2021 Rule of Law Report - targetedstakeholder consultation

Fields marked with * are mandatory.

Introduction

The first annual Rule of Law Report was published on 30 September 2020. It is the core of the new European rule of law mechanism, which acts as a preventive tool, deepening multilateral dialogue and jointawareness of rule of law issues.

In the preparation of the first annual Rule of Law Report, the Commission relied on a diversity of relevant sources, including from Member States, country visits, and stakeholders' contributions collected through a targeted stakeholder consultation[1]. The information provided has informed the Member State-specific assessments of the Commission in preparing the Report. Building on the positive experience from the firstRule of Law Report, the Commission is inviting stakeholders to provide written contributions for the preparation of the 2021 Rule of Law Report through this targeted consultation.

The contributions should cover in particular (1) feedback and developments with regard to the points raisedin the country chapters of the 2020 Rule of Law Report and (2) any other significant developments since January 2020[2] falling under the 'type of information' outlined in next section. This would also include significant rule of law developments in relation to the COVID-19 pandemic falling under the scope of the four pillars covered by the report.

The input should be short and concise, if possible in English, and summarise information related to one or more of the areas referred to in the template. You are invited to focus on the areas that relate to the scope of work and expertise of your organisation. Existing reports, statements, legislation or other documents maybe referenced with a link (no need to provide the full text). Stakeholders are encouraged to make references to any contributions already provided in a different context or to Reports and documents alreadypublished.

Contributions should focus on significant developments both as regards the legal framework and itsimplementation in practice.

Please provide your contribution by 8 March. Should you have any requests for clarifications, you cancontact the Commission at the following email address: rule-of-law-network@ec.europa.eu.

[1] https://ec.europa.eu/info/publications/2020-rule-law-report-targeted-stakeholder-consultation_en

[2] Unless the information was already submitted in the consultation for the 2020 Rule of Law Report.

Type of information

The topics are structured according to four pillars: I. Justice system; II. Anti-corruption framework; III. Mediapluralism; and IV. Other institutional issues related to checks and balances. The replies could include aspects set out below under each pillar. This can include challenges, current work streams, positive developments and best practices:

Legislative developments

- Newly adopted legislation
- Legislative drafts currently discussed in Parliament
- Legislative plans envisaged by the Government

Policy developments

- Implementation of legislation Evaluations, impact assessment, surveys
- White papers/strategies/actions plans/consultation processes
- Follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- Important administrative measures
- Generalised practices

Developments related to the judiciary / independent authorities

- Important case law by national courts
- Important decision/opinions from independent bodies/authorities
- State of play on terms and nominations for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, heads of independent authorities included in the scope of the request for input[1])

Any other relevant developments

- National authorities are free to add any further information, which they deem relevant; however, thisshould be short and to the point.

Please include, where relevant, information related to measures taken in the context of the COVID-19pandemic under the relevant topics.
If there are no changes, it is sufficient to indicate this and the information covered in the 2020 Rule of LawReport should not be repeated.

[1] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions and supreme audit institutions.

About you

I am giving my contribution as: **Other**

If "Other", please specify: **Bar Association**

Organisation name: [redacted]

Main Areas of Work: **Justice System, Other**

If "Other", please specify:

[redacted].

Please insert an URL towards your organisation's main online presence or describe your organisation briefly: [redacted]

Transparency register number: [redacted]

Country of origin: **Czechia**

First Name: [redacted]

Surname: [redacted]

Email Address of the organization: [redacted]

Publication of your contribution and privacy settings

Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation an be identified in the rest of your contribution.

- **I agree with the personal data protection provisions.**

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution
overview_topics_for_contribution.pdf

Please provide any relevant information on horizontal developments here

Regarding horizontal developments, we refer to the CCBE Stakeholder contribution, which is being prepared in cooperation of all its EU Members, including the Czech Bar Association.

Questions on developments in Member States

The following four pillars are sub-divided into topics and sub-topics. You are invited to provide concrete information on significant developments, focusing primarily on developments since January 2020, for eachof the sub-topics which are relevant for your work. Please feel free to provide a link to and reference relevant legislation/documents. Significant developments can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices (as outlined under “type of information”).
If there are developments you consider relevant under each of the four pillars that are not mentioned in thesub-topics, please add them under the section "other - please specify". Only significant developments should be covered.

Please note that, due to the size of the questionnaire, certain elements may be slow to load, especially if selecting many Member States at once. In such cases, it is recommended to wait a few minutes to let thepage load correctly.

Member States covered in contribution [several choices possible]

Please select all Member States for which you wish to contribute information. For each Member State, a separate template for providing information will open. This may take several minutes to fully load.

Czechia

Independence

Appointment and selection of judges, prosecutors and court presidents

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

Appointment and selection of judges is governed by the Act No. 6/2002 Coll.as amended. The Government approved draft amendments to the Act on Courts and Judges on 22 October 2019. The draft legislation was further amended and approved by the Chamber of Deputies of the Parliament on 22 January 2021 and is now being examined by the Senate (https://www.psp.cz/sqw/text/historie.sqw?o=8&t=630&snzp=1)

The draft legislation is primarily based on the recommendations of the Group of States Against Corruption (GRECO). The aim is to establish a uniform and transparent system for the selection of judges, judicial officers and a more detailed regulation of the secondary activities of judges. The draft legislation also proposes the changes to the Act No. 141/1961 Sb., on Criminal Procedure, specifically it changes § 14 and narrows the application of the institute of judges sitting as assessors – lay judges in the first instance of the criminal proceedings.

In the field of selection of judges, the aim is to unify the preparation of candidates for judicial office within the institute of judicial candidate, which follows the successful passing of the professional judicial examination. Persons who have other legal experience with a professional examination will also be able to complete the practice of a judicial candidate. This practice will be followed by an evaluation of a specific judicial candidate. The place of a particular judge will be occupied by means of a selection procedure, which will take place within the district of a particular regional court. In addition to judicial candidates, other legal professions (including lawyers) outside the judiciary will also be able to apply for the selection procedure under specific conditions. This approach is, when implemented well in practice, perceived by the Bar as potentially very beneficial and enriching for the judiciary in the Czech Republic.

There will also be changes in the area of judicial officials. Their selection will now take place through tenders. The proposed amendment also introduces a ban on their reappointment and compulsory managerial training, which will be required from judicial officials.

The provision on ancillary activities for judges will be extended to include the obligation to report ancillary activities to the President of the competent court, while at the same time providing for an explicit ban on judges operating in political parties and political movements, following the current wording of the Act on the Constitutional Court. It also includes a more detailed specification of the management of own assets. If approved, the draft legislation should come into force as from January 2022.

Judges of the General Courts (i.e. Supreme Court, Supreme Administrative Court, High Courts, Regional Courts and District Courts) are appointed for an indefinite period by the President of the Czech Republic. Lay-Judges are elected by respective representations of local authorities and regional authorities depending on the type of the court to which they are installed into office.

The draft legislation mentioned above sets newly in § 105b – 105e criteria, preconditions and the selection procedure before the appointment of Presidents and Vice-Presidents of the Courts. The selection procedure will be unified for the District Courts, Regional Courts and High Courts. Presidents and Vice-Presidents of the mentioned Courts also will be obliged to participate on the managerial training of the Justice Academy. These amendments could be considered as major development to reduce the arbitrariness and increase transparency of the whole procedure.

The draft legislation also newly sets the conditions for the selection of the judges of the Supreme Court and Supreme administrative Court in §117a. The President of the Supreme Court and the President of the Supreme Administrative Court shall publish on the website of the competent court, after discussion with the Assembly of All Judges, the rules for the selection of candidates for the position of Judge of the Supreme Court or of the Supreme Administrative Court. These rules shall set out the procedure for selecting candidates and how candidates are to be assessed. The rules may be laid down following the conditions for the establishment of a judge, for the application of a selection procedure for the position of judge, for assignment or transfer to the competent court and for carrying out a psychological examination.

Appointment and selection of prosecutors are governed by the Act No. 283/1993 Coll. on Public Prosecutor's Office, as amended.

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

As the Czech Bar already explained in its contribution to the Commission´s consultation last year, judges (according to the Constitution) are in principle irremovable and untransferable from their placement to a certain court. The Act No. 6/2002 Coll. on Courts and Judges, as amended, distinguishes between «assignment of a judge to the court » and « redeployment of a judge to another court to perform other function», but both of these measures depend on his/her request and/or explicit consent of respective judge to his/her removal. This means that the judge cannot be forced to any removal or assignment against his/her own will. There are certain exemptions, that lay in potential organizational change of structure of courts, the competence of the courts or change of judicial territories which may arise for example, when the law governing the organisational structure of courts is modified or perhaps annulled. In such a case, the judge may be upon precise rules transferred to another court even without his/her consent. Judicial review of each such measure is guaranteed. Judges cannot be removed unless it is explicitly stipulated by law. Removal from the office of a judge is possible only as a result of a final and effective

decision issued in disciplinary proceedings.

A decision on judge´s removal may be imposed only for serious and culpable misconduct, if such behaviour violates the trust and dignity of the judge´s office or if it endangers trust in independent, impartial, competent and fair deciding of the courts.

The conditions for dissolution of the judge´s office are stated in § 94 of the Act on Courts and Judges i.e. once the judge reached the age of 70; the date of the final decision for the reason referred to in § 91, he is incapable of performing a judicial function (in cases of multiple convictions for misconduct imposed in a disciplinary proceeding, serious health incapacity etc.); the date of the final decision by which he was convicted for an offence committed intentionally or sentenced to an unconditional prison sentence for an offence committed negligently; the date of final disciplinary decision ordering him to be removed from office as a judge; the date of the final decision by which the judge was restricted in his or her legal capacity; the date on which the judge lost his citizenship of the Czech Republic; death or the date of the final decision by which the judge was declared dead.

