

# European Rule of Law Mechanism: input – Czech Republic

## I. Justice System

### A. Independence

#### 1. *Appointment and selection of judges, prosecutors and court presidents*

##### *a) Judges*

For general requirements on candidates for the function of judges at district, regional, high courts, Supreme and Supreme Administrative Court, please see the 2020 Rule of Law Report – Country Chapter Czechia.

To become a judge of the Supreme and Supreme Administrative Court, the judge has to have legal practice for at least ten years and his/her expertise and experience has to guarantee the proper performance of this function.

Appointment and selection of Constitutional Court's judges are regulated by the Constitution (Act No. 1/1993 Coll.) and Act on Constitutional Court (Act No. 182/1993 Coll.). According to Article 84 of the Constitution, any citizen who has a character beyond reproach, is eligible for an election to the Senate, has a university degree in legal education and has been active in a legal profession for a minimum of ten years may be appointed as a judge of the Constitutional Court. The judge shall be appointed by the President of the Czech Republic (President) with the consent of the Senate for the period of 10 years. As stated in the Act on Constitutional Court, if the President does not obtain consent of the Senate within 60 days of his request, only due to the fact that the Senate did not vote on the matter within the abovementioned period, then the Senate shall be deemed to have given its consent (see Article 6 of Act on Constitutional Court).

As was already mentioned in 2020 input to Rule of Law Report, an amendment of the Act on Courts and Judges (Act No. 6/2002 Coll.) based on GRECO recommendations is currently being discussed by the Parliament of the Czech Republic (Parliament). The proposal was approved by the Government on 8 October 2019 and was discussed in the first reading by the Chamber of Deputies on 11 March 2020. Subsequently, the proposal was discussed by the Committee on Constitutional and Legal Affairs, which recommended an approval. The second reading took place on 10 December 2020 and the Chamber of Deputies finally approved the proposal on 22 January 2021. The Senate shall now discuss this amendment.

The proposed amendment shall establish a transparent and uniform system of new judges' recruitment and selection of court presidents based on precise, objective and uniform criteria, which must be fulfilled by any person who wants to become a judge or a court president.

The proposed selection system of new judges consists of 5 phases: 1. practice as an assistant of a judge, 2. judicial exam, 3. selection procedure of a judicial candidate, 4. practice of a judicial candidate and 5. open competition for the position of a judge. Selection committees in phases 3. and 5. shall consist of judges and judicial experts while judges will have majority. Applicants from other legal professions (such as lawyers, notaries, bailiffs or public prosecutors) are also allowed to apply for the position of a judicial candidate and/or judge.

*b) Public prosecutors*

With regard to selection and appointment of public prosecutors, please see the 2020 Rule of Law Report – Country Chapter Czechia. Regarding the concerns expressed in the Report in connection with the Amendment to the Act on Public Prosecutor's Office, we would like to highlight that the proposed composition of the selection committee is neutral as the fifth member is a judge who is independent regardless of the fact that he/she would be appointed by the Minister of Justice. In order to meet the concerns expressed by some stakeholders, an option, in which a judge is chosen by a lot and then appointed by the Minister of Justice, is proposed in the Amendment.

*c) Court presidents*

The president of the Supreme Court is appointed by the President of the Czech Republic from among the judges in accordance with the Constitution and Article 102 of the Act on Courts and Judges (the Act No. 6/2002 Coll.). His/her term of office is 10 years.

Like the president of the Supreme Court, the President of the Republic appoints the presidents of the high courts, but in this case on the proposal of the Minister of Justice. The term of office of the presidents of high courts is 7 years in accordance with Article 103(2) of the Act on Courts and Judges.

The same rules apply also to the presidents of regional courts. The president is appointed by the President of the Czech Republic on the proposal of the Minister of Justice. As in the case of the presidents of the high courts, the term of office is also 7 years.

Presidents of district courts are appointed from among the judges by the Minister of Justice on the proposal of the president of a regional court. The term of office of the presidents of district courts remains the same as in the previous cases, i.e. 7 years.

An amendment to the Act on Courts and Judges, which shall align already practiced selection procedure with the law, is currently being discussed by the Parliament (see information above). According to this amendment, court presidents of district, regional and high courts shall be selected in open competitions before selection committees in which judges will have majority. Applicants are required to be judges that have at least 5 years of practice as a judge. The proposal prohibits the possibility to repeat the mandate of a court president at the same court. Presidents of high and regional courts may repeat their mandate at a different court of the same level after 5 years from the end of the first mandate. Court presidents are required to fulfil a management education course (organized by the Judicial Academy).

***2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors***

*a) Judges*

For transfers and dismissal of judges please see the 2020 Rule of Law Report – Country Chapter Czechia.

As for retirement regime, the function of a judge terminates *ex lege* upon expiry of the calendar year during which the judge reached 70 years of age (Section 94 of the Act on Courts and Judges).

*b) Court presidents*

As was already mentioned in answer to previous question, court presidents are appointed to their functions for a limited term. As for disciplinary violation, this shall also consist of an intentional breach

of duties connected to function of president of court, vice-president of court, presidents of panels of the Supreme Court or Supreme Administrative Court.

### *c) Public Prosecutors*

Transfers of public prosecutors are in general described in the 2020 input to 2020 Rule of Law Report (answers to question no. 3). In addition to the aforementioned answer, a public prosecutor's consent with transfer is not required if there is a change in the organization of the Public Prosecutor's Office or a change in the districts of the Public Prosecutor's Office by law and the exercise of the powers of the Public Prosecutor's Office cannot be ensured otherwise. In this case the transfer decision is made by the Minister of Justice after the statement of the Chief Public Prosecutor of the Public Prosecutor's Office to which the public prosecutor is assigned. Temporary assignment to different Public Prosecution's Office and even to other organization or institution is also possible, but only with public prosecutor's consent and when it is in the interest of a proper performance of tasks of the Public Prosecutor's Office.

Public prosecutor is appointed for an unlimited term and may only be dismissed by a decision on the imposition of a disciplinary measure according to Section 21(2)d of the Act on Public Prosecution's office (PPO Act).

Also, the function of public prosecutor expires, for example, on the day on which the public prosecutor is appointed as a judge, elected a deputy or a senator of the Parliament or a member of a local government or on the day on which the public prosecutor takes function in the public administration.

The function of the public prosecutor expires due to the age on 31 December of the calendar year in which the public prosecutor reaches the age of 70 according to Section 21(1)f of the PPO Act.

With regard to the concerns expressed in the Commission Report in connection with the Amendment to the Act on Public Prosecutor's Office and concerning the end of mandates of Prosecutor General and High Prosecutors, the Amendment prepared by the Ministry of Justice in 2019 is built upon principle of hierarchy according to which the senior public prosecutor shall have an option to select his/her subordinates. At the time of the proposed end of their mandates under the new law, all three of them (Supreme and two High Public Prosecutors) would be in their position significantly longer than the proposed term of office for these functions under the draft law.

### **3. Promotion of judges and prosecutors**

With regard to promotion of judges and prosecutors, there is no new development, please see the 2020 Rule of Law Report – Country Chapter Czechia.

### **4. Allocation of cases in courts**

In legislative framework, there were no changes made in allocation of cases in courts. Information given last year remains valid.

### **5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

There are no changes with regard to independence and powers of the body tasked with safeguarding the independence of the judiciary, please see the 2020 Rule of Law Report – Country Chapter Czechia.

## **6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.**

### *a) Judges*

With regard to accountability of judges, please see the 2020 Rule of Law Report – Country Chapter Czechia.

Concerning judicial immunity and criminal liability of general courts judges, this is regulated by the Act on Courts and Judges, which stipulates in its Section 76, that a judge may be criminally prosecuted or put into custody for acts committed during the exercise of office of judge or in relation to the exercise of this office only with the consent of the President. The body that has commenced criminal prosecution of a judge shall notify the Ministry and the president of the relevant court of this fact.

Special conditions of judicial immunity of judges of Constitutional Court are regulated by the Article 86 of the Constitution, which stipulates that a judge of the Constitutional Court may be criminally prosecuted only with the consent of the Senate. If the Senate withholds its consent, such criminal prosecution shall be foreclosed for the duration of the mandate of the judge of the Constitutional Court.

A judge of the Constitutional Court may be arrested only if he/she has been apprehended while committing a criminal act or immediately thereafter. The arresting authority must immediately inform the President of the Senate of the arrest; if, within twenty-four hours from the arrest, the President of the Senate does not grant consent to hand the detained judge over to a court, the arresting authority is obliged to release him. At the very next meeting of the Senate, it shall make a final decision as to whether he may be criminally prosecuted.

A judge of the Constitutional Court also has the right to refuse to give evidence as to facts about which he/she learned in connection with the performance of his or her duties, and this privilege continues in effect even after he/she has ceased to be a judge of the Constitutional Court.

As for ethical rules applicable to judges please see 2020 Rule of Law Report – Country Chapter Czechia on rules enacted by the Act on Courts and Judges. These rules were further elaborated in a new [Code of Ethics for Judges](#), which was approved by the vast majority of the Czech courts and their judges. The Code must be considered as a significant tool for ensuring compliance with the requirements communicated by the Group of States against Corruption (GRECO), as well as for strengthening the public trust in the judiciary.

Based on this recommendation and on requests of the Ministry of Justice, a working group at the Supreme Court has been established. A lot of work has been conducted during the process of drawing up of the Code as well as subsequent discussions with various stakeholders. The process has been partially affected by the pandemic situation as the results of the negotiations were communicated with the Supreme Court in writing.

Regarding the background of the process mentioned above it has to be noted that the Code of Ethics for judges in the Czech Republic had already been adopted by the Czech Union of Judges in 2005. However, the Union – as a voluntary association of judges, therefore uniting only about one-third of all judges – could not sufficiently represent the judiciary as a whole. Due to this, a working group at the Supreme Court of the Czech Republic was established, headed by then Judge of the Supreme Court, Petr Angyalossy, Ph. D., current President of the Court. The group comprised of 22 judges from regional and high courts, some of them members of the Union of Judges, and its first meeting took place in October 2019, followed by two more meetings in following months. During the last one in January

2020, the final text of the Code of Ethics with commentary and relevant case law was approved by the working group.

As to the process of its approval by Czech judges in general, the working group was considering several possibilities. The final choice was the approval of the Code by the judicial councils of each court. The reason was following: judicial councils are bodies of courts whose members are elected by judges of the respective courts; hence these are the only entities in the judiciary with democratic legitimacy. Therefore, the judicial councils established by each and every Czech court in effect represent the judges of the court themselves as they are the only democratically elected bodies of the courts.

