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**COMMISSION STAFF WORKING DOCUMENT**

**2021 Rule of Law Report  
Country Chapter on the rule of law situation in Czechia**

*Accompanying the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report  
The rule of law situation in the European Union**

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## ABSTRACT

Two important reforms of the Czech judiciary, the selection procedure for judges and the disciplinary regime for judges, have advanced, with the former having been adopted in May 2021. As already noted in the 2020 Rule of Law Report, these reforms could strengthen the independence of the judiciary by increasing transparency of the process of selection of judges and offering additional safeguards in disciplinary proceedings against judges. Efforts to improve the digitalisation of justice, including publication of judgements and preparation of a digital file management system, continue. Efficiency of the proceedings in civil, commercial and administrative justice improved. The courts have managed to continue their work during the COVID-19 pandemic without major disruptions.

While the legal and institutional framework to address corruption is broadly in place, there is a lack of progress in the implementation of the Government Anti-Corruption Strategy 2018-2022 and accompanying Action Plans. More specifically, at the end of the current Government's term a number of important reform initiatives in the area of corruption prevention are still pending in the Czech Parliament, including bills on lobbying, on whistleblower protection and on the extension of the Supreme Audit Office's mandate. As regards high-level corruption, investigations and audits at national and European level of the use of EU funds have recently found evidence of conflicts of interest at the top executive level, on the basis of which a case has been accepted by the European Public Prosecutor's Office. Furthermore, in a related EU subsidy fraud case, national investigators have recently recommended indictment. Due to the COVID-19 pandemic, most of the anti-corruption measures in the healthcare sector that were planned to be introduced in 2020 were postponed.

Constitutional rules guarantee freedom of expression and the right to information, and expressly ban censorship. Rules to enhance information about transparency of beneficial ownership of media outlets were enacted in 2021. The Czech Broadcasting Council appears to carry out its tasks effectively, but political controversies have continued to affect the separate Czech TV supervisory board. The print media sector has been severely affected during the COVID-19 pandemic. No media support scheme was adopted to counter the effects of the COVID-19 pandemic.

Since the beginning of the COVID-19 pandemic, almost half of the legal acts adopted were subject to shortened legislative procedure with limited possibility of stakeholder consultation. Stakeholders note that the use of the shortened legislative procedure was not limited to laws directly related to the COVID-19 pandemic. The state of emergency was in place for a significant part of the year 2020. Its renewal in early 2021, despite the refusal of extension by the Chamber of Deputies, has been criticised, including on grounds of constitutionality. Courts were frequently asked to review emergency measures and annulled several of them. A bill establishing a new office of Children's Ombudsman is discussed in Parliament. The impact of the COVID-19 pandemic on civil society organisations has been substantial, forcing them to limit their activities.

## I. JUSTICE SYSTEM

The Czech justice system is composed of 86 district courts, eight regional courts, two high courts, the Supreme Court and the Supreme Administrative Court<sup>1</sup>. The Constitutional Court stands outside the general courts' structure, but it is part of the judicial system, tasked with guaranteeing constitutionality of legislation and protection of fundamental human rights and freedoms. The central body of state responsible for the administration of the courts is the Ministry of Justice. The Ministry of Justice performs state administration of high, regional and district courts to the extent stipulated by law<sup>2</sup>, either directly or through the presidents of these courts. Some acts of the central state administration are performed by the Presidents of the two Supreme Courts. These various authorities take into account the opinions of the relevant judicial councils, which are established at the Supreme Court, the Supreme Administrative Court, high courts, regional courts and larger district courts. Judges are appointed by the President of the Republic, from candidates selected by the presidents of regional courts and presented by the Minister of Justice. The Prosecution Service is part of the executive branch<sup>3</sup>. Public prosecutors are appointed into their office for an indefinite time by the Minister of Justice on a proposal from the Prosecutor General. The Prosecutor General is appointed and recalled by the Government on a proposal from the Minister of Justice<sup>4</sup>. Czechia participates in the European Public Prosecutor's Office. The Bar Association is established by law and is independent. It performs public administration in the area of the legal profession and provides self-regulation for the entire profession. The self-governing power of the Bar is limited by the power of the Minister of Justice in the areas listed by law.

### Independence

**The perception of judicial independence among the general public and companies has remained average.** Overall, 51% of both the general public and companies consider that the independence of the courts and judges in Czechia is either 'very good' or 'fairly good' in 2021<sup>5</sup>. This represents a continued positive trend of incremental yearly increases in positive perception among the companies, while among the general public the level of perceived judicial independence slightly decreased compared to last year.

**An amendment of the selection procedure for judges has been adopted<sup>6</sup>.** The amendment, which came into effect on 9 June 2021<sup>7</sup>, seeks to establish a transparent and uniform system of recruitment and selection of new judges and court presidents based on precise, objective and uniform criteria. Previously, there was no statutory regulation of the process of selection of candidates for judicial posts. The key features of the amendment are consistent with

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<sup>1</sup> In addition, specialised administrative chambers within regional courts act as administrative courts of first instance.

<sup>2</sup> Act No. 6/2002 Coll., On Courts and Judges.

<sup>3</sup> Art. 80 of the Constitution, which is included in Part Three, the Executive Branch.

<sup>4</sup> The method of appointment and dismissal of high-ranking prosecutors is part of a reform proposed by the Ministry of Justice in June 2019 and currently stalled.

<sup>5</sup> Figures 48 and 50, 2021 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>6</sup> For more information see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 2.

<sup>7</sup> Amendment to the Act No. 6/2002 Coll., on Courts and Judges.

European standards, in particular as the majority of members in the committees tasked with selection of candidates for appointment will be judges<sup>8</sup>.

**The draft amendment of the disciplinary regime for judges has passed the first reading in the Chamber of Deputies<sup>9</sup>.** The reform seeks to introduce judicial review<sup>10</sup> of decisions taken as regards judges by the disciplinary court<sup>11</sup> by establishing a two-tier disciplinary system, with high courts acting as courts of first instance and the Supreme Court and the Supreme Administrative court as appellate courts. In December 2020, the reform passed the first reading in the Chamber of Deputies. By establishing such double level of judicial review, this reform could contribute to strengthening judicial independence, which is consistent with EU law and European standards<sup>12</sup>.

**The envisaged reform of the Prosecution Service is not expected to be further pursued in this legislative period<sup>13</sup>.** A reform of the Prosecution Service has long been a topic of political debates and subject to GRECO recommendations<sup>14</sup>. As noted in the 2020 Rule of Law Report, the latest draft reform<sup>15</sup>, published in June 2019, sought to amend the appointment and dismissal regime for the Prosecution Service and the term of office of senior public prosecutors. The draft reform encountered opposition from stakeholders and the public and it is not foreseen to be approved by the Government before the October parliamentary elections<sup>16</sup>.

**A code of ethics for judges has been approved by a majority of courts.** The code of ethics<sup>17</sup> was prepared by a working group established at the Supreme Court, headed by the

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<sup>8</sup> Bill No. 630, amending Secs. 105a and 116 of Act No. 6/2002 Coll., On Courts and Judges; Bill No. 630, proposed amendment of Sec. 105e and Sec. 116 of Act No. 6/2002 Coll., on Courts and Judges; Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 47. Judgment of the Court of Justice of 20 April 2021, *Repubblika*, C-896/19, paras 66-69.