Certain provisions of the law specifically provide for so-called “temporary acquittal from the judge´s office”. These may apply for example in case of appointment of a judge to the position of a judge of the Constitutional Court or various other positions, e.g. in international organisations etc.

In regard to the Presidents and Vice-Presidents of the Courts, the draft legislation on the Act on Court and Judges states in § 105a that the President of the Court may not be re-appointed as President of the same court. The President of the High and Regional Courts may be re-appointed as President of another court of the same instance only after the expiry of 5 years from the date of termination of the office of the President of the Court. The Vice-President of the Court may not be re-appointed as Vice-President of the same Court for two consecutive terms. Also, newly the position of Vice-President of the Court shall be dissolved within 3 months from the date of appointment of the new President of the Court; in the event of such termination of the function of Vice-President of the Court, the rule prohibiting reappointment to the post of Vice-President of the same court shall not apply.

The draft MPs proposal amending the Act on Public Prosecution´s office unifies the grounds for removal of senior prosecutors (and their deputies) from their positions, so that removal from the leading positions would be possible solely as a result of the decision of the independent disciplinary court in disciplinary proceedings. Uniform criteria would thus be established for the possible dismissal of senior prosecutors (and their deputies). This would strengthen the position of senior prosecutors, including the General Public Prosecutor, as they will be dismissible only for reasons defined in the law. At the same time, doubts about possible political pressure on the General Public Prosecutor or on other senior prosecutors and their deputy prosecutors will be excluded.

Promotion of judges and prosecutors

Promotion of judges and public prosecutors is laid down by law (Act on Courts and Judges and the Act on Public Prosecutor´s Office). Appointment of highest officials of the General Courts (Presidents and Vice-Presidents) and senior Prosecutors is described above.

As said in the previous section on transfers of the judges, the «assignment of a judge » to another court than the court of his former assignment may be performed in principle with judge´s approval and is executed either by the President of the court immediately superior to the court of judge´s former assignment or by the Minister of Justice, always after prior discussion with the President of the respective court to which the judge was assigned. Such temporary assignment shall be no longer than three years. Exceptionally a judge within his/her first assignment may be assigned by Minister of Justice to the higher instance court (Regional, High or even Supreme Court), provided the judge meets criteria of previous longer legal service (8 or 10 years at least).

«Redeployment of a judge to another court to perform other function» is by nature not “temporary” and it often means “promotion”. Again, this can be done only with his/her consent. Redeployment is executed by the Minister of Justice after prior consultation with the Presidents of respective courts. Redeployment of a judge to the Supreme Court and Supreme Administrative Court is possible only with the consent of Presidents of those courts.

The draft legislation newly states in § 105c that the nomination for appointment as President of the High and Regional Courts is submitted by the Minister of Justice according to the outcome of the selection procedure announced by him. The nomination for appointment as President of the District Court is submitted by the President of the Regional Court according to the outcome of the selection procedure announced by him. The proposal for appointment of the Vice-President of the Court is in discretion of the President of the Court but must be well-founded. The Presidents of the Courts are then appointed by the President of the Republic, Vice-Presidents are appointed by the Minister of Justice.

The §105b of the draft legislation sets the general conditions for the officials of the Courts: A Judge may be appointed President and Vice-President of the Court who, by his expertise, professional experience and moral qualities, gives assurances of the proper performance of his duties. The performance of the duties of Judge for at least 5 years shall be a prerequisite for an appointment of a President and Vice-President of the Court.
The procedure for the appointment of the Chairmans of Collegiums and Chairs of panels at the Supreme Court and Supreme Administrative Court remains unchanged and was described in detail in our contribution last year.

Regulations on the employment of the public prosecutors are similar to those applicable to judges. There are some minor modifications either in an appointment and/or in transferability of a public prosecutor. Similar conditions appear also in the field of promotion of public prosecutors as well as in the field of their removal.

Allocation of cases in courts

The system of allocation of cases in courts remains unchanged. The division of individual cases to be discussed and decided in court and their allocation into court departments is governed by the work schedule. The work schedule is issued for a calendar year by the President of each court after consultation with the relevant Judicial Council (internal advisory body established within each court); the work schedule must be issued no later than by the end of the previous calendar year. During the calendar year, the President of the court may, after consultation with the relevant Judicial Council, amend the work schedule only if the need for a new division of labour before the Court so requires. The published work schedule is publicly accessible; everyone has the right to look at it and make extracts or copies from it. If the work schedule is affected by the change, the change and the full text of the work schedule after the incorporation of this change has to be published without undue delay. In other words, the principle that “nobody can be deprived of his/her lawful judge” is closely observed and the judge to whom the case was allocated according to the schedule cannot be replaced unless there is a case of long-term illness, transfer of judge based strictly on a legal basis or when a reasonable and fundamental change in the organization of work before the court is implemented. Any such change must be verifiable, transparently implemented and duly justified.

In our contribution last year, we have informed the Commission about a decree No. 213/2019 Coll. on the requirements of the allocation generator ensuring the allocation of insolvency cases, the method of operation of the allocation generator and the content of the work schedule and the method of its composition for the allocation generator´s application (allocation generator decree) published on 30 August 2019 which came into force in November 2019. The decree was prepared by the Ministry of Justice in line with the Act on courts and judges. It explains that the allocation generator is an information system operated and managed by the Ministry which uses a mathematical algorithm and random numbers to ensure the allocation of insolvency cases to the court department according to the insolvency court's schedule of work by random selection without the possibility of influencing the allocation of cases. However, many technical problems with the software have been encountered, therefore the implementation remained to be the priority of the Ministry in 2020 as well. The debate of the electronic generator on allocation of all court cases has begun already in 2011. The Ministry of Justice in January 2021 expressed its aim to revive this matter again to eliminate any potential influence on allocation of cases and so called “forum shopping”. The subject was brought to media in relation to cases decided by the Higher Court in Prague, where several judges were members of the Senate deciding the matter for two or even three times in the same matter.

Views of the Supreme Court on this subject are available here: https://www.nsoud.cz/Judikatura/ns_web.nsf/web/Proverejnostamedia~TiskovezpravyNejvyssihosoudu~Reakce_na_ucelove_zpracovane_reportaze_Ceske_televize_k_tematu_pridelovani_veci_jednotlivym_soudnim_senatum_na_soudech_v_CR~?openDocument&lng=CZ

Independence (including composition and nomination of its members), and powers of the body tasked withsafeguarding the independence of the judiciary (e.g. Council for the Judiciary)

Independence of the courts and judges is guaranteed by Articles 81 and 82 of the Czech Constitution. When performing their office, the judges are independent and nobody is allowed to jeopardize their impartiality.

As mentioned above, the draft legislation amending the Act on Courts and Judges states in §85 and 85a that: From the date fixed as the date of taking up his duties, until the termination of his duties as a judge, the Judge may not, other than the performance of his duties as a judge and a court official, or activities connected with a temporary secondment to the Ministry or the Judicial Academy, hold any other paid function or pursue any other business activity, with the exception of the administration of his own property, including membership in the bodies of housing associations, associations of owners of units and other legal persons whose principal activity is aimed at satisfying the housing needs of their members**,** and activities of scientific, pedagogical, literary, journalistic**,** artistic**,** athletic and activities in the advisory bodies of the Ministry, government and advisory bodies of parliament's chambers, provided that such activity does not undermine the dignity of the judicial function or threatens confidence in the independence and impartiality of the judiciary. From the date of appointment until the termination of his duties as a judge, a judge may not hold a position in the statutory, management and supervisory body of an undertaking and may not be a trustee or other person designated to supervise the management of a trust whose purpose is to operate a business establishment. The performance of the office of judge is incompatible with membership of a political party or political movement. The judge is obliged to make a notification of his profit-making activity for the previous calendar year, with the exception of the management of his/her own assets. Notification of profit-making activity shall be submitted to the President of the competent court. The judge shall indicate in the notice information concerning the subject matter and method of the activity carried out, the entity for which the activity was carried out, the place of activity and the time scale of that activity.

The Constitution defines the fundamental basis of the judicial power while other laws provide for other safeguards of judges´ independence and impartiality, which is especially the Act No. 6/2002 Coll.as amended. One of these safeguards is the principle of appointment of the judges for an indefinite period.

Another safeguard represents the special law governing the remuneration of the judges as provided by Act No. 236/1995 Coll. as amended. This law ensures that judges enjoy certain fixed and stable scheme of remuneration which ensures judges to be secured from potential interference in their independence by executive power sometimes claimed to be reasoned by budgetary constraints.

There is no High Council for Judiciary established in the Czech Republic, which is quite a peculiarity among the member states of EU and this matter was not subject to the debates in the course of 2020. Judges do not have their self-regulatory organization as lawyers, only the Union of Judges, the non-regulatory body in which the membership is voluntary and represents only about 50% of judges. All courts must create by law so-called Judicial Councils, but their role is only advisory (they consult the President of respective courts). The lack of a High Council for Judiciary had no detrimental effect on independence or quality of justice so far. Opinions on whether it is necessary or desirable to enact formation of such a body vary not only in the public debate but also among experts and even relatively significant part of the judiciary itself is not in favor of its creation.

The highest guarantee of the independence of judiciary remains the Constitutional Court. This body standing aside from the structure of the general courts played an important role for example in constitutional review of several measures enacted by the Parliament vis a vis remuneration of judges.

