PART ONE
GENERAL PROVISIONS

Section 1

(1) The Public Defender of Rights (hereinafter the “Defender”) shall work to defend persons against the conduct of authorities and other institutions set forth in this Act, where such conduct is at variance with the law, or does not comply with the principles of a democratic legal state and good administration; as well as against their inaction, thereby contributing to the defence of fundamental rights and freedoms.

(2) The mandate of the Defender pursuant to paragraph 1 shall apply to ministries and other administrative authorities having competence over the entire territory of the Czech Republic, administrative authorities subject to them, the Czech National Bank when acting as an administrative authority, the Council for Radio and Television Broadcasting, bodies of the territorial self-governing units in the exercise of state administration, and unless hereafter stipulated otherwise, the Police of the Czech Republic, Army of the Czech Republic, Castle Guard, Prison Service of the Czech Republic, to facilities performing custody, imprisonment, protective or institutional education, protective treatment, preventive detention, as well as to public health insurance organisations (hereinafter the “Authority”).

(3) The Defender shall systematically visit places where persons restricted in their freedom by public authority, or as a result of their dependence on care provided, are or may be confined, with the objective of strengthening the protection of these persons against torture, or cruel, inhuman and degrading treatment, or punishment and other maltreatment.

(4) The mandate of the Defender pursuant to paragraph 3 shall apply to

   a) facilities performing custody, imprisonment, protective or institutional education, or protective treatment or preventive detention;

   b) other places where persons restricted in their freedom by public authority are or may be confined, especially police cells, facilities for the detention of foreigners and asylum facilities;

   c) places where persons restricted in their freedom are or may be confined as a result of dependence on the care provided, especially social service facilities and other facilities providing similar care, healthcare facilities and facilities providing social/legal protection of children (hereinafter “Facilities”).
The Defender shall perform his/her mandate in matters of the right to equal treatment and protection against discrimination.\(^1\)

The mandate of the Defender shall not encompass Parliament, the President of the Republic and the Government, the Supreme Audit Office, the intelligence services of the Czech Republic, prosecuting bodies, or public prosecutors and courts, with the exception of the public prosecutor’s administrative bodies and state administration of courts.

The Defender shall be authorised to lodge a proposal for commencement of proceedings pursuant to the Act on Proceedings in Matters of Judges and Prosecutors\(^{1a}\) and participate in the proceedings.

The Defender shall not be authorised to interfere with the activities and decisions made by Authorities and Facilities in any manner other than as stipulated in this Act.

### Section 2

(1) The Defender shall be elected by the Chamber of Deputies for a term of office of six years, from among candidates, of whom two shall be nominated by the President of the Republic and two by the Senate: identical proposals shall be admissible. The Defender may be elected for a maximum of two consecutive periods.

(2) All those who are eligible for election to the Senate may be elected as Defender.

(3) The seat of the Defender shall be in Brno.

(4) The Deputy Defender shall represent the Defender in full during periods of the Defender’s absence. The Defender may delegate part of his/her mandate to the Deputy. Unless stipulated otherwise in this Act, the provisions of this Act concerning the Defender shall apply mutatis mutandis to the election, loss of office, recall from office and the legal status of the Deputy Defender.

### Section 3

(1) The office of Defender is incompatible with the office of President of the Republic, Member of Parliament, senator and judge, as well as any activities in public administration.

(2) The discharge of the office of Defender is incompatible with other profit-making activities, with the exception of the management of his/her private property and activities of a scientific, educational, publishing, literary or artistic nature, as long as this is not to the detriment of the discharge of his/her office and its dignity, and does not threaten trust in independence and impartiality in the discharge thereof.

(3) The Defender may not be a member of a political party or a political movement.

(4) During the term of office the Defender, if he/she is subject to compulsory military conscription, shall not be called up for active service or the active service will be suspended: military training periods thus missed shall be waived.

### Section 4

(1) The Defender shall assume the discharge of office by taking an oath before the Chair of the Chamber of Deputies, but not earlier than as of the date following the date of expiry of the term of office of the previous Defender; the Defender whose term of office has expired shall exercise the mandate of Defender until the new Defender takes the oath.

(2) The oath of the Defender shall have the following wording: “I promise on my honour and conscience that I will discharge my office independently and impartially, in accordance with the Constitution and other laws, and that I will protect the inviolability of rights.”

