves. The current approach lacks a long-term vision, clear accountability and measurable progress, which impairs the measures taken and prolongs the dependence of many people on institutional care. The State should therefore develop and adopt a unified national deinstitutionalisation strategy that includes clearly defined objectives, a timetable, responsible actors, allocated resources and a system for monitoring its implementation. It should strengthen the participation of persons with disabilities and their representative organisations at all stages of developing and implementing strategy documents, ensuring that relevant decisions are directly informed by their experiences and needs. It should also introduce measurable indicators and a regular evaluation system to track progress towards the objectives and address persistent shortcomings.

53 Public Defender of Rights' Survey Report of 17 February 2020, File No. 11/2019/OZP, Availability of social services for children with disabilities and their families, eso.ochrance.cz, p. 41.

54 Deputy Public Defender of Rights' Survey Report of 25 March 2024, File No. 27/2022/OZP, Deinstitutionalisation and transformation of social services – approach of the administrative regions and the Ministry of Labour and Social Affairs, as reflected in strategy documents, eso.ochrance.cz, p. 128.

55 Ibid, p. 14.

II.2. The family's right to social, legal and economic protection

31. The complaint also concerns a breach of Article 16 of the Charter, in conjunction with Articles 23 and 28 of the Convention. These articles enshrine **the right of persons with disabilities to live with their families.** To prevent the concealment, abandonment, neglect and segregation of these children, states must provide early and comprehensive information, services and support to both the children and their families.[56] The absence of support and appropriate services may create unwanted pressure, which can result in, for example, the placement of children in institutions.[57] At the same time, Article 28 requires the **State to maintain an adequate standard of living for persons with disabilities and their families**. To fulfil this right, the State must ensure access to support and to appropriate, affordable services that meet impairment-related requirements.[58] In its views, the CRPD Committee also found that the State's failure to provide adequate support services – including assistance with disability-related expenses, appropriate training, counselling, financial aid and respite care – to the family in the given case constituted a violation of the rights of the person with a disability.[59]

32. The State has recognised the need to address the rights of carers in a proposed amendment to the Social Services Act. The amended Social Services Act grants statutory recognition to informal carers[60] and introduces the possibility of training them in the skills needed to care for people who depend on their assistance.[61] What is still missing in the law – and what we have been advocating for[62] – is adequate financial security for this new target group. This is not currently the case in the Czech Republic, where there is still no recognition of the right of these individuals to rest, access to respite care, or the provision of education and psychosocial support.

33. The Defender's advisory body also expressed concern about the current situation in the area of financial support for persons with disabilities in 2024. Financial support is a key element in ensuring a dignified life; the failure to increase the care allowance for

56 Article 23 (3) of the UN Convention on the Rights of Persons with Disabilities.

57 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), para. 87.

58 UN Committee on the Rights of Persons with Disabilities. General comment No. 5 (2017), paragraph 92.

59 Views adopted by the UN Committee on the Rights of Persons with Disabilities of 26 August 2022, Bellini and others v. Italy, CRPD/C/27/D/51/2018.

60 Section 3 (k) of the Social Services Act.

61 Section 37 (4)(d) and (5) of the Social Services Act.

62 Comments of the Public Defender of Rights of 22 February 2023, File No. 7206/2023/S, on the draft legislative act amending Act No. 108/2006 Coll., on social services, as amended (submitted under File No. MPSV-2022/191853-510/2), eso.ochrance.cz, p. 3.

lower levels of dependency, together with the absence of regular valorisation, has negatively affected the ability of persons with disabilities to secure the care and support they need, especially in the context of inflation and rising social service costs.[63]

II.3. Discrimination

34. The discrimination referred to in the preamble to the Charter and in the complaint corresponds to the prohibition of discrimination set out in Article 5 of the Convention. The Public Defender of Rights addresses discrimination as part of its mandate as the national equality and anti-discrimination body.

35. In the past, for example, the Defender found discrimination against a person with a disability when a regional authority failed to provide them with an accessible social service. The authority also failed in its duty to provide a reasonable accommodation in relation to a person with a disability – thereby committing indirect discrimination in breach of Section 3 (1) of the Anti-Discrimination Act[64] – by not providing an individual solution to the complainant's situation. The case concerned a man with an autism spectrum disorder and behavioural disorders who had been unsuccessfully applying for almost three years for a social service appropriate to his needs.[65] The regional authority failed to specifically address the needs of persons with potentially challenging behaviour in its social services activities. This is a seemingly neutral practice, but one that effectively disadvantages people with autism, whose disability is often associated with potentially aggressive behaviour. If the criteria were objectively justified by a legitimate aim and the means of achieving them were proportionate and necessary, such practice would not be discriminatory. In the given case, however, it is hard to imagine what legitimate aim could justify the lack of interest on the part of the region in the specific situation of people with autism with special needs related to their challenging behaviour, given that the region is responsible for fulfilling the needs for social services in its territory.

36. It is the administrative region's responsibility to ensure that situations do not arise in which a social service is unavailable within its territory. The region is free to determine the means by which it achieves this goal. However, if the service remains unavailable,

63 Resolution of the Public Defender of Rights' advisory body for the protection of the rights of persons with disabilities of 9 October 2024, on the allowance for care. Available (in Czech) at: https://www.ochrance.cz/dokument/usneseni_k_prispevku_na_peci/usneseni_2024_16_k_prispevku_na_peci.pdf [retrieved on 2025-10-17].

64 Section 3 (1) of Act No. 198/2009 Coll., on equal treatment and legal remedies for the protection against discrimination (Anti-Discrimination Act).

65 The Public Defender of Rights' Report on inaccessibility of appropriate social services for people with autism of 7 June 2018, File No. 851/2018/VOP, eso.ochrance.cz.

the administrative region is responsible for addressing the situation on an individual basis. By failing to take any individual action in the complainant's case, the region breached its duty to provide a reasonable accommodation to ensure that persons with disabilities could benefit from services intended for the public.[66]

III. Conclusion

37. **Based on our findings, we conclude that the allegations set out in the collective complaint are well founded.** Although the State has taken partial steps in some areas, these are not systemic or far-reaching enough to bring about a fundamental change in the availability and quality of social services.

38. On the basis of the findings made by the Defender as an independent monitoring mechanism, we also present a set of key areas that the State should address in accordance with the Convention:

    a. Developing a wide range of appropriate social support services;

    b. Closing institutional services that fail to adhere to the Convention;

    c. Reforming the social services funding system;

    d. Preventing regional disparities in the funding of services;

    e. Stopping investment in the construction of new unsuitable institutional facilities;

    f. Limiting the renovation of existing institutional social services to ensuring safe conditions for users until suitable community-based services are available;

    g. Developing a coherent national strategy that meets the requirements of the Convention;

    h. Strengthening the participation of persons with disabilities and their advocate organisations;

    i. Introducing measurable indicators and a system for regular evaluation of the progress achieved;

    j. Developing a comprehensive National Carers Support Strategy;

    k. Providing financial support to persons with disabilities;

66 Ibid.

l. Providing comprehensive support to families of persons with disabilities, including financial assistance and other non-financial measures (respite care, the right to rest, employment-related measures, etc.).

Brno, 31 October 2025

Stanislav Křeček
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