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicialimmunity and criminal liability of judges

The disciplinary liability of judges and prosecutors is enacted in the Act on Courts and Judges and the Act on Public Public Prosecutor´s office. No changes have been introduced in regards to judges in the draft amendments to the Act on Courts and Judges, however, it seems that the investigating authorities deal with investigating possible criminal liability of judges. Two recent and publicly known examples can be given of judges of the High Court in Prague. Both cases suggest influencing of criminal proceedings and corruption, however they are not yet finalized.

The aforementioned draft legislation amending the Act on Public Prosecution´s office proposes to distinguish between a disciplinary offense committed by an "ordinary" public prosecutor and a disciplinary offense that can only be committed by a senior prosecutor or deputy chief prosecutor in his or her office. The proposed legislation therefore distinguishes these 'managerial disciplinary offences' and regulates their recourse, in a similar way to the penalty for disciplinary offences of 'ordinary' prosecutors, while the penalty for a disciplinary offence may also be a dismissal from the position of senior prosecutor or deputy chief prosecutor.

Additionally to this, there is a special law – Act No.7/2002 Coll. as amended, governing proceedings in disciplinary matters of judges, prosecutors and bailiffs. In December 2019, the Government published the draft proposal amending this Act which was passed on to the Chamber of Deputies of the Parliament of the Czech Republic, where the procedure is still ongoing. The Committee on Constitutional and Legal Affairs delivered its resolution on 5 February 2021 that the Committee will continue the analysis of the proposal after 17 March 2021. The draft proposal substantially amends the Act No. 7/2002 Coll. as amended. Currently, disciplinary actions are decided by six-judge chambers before the Supreme Administrative Court, and it is not possible to appeal against their conclusions. The only extraordinary remedy is an application for a retrial, or a constitutional complaint. The draft legislation proposes to the reintroduction of an appeal procedure. The proposed legislation

is based on the legislation contained in the Disciplinary Code in force until 30 September 2008 (until the amendment implemented by Act No. 314/2008 Coll.), containing some amendments. Disciplinary chambers are not effective enough in their current composition, according to the Ministry of Justice. The amendment preserves the participation of judges from non-judicial legal professions (lawyers, prosecutors, bailiffs, etc.) in tribunals, but at the same time strengthens the position of judges in decision-making. The judges in chambers of first instance (6 members) are not to be in the minority, nor in proceedings for disciplinary offences by prosecutors and bailiffs. Boards of appeal are to be three-judge and consist only of judges of the competent court of appeal, i.e. the Supreme or Supreme Administrative Court. The Supreme Court is to deal with appeal disciplinary proceedings of prosecutors, bailiffs and administrative judges. Appeal disciplinary proceedings of all other judges will be dealt with in front of the Supreme Administrative Court. Other proposed changes include the introduction of the possibility of a guilt and disciplinary sanction´s agreement, similar to the agreement on guilt and punishment in criminal proceedings. The amendment would also enact the possibility of a conditional suspension of disciplinary proceedings. A judge or prosecutor who is suspended from office due to disciplinary proceedings receives half of his salary, with the remainder paid retroactively. The amendment expressly stipulates that the payment will not apply to cases where disciplinary proceedings are terminated because the accused has resigned.

Remuneration/bonuses for judges and prosecutors

Several discussions on the freezing or even decrease of the renumeration of judges and prosecutors took place in 2020, as a consequence of the COVID-19 pandemic. In the end, the amendment to the Act No. 236/1995 Coll. was approved and published on 31 December 2020 in the Collection of Laws. The renumeration of judges and other constitutional officials has been frozen for one year as of 1 January 2021. The amendment also regulates the calculation of salaries of constitutional officials from 2022. They will be based on average wages throughout the economy instead of average wages in the non-business sphere, as is the case now. In 2022, salaries would be based on what this year's average gross wage will be across the economy, but they should not be lower than in 2021. The so-called salary base, from which specific salaries in individual positions depend, is to be 2.5 times in the future and three times the average wage for judges throughout the economy. However, if the salary base set in this way in 2022 and subsequent years were lower than in 2021, the 2021 figure would be used. Salaries and allowances in different positions are then determined from the salary base according to the coefficients laid down by law.

Independence/autonomy of the prosecution service

There is an ongoing legislative debate on the amendment of the law governing Public Prosecutor´s Office, which has not been resolved since 2011. Main disputes arise about the precision of duration of the office of the high ranked public prosecutors (term of office) and the clarification of the selection procedures for the nomination of the Prosecutor General. The last attempt was presented by the group of MPs to the Chamber of Deputies in June 2019.

The Government issued its negative opinion on 24 July 2019 however, the President of the Chamber of Deputies supported the examination of the proposal and its analysis by the Committee on Constitutional and Legal Affairs of the Lower Chamber of the Parliament. The discussions should take place in early March 2021. The aim of the draft proposal is to strengthen the independence of public prosecutors, including the General Public Prosecutor, from possible coercions and political influences. The proposed legislation therefore lays down clearer rules for the appointment and dismissal of prosecutors, senior prosecutors and deputy chief prosecutors, the length of their term of office, the possibility of disciplinary action, including related changes. The term of office of so-called Head public prosecutor (leading prosecutor of the particular area) should now be limited, with the exception of the office of General Public Prosecutor, the proposed legislation allows for a maximum of two consecutive terms of office.

Independence of the Bar (chamber/association of lawyers) and of lawyers

No serious systemic interventions which could jeopardize the independence of the Bar or lawyers, in general, have been detected during the past year. The Czech Bar Association as the largest self-governing legal professional organization in the Czech Republic, based on § 40 of Act No. 85/1996 Coll., on the Legal Profession, as amended, continues to perform the public administration in the field of advocacy and the self-government for the entire legal profession. In order to achieve this task, the Bar is not subject to the state authority and is not funded by the state. The self-governing activities are related to the mandatory membership of all lawyers in the Czech Bar Association, disciplinary liability, supervision of compliance with ethical rules, issuing professional regulations, etc. The self-governing competence of the Association is only limited by the power of the Minister of Justice, regulated by § 50-52c of the Act on Advocacy. According to them, the Minister of Justice may act as a disciplinary petitioner in disciplinary proceedings, appoints the members of the Bar Examination Board, issues Disciplinary Code and Bar Rules of Examination in the form of legal regulation, and may file disciplinary actions. However, these interventions by the Minister are rare and exceptional, while overwhelming majority of disciplinary actions are filed by the Bar itself. The Minister of Justice also ensures the compliance of professional regulations with the law and issues a regulation providing for Lawyers' Fees and Reimbursement for their provision of legal services.

Individual lawyers are also independent while providing legal services, as set out by § 3 of the Act on the Legal Profession. This independence means independence from the state power, from the diverse bodies and from anyone who would like to determine how a lawyer should provide his services.

The issue of independence is related, among other things, to the duty of professional secrecy of the lawyer, which is a fundamental pillar of modern independent advocacy. Over time, there are recurrent attempts to modify, modulate or partially limit this professional secrecy. The reasons for that are various, but mainly, in such cases, the public authorities consider lawyers to be a welcome source of information about their clients, to exercise their power (for example in criminal proceedings, tax proceedings, AML etc.). The Czech Bar Association repeatedly draws attention to these cases in the legislative process, not to protect lawyers only, but especially their clients, because such attempts may endanger their fundamental human rights, in particular their rights of privacy and the fair trial.

In this regards the Bar is currently investigating one concrete case of interference which would, however, be reported to the Commission when there is enough evidence to distinguish it from the human error or if the court delivers a judgement. The case is related to possible tapping of confidential communication between a lawyer and his client and it would, if confirmed, raise serious concerns.

There is also another example that might be considered a trend related to a search of so-called “other lawyer´s premises” (outside the law firm´s office). In such cases, the police have a duty to inform the Bar sufficiently in advance to safeguard the presence of the appointed member of the Bar to be present during the search. Repeatedly, the Bar was informed about such a search by the police only after the search was initiated. The Bar has already initiated the communication with the respective authorities (the Police Presidium and the High Public Prosecutor´s) in this matter and would report on the outcome, if no remedy is taken.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

A major topic in 2020 was an amendment to the Act on Court Bailiffs and Enforcement Activities (the Enforcement Code). From the very beginning of the legislative process, the Czech Bar Association has been involved and opposed the embodying of the principle of territoriality and the merger of executions of an obligated person (debtor) by one bailiff (principle of "one debtor - one executor"). The Bar considers that competition is an indispensable attribute of a good functioning of enforcement authorities, distinguishes them from the courts´ enforcement and allows the entitled persons (creditors) to negotiate reasonable and dignified conditions of enforcement with the bailiff. Bailiffs are not public authorities thus local jurisdiction is out of the question, it is also a business and restrictions on local jurisdiction can be considered unconstitutional. The bailiff is seen as a specific entrepreneur, whose principal subject of activity is the enforcement of creditors' claims, as confirmed by the case-law of the Constitutional Court. The introduction of territoriality would cause that small debts would become irrecoverable because the bailiff will not be motivated to collect them. This would lead to the return of the situation before the implementation of the Enforcement Code adopted in 2001. The Czech Bar is indeed also aware of social issues related to enforcement. If the state wants to solve social problems associated with the over-indebtedness of the society, it is not possible to do it by limiting law enforcement but in other ways (debt relief, social benefits, etc.). The legislative process is not finished, the draft law has not yet been approved by the Chamber of Deputies of the Parliament of the Czech Republic.

Another topic that is worth mentioning is the amendment to the Insolvency Act, which was adopted (for incomprehensible reasons) without previous consultation procedure (within the Covid State of Emergency). The essence of the proposed amendment to the Insolvency Act is to reduce a debt relief period for all debtors from the current five years to three years. This is a fundamental conceptual change that has affected a significant number of legal relations between debtors and creditors in the long term. About hundreds of thousands of debt reliefs would be affected.