<sup>9</sup> For more information see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 3.

<sup>10</sup> It is currently possible to request reopening of the proceedings if previously unknown information comes to light, and it is also possible to file a constitutional complaint; these procedures are however not considered to constitute standard judicial review.

<sup>11</sup> The disciplinary senate is a special senate at the Supreme Administrative Court.

<sup>12</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para 69; Venice Commission opinion, CDL-AD(2010)004, para 43; Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, , para 78; according to the case law of the European Court of Justice (C- 216/18 PPU, LM, 25 July 2018, para 67): “the requirement of independence also means that the disciplinary regime governing those who have the task of adjudicating in a dispute must display the necessary guarantees in order to prevent any risk of its being used as a system of political control of the content of judicial decisions. Rules which define, in particular, both conduct amounting to disciplinary offences and the penalties actually applicable, which provide for the involvement of an independent body in accordance with a procedure which fully safeguards the rights enshrined in Articles 47 and 48 of the Charter, in particular the rights of the defence, and which lay down the possibility of bringing legal proceedings challenging the disciplinary bodies’ decisions constitute a set of guarantees that are essential for safeguarding the independence of the judiciary”.

<sup>13</sup> 2020 Rule of law Report, Country Chapter on the rule of law situation in Czechia, pp. 3-4.

<sup>14</sup> GRECO Fourth Evaluation Round – Evaluation Report, recommendation x.

<sup>15</sup> Materials published in the electronic library of the legislative process, available at <https://apps.odok.cz/veklep-detail?pid=KORNBD9J6ZWU>.

<sup>16</sup> Information received in the context of the country visit to Czechia, from the Ministry of Justice.

<sup>17</sup> The Czech version of the Code of Ethics is available at [https://www.nsoud.cz/judikatura/ns\\_web.nsf/0/480C6A02F818B1DCC12586B00029183B/\\$file/ETICK%3D%20KODEX%20\(2\).pdf](https://www.nsoud.cz/judikatura/ns_web.nsf/0/480C6A02F818B1DCC12586B00029183B/$file/ETICK%3D%20KODEX%20(2).pdf); the English version at [https://www.nsoud.cz/Judikatura/ns\\_web.nsf/web/CodeofEthics~Code\\_of\\_Ethic~?Open&lng=EN](https://www.nsoud.cz/Judikatura/ns_web.nsf/web/CodeofEthics~Code_of_Ethic~?Open&lng=EN).

President of the Supreme Court and comprised of judges from courts of different levels<sup>18</sup>. After its finalisation, the Code was presented for approval to councils of judges established at each court<sup>19</sup>. A vast majority of the councils adopted the Code. The development of a code of professional conduct for judges has been recommended by GRECO<sup>20</sup>.

**Judges and prosecutors have been subject to critical statements by representatives of the Government.** Representatives of the executive have on several occasions made critical remarks with respect to high-ranking judges and the Prosecution Service, calling in question their independence<sup>21</sup>. As a reaction, representatives of the judiciary have issued statements expressing their concern and recalling the importance of judicial independence and public trust in the judiciary<sup>22</sup>. On 14 May the Prosecutor General announced his resignation, indicating perceived pressure<sup>23</sup> as one of the reasons<sup>24</sup>.

## Quality

**The Parliament did not agree on the governmental proposal to raise certain court fees.** A proposed amendment to the Act on Court fees<sup>25</sup> was rejected by the Chamber of Deputies in the first reading on 29 January 2021 over considerations of accessibility of justice in light of the ongoing COVID-19 pandemic. The Government does not plan any further amendments nor a renewed presentation of the proposal during the present legislative period<sup>26</sup>. The continued system of broadened legal aid implemented by the Czech Bar Association<sup>27</sup> has also contributed to easing the access to justice, in particular to vulnerable persons that cannot afford a lawyer.

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<sup>18</sup> Input from Czechia for the 2021 Rule of Law Report, p. 4-5.

<sup>19</sup> Czechia does not have a Judicial Council, but councils of judges are established at each court. The councils are composed of judges from the respective court, who are elected by their peers. At district courts with less than 11 judges the role of the council is performed by an assembly of all of the court's judges; Sections 46 and following of the Act on Courts and Judges.

<sup>20</sup> GRECO Fourth Evaluation Round – Evaluation Report, recommendation vii(i).

<sup>21</sup> Interview with the Minister of Justice in Deník N (3 February 2021), Who promised what to whom? They make a mayhem before elections, Benešová criticises the decision of the Constitutional Court; Deník N (3 February 2021), Babiš accused judges from influencing elections. We are just protecting the Constitution, Rychetský reacted; interview with Minister of Justice in Info.cz (25 February 2021), Proceedings against Babiš will drag until the election, the prosecutors use it as a shield against their dismissal. The Minister of Justice publicly questioned the legality of the actions on the Prosecutor General and announced she would initiate disciplinary proceedings. However, the Prosecutor General was supported by Prime Minister, as reported in Seznam zprávy (9 May 2020) Benešová steps up the fight against the boss of the prosecutors.

<sup>22</sup> Statement of the Union of Judges, Soudcovská unie k vystoupení ministryně spravedlnosti; Statement of the Union of Prosecutors (4 February 2021); statement of the President of the Union of Prosecutors (26 February 2021).

<sup>23</sup> Press release of the Public Prosecution (14 May 2021), Prosecutor General Pavel Zeman announced his resignation, record of the press conference available at <https://www.dvtv.cz/video/sef-zalobcu-zeman-konci-citil-jsem-silny-tlak-ze-strany-benesove-nechci-dal-jen-odrazet-jeji-utoky>; see also interview with the Prosecutor General in Deník N (25 May 2020), *Zeman: Po schůzce s Benešovou jsem vycítil svůj konec, byli jsme pro ni vděčný terč. Politika zhrubla.*

<sup>24</sup> The new Prosecutor General was appointed on 13 July 2021.

<sup>25</sup> For more information see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, pp. 4-5.

<sup>26</sup> Input from Czechia for the 2021 Rule of Law Report, p. 6; Information received in the context of the country visit to Czechia.

<sup>27</sup> Contribution from the Czech Bar Association for the 2021 Rule of Law Report, p. 15; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 5.



**Several projects are underway to improve the digitalisation of justice.** The Ministry of Justice has launched a pilot version of a publicly available central database of judgments<sup>28</sup>, starting with civil cases. The database will be extended incrementally. An obligation for courts to publish all judgments as of 1 July 2022 has been inserted in the Act on Courts and Judges, following an amendment which came into effect on 9 June 2021<sup>29</sup>. An ongoing project by the Ministry of Justice to support anonymisation will contribute to this effort. Procedural rules allowing for the use of digital tools in courts as well as the appropriate digital instruments and infrastructure are largely in place<sup>30</sup>, which contributed strongly to the continued operation of the courts during the COVID-19 pandemic. However, solutions for accessing the electronic file of most ongoing cases are still missing<sup>31</sup>. Work on the introduction of a full e-file system<sup>32</sup> continued but still remains at the tender stage<sup>33</sup>.