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\(^1\) Act No. 198/2009 Coll., on equal treatment and on the legal means of protection against discrimination and on amendment to some laws (the Anti-Discrimination Act).

\(^{1a}\) Act No. 7/2002 Coll., on proceedings in matters of judges and public prosecutors, as amended.
Section 5

(1) The Defender shall discharge his/her office independently and impartially.

(2) The Defender shall be accountable to the Chamber of Deputies for the discharge of office.

Section 6

(1) The Defender shall lose office as of the date following the date when
   a) his/her term of office expired,
   b) a court judgment came into legal force whereby the Defender was convicted of a criminal act,
   c) the Defender ceased to be eligible for election to the Senate,
   d) the Defender assumed the discharge of an office set forth in Section 3 (1) or performs activities in public administration, or
   e) the Defender’s written declaration that he/she resigns from his/her office was delivered to the Chair of the Chamber of Deputies.

(2) The loss of office on the grounds set forth in par. 1 above shall be announced by the Chair of the Chamber of Deputies who shall inform thereof in writing the person who has lost the office of Defender.

(3) If the Defender carries out an activity which, pursuant to Section 3 (2) is incompatible with the discharge of his/her office, or if he/she is a member of a political party or political movement, the Chamber of Deputies shall recall him/her from office of Defender and inform the Defender thereof in writing; the recalling shall take effect as of the date of delivery of the written notification.

(4) The Chair of the Chamber of Deputies shall inform the Senate, the President of the Republic and the public of such recall from office; the Chair of the Chamber of Deputies shall also inform the Chamber of Deputies of the loss of office.

(5) The election of the Defender shall take place within a period commencing as of the sixtieth day before expiry of the Defender’s term of office and ending as of the date of expiry.

(6) If the Defender’s office becomes vacant before termination of his/her term of office, the election of the Defender shall take place within 60 days.

(7) If the Defender is not elected within the period pursuant to par. 5 or 6 above, a new election shall take place within 60 days.

Section 7

(1) The Defender may not be criminally prosecuted without the consent of the Chamber of Deputies. If the Chamber of Deputies denies consent, criminal prosecution of the Defender shall be impossible during the term of performance of mandate of the Defender.

(2) The Defender shall be obliged to maintain the confidentiality of facts that he/she has learned during the discharge of office, also after termination of the discharge of office, unless the law stipulates otherwise; the same obligation shall also be borne by employees of the Office of the Public Defender of Rights (hereinafter the “Office”) (Section 25).

(3) The Chair of the Chamber of Deputies may relieve the Defender or the employees of the Office from the obligation to maintain confidentiality under par. 2 above for serious reasons.

(4) State bodies, including criminal prosecution bodies, shall be authorised to inspect the files of the Defender or take away such files only on the basis of a law and with the consent of the Defender, and if the Defender denies consent, with the consent of the Chair of the Chamber of Deputies.
Section 8

(1) The office of Defender is a public office.

(2) The Defender shall be entitled to a salary, severance pay, reimbursement of expenses and benefits in kind equal to that of the President of the Supreme Audit Office. The Deputy Defender shall be entitled to a salary, severance pay, reimbursement of expenses and benefits in kind equal to that of the Vice-President of the Supreme Audit Office.

PART TWO

ACTIVITIES OF THE DEFENDER

Section 9

The Defender shall act
a) on the basis of a complaint lodged by a natural or legal person (hereinafter the "Complaint") addressed to his/her person,
b) on the basis of a Complaint addressed to a Member of Parliament or a Senator, who has passed the said Complaint on to the Defender,
c) on the basis of a Complaint addressed to either of the Houses of Parliament, which has passed the said Complaint to the Defender, or
d) on his/her own initiative.

Section 10

(1) Everybody has the right to address the Defender with a written Complaint in matters that belong to his mandate (pursuant to Section 1 (1) and (2)); such a Complaint may also be made orally into a protocol.

(2) A Complaint may not be subject to official inspection.

(3) The Complaint is not subject to a fee.

Section 11

(1) A Complaint must contain
a) a description of the material facts of the case (Section 10 (1)), including information as to whether the case has also been submitted to some other state body and, if relevant, the outcome,
b) the designation of the Authority and, where appropriate, the name and surname or other information as to the identity of the person to whom the Complaint pertains,
c) documentary proof that the Authority to which the Complaint pertains was unsuccessfully requested to ensure remedy,
d) the name, surname and domicile or, for a legal person, the name, seat and persons authorised to act on its behalf, of the party lodging the Complaint (hereinafter the "Complainant").