On 1st January 2021, an amendment to the Act on certain measures to combat the legalization of criminal proceeds and financing of terrorism (hereinafter referred to as the AML Act) and certain other acts, including the Act on the Legal Profession were amended and entered into force. The amendment includes a shift in the assessment of administrative offences under the AML Act, which will be considered as an administrative offence as before, but in the procedural regime of disciplinary proceedings before the Czech Bar Association, governed by the Act on the Legal Profession, the Bar Disciplinary Code and in a subsidiary manner the Criminal Procedure Code. This rule remains unchanged, but offences under the AML Act are subject to the Act on Liability for Misdemeanors and Proceedings on Them, as regards the conditions of liability for the offence, the types of administrative penalties and protective measures and the principles for their imposition. The current procedural regime is to be adapted, especially as regards the conditions for the suspension and termination of disciplinary proceedings. There were other changes adopted in AML regulation related to the lawyers that the Bar considered as potentially dangerous while interfering to the lawyer´s duty of confidentiality, but finally compromise wordings had been found out between the Ministry of Finance and the Bar and we must await if the practical application of those changes would not prove the Bar´s initial concerns.

The issue of the lawyer's tariff remains a current problem. The urgency of changing the lawyer's tariff is not just about increasing specific items but an overall recodification which would reflect the current economic situation and societal changes that have taken place since its adoption in 1996. The amendment is not only desirable, but necessary. Some items have indeed been increased over time, but many of them were significantly reduced. In the autumn of 1997, the remuneration of a lawyer appointed by the court was reduced by 10% as a part of a reduction in the state's costs in connection with the floods of the same year. This reduction, known as a “flood tax”, has not been abolished yet. Although we are facing a long-term drought, it is currently 20% and at one time it amounted even to 30%. The Minister of Justice has promised that this will happen as of 1 January 2022. The Czech Bar Association aims to make this change effective as from 1 July 2021 at the latest.

Quality of justice

(Under this topic, you are not required to give statistical information but should provide input in the type of information outlined under "type of information".)

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

In 2018 a part of Act No. 258/2017 Coll. came into force. The Act amends, among other things, the Act on the Legal Profession and which established a new, extended system of free legal aid provided by lawyers based on a designation by the Czech Bar Association. This system has extended legal aid funded by the state to persons who, for property and income reasons, cannot afford to choose and pay their lawyer. In 2020, the Czech Bar Association has continued to implement this system.

The judiciary, like any area today, is affected by an ongoing pandemic and the related state of emergency. The courts continue to function even in times of emergency, but with the obligation to observe strict hygienic measures and with the principle of prioritizing written

communication. The Ministry of Justice has issued recommendations for the functioning of the courts given the epidemiological situation. The Ministry recommends that only judicial proceedings that are strictly necessary should be ordered, in particular about the running of limitation and prescription periods or other reasons requiring an immediate court decision; or maybe held without jeopardizing measures necessary to protect the health of judges, lay judges, court staff and other persons, taking into account, in particular, the need for the personal presence of participants and other persons at the hearing and the organizational, material and personnel conditions of each court.

On 2 March 2020, the Government published its amendments to the Act No. 549/1991 Coll., on Court fees. The explanatory memorandum to this proposal states, that main objective of the proposal was primarily to balance the amount of court fees so that their level is similar to that of the last comprehensive increase in 2011. According to the Government, the economic situation in the Czech Republic has changed significantly since then, especially in order to raise living standards, to which it is now necessary to respond. Furthermore, the increase in court fees aims to limit the purposeful and bullying actions that are in many cases brought with the intention of harassing the defendant or only on purpose, without considering whether the action has a chance of succeeding in court. The increase in court fees therefore aims to strengthen their preventive and regulatory function. One reason for the increase in court fees is the pressure to increase the use of extrajudicial funds in situations where they make sense. In addition to a deal between the parties, the rule of law offers other possibilities. An important alternative to legal proceedings is mediation, which is still rarely used, despite the fact, that it is linked to significant savings in the time and finances of the parties to the dispute, but with maintaining its effectiveness in resolving it. In order to promote alternative dispute resolution, it is proposed to extend the refund of the amicable termination fee to the appeal procedure. Therefore, if the parties conclude a settlement before a court of second instance, the court fee for appeal proceedings reduced by 20 % will be refunded to them. The explanatory memorandum also states that an increase in the budget in connection with the increase in court fees and the reinvestment of these funds in the judiciary, or activities very closely related to the field of justice, would also have a positive impact on the financing of areas that are underfunded in the long term. It would thus be possible to use these funds for areas whose functioning is currently causing difficulties, such as the equipping of courts with modern technologies, the remuneration of experts or interpreters, or the remuneration of legal representatives appointed ex officio, which would lead to an improve in the quality of services for the public. The Governments proposal was rejected by the Parliament in the first reading on 29 January 2021. MPs justified the rejection on the grounds of the ongoing COVID-19 pandemic and the related situation.

Resources of the judiciary (human/financial/material)

Material resources refer e.g. to court buildings and other facilities.

Despite the proposed legislation on Courts and Judges, which introduces a uniform and transparent system for the selection of judges and court officials and might be a part of the solution regarding human resources of the judiciary, especially in relation to the quality of judicial candidates and judges, issues on both human and financial resources of the judiciary are expected to arise. The Minister of Justice announced to limit the number of newly appointed judges in early 2021 and also the debt and state of public finances as a

consequence of COVID-19 pandemic was and still is reflected on the allocated financial resources for the judiciary but also for the area of justice in general.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

There is no compulsory training for lawyers (unlike trainee lawyers) in the Czech Republic. Nevertheless, the Czech Bar Association has prepared a 3-year voluntary training program for lawyers ("Continuous training for lawyers"), which was launched in 2019. Participation in further training requires that a lawyer obtain at least 36 study points in the field of law, other legal or related fields, legal skills or other domains. A lawyer who obtains the required amount of study points within three years is entitled to receive a CBA certificate of continuous training for lawyers. A lawyer who has completed this program and obtained the Bar's certificate has a right to inform clients and the public he/she holds such certificate and is also entitled to use the benefits, discounts provided or ensured by CBA in the next three-year cycle of continuous training.

The CBA is also continuously being active and involved in the CCBE/ELF projects (in 2020 mainly focused on AML training of lawyers and AI4Lawyers), preparation and implementation of the European training platform. The Czech Bar Association is also a long-term partner of the ERA Academy with which many workshops and seminars have been organized. CBA also actively cooperates with Council of Europe HELP programme, but also individually organizes number of exchange programmes, study visits, seminars and conferences which aim to train lawyers in both EU and International law.

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

(Factual information presented in Commission Staff Working Document of 2 December 2020, SWD(2020) 540 final, does not need to berepeated)

The Czech judicial system is currently not sufficiently digitalized, leading to additional costs and losses in the effectiveness of functioning on the part of users of the justice system and legal professions involved themselves. Interested public, participants, lawyers, experts are thus obliged to spend a disproportionate amount of time and resources, in particular, on obtaining relevant information about the judicial system, access to documents in the context of inspection of the file. The loss of effectiveness lies, in particular, in administrative processes related to the creation, distribution and access to documents.

At the same time, the lack of digitalization of justice does not allow the systematic work of a wider range of judicial staff but also lawyers from home, in particular as regards administrative positions, and, in addition to the environmental burden resulting from their necessary transfers, thus limiting their possibilities for re-aligning family and working life.
The judicial system, which is not widely digitalized, is less robust in the event of a crisis situation, as demonstrated by the impact of the current COVD-19 epidemic on the situation of Czech courts. For example, the attempt to limit the personal interaction between the court and the parties, motivated by epidemiological considerations, soon led to the exhaustion of the capacities of the available videoconferencing links and equipment, so

that the hearing had to be adjourned to a large extent and thus the proceedings prolonged. At the same time, the management of individual courts has approached minimizing the risk of transmission of infection in the workplace, inter alia, through the wider introduction of work from home; however, such a procedure implies sufficient technical equipment for individual staff, sufficient infrastructure capacity to ensure remote access and, to the widest extent possible, the possibility of accessing documents contained in the files remotely.

Nevertheless, despite the very slow progress, the Czech justice increased the use of videoconferencing tools in 2020, mainly, in criminal proceedings. In March 2019 – as a direct response to COVID-19 situation, the Czech Bar Association and the Prison Service introduced a videoconferencing system for lawyers and their clients in imprisoned clients and clients in pre-trial custody which has gained its popularity and has been widely used in 2020. This system not only enables the communication per se in the pandemic state, but also significantly decreases the costs of lawyers related to travel to prisons. Currently, the Ministry of Justice is preparing the launch of an online court hearings system and necessary related amendments to the legislation. The Czech Bar Association is closely following the developments in this area and actively contributing to the process.

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

Despite the Ministry of Justice's current instruction in place since 2019, which prescribes courts of all levels to store decisions in an electronic judicial database, only a fraction of them are registered so far. Therefore, as one of the priorities in the field of digitalisation of justice, the Ministry should complete the implementation of a new database of lower court judgments and a software tool for anonymizing the data contained in these decisions, soon. The use of electronic database is also reflected in the draft proposal amending the Act on Courts and Judges mentioned above for several times. The draft proposal sets in a new § 118a that the Ministry manages and operates the public administration information system database of decisions of district, regional and high courts (the "Database"). The database is publicly available in a way that allows remote access. District, regional and high courts publish in the Database final decisions, the categories of which, the procedure for their publication and the extent to which such decisions are published, shall be determined by the Ministry by decree.