The judicial councils were addressed via presidents of courts and they received the final text of the Code including the aforementioned commentary and some disciplinary decision-making practice. Their reaction was largely and predominantly positive and the vast majority of the judicial councils accepted the proposed Code without reservation. The Code of Ethics itself includes mainly chapters concerning independence, impartiality and equality, integrity and dignity, expertise and conscientiousness and is followed by the aforementioned commentary with practical examples.

#### *b) Public prosecutors*

As for accountability of public prosecutors, please see the 2020 Rule of Law Report – Country Chapter Czechia.

Czech wording of the [Code of Ethics for Public Prosecutors](#) is accessible on the website of the Prosecutor service (update of link provided in original text). [English translation](#) is also available. GRECO evaluated this Code of Ethics as sufficient to fulfil one of the recommendations addressed to the Czech Republic.

### **7. Remuneration/bonuses for judges and prosecutors**

Information provided in CZ input to 2020 Rule of Law Report is valid for 2021. Due to COVID-19 pandemic and its economic consequences salaries of judges and public prosecutors (as well as other public representatives and employees) were frozen on 2020 level.

### **8. Independence/autonomy of the prosecution service**

As stated in 2020 Rule of Law Report – Country Chapter Czechia, the prosecution service is part of the executive branch. However, it is considered as *sui generis* authority. The Constitutional Court ruled in its judgement no. Pl. ÚS 17/10: “Constitutional Court noted that both the Constitution and the Act on the Public Prosecutor’s Office, as well as the principle of equality of parties to the proceedings and due process, require independent discharge of the office of public prosecutor within the public prosecutor’s office system, which, acting as a special and independent authority *sui generis*, performs tasks defined by the Constitution and the Act and granted exclusively to it.”

### **9. Independence of the Bar (chamber/association of lawyers) and of lawyers**

With regard to an independence of the Bar, please see the 2020 Rule of Law Report – Country Chapter Czechia. As for independence of lawyers, it is necessary to highlight Section 3 of the Act on Legal Profession (Act No. 85/1996 Coll.), which stipulates, that the lawyer shall be independent in the provision of legal services; he/she shall be bound by the law and, according to the law, by his/her client’s orders.

## ***10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary***

An amendment of the Act on Courts and Judges is currently being discussed by the Czech Parliament (has been approved by the Chamber of Deputies and will be discussed shortly by the Senate). As this amendment is largely based on GRECO recommendations (see the last GRECO Interim Compliance Report on the Czech Republic) and promotes transparency, it certainly has a potential to ultimately affect the perception of general public towards judiciary and its independence.

The proposed amendment shall establish a transparent and uniform system of new judges' recruitment and a selection of court presidents based on a precise, objective and uniform criteria which must be fulfilled by any person who wants to become a judge or a court president.

### **B. Quality of justice**

#### ***11. Accessibility of courts (e.g. court fees, legal aid, language)***

##### *a) Court fees*

In the Czech Republic, the court fees are regulated by a separate Act (Act No. 549/1991 Coll. on court fees). The specific amount of these fees is determined by the so-called List of fees, which is appended to this Act. Court fees have not been increased over almost the last 10 years, so their level is currently quite moderate and does not constitute an obstacle in access to justice, considering the standard of living and the average wage in the Czech Republic.

There was a comprehensive amendment approved by the Government in 2020 that aimed to revise court fees in terms of their amount and adapt them to the socio-economic situation in the Czech Republic. However, the discussion has been suspended and the Court fees remain substantively low and unchanged.

Some proceedings are completely exempted from court fees. The court may also, at a request, exempt a party from court fees completely or partly. Exemption from court fees is based on the participant's financial situation.

If certain conditions are fulfilled, the party is exempt from court fees, and the court may also appoint a legal representative or a lawyer. In such case the costs are reimbursed by the State.

##### *b) Legal aid*

As was already mentioned in the previous report, in the area of legal aid there is actually new system of free legal assistance, where free legal advice is provided exclusively by an attorney. The duration of this free legal advice ranges from 30 to a maximum of 120 minutes per year. The fee is set at CZK 100 (approx. € 4) per session, but there are a number of exceptions where applicants do not have to pay any fee at all.

##### *c) Language*

Participants before Czech courts are allowed to act in their mother language, as granted by Act No. 99/1963 Coll., the Civil Procedural Code. If this mother language is not Czech, the court shall grant a party an interpreter.

#### ***12. Resources of the judiciary (human/financial/material)***

There are over 3000 judges at all court levels in the Czech Republic. There is 28,4 of professional judges per 100 000 inhabitants in the Czech Republic.

As for further statistical data, including on gender balance, please see [EU Justice Scoreboard 2020](#) and [CEPEJ Report 2020](#) (2018 data) or consult [CEPEJ Dynamic database](#).

As for the administration of courts, consisting of their personnel, financial, organizational and similar security, it is the Ministry of Justice who performs such administration at the central level and at individual courts (directly or through their presidents). As for other employees in the judiciary (assistants of judges, administration), financial resources are limited and level of remuneration is below the private sphere level, therefore positions could be difficult to fill in some regions.

### ***13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)***

Training of judges, public prosecutors and judicial personnel in the Czech Republic is provided by Judicial Academy in Kroměříž. Each year, judicial academy offers almost 800 training events aimed at development of knowledge and skills of judges, public prosecutors and judicial personnel in all legal and non-legal disciplines that enable and support quality performance of duties of aforementioned groups. In 2020 the COVID-19 pandemic moved substantial part of educational activities to the online environment.

Judicial Academy has long monitored and reflected on the priorities of the European Union in the field of judicial education, including the topic of the rule of law. In cooperation with the European Judicial Training Network (EJTN), the following seminars were organized for this specific area in 2020:

- Rule of Law Training for Judges: Independent Judges as a Cornerstone of the Rule of Law, 5-6 March 2020 (online)
- Autonomous Prosecution Services and their essential role for the Rule of Law, 29-30 October 2020 (online)

Training of judicial professionals as such is one of the most important aspects of ensuring the rule of law, promoting mutual trust and facilitating cross-border cooperation. Judicial training should continue to contribute to the development of respect for the rule of law and the strengthening of the European culture of the rule of law, as the independence, transparency, quality and efficiency of national judicial systems are the essence of the rule of law. Improving the knowledge and skills of judicial professionals is a prerequisite and tool for increasing the quality and efficiency of judicial systems and for strengthening the confidence of EU citizens in national judicial systems and mutual trust in cross-border litigation.

### ***14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)***

The Czech judiciary has long allowed the receipt of electronic submissions in virtually all agendas and allows sending of court documents in electronic form in accordance with the eIDAS regulation (use of the national system of data boxes, qualified electronic signatures and seals). The fully electronic CEPR agenda (electronic payment order) continues to be widely used and its remote availability for the entire claim lawsuit is a great advantage, especially in the context of COVID-19 pandemic.

In connection with the pandemic, there was an unprecedented increase in the frequency of use of electronic communication platforms in court proceedings (professional video sets are available in all courts), the use of electronic video communication in prisons (meetings of prosecuted and imprisoned persons with their lawyers or family members). In this context, the Ministry of Justice has accelerated

the ongoing project to equip courts and prisons with more accessible video communication infrastructure.

Work continues on the introduction of a fully electronic file service system - eSpis system, which would eliminate the management of paper files. In 2020, a number of consultations and negotiations with bidders were successfully completed within the framework of a public contract for the selection of a system supplier, conducted in the form of a competitive dialogue. At the end of the year, the public contract was in the final phase, as a call for tenders was published.

In the area of forensic expertise, the necessary foundations were laid in the course of 2020 for the possibility of future submission of expert opinions in a purely electronic form.

The statements of the representatives of the judiciary (various presidents of higher courts) also show that also thanks to the use of ICT, there were no relevant delays in the proceedings or an increase in the number of unfinished business during the pandemic. Access to justice (to standardly fast and high-quality courts) has been maintained despite the pandemic thanks to the robustness of the system.

#### ***15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)***

In the area of case management information systems, the existing systems were continuously developed during 2020 with regard to the experience and requirements of users and taking into account relevant legislative changes in procedural regulations with an impact on the functioning of information systems.

Work continues on the introduction of a fully electronic filing service system - eSpis system.

During 2020, the Ministry of Justice implemented a project to redesign electronic forms for insolvency proceedings which are also intended to ensure a smooth transfer of data to judicial information systems and a creation of comprehensive statistics from the data obtained.

Last but not least, a project was launched to build a data repository with the connection of a modern and robust statistical tool for obtaining and publishing statistical data in annual statistical reports, continuously in open data format and for *ad hoc* needs of the public or private sector.

The Ministry of Justice monitors, evaluates and publishes judicial statistics, both in the annual statistical report and online (<https://justice.cz/web/msp/statisticke-udaje-z-oblasti-justice>).

### **C. Efficiency of the justice system**

#### ***16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation***

Please see [CEPEJ Report 2018](#).

In total, there are 99 courts in the Czech Republic. Geographically they are divided into district courts and regional courts. To complete Czech four-level judicial hierarchy, there are also two high courts and the Supreme Court and the Supreme Administrative Court.

At the base of the Czech judicial system, there are 86 district courts – 75 courts in districts, 10 courts in different city parts of the capital (Prague), plus the Municipal Court in the second largest city – Brno. A step higher, there are regional courts – 8 in total. Further on in the judicial hierarchy there are 2 high



courts – in Prague and in Olomouc. Top of the hierarchy belongs to the Supreme Court of the Czech Republic and the Supreme Administrative Court of the Czech Republic, both located in Brno.

There are no specialized courts with the exception of Supreme Administrative Court

In terms of personnel, there is quite a wide range of sizes of courts. There are small courts with only 9 judges and then there are large district courts with 76 judges. Reform in this direction is in the stage of discussions amongst the professionals.

### ***17. Length of proceedings***

Comparison study of EU countries dealing with length of proceedings in civil and commercial disputes is available [online](#).

## II. Anti-corruption framework

### A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

**18. List of relevant authorities (e.g., national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g., in table format.**

The competence to fight corruption is shared between several authorities. For an exhaustive list of authorities, see the 2020 Rule of Law Report – Country Chapter Czechia as all of the institutions are still operating. The Conflict of Interests and Anti-Corruption Department of the Ministry of Justice is in charge of the anti-corruption agenda. An Anti-Corruption Council established in 2014 acts as an advisory body to the Government. The National Organised Crime Agency, in cooperation with the Public Prosecutors' Offices, investigates corruption related crimes. The Financial Analytical Office was established as an independent administrative office in 2017 and acts as a financial intelligence unit. The Supreme Audit Office reviews the state's management of public revenue and expenditure and its findings may contribute to the identification of corruption risks. Crimes committed by police officers and certain other officers and employees of security corps are investigated by independent General Inspection of Security Forces (GIBS).