(2) Where the Complaint concerns a decision, the Complainant shall submit a copy thereof.
Section 12

(1) The Defender shall suspend the Complaint if the case in question does not fall within his/her mandate, or does not concern the party lodging the Complaint.

(2) The Defender may suspend a Complaint if
   a) the requisites under Section 11 have not been supplemented within the set deadline,
   b) it is clearly unfounded,
   c) the time elapsed from the legal force of the decision or from the measure or event to which the Complaint pertains exceeds one year before the date of delivery of the Complaint,
   d) the case to which the Complaint pertains is before a court or has had a court decision passed upon it, or
   e) if the Complaint is a case that has already been inquired into by the Defender (Sections 17 and 18) and the re-presented Complaint does not contain any new facts.

(3) The Defender shall inform the Complainant in writing of the suspension of the Complaint and the reasons thereof.

Section 13

If, according to its content, the Complaint is a matter for appeal pursuant to regulations on proceedings in administrative or judicial matters, an action or matter for appeal before the administrative courts, or a constitutional complaint, the Defender shall inform the Complainant thereof without delay and shall provide instructions to the Complainant as to the correct procedure.

Section 14

If the Defender does not suspend the Complaint (Section 12) or does not proceed pursuant to Section 13, the Defender shall open an inquiry and inform the Complainant thereof in writing.

Section 15

(1) The Defender shall be authorised, with the knowledge of the heads of the Authorities concerned, to enter all areas of the Authority concerned even without prior notice, in order to carry out an inquiry involving
   a) the study of files
   b) asking questions of the employees of Authorities,
   c) interviewing persons placed in the Facilities, also without the presence of third parties.

(2) At the request of the Defender, the Authorities shall be obliged to provide the following within the deadline set by the Defender:
   a) information and explanations,
   b) files and other written materials,
   c) their standpoint in writing as to the facts of the case and legal matters,
   d) evidence proposed by the Defender,
   e) the performance of such supervisory actions to which they are authorised by law and which are proposed by the Defender.

(3) The Defender shall be authorised to be present at oral hearings and the producing of evidence by Authorities and to ask questions to the persons present.

(4) For the purposes of inquiry pursuant to the previous paragraphs, at the Defender’s request, a person authorised to do so pursuant to a special law shall relieve individual employees of an Authority from the obligation to maintain confidentiality that has been imposed on them by a specific law. Where
no special law lays down who is the person authorised to relieve from the obligation to maintain confidentiality, for the purposes hereof, the head of the Authority shall be deemed to be such a person with respect to an employee of an Authority, the head of the superior Authority with respect to the head of an Authority, and if there is no such Authority, then the Prime Minister. For the purposes of an inquiry under this Act, the Defender cannot be required to comply with the obligation to maintain confidentiality imposed by a contract.

Section 16

All state bodies and persons performing public administration are, within the scope of their competence, obliged to provide the Defender with all assistance requested by him/her during inquiries.

Section 16a

(1) The Ministry of the Interior, regional authorities and municipal authorities of municipalities with extended competence shall provide citizens’ data to the Defender for the exercise of the mandate pursuant to this Act from the citizens register information system; ‘citizen’ shall mean a natural person pursuant to a special regulation. The Ministry of the Interior shall provide the aforementioned data in electronic form in a manner enabling remote access.

(2) Furthermore, at his/her request, the Ministry of the Interior shall provide to the Defender for the exercise of his/her mandate hereunder data from the registry of birth identification numbers concerning individuals to whom a birth identification number has been assigned but are not mentioned in paragraph 1 above. To the extent possible given the technical condition of the registry of birth identification numbers, the data under the first sentence shall be provided only in electronic form in a manner enabling remote access.

(3) The data provided pursuant to paragraph 1 above shall be data on the following

a) nationals of the Czech Republic;

   1. name(s), surname and, where applicable, change thereof, surname at birth,
   2. date of birth,
   3. place and district of birth; for a citizen born abroad, the place and the state where the citizen was born,
   4. birth identification number,
   5. nationality,
   6. permanent address, including previous permanent addresses,
   7. beginning of permanent residence, or where applicable date of cancellation of permanent residence data or date of termination of permanent residence in the territory of the Czech Republic,
   8. legal incapacitation or restriction of legal capacity,
   9. marital status, date and place of marriage,
   10. date, place and district of death; if the citizen dies outside the territory of the Czech Republic, the date of death and state in the territory in which the death occurred,
   11. date which was specified as the date of death in the court decision on declaring the person dead.