Also, in 2020 the previously available information on the parties to a proceedings, both civil and criminal cases, has been withdrawn from the online platform of court hearings (Infosoud) for the data protection reasons. The system was however not been replaced by any other means, which substantially limits the transparency and public control of the judiciary.

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialization

The judicial system in the Czech Republic consists of the Constitutional Court of the Czech Republic and the 'ordinary' court system.

The ordinary court system consists of the Supreme Court, the Supreme Administrative Court, High courts, regional courts and district courts.

The ordinary court system consists of four organisational branches:

- the 89 district courts; the courts in the capital city Prague and the Municipal Court in Brno have the same status as the district courts
- the 8 regional courts in Brno, České Budějovice, Hradec Králové, Ostrava, Plzeň, Prague, Ústí nad Labem and the Municipal Court in Prague
- the 2 high courts in Prague and Olomouc
- the Supreme Court and the Supreme Administrative Court in Brno.

The special court system consists only of the Constitutional Court of the Czech Republic with its seat in Brno.

Jurisdiction in civil cases: District courts, regional courts, high courts, and the Supreme Court of the Czech Republic are responsible for judging civil cases.

Jurisdiction in criminal cases: District courts, regional courts, high courts, and the Supreme Court of the Czech Republic are responsible for judging criminal cases.

Jurisdiction in administrative cases: The role of the judiciary in administrative matters is to protect the individual rights of natural and legal persons under public law. This role is fulfilled by administrative courts. These are specialised chambers within the system of regional courts that act as courts of first instance. The Supreme Administrative Court is the administrative court of last instance in the jurisdiction in administrative cases.

Specialised courts: In general, there are no specialised courts in the Czech Republic, though there are specialised chambers in the ordinary courts (for employment cases).

Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under "type of information".)

Length of proceedings

The official statistics on length of proceedings are available at webpages of the Czech Ministry of Justice here: https://www.justice.cz/web/msp/statisticke-udaje-z-oblasti-justice. Currently, only statistics for the year 2019 are available however it is expected that those for the year 2020 will be available soon.

Due to the « Coronavirus regime », the following action influencing the length of proceedings before courts has been announced: Delays in court proceedings that occurred due to the instruction of Ministry of Justice of the Czech Republic issued in March 2020 and sent out to presidents of courts (the instruction asked presidents of courts to postpone as much court proceedings as possible) in the Czech Republic will not be considered as

delays in sense of the execution of ministerial supervisory power in these matters.

During May 2020, the resumption of the normal operation of the courts was gradual and a significant return to normal in decision-making took place after the end of the declared state of emergency on the 18. May 2020. Due to the serious pandemic situation in fall 2020, the Ministry of Justice issued a new recommendation stating that already ordered court proceedings and the new court proceedings shall be ordered only if those are strictly necessary, in particular in view of the running of limitation periods or other reasons requiring an immediate court decision or they may be held without jeopardizing the measures necessary to protect the health of judges, lay judges, court staff and other persons, in particular taking into account the need for the personal presence of parties and other persons at the hearing and the organizational, material and personnel conditions of each court. The last recommendation dated December 2020 states that the Ministry of Justice will not submit any comprehensive recommendations to the courts to limit relations with public and to limit the scope of opening hours, it leaves the decision fully within the competence of the presidents of individual courts.

From the point of view of the CBA and especially lawyers representing their clients before courts, the length of proceedings, delays and pending cases have always been problematic and in relation to the current pandemic situation it is expected that the backlog of cases is to be increased. However, no extraordinary backlog of cases in courts was officially reported by the Ministry of Justice.

Other - please specify

The Law on Experts, Expert Offices and Expert Institutes and the Law on Court Interpreters and Court Translators has been enacted and are in force from 1 January 2021. The new legislation revokes the Act No. 36/1967 Coll. on experts and interpreters, as amended. The aim of the law is to stabilise the expert sector and, above all, to improve the performance of this activity. The law on Experts aims, in accordance with European Union law, to establish a legal right to be appointed as an expert after meeting clearly defined criteria. This removes the discretion of the various institutions on whether or not to appoint a person, and thus to increase the legal certainty and legitimate expectations of applicants for the creation of an expert's authorisation. At the same time, the establishment of clear qualification requirements, including the introduction of the obligation to pass the entrance examination, should lead to a personnel improvement in the performance of the profession, where it could only be carried out by persons who meet a minimum standard that can be required of a person carrying out an expert activity.

The possibility for experts to come together and carry out expert activities through an expert's office is also introduced. Economic factors are likely to lead experts to do so. Experts with completely different and identical expert approvals may work in the expert's office. The office will then unfold its authority from the expert authority of those experts through which he will carry out the expert activity. As in many other similar professions, there should be a clear definition of liability relationships and the introduction of related compulsory insurance.

Furthermore, there should be a general improvement in the performance of the expert profession, which can be observed on several levels. First of all, it is a wider possibility of reviewing expert opinions and checking not only formal but also factual accuracy.

The introduction of certain methodological or similar standards and practices for sectors and sectors for which it is possible and at the same time it is desirable. Furthermore, it is about strengthening the performance of supervision persons carrying out expert activities and the related tightening and streamlining of administrative penalties. Last but not least, this issue is linked to the emphasis on the role of the expert as a person performing a service in the public interest in the sense that experts will not be able to unreasonably reject the contracting entities of expert opinions from public authorities. A positive measure, which should lead to greater motivation for experts, can then be seen in the revision of the remuneration system and in the increase in the current level of expert. The aim is also to digitalize of the performance of this profession, i.e. with the possibility to find a list of fields, sectors and qualification requirements in a clear way allowing remote access. It seems appropriate to revise the existing list of experts and expert institutes and to introduce electronic expert diaries to simplify the activities of experts as well as public authorities when commissioning expert opinions and state administration bodies in the performance of supervisory activities.

In connection with the adoption of the laws, it will be necessary to prepare implementing regulations and a new information system during this year, which will allow the management of the list of experts and interpreters at the Ministry of Justice. This also raises the necessity to prepare an organizational change at the Justice Department and to create a new methodology for the performance of expert and possibly also interpreting activities according to the new laws, as well as new standards for examinations.

Anti-Corruption Framework - Czechia

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

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)

The Government has adopted consecutive, comprehensive strategies against corruption with following goals and objectives: the introduction of independent, efficient, professional, integrated and corruption-resistant public administration; independence of the public prosecutor's office from political influences; transparency and efficiency of decision-making and legislative processes; streamlining the system of free access to information; widening and consistent application of regulatory impact assessments and corruption risks in legislation (RIA, CIA); more effective prevention of conflicts of interest; establishing binding standards for nominations of state representatives to companies (corporations) and state-owned enterprises; taking preventive measures, limiting corruption risks in the area of the management of public funds; strengthening management and control mechanisms in public administration; and the implementation of the Framework Department.

Documents regarding the Action plan of the Government from previous and following years are available in Czech language at https://korupce.cz/protikorupcni-dokumenty-vlady/na-leta-2018-az-2022/

A special unit within the Czech police (UOKFK) investigates corruption and financial crime and deals with an increasing number of corruption investigations. The Anti-Corruption Unit of the Ministry of Justice coordinates the activities of individual departments in the fight against corruption, including the performance of the tasks set out in government materials. The unit ensures the fulfilment of obligations under ratified international conventions, including ensuring the activities resulting from the Ministry of Justice's membership in international evaluation mechanisms and the Czech Republic's membership of the EU, the Council of Europe and other international organizations and platforms. Ministry of Justice has also competence to supervise and examine declarations of the MPs submitted following relevant articles of the Act on Conflicts of Interest, as well as other developments in this regard. findings and suspicions of errors in declarations of public officials, including MPs, to responsible bodies, such as the respective municipal commissions and the Office for Personal Data Protection.

The Supreme Audit Office (SAO) plays an important role in anticorruption policies pointing, for example, to deficiencies in the public procurement process. A constitutional amendment regarding an expansion of competencies of the SAO was approved in 2020 and a specific implementation of the amendment in the Act on the SAO is expected in 2021. After the amendment, the SAO could review revenue and expenditure of companies in which the state or local governments have a majority stake.

A proposal for the Code of Ethics of the Chamber of Deputies was considered in the Chamber of Deputies in December 2020 but the further consideration was postponed because a low number of present members in the Chamber due to COVID-19 pandemic. The Code would set nine values for the Deputies to observe and establish an Ethics Commission in the Office of the Chamber of Deputies. But a general description of the values and a weak position of the Commission is criticized.

Prevention

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

The amendments on anti-corruption law framework are delayed. The crucial laws are waiting for the consideration in the Parliament and it seems that it is not a priority for the Government.

As mentioned in our contribution last year, more than 20 NGOs also launched an anti-corruption campaign named the “Reconstruction of the State” available at https://www.rekonstrukcestatu.cz/en. This campaign is still active, and they made comments on the proposal of the Whistleblower protection Act as an example.

From January 2021 the amendment of the Act No. 253/2008 Coll., on certain measures to combat legalization of criminal proceeds and financing of terrorism (Anti-Money laundering Act) which transposes EU Directive 2018/843 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, entered into force.

In the last phase of the legislation procedure is a proposal for an amendment of the Act No. 6/2002 Coll., on courts, judges which should ensure a more transparent selection of judges and court officials, as mentioned for several times in this contribution. And there is a plan to propose a reform of the Office for the Protection of Competition to be more transparent. The proposal from the Government was expected in autumn 2020 but has not been published yet.

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

Lobbying is not regulated in the Czech Republic yet. In December 2020, the Governments proposal of Act on lobbying was considered in the Chamber of Deputies for the first time and was further referred to the expert committees for analysis. There are many activities and subject which falls under the Act. The vague description of legal entities lobbying for the benefit of its members can cause that professional chambers and their members would be within the scope of the Act, including the Czech Bar Association which is performing public administration in the area of the Legal Profession. The Czech Bar has, therefore, commented on the draft Act and asked for more precise definitions and their justifications.