**New draft legislation to reform enforcement and insolvency proceedings is being discussed in the Parliament.** Enforcement and insolvency proceedings have been a topic of political discussions for many years, as a so-called “debt trap” affects a high number of people<sup>34</sup> and, as pronounced by the Constitutional Court, may impact negatively their fundamental rights, such as the right to an adequate standard of living<sup>35</sup>. Following a reform of insolvency proceedings adopted in 2019<sup>36</sup>, several other legislative proposals were made<sup>37</sup> to regulate the impact of enforcement and insolvency proceedings, in particular for protecting the debtors, including child debtors.

## Efficiency

**Efficiency of proceedings in civil, commercial and administrative cases has improved.** While not facing any particular challenges in civil and commercial cases<sup>38</sup>, the estimated length of court proceedings continued to incrementally decrease<sup>39</sup>. The time needed to resolve administrative cases has dropped considerably compared to preceding years, with an estimated time for a decision in first instance taking 356 days in 2019<sup>40</sup>. Simultaneously, the rate of resolving administrative cases increased to over 107%<sup>41</sup>, suggesting that courts are also able to address backlogs. This positive development can be a result of a transfer of judges from other branches to administrative chambers. In 2020, 9 new judges were appointed for dealing with administrative cases<sup>42</sup>, which may further increase efficiency.

<sup>28</sup> The database is available at <https://rozhodnuti.justice.cz/soudnirozhodnuti/>.

<sup>29</sup> Art. I, point 23 of Act No. 218/2021.

<sup>30</sup> Figures 40-43, 2021 EU Justice Scoreboard.

<sup>31</sup> Figure 44, 2021 EU Justice Scoreboard.

<sup>32</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 5.

<sup>33</sup> Input from Czechia for the 2021 Rule of Law Report, p. 8.

<sup>34</sup> According to information from November 2020, over 700 000 people face enforcement proceedings; according to information from Regulatory Impact Assessment report to Act No. 31/2019 from 2019, 90% of the debtors were not able to ever repay their debts.

<sup>35</sup> Decision of the Czech Constitutional Court No. I. ÚS 3271/13, para. 31.

<sup>36</sup> 2020 Rule of law Report, Country Chapter on the rule of law situation in Czechia, p. 5.

<sup>37</sup> Act No. 38/2021, adopted in January 2021, establishing a so called protected account; Bill No. 545 approved by the Chamber of Deputies in April 2021 introducing changes into the Procedure Code and Act on Bailiffs; Bill No. 1073 tabled in November 2020 introducing further changes into the Act on Insolvency Proceedings; Draft Bill No. 986, adopted by the Senate in April 2021; addressing the issue of child debtors.

<sup>38</sup> See also 2020 Rule of law Report, Country Chapter on the rule of law situation in Czechia, p. 6.

<sup>39</sup> Figures 6 and 7, 2021 EU Justice Scoreboard.

<sup>40</sup> Figure 9, 2021 EU Justice Scoreboard.

<sup>41</sup> Figure 13, 2021 EU Justice Scoreboard.

<sup>42</sup> Information provided in the context of the country visit to Czechia by the Ministry of Justice.

However, stakeholders express concern regarding an overall lack of judges and point out that the Ministry of Justice is not determining the number of newly appointed judges in function of the real workload of the courts<sup>43</sup>.

**The courts and the Prosecution Service have faced challenges to different degrees during the COVID-19 pandemic.** The Supreme Court and Supreme Administrative Court, whose proceedings are mostly written, reported that the COVID-19 pandemic did not have any effect on their efficiency<sup>44</sup>. Courts at lower instances were forced to postpone hearings, which may delay proceedings<sup>45</sup>, but overall, courts did not report any major disruptions<sup>46</sup>. Teleworking proved to be more challenging for the Prosecution Service due to the low level of digitalisation and the nature of its work<sup>47</sup>.

## II. ANTI-CORRUPTION FRAMEWORK

Czechia has the legislative and institutional framework to prevent and fight corruption largely in place. The Conflict of Interests and Anti-Corruption Department of the Ministry of Justice is in charge of the coordination and monitoring of the national Anti-Corruption Strategy 2018-2022, which is Czechia's strategic framework for anti-corruption at the governmental level. The Anti-Corruption Council acts as an advisory body to the Government. In cooperation with the Prosecution Service, the National Organised Crime Agency is the police unit with country-wide competence to investigate high-level corruption offences<sup>48</sup>. The Financial Analytical Office acts as Czechia's Financial Intelligence Unit. The Supreme Audit Office reviews the state's management of public revenue and expenditure and its findings may contribute to the identification of corruption risks.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively high.** In the 2020 Corruption Perceptions Index by Transparency International, the Czech Republic scores 54/100 and ranks 14<sup>th</sup> in the European Union and 49<sup>th</sup> globally<sup>49</sup>. This perception has been relatively stable<sup>50</sup> over the past five years<sup>51</sup>.

**In December 2020, the Czech Government adopted a new Anti-Corruption Plan 2021-2022, reiterating previous priorities.** This action plan<sup>52</sup> is the last one of four under the

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<sup>43</sup> Information received in the context of the country visit in Czechia.

<sup>44</sup> Information received in the context of the country visit to Czechia.

<sup>45</sup> Contribution from the Czech Bar Association for the 2021 Rule of Law Report, p. 17.

<sup>46</sup> Information received in the context of the country visit to Czechia.

<sup>47</sup> Information received in the context of the country visit to Czechia.

<sup>48</sup> Other cases of corruption are dealt with by regional directorates of the police, with the National Organised Crime Agency being able to take over the cases at any time.

<sup>49</sup> Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>50</sup> In 2015, the score was 56, while, in 2020, the score is 54. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>51</sup> The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

<sup>52</sup> Resolution no. 1273. The Plan is available on the Government Anti-Corruption Portal, and monitored by the Government Anti-Corruption Council.



current Government Anti-Corruption Strategy 2018-2022<sup>53</sup>. In comparison to the previous plan<sup>54</sup>, the four priority areas remain unchanged<sup>55</sup>. The Government will focus on the outstanding targets, including the adoption of legislative acts on whistleblower protection and on lobbying, as well as on transparency, access to information, and COVID-19 related corruption risks<sup>56</sup>. An ex-post evaluation of the previous 2020 Action Plan will be published in January 2022. Preparatory analytical work has already started for the new Anti-Corruption Strategy beyond 2022<sup>57</sup>, and will be accelerated in Spring 2022 to cover the new priorities of the incoming government and measures addressing Czechia's international commitments.