2 Act No. 133/2000 Coll., on records of the population and birth identification numbers and on amendment to some laws (Act on Records of the Population), as amended.
3 Section 12 (7) of Act No. 283/1993 Coll., on public prosecution, as amended.
4 Section 64 (2) (f) of Act No. 182/1993 Coll., on Constitutional Court, as amended by Act No. 18/2000 Coll.
b) foreigners who are residents,
   1. name(s), surname and, where applicable, change thereof, surname at birth,
   2. date of birth,
   3. place and state in the territory of which the person was born,
   4. birth identification number,
   5. nationality,
   6. type and address of residence,
   7. number and validity of residence permit,
   8. beginning of residence, and where applicable date of termination of residence,
   9. legal incapacitation or restriction of legal capacity,
   10. marital status, date and place of marriage,
   11. administrative deportation and the period during which entering the territory of the
       Czech Republic is not permitted,
   12. deportation and period during which entering the territory of the Czech Republic is not
       permitted,
   13. date, place and district of death, and, if the person dies outside the territory of the
       Czech Republic, the state in the territory in which the death occurred, and where
       applicable, the date of death,
   14. date which was specified as the date of death in the court decision on declaring the
       person dead.

(4) The data provided under paragraph 2 above shall be
   a) name(s), surname and, where applicable, surname at birth,
   b) birth identification number,
   c) original birth identification number if the birth identification number has changed,
   d) day, month and year of birth,
   e) place and district of birth, for a natural person born abroad the state in the territory of which
      he/she was born.

(5) From the provided data, only such data may be used in a specific case that is essential for fulfilling
    the task concerned.

Section 17

If, in the course of his/her inquiry, the Defender does not ascertain any breach of legal regulations or
any other maladministration (Section 1 (1)), the Defender shall inform the Complainant and the
Authority thereof in writing.

Section 18

(1) If, in the course of his/her inquiry, the Defender ascertains a breach of legal regulations or any
other maladministration (Section 1 (1), he/she shall request the Authority to provide a statement on the
Defender’s findings within 30 days.

(2) If the Authority states at the request pursuant to paragraph 1 above that it has performed or is in
the process of performing remedial measures, and the Defender considers these measures to be
sufficient, the Defender shall inform the Complainant and the Authority thereof. Otherwise, following
receipt of the statement or expiry of the deadline to no effect, the Defender shall inform the
Complainant and the Authority in writing of the Defender’s final statement; the latter shall include a
proposal for remedy.
Section 19
The Defender may propose mainly the following remedial measures:

a) opening of proceedings on review of a decision, act or procedure of the Authority, if it is possible to open such proceedings *ex officio*,

b) performing of acts to eliminate inactivity,

c) commencement of disciplinary or similar proceedings,

d) commencement of prosecution for a criminal act, offence or other administrative tort,

e) provision of indemnification or the lodging of a claim for indemnification.

Section 20

(1) The authority shall be obliged to inform the Defender within 30 days of receipt of the final decision of the corrective measures that have been taken.

(2) If the Authority fails to fulfil the obligation under paragraph 1 above, or if the remedial measures are insufficient in the Defender’s opinion, the Defender

a) shall inform a superior Authority, or if there is no such Authority, the Government,

b) may inform the public of his findings, including the disclosure of the names and surnames of persons authorised to act on behalf of the Authority.

(3) The Defender may also proceed in the manner set forth in paragraph 2 above if the Authority fails to fulfil an obligation arising from Sections 15 and 16.

Section 21

If the Defender acts on his/her own initiative, Sections 15 to 20 shall apply *mutatis mutandis*.

Section 21a

(1) Sections 15 and 16 shall apply *mutatis mutandis* to visits to Facilities (Section 1 (3) and (4)).

(2) After visiting a Facility or after associated visits to several Facilities, the Defender shall draw up a report on his/her findings. The report may include recommendations or proposals for remedial measures.

(3) The Defender shall request the Facility to provide a statement on the Defender’s report, recommendations or proposals for remedial measures within the time set by the Defender. The Defender may likewise request the founder of the Facility or the relevant Authorities. If the Defender finds their statement sufficient, he/she shall inform the Facility and, if appropriate, its founder or the relevant Authorities thereof. Otherwise, following receipt of the statement or expiry of the deadline to no effect, the Defender may proceed pursuant to Section 20 (2) *mutatis mutandis*.