In February 2021 the Act No. 37/2021 Coll., on the registration of beneficial owners (will be effective as from 1st of June 2021) was passed. This Act should prevent that public money would be used by companies with secret owners. The broad expert discussions on this subject were held in the course of 2020, the main criticism towards the approved Act focuses on the fact, that the Act does not lay down sanction in case that the information entered into Register of beneficial owners are incorrect and also the sanctions are not defined for non-compliance with the Act which undermines its efficiency.

Rules on preventing conflict of interests in the public sector.

An amendment (Act No. 33/2020 Coll.,) on Commercial Companies and Cooperatives entered into force in January 2021. The amendment affects the provisions concerning conflicts of interest between members of a business corporation and members of its bodies. The amendment should clarify ambiguities in interpretation of a conflict of interest between members of a business corporation and members of its bodies.

In the Chamber of Deputies (after the first reading) there is a proposal for an amendment on the Act No. 159/2006 Coll., on Conflicts of Interest. The proposal would restrict the use of data specified in property declarations and make property declarations accessible based on individual applications only.

The Czech Constitutional court in its decision Pl. ÚS 4/17 from 11 February 2020 rejected objections against the Act No. 159/2006 Coll., on conflicts of interest that the Act is purposefully directed against one specific person. The Constitutional court rendered that the Act is general and limits thousands of public officials. The judgement is summarised in detail in section Regime for constitutional review of laws.

Measures in place to ensure whistleblower protection and encourage reporting of corruption

At the end of January 2021, the Government approved a proposal of the Whistleblower protection Act submitted by the Ministry of Justice which transposes Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law (EU Whistleblower Directive). The proposal is sent to the Chambre of Deputies to a consideration. Efforts to legislation on whistleblowing have appeared repeatedly in the Czech Republic, but none of the previous proposals have been accepted. On the current proposal, the Ministry received 231 fundamental and 220 recommendation comments and stated that it had taken them into account.

The Czech Bar Association has repeatedly commented on the draft law on the protection of whistleblowers, as it is an issue that affects lawyers and their employees. Already during the first comment procedure in 2018, the Chamber drew attention to the issue of the whole institute of protection of whistleblowers of criminal (and other illegal) activities, especially with regard to the legally imposed obligation of confidentiality of lawyers, criminal liability of legal persons, the potential abuse of the institute and the overall moral-moral aspect of the adoption of the act in question. In 2020 the Bar has focused in particular on the treatment of the obligation of confidentiality during the second round of the comment procedure. At the same time, the Bar drew attention to a number of partial legislative problems or situations that the new wording raises, whether it is the definition of notification, the subject matter of the notification, the extent of the whistleblower's wrongdoing, the nature of the Whistleblower Protection Agency and its powers, etc.

On 9 February 2021, the Government submitted the draft to the Chamber of Deputies. The fate of the Act is currently quite uncertain, as the 8th term of the Chamber of Deputies (2017-2021) will end in the autumn of this year. If the law is not debated in the Chamber of Deputies by then, its legislative process will be completed and would have to be repeated in the new parliamentarian term.

The proposal contains broad definition of a whistleblower and stress importance of internal reporting channels which is perceived positively. The original definition of a obliged entity, an employer with at least 50 employees, was changed in draft proposal to an employer that employed on average at least 25 employees in the last calendar quarter. According to the draft law, the obligation to establish internal channels and procedures for notification and adoption of follow-up measures should also apply to the contracting authority under the Public Procurement Act (with the exception of a municipality with less than 5 000 inhabitants, unless it is a municipality with extended powers). The law thus goes beyond the Directive, which set a minimum threshold of 50 or more employees for compulsory enterprises and which provided for an exception of 10 000 inhabitants for municipalities. In principle, the scope of possible notifications has also been extended when whistleblowers are to be newly protected under the law, even if they report any infringement that has the hallmarks of a crime or misdemeanor that they have become aware of in connection with work or other similar activity. This area was not foreseen in any way by the Directive or the first variant of the draft Law. The draft proposal abandoned the creation of a specialized office for receiving external notifications, instead foreseeing an extension of the competences of the Ministry of Justice, whose employees would receive and assess the relevant notifications. Here, too, it can be recalled that the Directive does not foresee the

creation of any office, even less that the Ministry of Justice would overtake this agenda. If obliged entities do not implement legally required internal systems allowing notification, they will be threatened with a fine of up to CZK 1 million, which may become a penalty with liquidating impact.

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

The high-risk areas described in our contribution last year remain unsolved. The Law on Civil Service prohibits political interference in the public administration and operations of state-owned enterprises. However, the Czech civil service's vulnerability to political influence and weaknesses in the rules regulating it is still perceived as a major weakness. Furthermore, the high rate of fluctuation in the civil service, related to frequent changes in government and lack of guarantees for appointments and dismissals, increases the risk of corruption.

Corrupt practices in public procurement are usually based on informal, clientelistic structures which could undermine the activities of public authorities. Amended Public Procurement Act introduced additional transparency and safeguards through stricter rules for publishing tenders and public contracts to mitigate corruption-related risks. Public Procurement is primarily regulated by Act. No. 134/2016. Tenders are required for acquiring services and supplies exceeding CZK 2 million and construction work exceeding CZK 6 million.

Measures taken to address corruption risks in the context of the COVID-19 pandemic

Transparency International published its Corruption Perceptions Index (focuses on the public sector and individual governments and administrations as they seek to curb corruption, e.g. through anti-corruption legislation) in January 2021. The Director of the Transparency International for the Czech Republic commented in media that the pandemic crisis has highlighted the negative trend that we have been facing in the Czech Republic for a long time, which is the disintegration of the state administration. In a weakened system, the consequences of COVID-19 are more noticeable and visible. Surveys of the civil service itself have shown that efficiency has declined in recent years and political influence on the functioning of officials has been deepened. In the long term, it has failed to attract experienced experts to the services of the state. The processes of modernising and eliminating unnecessary bureaucracy are stuck. Nor is it possible to enforce the absolutely necessary operational, legislative or economic anti-corruption measures, which are considered to be international standards.

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

Repressive measures

Criminalisation of corruption and related offences

The Criminal Code criminalizes attempted corruption, extortion, active and passive bribery, bribery of foreign officials and money laundering. There is no exception for facilitation payments under Czech law. There is no specific threshold for hospitality expenses, but any gift given with the intent to illegally influence decision-making can be considered a bribe.

Private sector bribery is criminalized. Companies and high management can be held liable for corrupt acts by their employees, provided the company benefited from the act.

For officials, penalties for bribery and abuse of power can be up to 12 years in prison, forfeiture of property, monetary penalties, and a number of other measures. Penalties for companies include fines, forfeiture of property, disqualification from participating in public tenders and receiving subsidies.

For the reviewed period, we have not identified any systemic issues regarding criminalisation or non-criminalization of corruption offences or regarding sanctions for corruption offences.

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

The criminal investigation of the Czech Prime Minister, Andrej Babiš has been closely monitored by the public also during 2020. The subsidy affair concerning the farm “Čapí hnízdo” was supposed to be resolved last year. However, at the end of December, the police asked for an extension of the deadline for the investigation and no outcome has been published yet. The High Public Prosecutor in Prague, Lenka Bradáčová mentioned in media that the prolongation of the investigation of the case is mainly due to the coronavirus pandemic, which slowed down the collection of evidence as well as the legal assistance from abroad that investigators have requested.

As worrying, we see rather often comments of high-level politicians and public figures on criminal investigation and trials of public interest offences. This may be by some seen as the undue influence of the criminal process and in contradiction with the fair trial as stipulated by the Article 6 ECHR and Article 47 of the Charter of Fundamental Rights of the EU.

Other – please specify

At the beginning of 2021, the public debate concerning General Public Prosecutor has begun. According to media, the General Public Prosecutor, Pavel Zeman, intervened in a case that helped a friend of his. General Public Prosecutor Zeman commented that he had

not taken any action that violated the prosecutor's ethical conduct. The situation will also be dealt with by The Minister of Justice Marie Benešová who as well as the Union of Public Prosecutors asked General Public Prosecutor, to provide an explanation.

Other institutional issues related to checks and balances - Czechia

The process for preparing and enacting laws

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

The Czech Bar Association noted a significant increase of exceptions regarding the applicant's obligation to send a draft legislative proposal to comment procedure in connection with the COVID-19 pandemic as part of the ongoing monitoring of the legislative procedure. The absence of a proper comment procedure has significant importance and impact on the transparency of political decision-making. The implemented legislative procedure prevents the adoption of the new legislation in constitutionally compliant manner, without proper justification of the reasons for the adoption and its necessity. The Czech Bar Association is convinced that some laws rushed to be adopted in shortened regime do not have any connection with the ongoing pandemic (for example, the amendment to the Insolvency Act), or there is granted insufficient time for a shortened comment procedure or there are no other convincing reasons to bypass the standard legislative procedure. It is clear, that sending the draft law to the comment procedure is also necessary for the preparation of a government´s proposal as such, because without the opinions of other ministries, the draft law may suffer irreparable defects, as shown by repeated amendments to the Public Health Protection Act. Regarding this issue, the Czech Bar Association appealed to the Legislative Council of the Government and the Minister of Justice.