**Efforts to repress corruption are undertaken with stable numbers of investigations, prosecutions and convictions.** In 2020, the Czech law enforcement authorities opened 180 corruption-related investigations (compared to 152 in 2019)<sup>58</sup>, while 180 individuals were prosecuted for corruption offences or suspected<sup>59</sup> thereof (compared to 190 individuals in 2019)<sup>60</sup>. In total, 169 persons were brought before a court (compared to 125 in 2019)<sup>61</sup>, while 111 got convicted for corruption in the course of 2020 (compared to 96 individuals in 2019). Last year has seen 23 acquittals for corruption (compared to 30 in the previous year). In recent years, high-profile cases mostly prosecuted by the High Public Prosecutor's Office focused primarily on crimes related to public procurement and competition (including corruption and criminal activity of officials) and large-scale tax fraud<sup>62</sup>. Czechia does not have a separate offence in the Criminal Code criminalising foreign bribery, although this is covered by the general corruption offence<sup>63</sup>. The OECD has noted concerns as to the low level of enforcement against foreign bribery despite the export-oriented nature of the Czech economy and exports in high-risk sectors that are prone to bribery<sup>64</sup>. Measures implemented so far, including an increase in specialised staff and the enhancement of data analytics capabilities, did not serve the detection and investigation of foreign bribery. In this regard, there is a need to find ways to prioritise the detection, investigation and prosecution of foreign bribery. Introducing a separate criminal offence of foreign bribery, a decree, or internal directive mentioning the level of priority of foreign bribery could be one of the potential options to help enhance enforcement<sup>65</sup>.

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<sup>53</sup> Czechia's Anti-Corruption Strategy, which is based on the 2018 Government Programme Statement, is available on the Government Anti-Corruption Portal.

<sup>54</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 7.

<sup>55</sup> Priority areas include: (i) an effective and independent Government; (ii) transparency and open access to information; (iii) efficient management of state property; and (iv) development of civil society.

<sup>56</sup> Information received from the Ministry of Justice in the context of the country visit to Czechia.

<sup>57</sup> Information received from the Ministry of Justice in the context of the country visit to Czechia.

<sup>58</sup> Input from Czechia for the 2021 Rule of Law Report, pp. 19-20.

<sup>59</sup> Sections 160 and 179b (3) of the Criminal Procedure Code.

<sup>60</sup> Input from Czechia for the 2021 Rule of Law Report, Appendix I.

<sup>61</sup> This includes: indictments, motions for punishments, and agreements on guilt and punishment.

<sup>62</sup> Input from Czechia for the 2021 Rule of Law Report, p. 18, with reference to Tax Cobra operation.

<sup>63</sup> The offence of foreign bribery can be punished as part of the general corruption offence, according to input from Czechia for the 2021 Rule of Law Report, p. 17.

<sup>64</sup> The high-risk sectors include machinery and defence materials, including arms exported to high-risk destinations, see OECD, Implementing the OECD Anti-Bribery Convention, Phase 4 Two-Year Follow-Up Report: Czechia (2019), p. 4. In the period 2016-2019, Czechia opened one investigation, initiated proceedings in one case and concluded no case, as reported by Transparency International, Exporting corruption (2020), p. 52.

<sup>65</sup> Cf. OECD, Implementing the OECD Anti-Bribery Convention - Phase 4 Two-Year Follow-Up Report: Czech Republic (2019), stating that "[n]othing indicates that foreign bribery has become a priority. [...T]he

**Investigations and audits have raised concerns regarding some instances of high-level corruption in the use of EU funds and conflicts of interest.** A European Commission report of 23 April 2021 auditing the disbursement of 17 EU grants awarded to a Czech company found irregularities and a conflict of interest, recommending recovery of approximately EUR 11 million for non-compliance with the EU Financial Regulation 2012, and breach of the Czech Act on Conflicts of Interest<sup>66</sup>. The case was recently sent to and accepted by the European Public Prosecutor's Office. In general, subsidies for commercial enterprises, in which a public official holds a stake of 25% or more, are prohibited under the Czech Conflict of Interest Act. A Strategy for the Fight against Fraud and Corruption within EU Funds 2014-2020<sup>67</sup> is in place setting out the basic framework of rules that are accompanied by procedural guidelines for managing authorities. However, concerns have been raised in some instances regarding the management and distribution of EU funds, including in fraud-related investigations of the EU Anti-Fraud Office (OLAF) and related national investigations that recently concluded in a recommendation for indictment in a high-level case<sup>68</sup>.

**Cooperation in practice between the relevant institutions to fight corruption in Czechia is functioning well and further specialisation and IT development in the police is planned.** Cooperation between the Prosecution Service, the police and the Financial Intelligence Unit proved to be close and effective in large-scale operations<sup>69</sup>. According to the police and the Prosecution Service, the resources<sup>70</sup> and the level of specialisation of investigators and prosecutors, as well as their access to relevant information is sufficient to carry out their tasks in the repression of corruption. The Police Presidium, which is hierarchically above the National Organised Crime Agency hosts a central analytics unit to provide guidelines and help with case analytics for the entire police. To provide effectively for the needs of the police and build more strategic levels of intelligence, a higher level of specialisation of staff in analytics as well as additional IT tools and functions would still be

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Czech Republic plans to expand the Department of Analytics with 15 positions in 2021-2025, but whether some of them will be allocated to the investigation of foreign bribery remains to be seen."

<sup>66</sup> European Commission, Final Audit Report, Audit No. REGC414CZ0133, REGIO/C4/AUD(2019), [https://ec.europa.eu/regional\\_policy/en/information/publications/reports/2021/final-report-on-the-audit-of-the-functioning-of-the-management-and-control-systems-in-place-to-avoid-conflict-of-interest-in-czechia](https://ec.europa.eu/regional_policy/en/information/publications/reports/2021/final-report-on-the-audit-of-the-functioning-of-the-management-and-control-systems-in-place-to-avoid-conflict-of-interest-in-czechia), See also European Parliament, Report on the fact-finding mission of the Budgetary Control Committee to the Czech Republic, 26-28 February 2020. See also Supreme Audit Office, EU Report 2020 – Report on the EU Financial Management in Czechia (2020), pp. 20-21; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 8.

<sup>67</sup> Input from Czechia for the 2021 Rule of Law Report, p. 15.

<sup>68</sup> In May, the police has concluded a six-year criminal investigation into the illegal acquisition of EU subsidies and recommended indictment, see: Česká justice, 14 May 2021, Investigator in the Stork Nest case quits. He closed the file and proposed to take the case to court. .

<sup>69</sup> Information received from the police and the Prosecution Service in the context of the country visit to Czechia, including also the Financial Intelligence Unit, as well as tax and customs authorities, particularly with a reference to the Tax Cobra operation. The cooperation of the National Organised Crime Agency of the police with the financial and customs administration and the cooperation with the Public Prosecutor's Office is determined by the Criminal Procedure Code No. 141/1961 Coll., the Act on the Police of the Czech Republic No. 273/2008 Coll., and the Public Prosecutor's Office Act No. 283/1993 Coll.

<sup>70</sup> Human resources allocated to the Prosecution Service responsible for the prosecution of corruption consist of 303 public prosecutors specialised in corruption, including 21 prosecutors at the Prosecutor-General Office, 47 at the High Public Prosecution Offices, 65 at the Regional Public Prosecutors Offices, 170 at the District Public Prosecutors Offices.

needed<sup>71</sup>. The 2019 concept paper for investigation services calling for these improvements is expected to be implemented and then reviewed in 2022<sup>72</sup>.