(4) In case of failure to fulfil the cooperation obligation pursuant to Sections 15 and 16, the Defender may proceed pursuant to Section 20 (2).

Section 21b

The Defender shall contribute to promotion of the right to equal treatment of all persons regardless of their race or ethnic origin, nationality, sex, age, disability, religion, belief or opinions, and to this end, he/she shall

a) provide methodical assistance to victims of discrimination in lodging their proposals for commencement of proceedings concerning discrimination,

b) perform research,

c) publish reports and issues recommendations on discrimination-related issues,
d) provide for exchange of the available information with the relevant European parties.

PART THREE
SPECIAL AUTHORISATIONS AND OBLIGATIONS OF THE DEFENDER

Section 22

(1) The Defender shall be authorised to recommend the issuing, amendment to or annulment of a legal or internal regulation. The Defender shall lodge the recommendation with the Authority whose competence is concerned and, if the matter concerns a Government Regulation or Resolution, with the Government.

(2) The Authority shall be obliged to provide its statement on the recommendation pursuant to paragraph 1 above within 60 days. Section 20 (2) shall apply mutatis mutandis.

(3) The Defender shall be authorised to propose that the Supreme Public Prosecutor lodge an action for the protection of the public interest. If the public prosecutor does not lodge the action, the procedure shall be governed by the special law.

Section 23

(1) The Defender shall submit by March 31 each year a written annual report to the Chamber of Deputies on his/her activities during the past year: the report is a parliamentary publication. The Defender shall simultaneously send the report to the Senate, the President of the Republic, the Government, and ministries and other administrative authorities having competence over the entire territory of the state and the Defender shall publish the report in a suitable manner.

(2) The Defender shall systematically inform the public of his/her activities under this Act and of any findings resulting from his/her activities. The Defender shall publish in a suitable manner reports from visits to the Facilities, including statements received and selected reports on completed inquiries in individual matters; Section 20 (2) (b) shall apply mutatis mutandis.

Section 24

(1) The Defender shall submit to the Chamber of Deputies

a) information on his/her activities at least once every 3 months,

b) a report on each case in which adequate remedial measures have not been achieved even after using the procedure pursuant to Section 20 hereof,

c) recommendations pursuant to Section 22 hereof as regards legal regulations.

(2) The Chamber of Deputies shall discuss the reports and information submitted by the Defender.

(3) The Defender shall be authorised to participate in meetings of the Chamber of Deputies and its bodies pertaining to matters concerning his/her mandate, even if the meeting or part thereof has been declared closed to the public. If he/she requests leave to speak, this shall be granted.

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6 Section 66 (2) of Act No. 150/2002 Coll., the Court Procedural Code.
PART FOUR
CONCLUDING PROVISIONS

Section 25

(1) Specialist, organisational and technical tasks linked to the activities of the Defender shall be carried out by the Office, as an organisational unit of the state.

(2) The details of organisation and the tasks of the Office are defined in the Statute to be issued by the Defender.

(3) Assistants may be appointed by the Defender for fulfilment of the tasks in the exercise of his/her mandate.

(4) The employment relation of an assistant shall arise upon appointment and shall be governed by the Labour Code, unless this Act lays down otherwise. The assistant shall be appointed and recalled by the head of the Office on the basis of the Defender’s proposal.

(5) A citizen who has no criminal record and who has completed a university education in a master’s study program in the sphere of law at a university and has carried out preparatory practice in the Office for at least 12 months may be appointed as an assistant. The condition of a lack of a criminal record shall not be met by a person who has been validly convicted of a crime, unless he/she is considered not to have been convicted.

(6) The Defender may authorize assistants and other employees of the Office to perform inquiries in cases pursuant to Sections 15, 16 and 21a (1). However, only assistants may act on behalf of the Defender in the relevant proceedings before the court or the Constitutional Court.

Section 26

Costs related to the activities of the Defender and his/her Office shall be covered by a separate chapter in the state budget.

Section 27

The Defender is subject to the Labour Code, unless this Act provides otherwise.

Section 28

Effect

This Act shall enter into effect on the sixtieth day following its promulgation.

Klaus, signed
Havel, signed
Zeman, signed