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

The Czech Bar Association has publicly commented on two proposals to adopt fundamental amendments to the important legal regulations in response to the current epidemiological situation. In one case the Bar´s concerns were aimed even at a Constitutional law - the Security Act and the Crisis Management Act. The current wording of the Constitutional Act on Security is sufficient according to the Czech Bar Association. On the contrary, the amendment of the Constitutional Act cannot be justified by the argument that it is necessary to implement a revision for crisis situations that can be used in number of different situations in the future. The exceptional situation which arises in the event of the state of emergency brings a set of special measures which, under normal circumstances, cannot be part of a rule of law that respects the separation of powers and the sovereignty of the people. This situation cannot therefore be used "in number of

different situations", as argued in the explanatory memorandum of the draft proposal, but in very exceptional circumstances. The Czech Bar Association made a fundamental remark to an amendment regarding the change of election period or repetitive extension of the election period and deadlines for organisation of the elections. The Czech Bar Association considers the proposed change to be a serious interference with the democratic establishment and the rule of law. In the Security Act, the Czech Bar Association criticized a part of the Act, which limits the scope of the state's responsibility in two ways. Firstly, the state will only be liable for its active actions (not for damage caused in connection with crisis measures). Secondly, as stated in the amendment, the state should be liable only for actual damage and not for the lost profits. The certainty of compensation ensures the confidence of the individual in the state and the willingness to respect the measures that protect the whole society. A behaviour of the individual should be balanced by the full compensation. Without full compensation, the individual's reluctance to respect the measure will significantly increase as well as the efforts to circumvent the measures. Especially when the existence of the individual will be endangered, as can be seen today in many affected self-employed persons.

The Czech Bar Association also commented on the bill to the Public Health Protection Act, Public Health Act. The law contains institutional changes that were intended to enable society to manage the current pandemic better, as well as any other pandemic in the future. The establishment of a centralized State Hygienic Service was principal. The proposal affects number of fundamental human rights and freedoms. Therefore, it is necessary to act within the limits of constitutionality, not just to achieve the objective pursued. In this regard, the Czech Bar Association expressed a negative opinion on the amendments to the Public Health Protection Act, which was submitted by the Ministry of Health during 2020. The law does not provide sufficient guarantees of a legality of the procedure and may lead to its abuse, especially while weakening the possibility of its control during the state of emergency.

The position of the Czech Bar Association concerning the newly declared state of emergency declared on February 15, 2020 : “The declaration of a "new" state of emergency without the approval of the Chamber of Deputies ignores the role of legislative power as a control mechanism and therefore is to be considered not only a fundamental violation of the constitutional principles enshrined in the Constitutional Act on the Security of the Czech Republic but also an obvious ignorance of the principle of parliamentary democracy. It is to be believed that acknowledging the relevance of the conduct of some governors and the subsequent actions of the Government is generally unacceptable and cannot be justified by the need to further combat the covid-19 pandemic. The subjectively enforced criterion of Government responsibility cannot take precedence over the Constitution as the fundamental pillar of a democratic legal order, rule of law and protection against totalitarianism. The Czech Bar Association believes there is a clear circumvention of the purpose and meaning of the law by a procedure which is not foreseen by law and which cannot be justified even by pursuing a legitimate aim, such as the protection of public health. The full-text announcement of the Czech Bar Association is available in the Czech language here: https://advokatnidenik.cz/2021/02/15/cak-k-vyhlaseni-nouzoveho-stavu-usnesenim-vlady-ze-dne-14-2-2021/ “

Regime for constitutional review of laws.

Constitutional Court of the Czech Republic decides in Proceedings on the Proposed Annulment of a law. A petition proposing the annulment of a law, or individual provisions thereof, may be submitted by the President, a group of at least 41 Deputies or a group of at least 17 Senators, a Panel of the Court in connection with deciding a constitutional complaint, anyone who submits a constitutional complaint or who submits a petition for rehearing.

In 2020, the Constitutional Court decided for example in cases of The Act on Conflict of Interests (Central Register of Asset Declarations) - Pl. ÚS 4/17 - 2, P. ÚS 38/17 – 1, from 11 February 2020 and constitutional complaints regarding government restrictions regulating the pandemic situation. In its decision Pl. ÚS 4/17 – 2 the Constitutional Court rejected the complaint of the President of the Republic and also a complaint of a group of MPs to repeal parts of the Conflict of Interest Act, as amended, and other related laws. Members of the Government are, therefore, still not able to run radio and television broadcasts and issue periodicals. At the same time, the law makes it impossible for companies in which Members of the Government have at least a quarter share to tender for public contracts, non-interest subsidies and investment incentives. In its ruling, the Constitutional Court dealt extensively with objections to tie-up with European Union law, distinguishing between its effects on the contested provisions of Section 4a (broadcasting and periodical press) and Sections 4b and § 4c (application for public contracts, subsidies and investment incentives). According to the Constitutional Court, the regulation in Section 4a is primarily a solution to the national issues of the political and constitutional system in order to preserve the principles of the democratic rule of law and the associated national identity. Therefore, the objections that if something like this is not regulated by the EU law, then it cannot be regulated on national level, are unfounded. On the other hands, membership of the European Union implies a commitment to sincere cooperation with its institutions, i.e. to take all appropriate general or specific measures to fulfil its obligations, including the adoption of “all necessary national legal measures to implement legally binding Union acts”.

The reputation of the Constitutional Court as the independent institution guarding the rule of law and democracy is positively accepted in the society, the decisions of the Constitutional Court are respected by legislature and executive.

All the judges were appointed by the President of the Czech Republic, Miloš Zeman, majority in the years 2013-2015, the last single appointment came in 2020. With its powers to revoke the legislation, the Constitutional Court plays a very important role in the system of the division of powers. Majority of the Petitions is submitted by Senators, guarding the fundamental rights against the steps of the government explained as so-called public interest.

In January 2021 the Constitutional Court ruled on the unconstitutionality of certain provisions of the Electoral Act to the Chamber of Deputies. In brief, the subject of its decision was on equality of polls. The abolished provisions must be recently implemented by the Parliament in order to come into effect still before the elections to the House of Deputies of the Parliament, i.e. by October 2021 at the latest. President of the Republic, Miloš Zeman and the Prime Minister Andrej Babiš publicly criticized the decision of the

Constitutional Court, while the President in addition to his criticism decided to take away the state decoration from the President of the Constitutional Court, Dr. Pavel Rychetský. In society these unprecedented invectives were perceived as an interference with the independence of the Constitutional Court.

COVID-19: provide update on significant developments with regard to emergency regimes in the context ofthe COVID-19 pandemic

- **judicial review (including constitutional review) of emergency regimes and measures in the context ofCOVID-19 pandemic**
- **oversight by Parliament of emergency regimes and measures in the context of**
- **COVID-19 pandemicmeasures taken to ensure the continued activity of Parliament (including possible best practices)**

The whole year 2020 and the beginning of 2021 were marked by a pandemic of the COVID 19 virus and the declaration of a state of emergency, which was declared not only in the spring but also in the autumn (5 October) and has been repeatedly extended until February 2021. The Czech Bar Association has regularly and publicly commented on the situation of the state of emergency and related emergency measures (so-called crisis measures). The Czech Bar Association always appealed that the state of emergency and appropriate restrictions of rights should not be maintained for a longer period than necessary for the protection of life and health. The Bar stressed that the state of legislative emergency should not be abused to pass acts that are not related directly to the state of emergency and consideration of ordinary legislation should be postponed until normal state or dealt with in a normal procedural order. In February 2021, the Chamber of Deputies of the Parliament of the Czech Republic did not grant a further extension of the state of emergency, which was declared from 5th October 2020. Despite this fact, the government of the Czech Republic subsequently declared a new state of emergency, for the same reason (health threat in connection with the occurrence of coronavirus referred to as SARS CoV-2 in the Czech Republic), although the material conditions existing at the time of Parliament´s denial remained unchanged.

On 18 February 2021, the Chamber of Deputies of the Parliament of the Czech Republic approved the new Pandemic Law, which should enter into force as from 1 March 2021. The Law was drafted and approved again under the current state of emergency in accelerated procedure and it is a reaction of the Government to the decision of the Chamber of Deputies of the Parliament of the Czech Republic (mainly the opposition parties) not to grant a further extension of the state of emergency. There was, therefore, no time to comment on the draft law and it would be only now analysed by the experts and the Bar.

Independent authorities

Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsmaninstitutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions Cf. the website of the European Court of Auditors:https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#

The Ombudsman's main task is to protect persons from the acts of authorities and other institutions, should those acts be in violation of the law or not correspond to the principles of a democratic country upholding the rule of law and good governance, as well as to protect them from the inaction of those authorities and institutions, thereby contributing to the protection of fundamental rights and freedoms.

The Office of the Ombudsman acts on the basis of applications brought before it or on its own initiative. The Ombudsman does not have standing to file an application with a Constitutional court for the striking down of a law or a provision thereof, but he can file an application for the striking down of other types of legal regulation, or the particular provisions thereof, provided it that they contravene the constitutional order or the law. In practice, this means government directives, ministerial regulations made in the implementation of acts, or the generally binding regulations of the regions or the City of Prague, and the legal regulations issued by municipalities. Should an application for the abolition of another type of a legal regulation, or a provision thereof, be filed by another entity granted standing by the Act on the Constitutional Court, the relevant Justice – Rapporteur must immediately send the application to the Ombudsman, who has one month in which to inform the Constitutional Court of his intention to join the proceedings. Should he do so, he enjoys the status of an intervener to the proceedings.

On 16 June 2020, the group of MPs submitted the draft proposal on the establishment of the Children´s Ombudsman. The Chamber of Deputies of the Parliament should deal with the proposal in March. The aim of the draft proposal is to establish an umbrella institution to protect and promote children's rights. The Children's Ombudsman will unite today's fragmentation. According to draft proposal the Children´s Ombudsman should address the suggestions of children under the age of 18, complaints about the procedure of state authorities, social-legal protection, problems of schools and hospitals.