**A lobbying regulation to increase transparency in the Czech legislative process is pending adoption since the last reporting period.** Contentious areas still discussed concern the exceptions to the definition of lobbyists<sup>73</sup>. The regulation<sup>74</sup> would foresee the establishment of a publicly accessible register of lobbyists and lobbied public officials, the obligation for lobbyists and lobbied public officials to disclose lobby contacts, and the introduction of a ‘legislative footprint’ to disclose who sought to influence which legislative proposal<sup>75</sup>. The register should be maintained by the Office for the Supervision of the Finances of Political Parties and Movements. Failure to disclose could result in fines of approximately EUR 3,860 (CZK 100,000). The regulation of lobbying<sup>76</sup> would also contain stricter rules on declarations on gifts. The threshold for gifts to be reported in the already existing central Register of Conflicts of Interest would be lowered from approximately EUR 400 (CZK 10,000) to approximately EUR 200 (CZK 5,000).

**Preliminary efforts have been undertaken to strengthen integrity rules for members of the Chamber of Deputies.** A specific Code of Ethics for Members of the Chamber of Deputies, as it exists for civil service officials in the central public administration, is not yet in place<sup>77</sup>. A proposed amendment to the Act on the Rules of Procedures of the Chamber of Deputies allowing the Chamber of Deputies to adopt a code of conduct has not received sufficient political support<sup>78</sup>. Some political parties laid down Codes of Ethics for their own party members<sup>79</sup>. Specifically with regard to gifts to members of Parliament, concerns remain as regards the lack of an appropriate framework including also other benefits, such as in-kind advantages and services, and of practical guidance for members of Parliament<sup>80</sup>.

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<sup>71</sup> Information received from Ministry of Interior/Ministry of Finance (Financial Analytical Office)/National Organised Crime Agency of the Czech Police in the context of the country visit to Czechia.

<sup>72</sup> Information received from Ministry of Interior/Ministry of Finance (Financial Analytical Office)/National Organised Crime Agency of the Czech Police in the context of the country visit to Czechia.

<sup>73</sup> Following the first reading in the Chamber of Deputies in December 2020, a hearing took place in the Committee on Constitutional and Legal Affairs in February 2021, and further debates were scheduled in the programme of the lower chamber for May and June 2021. Input from Czechia for the 2021 Rule of Law Report, p. 12. According to a public survey in 2021, two-thirds of Czech respondents stated that stricter lobbying rules would contribute to their more positive perception of politics, see Rekonstrukce státu (3 March 2021), Lobbying has a strong impact on the wording of laws, Czechs think, but see it mainly as a tool for ‘godfathers’.

<sup>74</sup> The regulation on lobbying consists of two separate but related drafts: a draft law on lobbying (Chamber of Deputies document no. 565) and a draft law which changes some acts in relation to the approval of the act on lobbying (Chamber of Deputies document no. 566).

<sup>75</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

<sup>76</sup> Draft bill, which changes some acts in relation to the approval of the act on lobbying (Chamber of Deputies document no. 566).

<sup>77</sup> A draft Code of Ethics was submitted by the Speaker of the Chamber of Deputies (Chamber of Deputies document no. 7067). The discussion was suspended due to the limited number of members of the Chamber of Deputies present due to the restrictions imposed in connection with the COVID-19 pandemic. The discussion in the plenum should continue when the restriction are lifted.

<sup>78</sup> Information received from the Ministry of Justice in the context of the country visit to Czechia. The draft would be adopted by a resolution of the Chamber of Deputies, with no indicative timeline foreseen so far.

<sup>79</sup> GRECO, Fourth Evaluation Round – Interim Compliance Report (March 2020), p. 4.

<sup>80</sup> Cf. the Act on Conflicts of Interest. GRECO, Fourth Evaluation Round – Interim Compliance Report (March 2020), p. 4.

**Following a Constitutional Court ruling, the Government decided in 2020 not to include spouses' income in the reporting obligation on asset declarations.** Members of Parliament have to disclose to some extent the assets of spouses in their asset declarations<sup>81</sup>, for example on property jointly owned by the respective parliamentarian and his or her spouse. The spouse's income remains excluded from the disclosure obligation, as are any assets of dependent family members<sup>82</sup>. Following a ruling rendered by the Constitutional Court<sup>83</sup>, the Government decided not to further amend the asset declaration rules in this regard<sup>84</sup>.

**The rules on donations for political party financing are generally appropriate but challenges remain in practice<sup>85</sup>.** The Political Parties and Movements Act<sup>86</sup> contains a maximum ceiling of approximately EUR 120,000 (CZK 3,000,000) for each individual donor. All donations above approximately EUR 40 (1,000 CZK) must be documented. Donations from foreign individuals or public bodies are not permitted. Donations obtained during election periods must be published online at least 3 days before the elections<sup>87</sup>. Failure to comply may be sanctioned by fines of between approximately EUR 4,000-80,000 (CZK 100,000-2,000,000). The Office for the Supervision of the Finances of Political Parties and Movements is the responsible oversight body<sup>88</sup>. Structural weaknesses remain, as the same rules on maximum ceilings for donations from individual donors do not apply to presidential elections<sup>89</sup> or to donations from non-profit organisations<sup>90</sup>. There are also obstacles in the monitoring of donations from business networks with many legal entities<sup>91</sup>. The government aims at undertaking a more detailed analysis to further identify legislative loopholes and challenges in practice<sup>92</sup>.

**Amendments to the Constitution to strengthen the Supreme Audit Office are still pending.** The draft bill amending the Act on the Supreme Audit Office<sup>93</sup> would be implementing an amendment to the Constitution<sup>94</sup>. It would extend the mandate of the Supreme Audit Office allowing it to also audit the public spending of local governments, health insurance companies, and state-owned companies (i.e. majority-owned or controlled

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<sup>81</sup> Cf. also GRECO, Fourth Evaluation Round – Interim Compliance Report, p. 5.

<sup>82</sup> Article 11 (2) (a) of the Act on Conflicts of Interest.

<sup>83</sup> The Constitutional Court ruled that the Act No. 159/2006 Coll., Act on Conflict of Interest, is compatible with the Constitution (File no. Pl. US 4/17 of 11 February 2020).

<sup>84</sup> Information received from the Anti-Corruption Council of the Government in the context of the country visit to Czechia.

<sup>85</sup> Information from different stakeholders received in the context of the country visit to Czechia.

<sup>86</sup> Act of Law No. 424/1991 Coll. on Association in Political Parties and Political Movements.

<sup>87</sup> Including the amount, the donor's name, date of birth and residence. All donations must be listed in the report on electoral campaign funding, which candidates have to publish at the latest 90 days after the elections.

<sup>88</sup> The Office is mandated to review the political parties' annual financial reports, to carry out controls of the management of political parties and to supervise the financing of election campaigns.

<sup>89</sup> This is due to the fact that the candidates are not political parties or political movements. See Act No. 275/2012 Coll. on Election of the President of the Republic.