#### **Public Prosecution**

In 2020 the average occupancy rate in the Prosecution Service was 1250 (out of 1280 prosecutors in total). Further there are 1461 other employees of the prosecution service.

As for financial resources, the Prosecution Service does not have an individual budget chapter but is part of the budget of the Ministry of Justice. The Ministry breaks down the budget of Supreme Public Prosecutor's Office, High Public Prosecutor's Offices and all regional Public Prosecutor's Offices. District offices are not budgetary independent and they fall under regional offices. Information on the management and final accounts of the Ministry of Justice from recent years are available [here](#). The information includes financial and budgetary information on the Ministry of Justice and all managed organizations and services – courts, public prosecution, Prison Service, Probation and Mediation Service etc.

#### **Ministry of Justice of the Czech Republic and its Conflict of Interests and Anti-Corruption Department**

In 2020 the allocated human and legal resources remained as declared in 2020. Practical resources were supplemented by [Anti-Corruption Action Plan for 2021 and 2022](#). Concerning financial resources, the personal costs for the Conflict of Interests and Anti-Corruption Department were 14 014 580 CZK (approx. 539 978 EUR) in 2020. Since 2020, the aforementioned department belongs to the newly created Anti-Corruption Coordination Section within the Ministry of Justice.

#### **Anti-Corruption Council of the Government**

In 2020, the legal and practical resources remained unchanged. At the end of 2020, the Anti-Corruption Council comprised of 18 members (of max. 19 members). The financial costs for ensuring the operation of Anti-Corruption Council can be considered as negligible as their major part consists of personal costs that are already included in the allocated resources of its secretariat: Anti-Corruption Unit (as a part of the Conflict of Interests and Anti-Corruption Department.)

## Financial analytical unit

The information provided for 2020 Rule of Law Report is still valid. For updated statistical data see an annual report of this institution<sup>1</sup>.

## National Organised Crime Agency (NOCA)

The Police of the Czech Republic consists of the Police Presidium, units with nation-wide competence (including NOCA), regional directorates of the police and units within such directorates (Section 6 of the Police Act, Act No. 273/2008 Coll).

NOCA consists of 5 divisions (organized crime, terrorism and extremism, serious economic crime and corruption, financial crime, cybercrime) and 7 regional units (České Budějovice, Plzeň, Ústí nad Labem, Hradec Králové, Brno, Olomouc, Ostrava). There is about 760 police officers and 110 civilian employees at NOCA. While it is not possible in practice to strictly separate investigation of corruption from investigation of other forms of crime, it could be roughly estimated that corruption cases are investigated by about 100 police officers.

Conduct of criminal procedures and actions of all bodies involved in criminal proceedings (court, prosecutor, police body) are regulated by the Criminal Procedure Code (Act No. 141/1961 Coll.). The very purpose of the Code is to regulate the procedure of law enforcement authorities to properly ascertain criminal acts and to punish their offenders in accordance with the law. Therein the effect of the procedure is to promote the rule of law, preclude and prevent criminal activity, educate citizens in the spirit of a strict observance of laws, rules of civil coexistence and an honest performance of obligations towards the State and society. The bodies involved in criminal proceedings act *ex officio* and the public prosecutor is obliged to prosecute all criminal offences which he/she learn about.

NOCA as a police unit with nation-wide competence usually deals with the most serious cases of crime. Its subject-matter competence is stipulated in Section 6(b) of the Instruction of the Police president no. 103/2013 and includes, *inter alia*, following areas.

For combating corruption, the competence of NOCA to deal with criminal offences committed in relation to execution of authority of senators, MPs, members of Cabinet, the President and Vice-President of the Supreme Audit Office, Czech National Bank board members, ombudsman, judges and public prosecutors, heads of central administrative bodies (such as directors or deputy directors of central agencies) and heads of regions (County governors, their deputies) is important. (Other cases of corruption are dealt with by regional directorates of Police, with the NCOZ being able to take over such case.)

NOCA is also competent to deal with economic crime, where a harm of at least 150 mil. CZK (cca 5.8 mil. Euro) has been caused, including damage to financial interests of the EU.

NOCA also deals with other forms of most serious crime, notably organised crime, terrorism, cyberattacks, trafficking in human beings, extremism, trafficking in explosives etc.

Police bodies involved in criminal proceedings must seek and verify facts and suspicions related to possible crime. In order to do so, they gather traces and documents, require explanations, investigate crime scene, make recordings etc. All police bodies may take a number of procedural, investigative and coercive steps regulated by the Criminal Procedure Code. Some of those steps

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<sup>1</sup> [https://www.financnianalytickyrad.cz/download/FileUploadComponent-526990861/1589380568\\_cs\\_13052020\\_annual-report-2019-financial-analytical-office-of-the-czech-republic.pdf](https://www.financnianalytickyrad.cz/download/FileUploadComponent-526990861/1589380568_cs_13052020_annual-report-2019-financial-analytical-office-of-the-czech-republic.pdf)

require consent of a public prosecutor or a court. For investigation and prosecution of corruption or abovementioned economic crime, the bodies involved in criminal proceedings may use all the powers in the Criminal Procedure Code that would be available for investigation and prosecution of terrorism or organized crime.

## **B. Prevention**

### ***19. Integrity framework including incompatibility rules (e.g.: revolving doors)***

#### **Government Anti-Corruption Strategic Documents**

On 7 December 2020 the Government adopted its [Anti-Corruption Action Plan for 2021 and 2022](#) by its resolution no. 1273. This action plan newly covers the two-year period in order to ensure the continuation of adopted anti-corruption measures and fulfilment of relevant international obligations of the Czech Republic during the period following general elections to the Chamber of Deputies of the Parliament in October 2021 until the new Government is formed and subsequent anti-corruption strategic documents are adopted.

#### **Internal Anti-Corruption Programme Framework**

There are no changes in comparison to 2019.

#### **Incompatibility Rules**

Incompatibility rules are regulated in the Constitution of the Czech Republic, the Act on Conflict of Interest (Act No. 159/2006 Coll.) and other legislation. There are two kinds of incompatibilities regulated under the Czech law. Firstly, public officials are prohibited from holding more than one public office, e.g., a member of the Senate or the Chamber of Deputies cannot simultaneously be the President or a judge (Article 22 of the Constitution). Secondly, certain public officials are restricted from number of economic activities, such as running a business or owning media (the Act on Conflict of Interest). There is also a rule regarding “revolving doors”, that prohibits certain civil servants for a period of up to one year from working in the field, in which they previously worked as civil servants (Civil Service Act).

### ***20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)***

#### **Asset disclosure rules**

The Act on Conflict of Interest contains rules on conflict of interests and disclosure of assets. It applies to cabinet members, members of the Parliament, regional governors and deputies, senior public officials, mayors and local council members, as well as members of statutory, management, supervisory or control bodies. The Act establishes a central register of notifications, administered by the Ministry of Justice. Persons covered by the Act have to submit their declarations on personal interests, assets, activities, income, gifts and liabilities.

#### **Lobbying**

[The Bill on Lobbying](#) was submitted to the Government in the summer of 2019 and approved on July 30, 2019. Consequently, it has been submitted to the Parliament (Chamber of Deputies) where the first reading took place in December 2020 and the Constitutional Committee hearing was held in February 2021. The objective of the Bill is to increase the transparency of lobbying by setting up clear legal framework and to recognize it as an activity beneficial to the political system.

The key legal instrument to be established by the Bill is the Register of Lobbyists and Lobbied Persons, a publicly accessible information system. Both lobbyists and those public officials that fall within the scope of the Bill (Public Officials) must register with the Register. Both lobbyists and Public Officials will be required to submit quarterly reports with information on their respective contacts with one another. These reports will be available to the public. As for the “Lobbying footprint” – as another tool for transparency – it should be an obligatory attachment to all bills. It will show all lobbying efforts, including information about the lobbyists behind the legislation. The Bill also contains stricter rules on declaration of gifts.

### **Access to Information**

The legislative framework for access to information remains the same as stated in 2019. In 2020, it was supplemented by Act No. 12/2020 Coll. on the Right on Digital Services.

### **Transparency of decision-making process at the Government level**

There are no changes in comparison to 2019.

### **Transparency of the legislative process**

The information provided for the previous report remains accurate. The only relevant development that is still in its preparation stage involves the above-mentioned Bill on Lobbying.

### **Transparency of political party financing**

The transparency of political party financing is mainly regulated by the [Political Parties and Movements Act](#) which was amended due to GRECO recommendations of the [Third evaluation round](#). GRECO’s recommendations in this area were overall dealt with in [satisfactory manner](#). The central supervising body is the Office for the Supervision of the Finances of Political Parties and Movements which was established in 2017 and is an independent office. It mostly conducts a review of the annual financial reports submitted by the political parties, carries out its own control of the management of the political parties and supervises the financing of the election campaigns.

## ***21. Rules on preventing conflict of interests in the public sector***

Conflict of interests is primarily governed by the Act on Conflict of Interest. More on the Act and other legislature regulating conflict of interest was reported in the previous report.

In 2020, the Constitutional Court ruled that the Act No. 159/2006 Coll., Act on Conflict of Interest, is compatible with the Czech Republic's Constitution (File no. Pl. ÚS 4/17 of 11 February 2020). In particular, it noted that the duty of a democratic country governed by the rule of law is not only to create conditions for public officials to perform their public duties but also to prevent them from using the power entrusted to them to promote their own personal interests to the detriment of public interest (and therefore to the detriment of the public trust). According to the Constitutional Court, the relevant legislation does not prevent anyone from running for public office. Any incompatibility or conflict of interest is resolved only after the person starts holding such an office. Finally, the Constitutional Court ruled that the obligations and restrictions introduced by this Act, including the limitation to own media companies, pursue a public interest of the fair political competition, which is an integral part of the political life in a democratic state governed by the rule of law.

The Act on Conflict of Interest imposes the obligations not only on governmental officials but also on the judges. For instance, judges in the Czech Republic have an annual duty to accurately, completely, and truthfully declare their movable and immovable property, income and revenues and

commitments. In this respect, it is worth noting the recent judgment of the Supreme Administrative Court's disciplinary chamber no. 13 Kss 3/2020 of 7 January 2020.

This case concerns a situation, in which a judge did not state all the data as required. Instead, he referred to public registers and court proceeding which contained the relevant information. However, the disciplinary chamber of the Supreme Administrative Court stressed that judges are obliged to specify and declare all data required by the law individually, and therefore cannot only refer to other public registers or court proceedings. Failure to do so constitutes a disciplinary offense. It is because such a conduct affects the credibility of the particular judge and trust of the general public in the independence and impartiality of the judiciary as a whole, because it may give the impression that the judge "has something to hide".