The draft proposal raised experts debate in media mainly if there is a necessity to establish a new institution or if the current office of Ombudsman and his work could be better structured and improved in regard to its accessibility for children and efficiency. The current Ombudsman, Stanislav Křeček, commented that the draft proposal lacks definition of relations between the current Ombudsman and the new Children's Ombudsman. He does not question the establishment of the Office but points out that it is necessary to think about how to define the distribution of powers between the two institutions.

Accessibility and judicial review of administrative decisions

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

The Supreme Administrative Court is the supreme jurisdiction dealing with matters in the jurisdiction of administrative courts. Administrative courts in general provide protection of public subjective rights of natural and legal persons (in procedures dealing with actions against the decisions of administrative authorities), which is supplemented by protection against failure of administrative authorities to act and protection from unlawful interference, instruction and coercion from administrative authorities. Apart from that, regional courts deal with some disputes in election and local referendum matters and in matters of violation of public officials' duties set by the Act on Conflict of Interest.

The Supreme Administrative Court has in particular jurisdiction to decide on cassation complaints against the decisions of regional courts on actions and on petitions dealing with protection of public subjective rights. Moreover, it deals in the first instance with some specific fields of law, such as election matters, dissolution of political parties and political movements, suspension and resumption of their activity, as well as in positive and negative jurisdiction conflicts between public administration authorities. The Supreme Administrative Court has the competence to decide on cassation complaints against the decisions of regional courts in matters of annulment of measures of general nature or parts of these measures and in matters of local and regional referendum. The Supreme Administrative Court has become a disciplinary court for judges, state prosecutors and enforcement agents.

To ensure unity of judicial decision-making the Supreme Administrative Court publishes the Court Reports of the Supreme Administrative Court after a discussion in the Plenary. These reports are used for the publication of selected decisions of the Supreme Administrative Court, decisions of regional courts on administrative matters and two special non-procedural instruments, which ensure unity and lawfulness of decisions made by administrative authorities and administrative courts. One of the instruments is a particular „legal position" adopted by the Plenary, the second one is a ruling of an exemplary nature adopted by the extended chamber of the SAC in the field of administrative decision-making.

Implementation by the public administration and State institutions of final court decisions

The actual problem of administrative justice is in the number of cases and the delays in the proceedings. The need to discuss an amendment to the Administrative Procedure Code, namely the inadmissibility criteria, was already raised in January 2020 by the participants of a seminar held under the auspices of the President of the Chamber of Deputies of the Parliament of the Czech Republic and its Constitutional Committee. Representatives of the Bar, the Chamber of Tax Advisers, judges and other representatives of the professional legal public agreed to submit the amendment in a compromise version with aim to reduce the workload of the Court. It was agreed that the possibility of rejecting the cassation complaint for inadmissibility should be extended only to those cases which are, on the one hand, strong in number and where, at the same time, the purpose of the cassation complaint in terms of unifying the case-law of the administrative courts is not so significant.

These are cases in which a single judge decides at first instance, i.e. those which are doctrinally perceived as less complex in type and are entrusted precisely for this reason to a specialised single judge and not to a chamber, as is customary in administrative justice. Originally, the draft legislation of the Chamber of Deputies contained the right of the Supreme Administrative Court to reject any cassation complaint if the Court found that it did not substantially exceed the interests of the applicant. In the case-law, it should have dealt only with complaints which are important not only for the matter under assessment, but also for the unification of the case-law of the administrative courts. The final amendment of the Administrative Procedure Code was adopted in January 2021 in the compromised version. It is, however, the fact, that the amended rules impose restrictions and, in some cases, narrow the access to justice to the Supreme Administrative Court.

The Supreme Administrative Court in its decision 2 As 164/2019 – 30 from 2 April 2020 dismissed the cassation complaint of the Ministry of the Interior against the decision of the Data protection authority. The data protection authority decision stated that it is not necessary to keep the DNA profile in the National DNA Database for specific persons who have not been convicted, regardless of the method of termination of the criminal proceedings. The necessity of another storage was not fulfilled given the nature of the offence of obstruction of the enforcement of an official decision that does not show a sufficient degree of social harmfulness and danger to the society. The municipal court dismissed the action of the Ministry in the judgment under appeal since the administrative authorities of both have reached the right conclusions. According to the court, three out of six persons whose sensitive data have been processed, criminal proceedings have been terminated due to effective remorse or acquittal, which is why the person concerned must be considered innocent and therefore continues to processing of their data in the DNA database is illegal. The same applies to the fourth person which has been prosecuted for the offence of obstruction of the enforcement of an official decision, which is not serious enough to be necessary to maintain a DNA profile, compared to violent or drug crime, nor was it a relapse. The Supreme Administrative Court upheld the decision of the Municipal Court and stated that judicial practice does not assess the fulfilment of the criterion of necessity solely on the intention of the person to commit the offence, however necessary the condition is, for further processing of personal data and not only their collection. The complainant´s argument, that similar wrongdoing is not excluded in the future, is unfounded. The logic of the matter is the opposite. It is not that similar wrongdoing should not be excluded in the future to justify continued interference with the rights of the individual, but the perpetrator himself, how the crime was committed, his or her criminal history and specifically identified circumstances must support the conclusion that the repetition of criminal activities is a threat or can be expected, and the preservation of DNA samples or other personal data is significant for the assessment of this impending crime. The risk of recurrence of crime or its escalation is never excluded, even for the perpetrators of negligent crime. If any processing of personal data should be only evaluated retrospectively, there would be no need for specific rules different from the collection of personal data itself.

The enabling framework for civil society

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.)

Initiatives to foster a rule of law culture

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.)

Other - please specify

There are three interesting judgements in relation to the rule of law principles worth mentioning (in addition to those already mentioned above in the contribution):

ECHR: case of Tempel v. the Czech Republic (Application no. 44151/12), 25 June 2020

The complainant was tried for the murder of two young men in 2001. The Regional Court in Pilsen was not sure of his guilt, as there were two conflicting versions of events. One was defended by the complainant, the other by the prosecution's main witness, who was not considered credible by the regional court. The High Court in Prague twice overturned the adjutant judgment and returned the case for further hearing. At the same time, the High Court ordered that the case be heard and decided by another chamber of the same court. For the same reasons, he acquitted the complainant twice. The High Court therefore decided to hear the case and decide another court in its district, namely the Regional Court in Prague. He sentenced the complainant to life imprisonment. The complainant's attempts to overturn the verdict were unsuccessful. Nor did he succeed in seeking compensation for the delays in the proceedings.

The Strasbourg court did not consider whether or not the complainant had committed the murders. He focused his attention on the way the Czech courts acted. In doing so, he found that the High Court had repeatedly criticised the assessment of evidence, although it was precisely this effect on subordinate courts that the law prohibited it from doing. In justifying his decisions, he questioned the independence and impartiality of the First Instance Court simply because it did not follow its guidelines on the evaluation of evidence. At the same time, the High Court expressed what only opinion it considered correct on the question of the credibility of the witness. This left the subordinate courts no choice if their judgments were to stand up to review by the Court of Appeal. The Strasbourg Court even stated that 'the sequence of events in the present case strongly indicates a possible dysfunction in the administration of the judiciary, undermining the overall fairness of the proceedings'. Orders for hearing and deciding a case by another Chamber or court allow the Criminal Procedure Code quite exceptionally, and the reason cannot be that the First Instance Court has reached different findings of fact and conclusions of guilt. The procedure leading to the conviction of the complainant was therefore not fair, as required by the European Convention on Human Rights. In addition, the Strasbourg Court also considered more than 10 years of proceedings to be problematic. This was mainly due to the procedure of the Czech courts, in particular the repeated return of the case to the court of first instance due to alleged procedural errors. Although the Czech courts acknowledged that the delays had occurred, the actual recognition of the infringement of the complainant's rights without financial satisfaction or reduction of the sentence was not a sufficient form of redress.

Czech Constitutional Court´s judgement I. ÚS 865/20 from 7 December 2020 (available here: https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/2020/I._US_865_20_na_web.pdf):

The High Court in Prague erred in not going deeper into whether it should ask preliminary question to the CJEU in the case, when the complainant appealed for a euro-conform interpretation of the government's regulation. At the same time, he did not even consider whether the reasons for which he did not have to submit this preliminary question/seek preliminary ruling were fulfilled (e.g. II. ÚS 2504/10). Such a procedure is considered by the Constitutional Court to be arbitrary and therefore infringing the rules of the fair trial guaranteed to the complainant by Article 36(1) of the Charter of Fundamental Rights of the Czech Republic.

Czech Constitutional Court's judgement II. ÚS 4029/19 from 18 March 2020 (available here:
https://www.usoud.cz/fileadmin/user_upload/Tiskova_mluvci/Publikovane_nalezy/2020/II._US_4029_19_na_web.pdf):

The acceptance and legitimacy of the courts under the rule of law cannot be primarily based on their power, but on the persuasiveness of their arguments. The independence and impartiality of courts and judges should therefore not be interpreted as a way of judges not to be 'influenced' by other legal opinions, but that the (alternative) opinions submitted, if they do not agree with them, should be refuted as persuasively as possible, i.e. overcome by their own and better arguments. The aforementioned independence of judges constitutes a safeguard against their inadmissible influence by other State powers, as well as various private interests. However, it is certainly not to be interpreted as an opportunity for judges to completely ignore the different legal views expressed by the party. Simply put, the independence of judges is a systemic and absolutely necessary condition for the effective functioning of the judiciary, not an expression of the intellectual superiority of judges.