<sup>90</sup> On the rules applicable to such entities, see the Act No. 247/1995 Coll. on Elections to Parliament of the Czech Republic and on Amending and Supplementing Certain Other Acts, and the Act No. 275/2012 Coll. on Elections of the President of the Republic.

<sup>91</sup> Input from Czechia for the 2021 Rule of Law Report on political party finance, p. 1.

<sup>92</sup> *Ibid.*

<sup>93</sup> Act No. 166/1993 Coll.

<sup>94</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.



by the state or a local government). The adoption of the bill is delayed<sup>95</sup>, despite the fact that this was a government priority as set out in the Government Programme Statement.

**Preparatory work on whistleblower protection has been presented to the Parliament.**

On 25 January 2021, the Government approved the bill on the protection of whistleblowers and an accompanying amending law<sup>96</sup>. Both are currently awaiting the second reading in the Chamber of Deputies<sup>97</sup> and are currently being discussed in the relevant committees of the Chamber of Deputies<sup>98</sup>. The draft law envisages the establishment of internal reporting systems and reporting to the Ministry of Justice for whistleblowers to report potential wrongdoing.

**The governance of state-owned companies is regulated but challenges remain in practice.**

The prevention of political nominations in state-owned companies has not yet been systematically ensured in practice<sup>99</sup>. In 2020, the Government approved the State Ownership Policy Strategy<sup>100</sup> based on the OECD Guidelines on Corporate Governance of State-Owned Enterprises from 2015. The strategy seeks to ensure that the State exercises its ownership rights in state-owned enterprises in a transparent and effective manner.

**The COVID-19 pandemic slowed down anti-corruption reforms in specific areas.**

Most of the anti-corruption measures that were planned to be introduced in 2020, particularly in the healthcare sector, were postponed<sup>101</sup>. The new Anti-Corruption Plan 2021-2022 provides for targeted measures with respect to public procurement, including specific tags in the register of contracts<sup>102</sup> of COVID-19 related public contracts, and the development of a methodology for public procurement in states of emergency or similar crisis situations<sup>103</sup>. Overall, the register is considered to have a positive impact on preventing corruption, as it increases transparency and the possibility for public oversight.

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<sup>95</sup> In 2020, the draft bill was still in the third reading in the Chamber of Deputies, awaiting adoption of a related Constitutional amendment by the Senate.

<sup>96</sup> The act on the protection of whistleblowers was initially suspended pending adoption of the EU Directive on the same subject matter, see also 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

<sup>97</sup> The bill would protect whistleblower disclosures with respect to breaches of EU law and of domestic crimes and administrative offences. The legislative process can be tracked on the Parliament's website. Input from Czechia for the 2021 Rule of Law Report, p. 14.

<sup>98</sup> The Committee on Public Administration and Regional Development and the Committee on Constitutional and Legal Affairs.

<sup>99</sup> Information received in the context of the country visit to Czechia. The Act on the Selection of Persons to the Management and Supervisory Bodies of Legal Entities with State Ownership Participation (Nomination Act), Act No. 353/2019 Coll., entered into force in January 2020 to prevent political nominations. See also European Semester, Convergence Programme of Czechia (April 2020), p. 35, for more details.

<sup>100</sup> Government Resolution No. 115/2020.

<sup>101</sup> Input from Czechia for the 2021 Rule of Law Report, p. 15. A 2019 corruption risk analysis in the health sector conducted by the Government highlighted corruption risks on all sides of the health care sector ranging from corruption committed by patients and health care providers to corruption at the central government level, available at <https://www.mzcr.cz/wp-content/uploads/2020/08/Sektorov%C3%A1-anal%C3%BDza-korupce-ve-zdravotnictv%C3%AD.pdf>. Following the analysis, the Ministry of Health had aimed at introducing specific mitigation measures and at presenting a legal proposal to optimise the functioning of public insurance companies.

<sup>102</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

<sup>103</sup> Input from Czechia for the 2021 Rule of Law Report, p. 16.

### III. MEDIA PLURALISM AND MEDIA FREEDOM

The Charter of Fundamental Rights and Basic Freedoms, incorporated in the Czech Constitutional Order, guarantees freedom of expression and the right to information, and expressly bans censorship. The Act on Radio and Television Broadcasting clearly defines the competences of the Czech media regulator. The Act on Free Access to Information guarantees access to information held by public authorities<sup>104</sup>.

**The reform geared at further strengthening the independence of the Council for Radio and Television Broadcasting is pending**<sup>105</sup>. The Act on Radio and Television Broadcasting establishes the Council as an “independent administrative body” consisting of 13 members, lays down the Council’s duties and obligations and sets out the eligibility criteria, exclusionary criteria and appointment procedures for the Council’s members and head<sup>106</sup>. If the Council repeatedly and seriously infringes the obligations laid down in the Act, or if its mandatory annual report repeatedly fails to be approved due to serious faults, the Chamber of Deputies may propose to the Prime Minister to remove the entire Council. A reform<sup>107</sup>, tabled in August 2020<sup>108</sup>, would eliminate the role of the Prime Minister in the nomination process while simultaneously limiting the power of the Chamber of Deputies in the sense that, in the cases mentioned above, it will only be able to propose the dismissal of individual members, thereby strengthening the independence of the Council as a body. The amendment would also require the Parliament to provide reasons for any such dismissals. Such an amendment would seek to meet the objectives relating to independence of the revised Audiovisual Media Services Directive.

**The competences of the Council for Radio and Television Broadcasting are well-defined in law and effectively applied in practice.** The regulator does not expect the proposed amendments to the Broadcasting Act (see above) to have a significant impact on the work of the Council while its resources are expected to witness only minor personnel consolidation. The Czech Act on Radio and Television Broadcasting provides for the operation of self-regulatory bodies recognized by the Council. Such bodies may make submissions in legal actions relating to the areas they cover. The draft law mentioned above would provide further scope for self-regulation. Concerns have been raised about the selection process and the independence of the members of the separate Czech TV supervisory board<sup>109</sup>.

**Czechia adopted legislation regulating the transparency of beneficial ownership which also applies to media ownership.** Act 37/2021 Coll. of 5 January 2021, which transposes the 5<sup>th</sup> EU Anti-money laundering Directive, establishes a two-tier system of access to such

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<sup>104</sup> Czechia maintained its 40th place ranking in the Reporters Without Borders 2021 World Press Freedom Index placing it at 19<sup>th</sup> position within the EU.

<sup>105</sup> Part of the Czech Republic’s transposition of Directive 2018/1808 on Audiovisual Media Services.

<sup>106</sup> For more information see 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10.

<sup>107</sup> *Ibid.*

<sup>108</sup> The Draft Law which would amend the Act on Radio and Television Broadcasting and transposing Directive 2018/1808 was published by the Government in August 2020 and sent to the Parliament for further deliberations. At the time of publication of this report, there were no further developments in this respect.