Within the ESI funds and the rules set at the national level, elements for the prevention of conflicts of interest are also introduced. The overarching document is the Strategy for the Fight against Fraud and Corruption within the EU Funds<sup>2</sup>, which sets out the basic framework of the rules. These elements are elaborated and developed in methodological documents and further transferred to the procedures of managing authorities. These methodological areas cover for example the areas of public procurement, project selection and evaluation or the control process.

There are also rules on conflict of interests and its prevention within the Act No. 134/2016 Coll. On Public Procurement that for example contain the obligation for the winner to declare its beneficial owners before the contract is signed.

## ***22. Measures in place to ensure whistleblower protection and encourage reporting of corruption***

Regarding the legislative framework currently in force, the situation remains the same as described in the initial report.

The Ministry of Justice submitted the Bill on Protection of Whistleblowers to the Government which subsequently approved it and put it forward to the Chamber of Deputies at the beginning of February 2021. Hopefully the Bill will be approved before the end of the Parliament's mandate in the fall and before the end of the transposition period. The final version of the bill was thoroughly discussed with various stakeholders (academia, NGOs, private and public sector). It does not only transpose the Directive 2019/1937 on the protection of persons who report breaches of Union law, but also goes beyond its material scope so that the legal framework of whistleblower protection is truly complex. Under the motioned bill the whistleblowers can report all crimes and administrative offenses and also other breaches falling within the scope of certain Union acts, that are connected to work.

The related project "Strengthening the Fight against Corruption by Increasing General Awareness of the Public Sector Focusing on Judges, Prosecutors and Public Administration" is also moving forward. The part focused on whistleblowing will be based on an international comparative study which will analyze the international best practice regarding the protection of whistleblowing and define potential blind spots regarding the approach and treatment of whistleblowing cases by public servants and thus should help the public sector with its strategy, methodology and overall mindset towards the topic. The media campaign then will be targeted on whistleblowers themselves, including introducing them to the new legislative framework.

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<sup>2</sup>[https://www.dotaceeu.cz/Dotace/media/SF/FONDY%20EU/2014-2020/Dokumenty/Ostatn%c3%ad/MMR\\_Strategie-proti-podvodum-SSR\\_FINAL3.pdf](https://www.dotaceeu.cz/Dotace/media/SF/FONDY%20EU/2014-2020/Dokumenty/Ostatn%c3%ad/MMR_Strategie-proti-podvodum-SSR_FINAL3.pdf)

**23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other).**

Corruption risks within this sector are addressed among others by Act no. 134/2016 Coll. on Public Procurement. At present an amendment to this act is being discussed within the legislative process, which is to introduce mainly technical changes that have the potential to clarify some parts of the act and change them according to the practical experience and desirable best practice. There is also Strategy for the Fight against Fraud and Corruption in Drawing of the Funds of the Common Strategic Framework for 2014-2020. Its relevance compared with general anti-corruption mechanisms, international recommendations, national methodology and identified risks was evaluated in 2018. There are also several mainly non-legislative tasks that are enshrined in current Government anti-corruption documents (Government Anti-Corruption Conception for 2018-2022, Anti-Corruption Action Plan for 2020) that aim at enhancing methodological environment, education of all stakeholders or sharing best practices.

**Public Procurement**

In 2020 the amendment to the Act no. 134/2016 Coll. on Public Procurement, that was already mentioned in the previous report, was approved by the Government and submitted to the Chamber of Deputies of the Parliament of the Czech Republic as the print no. [1099](#). In addition, other non-legislative measures encompassed in Government anti-corruption strategic documents, including the debate on the reform of the Office for the Protection of Competition concerning public procurement, were taken.

**Healthcare**

Due to COVID-19 pandemic, most of the anti-corruption measures that were planned to be introduced in 2020 were postponed.

**Construction sector**

In 2020 the proposal of Construction Code and its accompanying act, that were already mentioned in the previous report, were approved by the Government and subsequently underwent their first readings in the Chamber of Deputies of the Parliament of the Czech Republic as prints no. [1008](#) and [1009](#). The legislative process continues in 2021.

**Financial sector - Corruption as a Predicate Offense to ML/TF**

Challenges concerning corruption as a predicate offence to ML/TF offences were identified in the previous report.

Czechia implemented the Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/E. The Directive was implemented with an amendment to the AML Act which came into effect on 1 January 2021 and with the Act on Beneficial Owners Register which will come into effect on 1 June 2021.

Identification of the source of financial assets, client background checks and identification of Politically Exposed Persons will be significantly improved with the new Act on Beneficial Owners Register. The Act establishes a number of restrictions and penalties for entities that do not comply with their

obligation to disclose their beneficial ownership. Financial institutions, such as banks, will have access to the Register and will be able to verify client's information.

## **Sport**

In 2020, members of one of the working commissions of the Government Anti-Corruption Council along with the representatives of National Sports Agency discussed the Internal Anti-Corruption Programme and Code of Ethics of the Agency and members of the working commission provided the representatives of the Agency with valuable feedback. Additionally, participants of the meeting discussed the possibilities of implementation of the Council conclusions on combatting corruption in sport of 5 November 2019.

## **Executions, energetics, telecommunication, transportation**

In 2020, relevant ministries and central administrative authorities completed almost all of the foreseen sectoral analyses of corruption (except the analysis on executions that is to be finished, also due to COVID-19 pandemic, by the end of 2021). Where relevant, ministries and central administrative authorities may draft subsequent measures based on these analyses.

### ***24. Measures taken to address corruption risks in the context of the COVID-19 pandemic***

In cooperation with Ministry of the Interior and Ministry of Regional Development the Ministry of Justice included in the Anti-Corruption Action Plan for 2021 and 2022 two measures targeted on: 1) tagging COVID-19 pandemic related public contracts included in the Registry of Contracts, and 2) developing the methodology for public procurement in the state of emergency (or in similar crisis situations).

In 2020, Sector analysis of corruption in healthcare<sup>3</sup> was elaborated by the Ministry of health and adopted by the Government Council for Anti-Drug Policy Coordination.

### ***25. Any other relevant measures to prevent corruption in public and private sector***

As mentioned already in the previous report, there is a draft bill that proposes broadening the powers of Supreme Audit Office. In 2020 the draft bill was still in the third reading in the Chamber of Deputies and awaiting adoption of a related Constitutional amendment by the Senate.

The Act No. 304/2013 Coll. on the Public Registers of Legal and Natural Persons and on the Register of Trusts was amended. New Section 105a was added, which allows the registrar court to initiate a procedure leading to the dissolution of the registered person (even without liquidation). The registrar court is allowed to do so in case the registered person does not comply with their obligation to publish their ordinary and extraordinary final accounts for two consecutive accounting periods. An additional one-month period is given to the registered person to comply with their above-mentioned obligation before the procedure can be initiated. The new provision aims to increase transparency and accuracy of the Public Registers and to reduce the number of shell corporations. The amendment took effect on 1 January 2021.

In December 2020, the Supreme Court of the Czech Republic joined the Global Judicial Integrity Network and became one of the training sites for Judicial Ethics Training Tools. The Judicial Integrity initiative launched by the UN Office on Drugs and Crime aims to assist judiciaries across the globe in strengthening judicial integrity and preventing corruption in the justice sector, in line with Article 11 of the United Nations Convention against Corruption. For that purpose, the initiative has facilitated

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<sup>3</sup> <https://www.mzcr.cz/wp-content/uploads/2020/08/Sektorov%C3%A1-anal%C3%BDza-korupce-ve-zdravotnictv%C3%AD.pdf>



the creation of the Global Judicial Integrity Network, officially launched in 2018. The Network promotes networking opportunities, facilitates access to existing resources, supports the development of new technical tools and resources, and provides technical assistance, such as training programmes. The package of the Judicial Ethics Training Tools has been developed with the aim to equip judges with the necessary skills to effectively resolve ethical dilemmas potentially arising in the context of carrying out their judicial functions, including new emerging areas such as the use of social media by judges and gender-related judicial integrity issues. The tools are based on the universally recognized Bangalore Principles of Judicial Conduct and the requirements of Article 11 of the United Nations Convention against Corruption.

The package consists of an e-learning course, self-directed course and trainers' manual for national trainers. Usually, the judges are first asked to complete the e-learning or self-directed course, followed by a more in-depth face-to-face training based on the trainers' manual. Nevertheless, any judiciary can adjust the tools to their needs and use them as a basis for their judicial ethics training activities. Every training site is committed to organize at least one training workshop based on the tools per year and/or consider including the e-learning course as part of the training curriculum for judges. Moreover, if possible, training sites are encouraged to disseminate the e-learning course and the self-directed course through the appropriate websites in the judiciary and encourage the completion of the course by the judges. The Supreme Court has begun implementing the tools into the training of the judges with the first educative activities planned for 2021.

### **C. Repressive measures**

#### ***26. Criminalisation of corruption and related offences***

2020 Rule of Law Report – Country Chapter Czechia notes that the Czech anti-corruption criminal legal framework is broadly in place although some challenges remain. One of the challenges should be that *not all categories of employees in the public sector are covered by the provisions on bribery*. To this issue we would like to add that we believe that a sufficiently wide range of people is affected. The key term *general interest* means all activities related to the performance of tasks related to matters which need to be properly and impartially performed as it is the interest of the whole society or at least a certain social group. The procurement of matters of general interest cannot be identified solely with the performance of tasks falling within the competence of an official. However, the exercise of the authority of an official is always a procurement of matters of general interest. In addition, the GRECO report referred to in the Report was issued in May 2018 and thus does not reflect the changes made by Act No. 287/2018 Coll., which extended the scope of Section 334 of the Criminal Code to persons working in an international or supranational organization.

The 2020 Rule of Law Report also states that *foreign bribery is not specifically criminalized by the Criminal Code*. It is a fact that the Czech Republic does not have separate offence in the Criminal Code criminalizing foreign bribery, however, it can be fully punished as part of general corruption offenses. Therefore, in our opinion, the absence of such an adjustment cannot be assessed as a deficiency.

#### ***27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds***

Please see the appended statistics. The Ministry of Regional Development (MoRD) manages a monitoring system, where individual managing authorities are allowed to use complete information on individual beneficiaries and projects and MoRD also publishes detailed information on individual

projects and beneficiaries for public use. As part of the monitoring system, MoRD also records data on irregularities, including frauds, which are further transmitted to Central Contact Point for the AFCOS.