<sup>109</sup> This concerns recent activities of the Czech TV supervisory board and the election of four new members (out of fifteen) by the Chamber of Deputies. European Broadcasting Union, (9 April 2021), Public service media in the Czech Republic under threat; International Press Institute (1 April 2021), Concerns over increasing meddling in independence of Czech public broadcaster; Public Media Alliance, (9 April 2021), The threat facing Czech TV; 2021 Media Pluralism Monitor, Czech Republic, p. 12.



information. It guarantees public access, via a registry held by the Ministry of Justice, to a limited amount of ownership information and establishes mechanisms enabling certain authorities to sanction absence of required data. However, Media Pluralism Monitor(MPM) 2021 scores this as a high risk area given that the system does not, in fact, oblige media companies to disclose their full ownership structures to the general public<sup>110</sup>. News media concentration is reported to be high in Czechia, due, in particular, to high concentration in different media sub-sectors<sup>111</sup>.

**Czechia has not adopted any laws regulating the allocation of state advertising.** Apart from the general requirements for advertising set out in the Public Procurement Act, i.e. that any state advertising contract with a value over EUR 2,000 (50,000 CZK) shall be published in the public registry, Czechia does not have specific rules regarding allocation of state advertising<sup>112</sup>. MPM 2021 refers to monitoring of the advertising expenditures of Czech ministries between 2010-2018, carried out by the Czech Centre for Investigative Journalism<sup>113</sup>, which has revealed significant differences in the way individual ministries distribute advertising expenditures to different media. MPM 2021 indicates that this points to favouritism and general lack of transparency<sup>114</sup>.

**Access to information is guaranteed by the law but obstacles arise in practice.** There have been no amendments to the Act on Free Access to Information which guarantees access to information held by public authorities<sup>115</sup>. MPM 2021 refers to several attempts by certain public authorities to interfere in the circulation of information during the COVID-19 pandemic. The report flags the refusal of the Institute of Health Information and Statistics to publish detailed data on the spread of COVID-19 infections<sup>116</sup>.

**While journalists are considered to be safe from physical harm, verbal insults, harassment and online threats are not uncommon<sup>117</sup>.** MPM 2021 and RSF's Press Freedom Index both refer to the fact that the profession is under constant verbal attacks from certain political parties and high-ranked public officials<sup>118</sup>. The Council of Europe Platform to promote the protection of journalism and the safety of journalists registered no alerts in Czechia in 2020. It registered one alert in 2021 relating to the above-mentioned issue related to the Czech Television Council. No media support scheme was adopted to counter the effects of the COVID-19 pandemic. According to MPM 2021 the print media sector has been badly affected by the COVID-19 pandemic<sup>119</sup>.

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<sup>110</sup> 2021 Media Pluralism Monitor, Czech Republic, p. 10.

<sup>111</sup> The Czech media market is dominated by a handful of media houses involved in print, broadcasting as well as online sectors. The level of concentration is particularly striking in the (economically most vulnerable) regional media market, with the segment of the regional daily press being effectively monopolized. See 2021 Media Pluralism Monitor, Czech Republic, p. 10.

<sup>112</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10.

<sup>113</sup> Investigace.cz (13 December 2019) State advertising: Who also pays Parlamentní listy , referred to in 2021 Media Pluralism Monitor, Czech Republic.

<sup>114</sup> 2021 Media Pluralism Monitor, Czech Republic, p. 13.

<sup>115</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10.

<sup>116</sup> 2021 Media Pluralism Monitor, Czech Republic, p. 8.

<sup>117</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 12.

<sup>118</sup> 2021 Media Pluralism Monitor, Czech Republic, p. 9.

<sup>119</sup> 2021 Media Pluralism Monitor, Czech Republic, p. 6.

#### IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Czechia has a bicameral parliamentary system of government<sup>120</sup> with a directly elected President. Legislative proposals can be submitted by a member of the Chamber of Deputies, a group of members of the Chamber of Deputies, the Senate, the Government, or representative bodies of higher self-governing regions<sup>121</sup>. The Constitutional Court can carry out ex-post constitutional review. In addition to the justice system, the Ombudsperson's Office and the civil society play a role in the system of checks and balances.

**Almost half of legislation has been adopted in a shortened emergency legislative procedure in 2020 and early 2021.** Between January 2020 and mid-February 2021, sixty acts out of a total of 128 acts, that were adopted by Parliament and promulgated in the Collection of Laws, were adopted in the legislative emergency procedure via a summary consideration<sup>122</sup>, and an additional 12 in a fast-track procedure when an act is adopted in first reading<sup>123</sup>. Stakeholders have expressed concerns that these procedures were used also for acts that were not related to addressing the COVID-19 pandemic and criticised the high rate of derogations to the rules on stakeholder consultation<sup>124</sup>. Furthermore, emergency measures adopted by the government to tackle the COVID-19 pandemic have been criticised for not containing a specific, comprehensible and substantiated justification<sup>125</sup>. Both Chambers of the Parliament adopted measures<sup>126</sup> to prevent the spread of the virus on their premises, including a possibility to proportionately limit the number of present members of Parliament<sup>127</sup>.

**The state of emergency lasted for most of the year in 2020 and concerns were raised about its constitutionality in early 2021.** According to the Constitutional law on Security, the state of emergency<sup>128</sup> can be declared by the Government for up to 30 days and can be further extended only with the prior approval of the Chamber of Deputies<sup>129</sup>. Following the state of emergency which lasted from 12 March 2020 to 17 May 2020<sup>130</sup>, the Government declared a state of emergency again with effect as of 5 October 2020, and extended it periodically with the approval of the Chamber of Deputies until 14 February 2021. On 11 February 2021, the Chamber of Deputies refused to provide prior consent to a further

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<sup>120</sup> Composed of the lower chamber, the Chamber of Deputies (*Poslanecká sněmovna*) and the higher chamber, the Senate (*Senát Parlamentu České republiky*).

<sup>121</sup> Constitution of Czechia, Art. 41.

<sup>122</sup> Within the summary consideration of a bill, the first reading does not take place and the Chamber of Deputies may decide to cancel the general debate that is to take place during the second reading of a bill as well as to reduce the speech limit of individual Deputies. Input from Czechia for the 2020 Rule of Law Report, p. 25.

<sup>123</sup> Input from Czechia for the 2020 Rule of Law Report, p. 25-26.

<sup>124</sup> See Contribution from the Czech Bar Association for the 2021 Rule of Law Report, p. 27; Contribution from Transparency International for the 2021 Rule of Law Report, p. 6.

<sup>125</sup> E.g. Judgment of the Municipal Court in Prague of 13 November 2020, No. 18 A 59/2020; Contribution from the Czech Bar Association for the 2021 Rule of Law Report; Contribution from Transparency International Czech Republic for the 2021 Rule of Law Report; Contribution from Civil Liberties Union for Europe for the 2021 Rule of Law Report; Contribution from Glropolis for the 2021 Rule of Law Report.

<sup>126</sup> Input from Czechia for the 2020 Rule of Law Report, p. 30.

<sup>127</sup> According to the Constitution, the quorum is one third of Members of the respective chamber. The measure at hand limits the presence of members to half, which respects the Constitutional provision.

<sup>128</sup> Declaring the state of emergency enables the Government to adopt certain extraordinary measures limiting fundamental rights, as stipulated in Sec. 5 of the Crisis Act, for a period of time that is strictly necessary and in the extend that is strictly necessary.