***28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g., political immunity regulation)***

According to Section 10 of the Criminal Procedure Code, as amended, persons enjoying privileges and immunities under the Czech law or international law are exempt from the competence of the authorities involved in the criminal proceedings. If doubts arise on the scope of exemption, the Supreme Court shall decide upon a petition of the person concerned, a public prosecutor or a court.

In the Czech law, the regulation of immunities is laid down in the Constitution and covers the President, who can only be prosecuted for high treason, and to certain extent Members of the Parliament, who cannot be prosecuted for voting and statements performed in the Parliament and may be prosecuted in other cases during their term of office only with consent of their respective chamber (if the consent is denied, the prosecution is postponed until the end of their term of office), and judges of the Constitutional Court, who may be prosecuted during the term of office only with consent of the Senate of the Parliament. Ordinary judges have only a limited immunity according to the Act on Courts and Judges, as regards offences committed within or in connection with performance of their office, for which they may be prosecuted only with the consent of the President. Immunity of the Public Protector of Rights (the Ombudsperson) is regulated by the Act no. 349/1999 Coll. on the Public Protector of Rights. The Ombudsperson may be prosecuted during the term of office only with consent of the Chamber of Deputies.

Therefore, we do not see any obstacles to investigate high-level and complex corruption offences and do not agree with the statement in the 2020 Rule of Law Report “there are concerns that high-level corruption cases are not pursued sufficiently”. We would like to state that there is no clear methodology and source of data for such statement.

High profile cases mostly prosecuted by the High Public Prosecutor’s Office in recent years focused mainly on crimes related to public procurement and competition (including corruption and criminal activity of officials) and large tax fraud (including VAT). In the case of public contracts and competitions, this is very often associated with subsidy financing.

Several large criminal cases have been finalized in recent years despite any perceived political, business, social or media influence of the suspects. These crimes, usually associated with corruption, have to be documented mainly operatively, as this type of crime is committed in a very sophisticated, conspiratorial manner and it is difficult to penetrate the criminal environment, which often includes high-ranking individuals with significant resources and available expertise. This places increased demands on the expertise and ability of the police authorities and the public prosecutor’s office to search for, clarify and lead to a successful outcome in the event of court proceedings. Information on these cases can be provided if necessary by the Supreme Prosecutor’s Office.

### **III. Media pluralism**

#### **A. Media authorities and bodies**

##### ***29. Independence, enforcement powers and adequacy of resources of media authorities and bodies***

It should be reiterated that the only administrative body in the media field in Czechia is the Council for Radio and Television Broadcasting (the Council). For the composition of this independent administrative body, its funding and its competences in radio and television broadcasting and audio-visual media services see the input to 2020 Rule of Law Report. The powers of the Chamber of Deputies in relation to the Council were already described in detail as well. In relation to its tasks, it should be pointed out that the Council supervises maintaining and further development of plurality in the programme portfolio and information offered in the field of radio and television broadcasting and rebroadcasting. In addition, it is envisaged it shall oversee video sharing platforms in line with the directive 1808/2018/EU.

The draft law transposing directive 1808/2018/EU has been adopted by the Government in August 2020 and sent to the Parliament for further deliberations. Until 1 March 2021 there was no development on this proposal.

The draft also includes provisions on the independence of regulatory authorities. As regards financing the draft law envisages the Council to publish its annual budget on its webpage.

##### ***30. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies***

For the election and appointment process of the Council and the role of the Chamber of Deputies in relation to the Council, see the input to 2020 Rule of Law Report. As stated before, the Act on Radio and Television Broadcasting (Act No. 231/2001 Coll.) sets out the conditions which are to be fulfilled by members of the Council.

The draft law transposing directive 1808/2018/EU (mentioned also in the input to the previous question) proposes significant changes as regards the constitution of the Council (and its 13 members). The appointment and dismissal process is to be entrusted only to the Chamber of Deputies (ie. the role of the prime minister in the process was eliminated).

Apart from that, the main proposed changes are 1) the abolition of the competence of the Chamber of Deputies to dismiss the Council as a body (i.e. elimination of option for a collective dismissal) and 2) obligatory specification of reasoning in case of recalling individual members. The aim is to achieve full independence on the Government and strengthen the position of individual members and the authority as such.

##### ***31. Existence and functions of media councils or other self-regulatory bodies***

Current laws regulating broadcasting and audio-visual media services count on the existence of self-regulatory bodies for the area of broadcasting and audio-visual media services on demand. Such bodies are formally notified by the Council. Once the self-regulatory body is notified as a cooperative subject of the Council, it is allowed to cooperate with the Council in matters regulated by the broadcasting law and media literacy and also to submit its position during legal action.

The draft of law transposing directive 1808/2018/EU (mentioned in the input to questions 29 and 30) provides further space for self-regulation. The draft describes main elements for the notion of self-regulation to gain more certainty on its role in the implementation of the broadcasting law and its

principles (eg. as regards labelling of the content and accessibility of services for persons with disabilities.)

**B. Transparency of media ownership and government interference**

***32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference***

As regards political advertising, the content of advertising in the radio and TV broadcasting is fully in line with the AVMS directive (audio-visual media services directive 2010/13/EU as amended by 2018/1808/EU). Apart from that, the Act on Radio and Television Broadcasting states broadcasters shall not broadcast political parties' and movements' commercial communications and those of independent candidates standing for the posts of deputies, senators or members of a municipal or local council or council of a higher-level self-government unit, unless otherwise provided in specific legislation (such specific cases are the prescribed periods before the elections).

As stated in the input to 2020 Rule of Law Report regarding allocation of state advertising in general and also its content, there are no specific rules in place. State or public institutions intending to advertise have to follow the rules set out in the Public Procurement Act (Act No. 40/2004 Coll.) It should be reiterated that any contract on state advertising with a contract value over 50.000 CZK shall be published and made available in public registry.

***33. Rules governing transparency of media ownership and public availability of media ownership information***

As regards the transparency of ownership of legal persons, at EU level the 5<sup>th</sup> AML directive was adopted which demands public access to certain information on the beneficial ownership and mechanisms of verification and check of accuracy of details in the files of the relevant registry as well as sanction mechanisms. Accordingly, the national regulation had to be adjusted, for that reason a completely new law covering the system of the revealing of beneficial ownership was adopted as an Act No. 37/2021 Coll.

The draft law i.e. envisages the competence of the Council to access the information on the beneficial ownership from the relevant registry files as regards license holders or those legal entities which apply for the license.

It should also be reiterated that the Act on Conflict of Interest which is already in place, prohibits any public official from being a radio or television broadcaster or a publisher of printed media or controlling person of such broadcaster or publisher.

**C. Framework for journalists' protection**

***34. Rules and practices guaranteeing journalist's independence and safety***

As stated in the input to 2020 Rule of Law Report, freedom of expression and the right to information are guaranteed by The Charter of Fundamental Rights and Basic Freedoms. In relation to the legislation on the prohibition of (*ex ante*) censorship see the input to the 2020 Rule of Law Report.

As for now, the media legislation does not provide specific regulation on journalist's safety. The Act on Radio and Television Broadcasting stipulates solely the protection of the information source and content. It regulates the right of a person who took part in obtaining or processing the information made public in radio or television broadcasting to deny disclosure of the origin of such information or the content thereof to the court or any other state authority or public administration authority. Such person has also the right to deny submission or delivery, to a court or a state authority or public administration authority, of any items from which the origin or content of such information might

be derived (the obligations laid down in a special legal regulation and requiring avoidance of any favouritism for offenders and to prevent or report criminal offence remain unaffected, as well as any obligations as may be prescribed in the penal proceedings).

### **35. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists**

The information provided for the previous report remains accurate. There has been no significant development regarding specific regulation on journalists.

### **36. Access to information and public documents**

In regard to the access to information and public documents, there has been no significant development and for all matters, see the input to the 2020 Rule of Law Report.

### **37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse**

On top of that already said in an input to 2020 Rule of Law Report and in other parts of this 2021 input, relevant jurisprudence might serve as an authentic picture of situation of journalists in the Czech Republic. To start with an often-cited judgment of the Constitutional Court of 27 Sep 2005, file no. I. ÚS 394/04: *„The Constitutional Court's task here is to assess such a conflict by a proportionality test and weigh whether the public interest in revealing the source of the journalist's information is so strong in a particular case that the constitutional right to freedom of expression prevails.*

*The answer is yes. The cited Articles 17 (1) of the Charter and 10 (1) of the Convention enshrine the right to freedom of expression, which is one of the cornerstones of a democratic state. It is mainly the press, radio and television that disseminate and convey information; in this context, freedom of information is of paramount importance (cf., for example, the judgment of the European Court of Human Rights in the Sunday Times v. United Kingdom 1978, A-30). According to the settled case law of the European Court of Justice, one of the aspects of freedom of the press is the protection of journalistic sources, which is the subject of this constitutional complaint.“* Same conclusion was reached in more recent judgment of the Constitutional Court of 21 May 2019, file no. I. ÚS 4037/18.

There is no doubt based on the jurisprudence of the highest Czech courts that the journalists in the Czech Republic and their sources are and need to be duly protected<sup>4</sup>. A crucial decision of the Constitutional court (Judgement of Constitutional Court of 15 March 2005, no. I. ÚS 367/03) on the protection of personality and freedom of expression was issued in 2005 already and has been contributing both to the civil and penal jurisprudence on freedom of speech (incl. defamation cases) ever since.

For more information, see appended list of jurisprudence.

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<sup>4</sup> See i.a. Judgement of the Constitutional Court of 11 September 2012, no. II. ÚS 1375/11, Judgement of the Constitutional Court of 26 April 2016, no. III. ÚS 3457/14, Resolution of the Supreme Court of 26 July 2018, no. 4 Pzo 6/2018.

## **IV. Other institutional issues related to checks and balances**

### **A. The process for preparing and enacting laws**

#### ***38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process***

##### **Framework, policy and use of impact assessments**

Creation of frameworks, policies planning and impact assessments should be done before (ex-ante evaluation) or after (ex-post evaluation) the bill is submitted to the Parliament. The minimal level of ex-ante assessment is ensured by Section 86(3) of Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies which states that an explanatory report justifying the new legislation principles must be attached to every bill. It should analyze the current legal situation and explain the necessity of the new legislation as a whole (general part) as well as in terms of its individual provisions (special part). Each explanatory report must also feature all anticipated economic and financial effects of the new legislation, especially on the State Budget and regional and municipal budgets, and an assessment of its compliance with international treaties (see Article 10 of the Constitution) and with the constitutional order of the Czech Republic.

Work on framework, policy planning and impact assessment should be undertaken by sponsors who present the bill (sponsor of a bill may be any deputy, a group of deputies, the Senate, the government or the councils of higher self-governing units). There is a possibility for the members of the Parliament to submit their expenses for expert and administrative works for reimbursement (this budget has its threshold, see Section 5(1)j of Act No. 236/1995 Coll.). Concerning questions on facts, foreign law or EU issues, the members of Parliament may forward their questions to the Parliamentary Institute which for Parliament resolves the tasks of scientific, informative and educational nature.

##### **Mandatory impact assessment**

According to the Government Resolution No. 922 of 14 December 2011, lawmakers are obliged to carry out impact assessments following the mandatory Regulatory Impact Assessments Guidelines (RIA Guidelines). Later, the RIA Guidelines were amended by Government Resolution No. 76 of 3 February 2016.

Traditionally, impact assessments are required for every legislative proposal prepared by the government as well as for any regulation where substantive costs to businesses, administrations and citizens are expected. Legislation proposed by Members of Parliament and Local & Regional Authorities is not subject to mandatory impact assessments yet.

The impact assessment reports are being submitted to RIA Unit at the Office of the Government for a formal check and then to the so-called RIA Board for more extensive scrutiny. RIA Board has been established in 2011 by the government as an independent expert working body to its Legislative Council. RIA Board scrutinizes the quality of impact assessment reports, provides consultations and gives recommendations on which legislative proposal should be accompanied by an impact assessment report.

The RIA Guidelines advocate the proportionality principle and also allow for several exceptions that can be used in justified cases. For example, draft regulation can be exempt from impact assessment scrutiny when it is fast-tracked or when it clearly bears no significant impacts. In such cases, request

for an exemption to the Chair of the Legislative Council is a logical outcome—and the exemption is usually granted.

Regarding preparation of laws, RIA Unit provides not only methodological guidance but also organizes workshops and seminars for civil servants who prepare impact assessments. In 2018 alone, RIA Unit trained total 299 civil servants. Additionally, RIA Unit runs comprehensive website [ria.vlada.cz](http://ria.vlada.cz) with all the documents and information lawmakers need for a successful preparation of impact assessments. Last but not least, RIA Unit fosters international cooperation and exchange of better regulation practices.

### **Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms)**

Concerning bills submitted by the Government, there have not been any changes in comments procedure as Government's Legislative Rules have not been changed or updated since the last year (see the 2020 Rule of Law Report – Country Chapter Czechia). As stated before, the most relevant stakeholders<sup>5</sup> are designated as an official commenting authority within the comments procedure.

However, according to the observation of the Czech Bar Association<sup>6</sup>, the practice of limiting or allowing exception from the duty to undertake comments procedure as allows Section 76 Government's Legislative Rules have risen significantly during the last year. The Czech Bar Association has already recommended the Ministry of Justice to use the exceptions from comments procedure only in exceptional and necessary cases.

The same might be said about non-government bills (presented by any Deputy, a group of Deputies, the Senate or the councils of higher self-governing units), as there have not been any relevant changes in the Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies.

Facing the spread of COVID-19 the government and ministries established several additional advisory and working bodies that represents experts, stakeholders or concerned groups.

### **Transparency of the legislative process**

Regarding the transparency and public consultations, the Czech law-making procedure is, generally speaking, rather transparent and inclusive. The central state administrations (ministries, offices) are legally obliged to consult all the legislative intentions with the relevant stakeholders—usually representatives of the individual business sectors or social groups whom the proposed legislation concerns the most. These stakeholders are often involved already in the early stages of the preparation of regulation.

It is true that, since the beginning of March 2020, several restrictive measures have been introduced, such as a requirement of wearing face mask or denial of access of the public to Chamber's and Senate's meetings (or its committees) due to protection of members of the Parliament from COVID-19 disease. In normal circumstances, chamber's and committee's meetings are open to the public unless specified otherwise. Nevertheless, everybody may follow legislation process on websites of both chambers and also stenographic records from Chamber's and Senate's meetings and brief minutes from meetings of committees can be found there. Meetings of both chambers are broadcast online in real-time and it is

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<sup>5</sup> These traditionally are large business associations such as Chamber of Commerce (*Hospodářská komora*), Confederation of Industry (*Svaz průmyslu a dopravy*) and 13 associations representing the so-called protected professions such as doctors, attorneys or architects etc.

<sup>6</sup> Czech Bar association's statement on exemptions from comments procedure during pandemic. *Advokátní deník*. [online]. [cit. 2021-02-22]. Accessible on: <https://advokatnidenik.cz/2021/02/17/stanovisko-cak-k-udelovani-vyjimek-z-pripominkoveho-rizeni-v-dobe-pandemie-covid-19/>

possible to find voice or video records from past meetings as well. Concerning meetings of committees, the situation differs with specific rules for specific meeting. However, in many cases the audio recordings from the meetings of committees where no physical access was allowed were made available online or are available on demand.<sup>7</sup>

As for the access to the legislative proposals the main tools remained electronic system ODok and Electronic library of the legislative process called eKLEP (for further information see the input to 2020 Rule of Law Report).

The strengthening transparency of the legislative process is a process which is still ongoing. Governmental bill on lobbying and bill which endorses it has been mentioned as a significant initiative in the 2020 Rule of Law Report. Both bills are currently in the phase of the second reading before considerations in committees and their consideration were postponed until 30 April 2021.<sup>8</sup>

### **eLegislation project**

The second project mentioned in the 2020 Rule of Law Report was eLegislation, an electronic system for the creation of law which should facilitate handling and processing of prepared legislation. Draft of the amendment of Act No. 222/2016 Coll., on The Collection of Acts and The Collection of International Treaties and on the creation of legislation promulgated in The Collection of Acts and The Collection of International Treaties, as amended by Act No. 277/2019 Coll., is currently discussed in the Parliament.

Due to the state of emergency and to the impact of restrictions related to the Covid-19 pandemic (in spring 2020 and also since September 2020) in the Czech Republic, the eCollection and eLegislation project was extended by several months and it is planned to be in full operation from 1 January 2023; for testing purposes the system will be operational on 1 January 2022<sup>9</sup>.

### ***39. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)***

The primary legal framework for decision-making on crisis management during the recent COVID-19 pandemic is the Constitutional Act No. 110/1998 Coll. on the Security of the Czech Republic together with the Act No. 240/2000 Coll. the Crisis Act. They empower the government to adopt decisions restricting certain fundamental rights of individuals, e.g. the freedom of movement. Some restricting measures may also be adopted by the Ministry of Health and regional hygiene stations according to the Act No 258/2000 Coll. on Public Health Protection, but such measures may interfere with the fundamental rights to a much lesser degree.

The Czech legislative procedure recognizes several fast-track or emergency procedures which were all listed in the input to 2020 Rule of Law Report. According to the Section 99 of the Act No. 90/1995

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<sup>7</sup> Update on anti-pandemic provisions at the seat of the Senate of the Parliament of the Czech Republic.

(4 January 2021). *Senát České republiky* [online]. [cit. 2021-02-15]. Accessible on:

[https://www.senat.cz/zpravodajstvi/zprava.php?ke\\_dni=16.2.2021&O=13&id=3090&from=V](https://www.senat.cz/zpravodajstvi/zprava.php?ke_dni=16.2.2021&O=13&id=3090&from=V) ; Current

restrictions at the seat of the Senate of the Parliament of the Czech Republic (29 April 2020). *Senát České republiky* [online]. [cit. 2021-02-15]. Accessible on:

[https://www.senat.cz/zpravodajstvi/zprava.php?ke\\_dni=17.2.2021&O=13&id=2943&from=V](https://www.senat.cz/zpravodajstvi/zprava.php?ke_dni=17.2.2021&O=13&id=2943&from=V)

<sup>8</sup><https://www.psp.cz/sqw/tisky.sqw?tqb1=2&utq=2&o=8&na=o+lobbov%E1n%ED&tqb25=&tqb26=&tqa27=on&tqa28=on&tqa29=on&tqa64=on&tqa30=on&tqa31=on&tqa32=on&tqa63=on&tqa33=on&tqa34=on&tqa62=on&tqa35=on&ra=20>

<sup>9</sup> The entry into effect of Act No. 222/2016 Coll. was postponed from 2020 to 2022 by an amendment Act No. 277/2019 Coll., promulgated on 6 November 2019.



Coll. on the Rules of Procedure of the Chamber of Deputies, under exceptional circumstances, when for example principal human rights and liberties or the state's security are in jeopardy, the President of the Chamber of Deputies shall – at the government's request – declare the state of legislative emergency<sup>10</sup> for a limited period of time. This means in particular that the legislative process may be conducted via the so-called summary consideration of any bill presented by the government. Within the summary consideration of a bill the first reading does not take place and the Chamber of Deputies may decide to cancel the general debate that is to take place during the second reading of a bill as well as to reduce the speech limit of individual Deputies to as little as five minutes. As a safeguard against an abuse of the state of legislative emergency, the Chamber of Deputies shall review whether the conditions for the declaration of the state of legislative emergency and for the summary consideration persist before discussing the program of its meeting and before considering every governmental bill respectively. Further conditions were laid down in the judgment of the Constitutional Court of 1 March 2011, file no. Pl. ÚS 55/10.<sup>11</sup>

Recent example of an act adopted during the state of legislative emergency is the Act No. 191/2020 Coll. on Emergency Measures in the Event of the COVID-19 Disease and on the Amendment of Certain Related Acts (so-called "Pandemic Act"). Many other acts were, however, adopted within the summary consideration, including the Act on the Distribution of Vaccination Against COVID-19, Act amending the Act on the Protection of Classified Information and on Security Clearance, Act amending the Act on Investment Incentives, Act amending the Act on the Czech National Bank and so on. The vast majority of acts adopted since March 2020 proceeded through the summary consideration, as is apparent from the website of the Chamber of Deputies. One of the acts passed within the standard procedure was also the Act on State Budget.

*Listed in the table below is statistic data concerning the percentage of acts adopted and promulgated in accelerated procedures compared to the total number of adopted acts in each electoral period from 1998 until now:<sup>12</sup>*

	III. (1998- 2002)	IV. (2002- 2006)	V. (2006- 2010)	VI. (2010- 2013)	VII. (2013- 2017)	VIII. (2017- until now, 12 February 2021)	Promulgated since January 2020 - until 12 February 2021
All bills passed	441	494	348	338	357	255	128
Fast track bills (procedure of adopting act in	31	34	63	28	31	29	12

<sup>10</sup> For more information, see Section 99 of Rules of Procedure of the Chamber of Deputies, Section 118 of Act No. 107/1999 Coll., on Rules of Procedure of Senate and Section 17 of Government's Legislative Rules.

<sup>11</sup> Accessible on: <https://www.usoud.cz/en/decisions/2011-03-01-pl-us-55-10-state-of-legislative-emergency>

<sup>12</sup> See Database of Chamber of Deputies documents, focused on bills on: <https://www.psp.cz/sqw/sntisk.sqw?o=8&F=N>. There is possible to select only those bills that were promulgated, those considered using legislative state of emergency (*Projednávání v LN*) or fast track procedure (*Projednávání v RJ – přijato již v 1. čtení*).

	III. (1998- 2002)	IV. (2002- 2006)	V. (2006- 2010)	VI. (2010- 2013)	VII. (2013- 2017)	VIII. (2017- until now, 12 February 2021)	Promulgated since January 2020 - until 12 February 2021
the first reading)							
Bill passed in a legislative emergency	7	16	4	6	0	60	60

The table shows that year 2020 and the beginning of the year 2021 were extraordinary mainly in terms of a high number of acts approved in legislative emergency procedure which was used almost in half cases of all passed bills during the term (in 60 cases out of 128). The legislative state of emergency was repeatedly reinstated during the years 2020 and 2021.

#### **40. Regime for constitutional review of laws**

There has been no amendments or reforms during the last year which would influence the constitutional review of laws<sup>13</sup> and no such measures are currently planned for a foreseeable future. The input to the 2020 Rule of Law Report remains therefore accurate.

#### **41. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic**

**- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic**

**- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic**

**- measures taken to ensure the continued activity of Parliament (including possible best practices)**

In Czechia, there have been some temporary legislative changes in the court proceedings introduced by the Pandemic Act (Act No. 191/2020 Coll. on certain measures to mitigate the effects of the SARS CoV-2 coronavirus epidemic on litigants, victims, victims of crime and legal persons and amending the Insolvency Act and the Code of Civil Procedure). In the court proceedings, the legislation e.g. extends the possibility for the court to remit the missed deadlines, for example, due to ordered quarantine.

In the area of insolvency law, the legislation postponed the obligation to file an insolvency petition and extended protection against a petition filed by the creditors, thus providing more time to deal with the problematic situation caused by COVID-19 pandemic.

Besides, the Ministry of Justice of the Czech Republic made a number of recommendations for the functioning of the Czech courts. Issues that have not been addressed by these recommendations are

<sup>13</sup> There have been three amendments of Act No. 182/1993 Coll., on Constitutional Court during last two years: the first amendment Act No. 173/2018 Coll., tackled the issue of liability for small offences of judges, the second amendment Act No. 111/2019 Coll., was related to handling with personal data and the third amendment Act No. 277/2019 Coll., was issued in relation with new Collection of Laws and International Treaties.

then in the competence of the presidents of the respective courts who may adopt internal instructions. They can also adopt appropriate preventive measures beyond measures introduced by the Government and by the Ministry of Justice.

***i. judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic***

On 13 November 2020, the Municipal Court in Prague annulled part of an extraordinary measure of the Ministry of Health, which imposed on all persons the obligation to move in public, especially indoors, with a respiratory protection; simply put, a measure which entailed the obligation to wear face masks. The extraordinary measure was adopted pursuant to section 80 (1) (g) together with the section 69 (1) (i) of the Act No 258/2000 Coll. on Public Health Protection. The Court justified its decision mainly by the fact that the extraordinary measure in question lacked a specific, comprehensible and substantiated justification. For it is only in the light of such justification that the assessment of whether it is necessary and proportionate for achieving the goal of reducing the risk of transmission of COVID-19 to insist on the mandatory wearing of respiratory protection to such a broad extent. Nevertheless, the Court postponed the entry of the decision into force for seven days in order to remedy the alleged defects of the annulled extraordinary measure by the Ministry of Health.

***ii. oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic***

Concerning emergency regime, the Chamber of Deputies has oversight competence. The second chamber of Parliament, the Senate in contrast does not have a special oversight competence over emergency regimes. The state of emergency as such is regulated by Sections 5 - 6 of the Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic in connection with Act No. 240/2000 Coll. on Crisis Management<sup>14</sup>.

The state of emergency was declared by the government on 12 March 2020. Then the Chamber of Deputies approved the prolongation of a state of emergency two times until 30 April and 17 May. During the second wave of the spread of COVID-19 disease in the Czech Republic, the state of emergency was declared on 5 October and lasted until 14 February 2021.

There is currently a heated debate concerning recent governmental steps taken towards maintaining the state of emergency in the Czech Republic. According to the Article 6 of the Constitutional Act No. 110/1998 Coll. on the Security of the Czech Republic, a state of emergency may be declared for a period of no more than 30 days and the stated period may be extended only with the prior consent of the Chamber of Deputies. The state of emergency was declared by the government on 30 September 2020 and was then repeatedly extended. However, on 11 February 2021 the Chamber of Deputies refused to extend the state of emergency. An initiative of the governors of regions in the Czech Republic followed and restoration of the state of emergency was required in order to resolve the crisis situation in regions, in particular the lack of capacities in some hospitals. The government declared the state of emergency on 14 February 2021, in order for the subsequent measures adopted pursuant to Act No. 240/2000 Coll. the Crisis Act, to remain in force. Since then, there has been several lawsuits filed with administrative courts in order to revoke the measures as well as to repeal the state of emergency. However, according to the judgment of the Constitutional Court of 22 April 2020, file

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<sup>14</sup> Act No. 110/1998 Coll., on the Security of the Czech Republic (unofficial translation). *Ústavní soud České republiky*: [online]. [cit. 2021-02-12]. Accessible on: [https://www.usoud.cz/fileadmin/user\\_upload/ustavni\\_soud\\_www/Pravni\\_uprava/AJ/Zakon\\_o\\_bezpecnosti\\_English\\_version\\_110\\_1998.pdf](https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Zakon_o_bezpecnosti_English_version_110_1998.pdf). Please note that translation of Chamber of Deputies and Assembly of Deputies have equivalent meaning.

no. Pl. ÚS 8/20, the declaration of a state of emergency may only be subject to the judicial review of the Constitutional Court (and only under relatively strict conditions).

*In the table below there is the list of cases in which senators exercised their right to submit a proposal for annulment of legislation or enactment related to the COVID-19 disease before Constitutional Court.*

Case number	Brief description of petition content	Day of submission/Result
Pl. ÚS 20/20 <sup>15</sup>	The petition proposed annulment of resolution of the government which obliged those (all citizens, cross-border workers and students, foreigners temporarily staying in the Czech Republic more than 90 days or permanent residents) who regularly cross the national borders due to work or education purposes to submit a certificate of completion of the PT-PCR test for the presence of SARS CoV-2 with a negative result not more than 4 days, and another such test every time the border is crossed 30 days after the submission of the first test. Otherwise, the locally competent regional hygienic station would have to decide on quarantine measures in relation to these persons. The contested resolution of government was cancelled on 11 May 2020.	Submitted on 6 May 2020  The proceeding was partly discontinued (due to cancellation of contested resolution) <sup>16</sup> and partly rejected on 16 June 2020
Pl. ÚS 21/20 <sup>17</sup>	The petition proposed annulment of Acts no. 209/2020 Coll. and 210/2020 Coll., in part affecting landlords of places devoted to conducting business and fulfilling of housing needs by the prohibition to terminate leases due to rent debts of tenants for a certain period of time (until end of August, respectively end of July 2020).	Submitted on 7 May 2020  Rejected on the merits on 8 December 2020
Pl. ÚS 22/20 <sup>18</sup>	The petition proposed annulment of resolution of the government which prohibited rise of rent in	Submitted on 14 May 2020

<sup>15</sup> Constitutional Court's decision of 16 June 2020, file no. Pl. ÚS 20/20. Ústavní soud České republiky [online]. [cit. 2021-02-15]. Accessible on:

<https://nalus.usoud.cz/Search/ResultDetail.aspx?id=112413&pos=4&cnt=5&typ=result>

<sup>16</sup> According to Section 67(2) of [Act No. 182/1993 Coll., on Constitutional Court](#): „The proceeding shall be discontinued in the case of a petition proposing the annulment of a statute or some other enactment, or individual provisions thereof, due to their alleged conflict with a constitutional act or a statute, if the constitutional act or statute loses force and effect.“ However, past judgements of the Constitutional Court (for instance Pl. ÚS 8/02, Pl. ÚS 49/03 or Pl. ÚS 50/04) allowed exceptions in cases when new statute or enactment with identical or very similar content as contested provisions gain force and effect. Then the proceeding regarding the former petition may continue before the Constitutional Court if the petitioner proposes it. For more information see commentary to Section 67 of Act on Constitutional Court.

<sup>17</sup> File no. Pl. ÚS 21/20. Ústavní soud České republiky: Projednávané plenární věci [online]. [cit. 2021-02-12]. Accessible on:

[https://www.usoud.cz/projednavane-plenarni-veci?tx\\_odroom%5Bdetail%5D=3312&cHash=b798b03aa2af525d5da314ebeba91778](https://www.usoud.cz/projednavane-plenarni-veci?tx_odroom%5Bdetail%5D=3312&cHash=b798b03aa2af525d5da314ebeba91778)

<sup>18</sup> File no. Pl. ÚS 22/20. Ústavní soud České republiky [online]. [cit. 2021-02-15]. Accessible on: <https://nalus.usoud.cz/Search/ResultDetail.aspx?id=112259&pos=1&cnt=1&typ=result>

	cases of rent of housing until recall. The resolution was in force from 24 April until 5 June 2020 when it was recalled by the government.	The proceeding was discontinued on 9 June 2020 due to recall of contested resolution
Pl. ÚS 102/20 <sup>19</sup>	The petition proposed annulment of crisis measure of the government in part limiting the number of believers on mass and prohibiting singing during masses.	Submitted on 8 October 2020  The proceeding was discontinued on 8 December 2020 due to cancellation of contested crisis measure
Pl. ÚS 106/20 <sup>20</sup>	The petition proposed annulment of enumerated parts of governmental resolution related to prohibition of certain retail sale and provision of certain services.	Submitted on 21 November 2020  The court partly decided on the merits and annulled part of the former crisis measure. The proceeding was partly discontinued due to the former cancellation of contested crisis measures.
Pl. ÚS 8/21 <sup>21</sup>	The petition for annulment of part of the governmental resolution that prohibited operation of ski lifts and cableways for the public in connection with the use of ski runs by the public.	Submitted on 28 January 2021  Not decided yet

<sup>19</sup> File no. Pl. ÚS 102/20. *Ústavní soud České republiky: Projednávané plenární věci* [online]. [cit. 2021-02-12]. Accessible on: [https://www.usoud.cz/projednavane-plenarni-veci?tx\\_odroom%5Bdetail%5D=3522&cHash=6b32f4520c9531f0f28d959d2b4bfb54](https://www.usoud.cz/projednavane-plenarni-veci?tx_odroom%5Bdetail%5D=3522&cHash=6b32f4520c9531f0f28d959d2b4bfb54)

<sup>20</sup> File no. Pl. ÚS 106/20. *Ústavní soud České republiky: Projednávané plenární věci* [online]. [cit. 2021-02-12]. Accessible on: [https://www.usoud.cz/projednavane-plenarni-veci?tx\\_odroom%5Bdetail%5D=3545&cHash=d92a58a736c24fb44409c8fdc5b53201](https://www.usoud.cz/projednavane-plenarni-veci?tx_odroom%5Bdetail%5D=3545&cHash=d92a58a736c24fb44409c8fdc5b53201)

<sup>21</sup> File no. Pl. ÚS 8/21. *Ústavní soud České republiky: Projednávané plenární věci* [online]. [cit. 2021-02-12]. Accessible on: [https://www.usoud.cz/projednavane-plenarni-veci?tx\\_odroom%5Bdetail%5D=3619&cHash=5d4e5ae791bf67a7fad8df220b63c137](https://www.usoud.cz/projednavane-plenarni-veci?tx_odroom%5Bdetail%5D=3619&cHash=5d4e5ae791bf67a7fad8df220b63c137)

Pl. ÚS 12/21 <sup>22</sup>	The petition for annulment of the declaration of the state of emergency after 14 February 2021 made by the government on the request of region governors after the rejection of prolongation of the state of emergency by the Chamber of Deputies <sup>23</sup>	Submitted on 19 February 2021
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At the same time, it must be reminded that according to the Article 5 of the Constitutional Act on the Security of the Czech Republic, the Government shall inform the Chamber of Deputies without unnecessary delay that it has declared a state of emergency and the Chamber of Deputies may annul the declaration. However, the Chamber of Deputies has not annulled the declaration of the state of emergency of 14 February 2021.

***iii. measures taken to ensure the continued activity of Parliament (including possible best practices)***

Both chambers of the Parliament have adopted hygiene measures aimed at stopping the spread of the virus, such as limiting the access of journalists and other visitors, encouraging the use of hand disinfectant gels, and disinfecting seats and podiums. Social distancing measures and the possibility of electronic remote participation have been introduced. Also, a possibility to limit/reduce the number of MPs has been introduced under condition of proportionality. In particular, the number of MPs can be reduced in a way that the balance of power between individual political parties is maintained.

**B. Independent authorities**

***42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions***

Since there have been no significant changes, the input in the 2020 Rule of Law Report remains accurate.

**C. Accessibility and judicial review of administrative decisions**

***43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)***

**Scope**

In Czechia, administrative decisions are reviewed by administrative courts. The procedure is regulated by Act No. 150/2002 Coll., the Code of Administrative Justice, which provides for the scope of the judicial review of the administrative decisions and other administrative acts. There were no legislative changes made in this area since last year. Therefore, information in input to 2020 Rule of Law Report still remains valid.

**Suspensive effect**

<sup>22</sup> File no. Pl. ÚS 12/21. *Ústavní soud České republiky: Projednávané plenární věci* [online]. [cit. 2021-02-23]. Accessible on: [https://www.usoud.cz/projednavane-plenarni-veci?tx\\_odroom%5Bdetail%5D=3634&cHash=2916b2dcee5cba42f2cc50cd5417b4d3](https://www.usoud.cz/projednavane-plenarni-veci?tx_odroom%5Bdetail%5D=3634&cHash=2916b2dcee5cba42f2cc50cd5417b4d3)

<sup>23</sup> Press conference on the proposal for a dismissal of a state of emergency addressed to the Constitutional Court. *Senát České republiky* [online]. [cit. 2021-02-12]. Accessible on: <https://www.senat.cz/informace/galerie/videogalerie/video.php?id=793>

Filing an action against an administrative decision before an administrative court does not generally include suspensive effect. The suspensive effect must be explicitly claimed by the plaintiff. If so, the suspensive effect may be granted by the administrative court under two conditions:

- (i) proportionality (non-granting the suspensive effect will damage the plaintiff more than other interested parties may be damaged by granting the suspensive effect);
- (ii) public interest not at stake (granting the suspensive effect may not violate any relevant public interest).

The court has to decide on the potential suspensive effect without undue delay and its decision should always be reasoned.

If the suspensive effect is granted by the court, any legal effects of the administrative decision are suspended until the end of proceedings. The suspensive effect may also be cancelled if the Court has been misinformed about the reasons or the reasons are no longer of any relevance.

In exceptional circumstances, where law explicitly provides that an action has a suspensive effect (e.g., in asylum matters and immigration law), the suspensive effect is granted automatically when action is filed before administrative court.

#### ***44. Implementation by the public administration and State institutions of final court decisions***

All decisions of courts are binding upon the parties to proceedings. If a public authority or a State institution are party to proceedings (typically in administrative and civil law matters), they shall respect the court's decision and act according to it. Legally, the court decisions are binding only *inter partes*. However, as the Czech Supreme Court and the Czech Supreme Administrative Court are considered legal authorities in their respective legal field, their decisions are widely respected by the general public, including State and public administration.

Special treatment applies to the decisions of the Czech Constitutional Court. The decisions of the Constitutional Court are binding upon all public authorities and private persons (Article 89(2) of the Constitution).

#### ***D. The enabling framework for civil society***

##### ***45. Measures regarding the framework for civil society organisations (e.g., access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)***

The legal system of Czechia does not define non-governmental non-profit organizations (NGOs) and therefore there is no specific legal regulation on NGOs. The legislation regulating the status of private entities with the legal form which are considered NGOs (civic associations, public benefit corporations, foundations and endowment funds, religious legal persons) was listed already in the 2020 Rule of Law Report.

The legal environment for the existence and activities of the NGOs can be described as adequate and balanced. Within the monitoring period (from September 2020) NGOs were not subject to any specific proposals for a regulation that would disproportionately burden them.

On other hand, NGOs are tackling social and financial challenges that the government measures to control Covid-19 pandemic has brought for the Czech non-profit sector. Since the spring 2020 the Czech government has been providing emergency financial aid to those in need. Although the way

government officials were presenting it in the media, it was very unclear if the aid was also intended for NGOs.

The Open Society Foundation Prague has carried out a survey in April 2020 among 350 NGOs on how the current crisis affects their activities. The survey showed that many NGOs are concerned about the financial impact of the crisis. Approximately 1/3 of the respondents from smaller NGOs have interrupted or ceased their activities, but many of the NGOs adapted their activities and went online (40 % of NGOs). Around 60 % of respondents expected cash flow problems, including retaining employees, and 83 % said they would not be able to meet their obligations to donors and providers.

Donors' Forum organized a similar survey on the financial impact of the crisis on NGOs (foundations and endowment funds) in May 2020. 36 % of respondents reported reduced financial support from individual and corporate donations to the pandemic and 23 % of respondents experienced a deterioration in communication between them and donors. A reduction of up to 20% in support from individual donors is reported by 36 % of respondents.

In the area of funding the Czech NGOs face the great uncertainty and fears of further restrictions that will lead to a reduction in donor support, a reduction in activity, and therefore an economic crisis.

In 2020, the Government adopted already its fifth "Action Plan of the Czech Republic Open Government Partnership for 2020 to 2022". This action plan is a result of co-creation and participation processes while following the OGP Participation and Co-Creation Standards and open government principles. One of the commitments of the aforementioned action plan, that is to be fulfilled in the following two years, envisages the development of methodology for the participation of civil society representatives in participatory processes run primarily at the level of ministries and other central administrative bodies.

#### ***E. Initiatives to foster a rule of law culture***

##### ***46. Measures to foster a rule of law culture (e.g., debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)***

#### **eCollection project**

Draft of the amendment of Act No. 222/2016 Coll., on The Collection of Acts and The Collection of International Treaties and on the creation of legislation promulgated in The Collection of Acts and The Collection of International Treaties, as amended by Act No. 277/2019 Coll., is currently discussed in the Parliament. According to this draft, Act No. 222/2016 Coll. should come into force as on 1 January 2023.

Due to the state of emergency and to the impact of restrictions related to the Covid-19 pandemic (in spring 2020 and also since September 2020) in the Czech Republic, the eCollection and eLegislation project was extended by several months and it is planned to be in full operation on 1 January 2023; for testing purposes the system will be operational from 1 January 2022.

#### **Register of contracts**

Input to the 2020 Rule of Law Report provided also information on the register of contracts. It is a central information system for publishing contracts concluded by public authorities. At the time of the fight against COVID 19, we noticed some suspicious contracts in which suppliers increased the usual prices. To prevent these excesses, we have called on those who publish contracts in the register of contracts to label those contracted to combat SARS-CoV-2 and COVID-19 with the word "COVID-19" as part of the metadata defining the subject of the contract.



**Rule of Law Conference: Taking stock: Europe's Rule of Law in times of COVID-19** On 30 November 2020, Czechia participated on the online conference held by the Ministry of Foreign Affairs of the Netherlands focused on the challenges of rule of law in times of Covid-19 pandemic. We benefited from the fruitful exchange of best practices with number of (mostly Central European and Dutch) stakeholders, mainly in areas covered by 2020 Rule of Law Report. Following this, further joint activities are being planned by the NL Helsinki Committee and the Ministry of Justice of the Czech Republic on the topics of free legal aid and public perception of corruption in the public sector.

The Ministry of Justice of Czechia prepared a **project** (launched in August 2020) **on Strengthening the Fight against Corruption by Increasing General Awareness of the Public Sector Focusing on Judges, Prosecutors and Public Administration.**

The aim is to improve fight against corruption through increasing the public sector's awareness of implementation of relevant international recommendations and standards, mainly those arising from monitoring by the Group of States against Corruption of the Council of Europe, the OECD Working Group on Bribery and the UN Convention against Corruption.

The project will be implemented by the Ministry of Justice with partners Supreme Public Prosecutor's Office and Judicial Academy, that will organize trainings, workshops and seminars focused on prosecutors and judges. The project target group are judges, prosecutors, public service employees and general public.

Based on an internal assessment of fulfilment of commitments of the Czech Republic arising from its EU membership as well as in the anti-corruption international organizations and working groups, necessity was identified to tackle 3 main topics:

- A) Prevention of corruption in the public sector with a focus on conflict of interest;*
- B) Whistleblowers' protection;*
- C) Codes of Conduct for judges and prosecutors.*

Key project activities are comparative studies, international conferences, elaboration of methodologies and subsequent training, workshops, statistical analysis (on whistleblowing) and media campaign focusing on fight against corruption, in particular on whistleblowers' protection and conflict of interest.