<sup>129</sup> Constitutional Act No. 110/1998, Arts. 5 and 6.

<sup>130</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 13.

extension of the state of emergency. The Government then declared a new state of emergency for 14 days based on a request from Governors of Regions<sup>131</sup>, a decision that was criticised, also as a circumvention of constitutional rules<sup>132</sup>. The Chamber of Deputies subsequently decided that this state of emergency would end when a new pandemic law comes into effect, but not later than 27 February 2021<sup>133</sup>. A group of Senators also filed a complaint to the Constitutional Court, which, although considering the complaint inadmissible<sup>134</sup>, noted that a state of emergency may only be extended with the approval of the Chamber of Deputies and that the constitutionally prescribed manner of extension cannot be substituted by a declaration of a new state of emergency<sup>135</sup>. Due to worsening situation, the Government declared a new state of emergency from 27 February 2021 for 30 days, which was extended to 11 April 2021 with prior consent of the Chamber of Deputies.

**The use of emergency measures continued to be subject to judicial review<sup>136</sup>.** Emergency measures enacted in response to the COVID-19 pandemic have frequently been reviewed by courts, including the Constitutional Court<sup>137</sup>. Stakeholders however point out that the measures that are in effect have been too quickly changed for courts to react in time<sup>138</sup>.

**Projects to further enhance the transparency of the legislative process are delayed due to the pandemic.** The project to establish an ‘eCollection’ and ‘eLegislation’<sup>139</sup> portals, which would enable easier control and participation in the legislative process, has been delayed due to the state of emergency and to the impact of restrictions related to the COVID-19 pandemic. The pilot testing of the system and training of users is now planned from November 2021 and the launch of operations on 1 January 2023<sup>140</sup>.

**A draft law on the Defender of Children’s Rights (Children’s Ombudsperson) is discussed in Parliament.** The draft law presented in June 2020 by a group of Members of the Chamber of Deputies proposes to establish a separate institution from the Public Defender of Rights who at present acts also as a supervisory body for the Convention on the Rights of the Child. A legislative proposal on the establishment of the National Human Rights

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<sup>131</sup> Sec. 3(5) of Crisis Act stipulates that a Governor of Region may request that the Government declares the state of emergency, under certain conditions.

<sup>132</sup> Statement of the Czech Bar Association (15 February 2021), Czech Bar Association to the declaration of state of emergency by governmental decree of 14 February 2021; Statements of experts on Constitutional Law to the media, České noviny (15 February 2021), According to most lawyers, the state of emergency is unconstitutional.

<sup>133</sup> Resolution of the Chamber of Deputies No. 84 of 18. 2. 2021.

<sup>134</sup> Judgment of the Constitutional Court of 25 March 2021, Pl. ÚS 12/21; the Constitutional Court does not have a competence to review the declaration of a state of emergency as such.

<sup>135</sup> In such cases, declaration of a new state of emergency would only be possible when warranted by a change of circumstances.

<sup>136</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 13.

<sup>137</sup> See the lists of court decisions published by the Czech Bar Association available at <https://advokatnidenik.cz/2021/04/23/za-uplynulych-deset-mesicu-soudy-zrusily-nekolik-protiepidemickych-opatreni/>, <https://advokatnidenik.cz/2021/04/09/soudy-jiz-odmitly-desitky-navrhu-nazruseni-protiepidemickych-narizeni/>.

<sup>138</sup> Contribution from the League of Human Rights for the 2021 Rule of Law Report, pp. 12, 13; information received in the context of the country visit to Czechia.

<sup>139</sup> The eLegislation project brings new drafting tools and procedures into the process of drafting, discussing and promulgating primary and secondary legislation. At the end of the drafting process, these tools update the database of the eCollection, which provides verified texts of Czech legislation and its consolidated versions.. The project is co-funded by EU funds.

<sup>140</sup> Information received in the context of the country visit in Czechia.

Institution has not yet been presented. In his first year in Office, the new Ombudsperson was subjected to criticism by stakeholders, in particular for arbitrariness and statements allegedly questioning the application of the principle of proportionality when limiting individual rights<sup>141</sup>. His statements questioning the existence of discrimination against certain minority groups also received criticism<sup>142</sup>. During the COVID-19 pandemic, the Public Defender of Rights has been investigating a range of COVID-19 related issues<sup>143</sup>. Several of the measures in question were later changed by the authorities<sup>144</sup>.

**Civil society organisations have been substantially impacted by restrictions applied during the COVID-19 pandemic.** The space for civil society is considered open<sup>145</sup> and civil society continues to participate actively in public affairs<sup>146</sup>. According to stakeholders, the COVID-19 pandemic has had a significant impact on civil society organisations with a majority being forced to limit their activities due to pandemic related restrictions<sup>147</sup>. However, positive developments have been observed as well, with some civil society organisations noting an increase of public support, expanding their activities and increasing their effectiveness<sup>148</sup>.

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<sup>141</sup> Open letter signed by more than 320 signatories, including prominent lawyers. Contribution from the League of Human Rights for the 2021 Rule of Law Report, p. 9.

<sup>142</sup> Report from Síť k ochraně demokracie (2020); Romea.cz (18 January 2021), Citizen members of the ‘Roma council’: Křeček does not know his competences, his statements to the Roma strategy are untrue, he systematically intentionally undermines the dignity of Roma, Contribution from Glopolis for the 2021 Rule of Law Report, p. 13.

<sup>143</sup> Such as judicial decision-making in cases of involuntary hospitalization under the circumstances of the COVID-19 pandemic, prohibition or limitation of prison visits, isolation of people in the facilities of social services or access to education for pupils with disability.

<sup>144</sup> Information received in the context of the country visit in Czechia from the Ombudsperson’s Office.

<sup>145</sup> Rating given by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

<sup>146</sup> 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 14.

<sup>147</sup> Study of Nadace OSF, part of the Open Society Foundations network, (17 March 2021), Dopady pandemie COVID-19 na neziskové organizace, p. 2; information received in the context of the country visit to Czechia.

<sup>148</sup> Study of Nadace OSF, part of the Open Society Foundations network, (17 March 2021), Dopady pandemie COVID-19 na neziskové organizace, p. 3; information received in the context of the country visit to Czechia.

## Annex I: List of sources in alphabetical order\*

\* The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.

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## **Annex II: Country visit to Czechia**

The Commission services held virtual meetings in March 2021 with:

- Association of Journalists
- Czech Bar Association
- Czech National Committee of International Press Institute
- Council for Radio and Television Broadcasting
- Endowment for Independent Journalism
- European Centre for Press and Media Freedom
- Financial Analytical Office
- Frank Bold/Reconstruction of State
- International Press Institute
- League of Human Rights
- Ministry of Culture
- Ministry of Interior
- Ministry of Justice
- National Organized Crime Agency
- Ombudsman
- Open Government Partnership
- Prosecutor General's Office
- Supreme Administrative Court
- Supreme Audit Office
- Supreme Court
- Transparency International Czech Republic
- Union of Judges
- Union of Public Prosecutors

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom

- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU