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2022 Rule of Law Report Country Chapter on the rule of law situation in Czechia

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2022 Rule of Law Report The rule of law situation in the European Union

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ABSTRACT

The new Government has announced several reforms related to the Czech justice system, some of which follow up on efforts of the previous Government. A planned reform of disciplinary proceedings against judges aims to introduce the possibility to appeal and a new reform of the prosecution service is under preparation, introducing, among others, changes relating to the term of office and dismissal of the Prosecutor General. Both initiatives aim to further strengthen the independence of the justice system. An amendment of the selection procedure for judges has entered into force. Efforts to improve the digitalisation of justice, including publication of judgments and preparation of a digital file management system, progress slowly. Efficiency of proceedings has improved in the administrative justice system.

The legal and institutional framework to address corruption is broadly in place, and the new Government has prioritised some anti-corruption measures. The Government is drafting a new Anti-Corruption Strategy to be implemented as of 2023 but concerns exist over the effective and consistent implementation of all measures in the current strategy and action plan. Several planned reforms were not adopted before the end of the parliamentary term in 2021, including on lobbying, whistleblowing, the Supreme Audit Office mandate, and a code of conduct for members of Parliament. The new Government has announced its intention to continue to fight corruption, including through pending legislative reforms on conflicts of interest and whistleblower protection. Cases of high-level corruption remain a concern, in particular in a context of delayed proceedings. In addition, the use of presidential pardoning power in a high-level corruption case led to public debate. Ethics rules for both chambers of the Parliament remain lacking. Rules on revolving doors for members of Government, Parliament and civil service remain limited. An evaluation of the legislation on political party financing is planned.

Constitutional rules guarantee freedom of expression and the right to information. Rules to enhance transparency of beneficial ownership of media outlets enacted in 2021 still require full implementation and concerns persist with regard to the lack of full ownership transparency as well as conflict of interests. The independence of the Czech media regulator is expected to be further enhanced, while political controversies affecting Czech public service television have led to calls to overhaul the Czech Television Act given that the current system does not prevent the political majority in the Chamber of Deputies, via political influence over the Councils, from securing the dismissal of a Director-General. Unlike the case with most sectors of the economy, the media sector did not benefit from any specific support scheme to counter the effects of the COVID-19 pandemic. There have been no developments with regard to state advertising and access to information. Support for the needs of journalists and their working conditions is missing while harassment of journalists remains part of the political landscape.

The use of the accelerated legislative procedure decreased. The validity of the Pandemic Act has been extended until November 2022. The Ministry of Health conducted an internal audit of the adoption process of pandemic measures, after several had been annulled by courts. Work to enhance the participation of civil society organisations in the decision-making process is ongoing. While the Ombudsperson performs some of the tasks of the National Human Rights Institution (NHRI), other typical tasks remain unassigned and there are no specific plans to establish an NHRI. Statements of the Ombudsperson regarding Roma or LGBTIQ people continued to raise concerns. Access to public funding of civil society organisation raises some concerns. The space for civil society has been downgraded from open to narrowed by observers.

RECOMMENDATIONS

In addition to recalling the commitments made under the national Recovery and Resilience Plan relating to certain aspects of the justice system and the anti-corruption framework, it is recommended to Czechia to:

- Take forward the reform of the prosecution service retaining the original aim to introduce safeguards for the dismissal of the Prosecutor General and other chief public prosecutors, taking into account European standards on the independence and autonomy of the prosecution.
- Take measures to reduce the length of proceedings to ensure a robust track record of investigations, prosecutions and final judgments in high-level corruption cases.
- Strengthen the integrity framework for members of Parliament, in particular by ensuring that Codes of Ethics are in place for both Houses of Parliament.
- Complete the revision of legislation on asset declarations and on conflict of interests, including by clarifying the definition of beneficial ownership and progress with further reforms relating to transparency of information on media ownership.
- Strengthen the rules and mechanisms to enhance the independent governance of public service media taking into account European standards on public service media.
- Take steps to establish a National Human Rights Institution taking into account the UN Paris Principles.

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 Court¹. The Constitutional Court is tasked with guaranteeing constitutionality of legislation, and with the 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 law², either directly or through the presidents of these 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 selection committees and presented by the Minister of Justice. The Prosecution Service is part of the executive branch³. 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. Czechia participates in the European Public Prosecutor's Office (EPPO). 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 level of perceived judicial independence in Czechia continues to be average among both the general public and companies. Overall, 57% of the general population and 55% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2022⁴. According to data in the 2022 EU Justice Scoreboard, both figures have increased in comparison to 2021 (51% for the general public and 51% for companies), as well as in comparison to 2016 (47% for the general public and 37% for companies).

The new Government has announced several reform plans, including a re-tabling of the reform of the system of disciplinary proceedings against judges. As a general rule, legislative proceedings that are not concluded before parliamentary elections are not carried over to the next mandate period and if a newly elected Government intends to continue with the process, it has to submit a new legislative proposal. This was the case for several legislative proposals referred to in the 2021 Rule of Law Report⁵, which lapsed after the October 2021 parliamentary elections, notably the amendment of the Act on proceedings relating to judges⁶ and the reform of prosecution service (see below in this Section). The Programme manifesto of the new Government formed after the elections announced the intention to pursue several

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

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

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

⁴ Figures 50 and 52, 2022 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%).

⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, pp. 2-4.

⁶ Amendment of the Act on proceedings relating to judges, public prosecutors and court executors, as amended (Act No. 7/2002 Coll.).

reforms related to the justice system⁷. The envisaged changes include a reform of the criminal and civil procedure codes⁸, further digitalisation of the justice system (see below in this Section) and protection of the activities of the Bar Association and other professional associations. The Ministry of Justice started preparations to re-submit⁹ the reform of the disciplinary procedure against judges¹⁰, retaining the original aim to introduce the possibility to appeal¹¹ decisions taken by a disciplinary court¹². This aim is consistent with European standards¹³ and follows a GRECO recommendation¹⁴.

The amended selection procedures for judges entered into force. As reported in the 2021 Rule of Law Report¹⁵, the amendment of the Act on courts and judges, adopted in June 2021¹⁶, aims to set up a transparent and uniform system of recruitment and selection of judges and court presidents, whereas previously this procedure was not regulated in the legislation. The amendment entered into force on 1 January 2022¹⁷. The first series of selection procedures under the new legislation are currently ongoing¹⁸. Stakeholders have welcomed the change, stating that it improves the transparency and consistency of the selection process¹⁹, with the College of Regional Court Presidents calling for amendments of certain technical aspects in the law and implementing decree to ensure a smooth selection process²⁰. In reaction, the Ministry of Justice published a clarification of several provisions of the legislation and conducts a further analysis of potential ambiguities²¹. A key feature of the new system is the

⁷ Program manifesto of the Government of 7 January 2022.

⁸ Working groups for the preparation of the new criminal and civil procedure code have been established. Input from Czechia for the 2022 Rule of Law Report, p. 21.

⁹ To be noted that as part of the national Recovery and Resilience plan, Czechia has committed to adopt the act on proceedings in cases of judges, prosecutors and bailiffs; European Commission, Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the Recovery and Resilience Plan for Czechia, p. 129-131.

¹⁰ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 4.

¹¹ 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.

¹² Information provided in the context of the country visit to Czechia from the Ministry of Justice.

¹³ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para 69; Venice Commission, Report on the Independence of the Judicial System Part II: The Prosecution Service (CDL-AD(2010)004), para 43; Venice Commission, Rule of Law Checklist (CDL-AD(2016)007).

¹⁴ GRECO Fourth Evaluation Round – Evaluation Report, recommendation ix, introducing the possibility for judges to challenge disciplinary decisions including for dismissal before a court.

¹⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 2.

¹⁶ Act No. 218/2021, amending Act No. 6/2002 Coll., on courts, judges, lay judges and administration of courts and on amendment to some other acts.

¹⁷ Act No. 218/2021, Art. XI; Input from Czechia for the 2022 Rule of Law Report, p. 1. To be noted that as part of the national Recovery and Resilience Plan, Czechia has committed to adopt the Courts and Judges Act; European Commission, Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Czechia, p. 129-130.

¹⁸ Information received from the Ministry of Justice.

¹⁹ Contribution from the Network for Protection of Democracy for the 2022 Rule of Law Report, p. 6; Information received in the context of the country visit to Czechia from the Czech Union of Judges and the Czech Bar Association.

²⁰ Česká justice (2022), College of Court Presidents: Amendment of the Act on courts and judges complicated the selection of new presidents.

²¹ Information received from the Ministry of Justice. The clarification is available at <https://justice.cz/web/msp/dulezite-informace?clanek=stanovisko-ministerstva-spravedlnosti-k-vykladovym-otazkam-souvisejicim-s-vyberem-soudcu>.

composition of the selection committees with majority of judges²², which is consistent with European standards²³.

The Ministry of Justice started preparing a reform of the prosecution service. A reform of the prosecution service has long been a topic of political debate²⁴ and forms part of GRECO recommendations²⁵. The Ministry of Justice is working on a new proposal, scheduled for submission to the Government in December 2022²⁶. It is planned to include²⁷ a fixed term of office for the Prosecutor General and other chief prosecutors²⁸, and to stipulate that they can be dismissed only as a result of disciplinary proceedings²⁹, which would be consistent with European standards³⁰.

Quality

Digitalisation of justice progresses slowly. While the work on the digitalisation projects mentioned in the 2021 Rule of Law Report³¹, most notably the e-file and a database of court decisions, continues³², stakeholders point to the generally slow progress and delays in the digitalisation of justice³³. Although procedural rules allowing digital technology in courts have been in place³⁴, the actual use of digital technology and secure electronic communication tools by courts and prosecution services is very low³⁵. The case management system can still be used only in proceedings regarding orders for payment, judges and staff cannot yet, across the board, work securely remotely, and it is not possible to communicate securely electronically between

²² The committee for selection of judges has five members. Two are employees of the Ministry of Justice, two are judges appointed on the proposal of a president of respective regional court and one is a judge appointed on a joint proposal of the presidents on the Supreme Court and the Supreme Administrative Court. The committee for selection of court presidents have five members; its composition varies depending on the instance of the court, but in general one member is Deputy Minister of Justice, one expert on organization of courts and three court presidents. Secs. 105e and 116(3) of Act No. 6/2002 as amended.

²³ Sec. 105e and 116 of Act No. 6/2002 as amended by Act No. 218/2021. Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 47.

²⁴ The previous Government prepared a draft reform of the prosecution service, which was abandoned after public criticism. For further information see the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 3 and the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, pp. 3-4.

²⁵ GRECO Fourth Evaluation Round – Evaluation Report, recommendations x, xi, on recruitment and promotion of public prosecutors and the judicial review of their decisions, and on the appointment and dismissal of the Prosecutor General and other chief public prosecutors.

²⁶ Information received in the context of the country visit to Czechia from the Office of the Prosecutor General, and the Ministry of Justice.

²⁷ Information received in the context of the country visit to Czechia from the Office of the Prosecutor General, and the Ministry of Justice.

²⁸ Under the current legislation the Prosecutor General and chief prosecutors are appointed for an indefinite period.

²⁹ Currently the Prosecutor General may be dismissed by the Government on a proposal of the Minister of Justice without stating reasons.

³⁰ Venice Commission, Report on European standards as regards the independence of the judicial system: Part II – The Prosecution service (CDL-AD(2010)040), para. 39: ‘The law on the prosecutor’s office should clearly define the conditions of the Prosecutor’s [General] pre-term dismissal’.

³¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 5.

³² Input from Czechia for the 2022 Rule of Law Report, p. 3 and information provided in the context of the country visit to Czechia from the Ministry of Justice.

³³ Contribution from Glopolis for the 2022 Rule of Law Report, p. 14; Contribution from the Network for Protection of Democracy for the 2022 Rule of Law Report., p. 8.

³⁴ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 5.

³⁵ Figures 42, 43, 44 and 45, 2022 EU Justice Scoreboard.

courts and lawyers, notaries and bailiffs or other judicial officers³⁶. With the e-file system not yet available, possibilities for court users to initiate proceedings electronically and follow them online are limited³⁷. Following an amendment of the Act on Courts and Judges, which came into effect on 9 June 2021, district, regional and high courts will be obliged to publish their final judgments³⁸, as of 1 July 2022, in a publicly accessible database managed by the Ministry of Justice³⁹. The database is supported by a customised anonymisation application and already operating in a pilot stage⁴⁰.

The Ministry of Justice is adjusting the method of determination of the number and distribution of judicial posts, while salaries of judges have been frozen. Presidents of regional courts suggested to the Ministry of Justice an adjustment of the method based on which the Ministry determines the number of judicial posts at each court. The Ministry is currently analysing the document⁴¹. This comes in reaction to concerns that the existing methodology did not reflect the real workload of courts, as reported in the 2021 Rule of Law Report⁴². The salaries of judges and other high level officials⁴³, which are normally adjusted automatically every year⁴⁴, have been frozen at the same level as in 2020⁴⁵ due to the economic consequences of the COVID-19 pandemic⁴⁶, a fact which was criticised by judges⁴⁷ and prosecutors⁴⁸.

Efficiency

Efficiency of proceedings in administrative cases has improved. While the justice system overall performs efficiently, there is room for improvement in the length of administrative cases, as reported in the 2020 and 2021 Rule of Law Reports⁴⁹. Over the past years, however, the estimated length of administrative cases has been decreasing (to 317 days in first instance courts in 2020 compared to 356 days in 2019 and 421 days in 2016)⁵⁰. The clearance rate has also improved (113 % at first instance courts in 2020 compared to 107 % in 2019 and 88 % in 2018⁵¹) suggesting that courts continue to be able to address backlogs. This positive development could be the result of a continued effort to increase the number of judges and staff

³⁶ Figures 43 and 44, 2022 EU Justice Scoreboard.

³⁷ Figure 46, 2022 EU Justice Scoreboard.

³⁸ To the extent defined by a ministerial decree. Section 118a of Act No. 6/2002 Coll.

³⁹ Art. I, point 23 of Act No. 218/2021.

⁴⁰ Information provided in the context of the country visit to Czechia from the Ministry of Justice. The database is accessible at <https://rozhodnuti.justice.cz/soudnirozhodnuti/>.

⁴¹ Information received in the context of the country visit to Czechia from the Ministry of Justice and the Czech Union of Judges.

⁴² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 6.

⁴³ Including members of Parliament, the President of the Republic, members of the National Audit Office. Sec. 1 of Act No. 236/1995.

⁴⁴ The salaries of judges and other high level officials are presidents are based on the average salary counted by the Czech Statistical Office, and therefore change in relation to change of the average salary. Sec. 3 of Act No. 236/1995. Salaries of civil servants are regulated by different legislation.

⁴⁵ Act No. 18/2022, amending Act No. 236/1995.

⁴⁶ Input from Czechia for the 2022 Rule of Law Report, p. 2.

⁴⁷ Statement of the Czech Union of Judges of 20 January 2022.

⁴⁸ Opinion of the Czech Union of Public Prosecutors on salary cuts in the judiciary of 7 January 2022.

⁴⁹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 6, 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 5.

⁵⁰ Figure 9, 2022 EU Justice Scoreboard.

⁵¹ Figure 13, 2022 EU Justice Scoreboard.

in administrative departments of courts⁵². The estimated length of litigious civil and commercial cases, while overall low, increased in 2020 (to 160 days in the first instance in 2020 compared to 140 days in 2019)⁵³, possibly as a result of the COVID-19 pandemic and related measures.

II. ANTI-CORRUPTION FRAMEWORK

Czechia has the legislative and institutional framework to prevent and fight corruption largely in place. The Conflicts of Interest 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 offences⁵⁴. 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 2021 Corruption Perceptions Index by Transparency International, Czechia scores 54/100 and ranks 14th in the European Union and 49th globally⁵⁵. This perception has been relatively stable over the past five years⁵⁶. The 2022 Special Eurobarometer on Corruption shows that 78% of respondents consider corruption widespread in their country (EU average 68%) and 20% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁵⁷. As regards businesses, 67% of companies consider that corruption is widespread (EU average 63%) and 34% consider that that corruption is a problem when doing business (EU average 34%)⁵⁸. Furthermore, 29% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 34%)⁵⁹, while 27% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 29%)⁶⁰.

⁵² Ministry of Justice (2021), Czech Justice 2020 Annual Statistical Report; input from Czechia for the 2022 Rule of Law Report, p. 5.

⁵³ Figure 7, 2022 EU Justice Scoreboard.

⁵⁴ 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. This Agency also serves as a law enforcement contact point for OLAF as regards crimes against financial interest of the EU.

⁵⁵ Transparency International (2022), Corruption Perceptions Index 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).

⁵⁶ In 2017 the score was 57, while, in 2021, 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.

⁵⁷ Special Eurobarometer 523 on Corruption (2022). The Eurobarometer data on citizens' corruption perception and experience is updated every second year. The previous data set is the Special Eurobarometer 502 (2020).

⁵⁸ Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022). The Eurobarometer data on business attitudes towards corruption as is updated every second year. The previous data set is the Flash Eurobarometer 482 (2019).

⁵⁹ Special Eurobarometer 523 on Corruption (2022).

⁶⁰ Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022).

The Anti-Corruption Strategy 2018-2022 is in its last year of implementation, and a new strategy is being developed. The Anti-Corruption Plan 2021-2022⁶¹ continues to be implemented, as part of the last year of the 2018-2022 Anti-Corruption Strategy⁶². The main priorities of the plan are an effective and independent government, transparency and open access to information, the efficient use of state property, and the development of civil society. Main legislative measures included are the adoption of the whistleblowing and lobbying legislation (see below in this Section)⁶³. While only an interim evaluation of the 2021-2022 action plan was carried out (as the action plan is still being implemented)⁶⁴, it shows that the majority of measures were successfully implemented although delays occurred in the Parliament with regards to draft legislation, the introduction of some sector-specific measures in the energy and health sectors, and the adoption of the open government plan⁶⁵. Nonetheless, stakeholders expressed concerns over the effective and consistent implementation of all measures identified in the yearly action plans, in particular regarding the timely completion of actions under the plans and the political will to actually move forward and adopt some of the envisaged legislative reforms in the Parliament⁶⁶. The drafting of a new Anti-Corruption Strategy is proceeding, with a stakeholder consultation ongoing and the adoption by the government foreseen by the end of 2022⁶⁷. The Government intends to take on board conclusions of previous evaluations and lessons learned in the new strategy⁶⁸. The Strategy for the Fight against Fraud and Corruption within EU Funds remains in force without changes, but is expected to be revised by the end of the year to introduce new EU frameworks, and a specific action plan for 2022 was adopted⁶⁹. A new corruption measuring methodology is also under development⁷⁰.

The Government has announced its intention to continue reforms to fight corruption although the role of the Anti-Corruption Council remains unclear. The new Government, which took office in January 2022, has announced its intention to strengthen the fight against corruption, including through the adoption of a number of pending legislative reforms on conflicts of interest and whistleblower protection (see below in this Section)⁷¹. Questions remain over how the Anti-Corruption Council will fulfil its role as an advisory body to the Government. While the Council has not yet met since the new Government was appointed, the

⁶¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, pp. 6-7.

⁶² The Anti-Corruption Strategy 2018-2022 has been implemented through four dedicated action plans for the years: 2018, 2019, 2020 and 2021-2022). Input from Czechia for the 2022 Rule of Law Report, p. 9 and Ministry of Justice (2021), Anti-Corruption Action Plan for 2021 and 2022.

⁶³ Input from Czechia for the 2022 Rule of Law Report, p. 9 and Ministry of Justice (2018), Government concept of the fight against corruption for the years 2018 to 2022.

⁶⁴ Ministry of Justice (2022), Evaluation of the implementation of the measures listed in the Anti-Corruption Action Plan for 2021 and 2022.

⁶⁵ Ministry of Justice (2022), Evaluation of the implementation of the measures listed in the Anti-Corruption Action Plan for 2021 and 2022.

⁶⁶ Contribution from Síť na ochranu demokracie for the 2022 Rule of Law Report, pp. 10-11

⁶⁷ Information received from the Ministry of Justice in the context of the country visit to Czechia.

⁶⁸ Information received from the Ministry of Justice in the context of the country visit to Czechia and Ministry of Justice (2021), Anti-Corruption Action Plan for 2021 and 2022.

⁶⁹ Written contribution from the Ministry of Finance and the Ministry of Regional Development in the context of the country visit to Czechia. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 8.

⁷⁰ As required under the Czech Recovery and Resilience Plan. See European Commission, Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Czechia, pp. 129-130.

⁷¹ Czech Government (2022), Government Program Statement – Justice and Law.

Ministry of Justice foresees no changes in its functioning⁷². Some stakeholders have pointed out that more regular meetings of the Council, which currently meets once per year, could be beneficial for highlighting challenges and giving input to the government's anti-corruption policy⁷³.

Corruption-related investigations, prosecutions and convictions remain at a stable level, with a generally lower occurrence of corruption attributed to the COVID-19 pandemic.

In 2021, the Czech law enforcement authorities opened 150 corruption-related investigations (compared to 180 in 2020) and prosecuted 140 individuals for corruption offences or suspicions thereof (compared to 180 individuals in 2020)⁷⁴. In total, 134 persons were brought before a court (compared to 169 in 2020)⁷⁵, while 114 got convicted for corruption in the course of 2021 (compared to 111 individuals in 2020). Last year has seen 15 acquittals for corruption (compared to 45 in the previous year)⁷⁶. Law enforcement authorities caution that statistics fluctuated during 2020 and 2021 due to the effects of COVID-19 measures, in particular lockdowns, with an overall lower crime rate seen than the period before the pandemic⁷⁷.

High-level corruption cases remain a point of attention due to delays in proceedings while the use of presidential pardoning power in a high-level corruption case led to public debate. A number of high-level corruption investigations and cases involving both former and current high-level officials⁷⁸ continue, including in relation to subsidy fraud. While the justice system is generally functioning efficiently (see Section I), concerns over its performance in such high-level corruption cases exist due to the length of the proceedings at all stages of the process including the investigation, prosecution and adjudication⁷⁹. Concerns remain⁸⁰ in some instances regarding the management and distribution of EU funds, with the Czech Court of Audit indicating a relative increase in the amount of reported irregularities and suspected

⁷² Information received from the Ministry of Justice in the context of the country visit to Czechia; Ministry of Justice, Government Council for the Coordination of the Fight against Corruption. The previous government had modified the mandate of the Anti-Corruption Council in 2018 and 2019.

⁷³ Information received in the context of the country visit to Czechia from civil society organisation Frank Bold.

⁷⁴ Input from Czechia for the 2022 Rule of Law Report, statistical annex.

⁷⁵ This includes: indictments, motions for punishments, and agreements on guilt and punishment.

⁷⁶ Input from Czechia for the 2022 Rule of Law Report, statistical annex.

⁷⁷ Information received from the National Organised Crime Agency and the Prosecution Service in the context of the country visit to Czechia.

⁷⁸ In one case involving former Prime Minister Babiš, who was indicted in a case linked to subsidy fraud, the public prosecutor recommended a 3-year suspended sentence and a fine of CZK 10 million. The fraud allegedly took place in 2008 and charges were already brought forward for the first time in 2016. Associated Press (2022), 'Former Czech Prime Minister Babiš indicted in fraud case'. Seznam Zprávy (2022), 'The prosecutor does not demand imprisonment for Babiš. Asks for conditional sentence and 10 million fine'. Other examples of high-level corruption cases include the prosecution of two judges, a high-ranking ministry official and a number of cases in municipal councils. Information received from the National Organised Crime Agency and the prosecution service in the context of the country visit to Czechia.

⁷⁹ Contribution from Glropolis for the 2022 Rule of law Report, pp. 15-16 and 19-20; contribution from Sit' na ochranu demokracie for the 2022 Rule of Law Report, p. 11. See also Transparency International Czechia (2022), Conflict of Interest of Andrej Babiš.

The authorities state that the delays are often caused by the complexity and opacity of high-level corruption cases.

⁸⁰ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 8 and information received from the National Organised Crime Agency in the context of the country visit to Czechia.

fraudulent behaviour in 2019⁸¹ while the European Public Prosecutor's Office⁸² opened or continued 34 investigations in 2021⁸³ The EU Anti-Fraud Office (OLAF) reports Czech authorities issued indictments in one case and dismissed six in cases where OLAF sent recommendations to the national authorities between 2017-2021⁸⁴. The results of the European Commission audit of 23 April 2021, referred to in the 2021 Report⁸⁵, have been taken forward by the European Public Prosecutor's Office for further investigation. The use of the presidential pardoning power in a high-level corruption case led to an intense public debate⁸⁶.

Resources of and cooperation between institutions in the fight against corruption remain at a good level overall. The police and the Prosecution Service consider that the resources⁸⁷ 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. Cooperation between the prosecution service, police and other agencies such as the Financial Intelligence Unit, tax and customs continues to function well.⁸⁸ The analytical capacity of the police is being evaluated. The police plan to pilot a uniform analytical tool in their investigations as of 2023, which should further strengthen analytical capacity also in corruption-related investigations. Work on these initiatives continues but was delayed by the COVID-19 pandemic and the Russian invasion of Ukraine⁸⁹.

Enforcement in foreign bribery cases remains limited although structures are in place. Czechia fulfilled an additional recommendation of the OECD Working Group on Bribery in relation to the automatic publishing of court judgments in foreign bribery cases. The main outstanding recommendations focus on legislation related to whistleblowers (see below in this Section) and the independence of prosecutors and courts (see Section I)⁹⁰ While the necessary structures are in place, only a limited number of cases are detected and prosecuted⁹¹. An

⁸¹ Czech Court of Audit (2022), EU Report 2021 - Report on the EU Financial Management in the Czech Republic, pp. 84-86.

⁸² The National Organized Crime Agency has supported the new role of European Public Prosecutors' Office by including cooperation with this Office within training for investigators.

⁸³ EPPO, Annual Report 2021 – Czechia.

⁸⁴ No decision was taken in further 3 cases. When OLAF concludes an investigation, it often issues recommendations to the competent national and European authorities. OLAF invites these authorities to take action to redress the fraud, corruption or other illegal activity uncovered by the investigation. OLAF's recommendations are intended to protect the EU budget and to uphold the rule of law. They help to ensure that OLAF's investigations act as a deterrent to potential fraudsters. OLAF Annual Report 2021, p. 45 and 51.

⁸⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 8.

⁸⁶ Radio Prague International (2022), 'Czech president sparks outrage with controversial pardon' and Ceska Televize (2022), 'Zeman justified his pardon: Balak did not get rich from the Lanska Obora case'.

⁸⁷ Human resources allocated to the Prosecution Service responsible for the prosecution of corruption consist of 327 public prosecutors specialised in corruption, including 22 prosecutors at the Prosecutor-General Office, 46 at the High Public Prosecution Offices, 71 at the Regional Public Prosecutors Offices, 188 at the District Public Prosecutors Offices. Written contribution from the Prosecution Service in the context of the country visit to Czechia.

⁸⁸ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 8 and information received from the National Organised Crime Agency and the prosecution service in the context of the country visit to Czechia. In particular, the Tax Cobra programme was cited as an example of effective inter-agency cooperation in the fight against tax avoidance and tax fraud.

⁸⁹ Information received from the Ministry of Interior in the context of the country visit to Czechia and National Organised Crime Agency (2021), Annual Report 2020, p. 50.

⁹⁰ OECD (2021), Addendum to the follow-up to Phase 4 Report.

⁹¹ Information received from the prosecution service in the context of the country visit to Czechia.

awareness-raising campaign on foreign bribery, aimed at Czech companies, was also carried out⁹².

Conflict of interest legislation is being revised after issues with its practical application emerged in previous years. Revised legislation on conflicts of interest⁹³ was put forward by a group of members of Parliament in December 2021 and received support from the new Government (see also below, Section III). The revision considers that the currently applicable legislation, which covers all public officials (including ministers, state secretaries, members of Parliament, etc.)⁹⁴, needed to be updated in particular to clarify the definition of the actual beneficial owner of certain companies or conglomerates⁹⁵. This also includes a prohibition on the acceptance of subsidies and investment incentives by public officials and companies they actually own⁹⁶. The sanctioning mechanism would also be revised, with an increased focus on applying mitigating measures before a fine is issued. While the Office for the Supervision of the Finances of Political Parties and Movements⁹⁷ would obtain additional powers to monitor cases in relation to media ownership, no changes to the supervision regime are planned,⁹⁸ despite a recommendation from GRECO in that respect⁹⁹. The draft legislation is still in the parliamentary process.

The asset declaration regime is currently under revision to bring it into compliance with a 2020 Constitutional Court ruling. While revised provisions on asset declarations were initially included in the draft conflict of interest legislation (see above)¹⁰⁰, members of Parliament decided to split off provisions on asset declarations and pass them in a separate bill, due to the lengthy parliamentary process on the main bill¹⁰¹. This separate bill, which aims to accommodate the 2020 ruling of the Constitutional Court on asset declarations, was passed by the Chamber of Deputies and the Senate in June 2022 and is now awaiting signature by the President¹⁰². The bill would set out rules on access and transparency of the declarations for the public, mainly by including a prior request before being granted access to the register of declarations. A further extension of the reporting obligations (such as declarations of spouses

⁹² Supreme State Prosecutor, Foreign Bribery.

⁹³ Chamber of Deputies, Parliament Bill 110 – Amendment to the Conflict of Interest Act.

⁹⁴ Input from Czechia for the 2022 Rule of Law Report, pp. 12-13.

⁹⁵ Chamber of Deputies, Parliament Bill 110 – Amendment to the Conflict of Interest Act - Explanatory Memorandum.

⁹⁶ Chamber of Deputies, Parliament Bill 110 – Amendment to the Conflict of Interest Act - Explanatory Memorandum.

⁹⁷ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10.

⁹⁸ Chamber of Deputies, Parliament Bill 110 – Amendment to the Conflict of Interest Act - Explanatory Memorandum.

⁹⁹ GRECO recommends ‘giving an independent monitoring mechanism the clear mandate, powers and adequate resources to verify in depth the declarations submitted, to investigate irregularities and to initiate proceedings and impose effective, proportionate and dissuasive sanctions if the rules are violated.’ GRECO Fourth Evaluation Round - Interim Compliance Report, recommendation v, paras. 28-35.

¹⁰⁰ Obligations on asset declaration changed following a Constitutional Court ruling – see 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10.

¹⁰¹ Chamber of Deputies, Parliament Bill 192. See also iRozhlas, ‘It distributes billions in subsidies, but is not covered by change in the law on conflict of interest. That will change, say MPs’.

¹⁰² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10. Although in its judgment *Pl. US 4/17* of 11 February 2020 the Constitutional Court rejected the claim to strike down parts of the Act No. 159/2006, on Conflict of Interests, the Court criticised several of its provision for their unenforceability. Explanatory Report to Parliament Bill 110, p. 9 and Explanatory Report to Parliament Bill 192, p. 4-5.

and dependents) is not taken up in this law¹⁰³, although a GRECO recommendation on this topic remains outstanding¹⁰⁴.

Ethics rules for civil servants are being reviewed while a comprehensive ethics framework for both chambers of the Parliament remains lacking. As mentioned in the 2021 Rule of Law Report, there are no codes of ethics in place, and a comprehensive framework is lacking in relation to gifts and benefits for members of Parliament¹⁰⁵. The draft of the revised Code of Ethics for Members of the Chamber of Deputies, a code of conduct which has been debated in the Parliament since 2020¹⁰⁶, was not approved and lapsed following the end of the parliamentary term. Since the beginning of the new parliamentary term, no further activity on this issue has been noted¹⁰⁷. The Senate remains without a Code of Ethics, nor are there any current plans to establish one¹⁰⁸. The recommendations from GRECO to adopt a Code of Ethics in both chambers of Parliament thus remain unfulfilled¹⁰⁹. The existing Code of Ethics for the civil service is under review, with the aim to make it more easily understandable and practicable¹¹⁰.

Post-employment rules are in place for a limited number of civil servant positions and some parts of the Government but could be improved and better monitored. Overall, rules on ‘revolving doors’ remain unchanged. A limited number of civil service positions¹¹¹ have a mandatory one-year cooling-off period from working in the same sector. This concerns mostly positions dealing with sensitive matters such as public procurement for certain sectors¹¹². While the existing law on conflicts of interest provides for a one-year cooling-off period for Government members and top-level positions before taking up roles with a company that has had Government contracts in the past three years, it relies on the same sanctioning mechanism as conflicts of interest issues, which is currently being revised. The existing register of governmental contracts, in which it is compulsory for government institutions to publish the contracts they conclude¹¹³, continues to be cited as a good practice that facilitates overall transparency and the discovery of irregularities¹¹⁴.

¹⁰³ Chamber of Deputies, Parliament Bill 110 – Amendment to the Conflict of Interest Act - Explanatory Memorandum and Chamber of Deputies, Explanatory Report to Parliament Bill 192, p. 4-5; Contribution from Glopolis for the 2022 Rule of Law Report. This issue was the subject of a recommendation from GRECO Fourth Evaluation Round - Interim Compliance Report, recommendation iii, paras. 18-22 and contribution from GRECO for the 2022 Rule of Law report.

¹⁰⁴ GRECO Fourth Evaluation Round – Interim Compliance report, recommendation iii, paras. 18-22 and contribution from GRECO for the 2022 Rule of Law report.

¹⁰⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

¹⁰⁶ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

¹⁰⁷ Written contribution received from the Czech Parliament in the context of the country visit to Czechia.

¹⁰⁸ Written contribution received from the Czech Parliament in the context of the country visit to Czechia.

¹⁰⁹ GRECO Fourth Evaluation Round – Interim Compliance report, Czechia, recommendation ii, paras. 13-17 and contribution from GRECO for the 2022 Rule of Law report.

¹¹⁰ The redrafted code could include case studies or an advisory commission for civil servants on ethical issues, but drafting remains ongoing. Information received from the Ministry of Interior in the context of the country visit to Czechia.

¹¹¹ Currently 44 positions across the civil service fall under these rules. See input from Czechia for the 2022 Rule of Law Report, p. 9.

¹¹² Input from Czechia for the 2022 Rule of Law Report, p. 9 and Information received from the Ministry of Internal Affairs in the context of the country visit to Czechia.

¹¹³ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

¹¹⁴ Information received from Frank Bold in the context of the country visit to Czechia.

The proposed legislation on lobbying was not adopted before the parliamentary elections and the new Government is yet to propose similar legislation. The proposed lobbying regulation, as referred to in the 2021 Rule of Law Report¹¹⁵, was not adopted before the end of the Parliamentary term in October 2021, and therefore lapsed¹¹⁶. Similar draft legislation, including a legislative footprint and a transparency register¹¹⁷, is expected to be re-submitted to the new Government for its approval by the end of December 2022¹¹⁸. Some stakeholders have raised doubts regarding the Government's commitment in this regard¹¹⁹, notably as the new Government's programme statement did not explicitly include a mention of this pending revision¹²⁰. Concerns have been raised that in the absence of such legislation, the transparency of contacts with lobbyists remains low¹²¹.

Political party financing legislation is in place, though challenges remain with implementation in practice. Extensive legislation on political party financing is in place and is broadly applied¹²². Issues remain, however, with the verification of donations limits and the monitoring of advertising rules being particularly challenging¹²³. The Office for the Supervision of the Finances of Political Parties and Movements is planning to conduct an analysis of gaps in the legislation of political party financing by the end of this year and to propose further steps¹²⁴.

Amendments to the Constitution to strengthen the Supreme Audit Office have not been approved. The constitutional amendments, as discussed in the 2021 Rule of Law Report, were voted down in the Senate (after previous approval in the Chamber of Deputies)¹²⁵. The legislation would have extended the mandate of the Supreme Audit Office, allowing it to also audit the public spending of local governments and state-owned companies (i.e. majority-owned or controlled by the state or a local government)¹²⁶. The re-submission of legislation to extend the mandate has been included in the new Government programme¹²⁷. No changes are foreseen regarding political nominations at state-owned enterprises¹²⁸, despite criticism in that regard, as reported in the 2021 Rule of Law Report¹²⁹. The independent Personnel Nomination

¹¹⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

¹¹⁶ Input from Czechia for the 2022 Rule of Law Report, pp. 23-24.

¹¹⁷ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 9.

¹¹⁸ Input from Czechia for the 2022 Rule of Law Report, pp. 23-24 and Czech Government, Legislative Work Plan for 2022, p. 23. Czechia has committed to approving this legislation under its Recovery and Resilience Plan. See European Commission, Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Czechia, pp. 129-130.

¹¹⁹ Transparency International (2022), Anti-corruption priorities of the Czech Government of Transparency International 2022/2023 and information received from Transparency International in the context of the country visit to Czechia.

¹²⁰ Czech Government (2022), Government Program Statement – Justice and Law.

¹²¹ GRECO Fourth Evaluation Round – Interim Compliance Report, recommendation i, paras. 7-12 and contribution from GRECO for the 2022 Rule of Law Report.

¹²² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 10 and input from Czechia for the 2022 Rule of Law Report, pp. 10-11.

¹²³ Information received from the Office for the Supervision of the Finances of Political Parties and Movements in the context of the country visit to Czechia.

¹²⁴ Information received from the Office for the Supervision of the Finances of Political Parties and Movements in the context of the country visit to Czechia.

¹²⁵ Information received from the Supreme Audit Office in the context of the country visit to Czechia.

¹²⁶ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 11.

¹²⁷ Czech Government (2022), Government Program Statement – Legislation.

¹²⁸ Written contribution received from the Personnel Nomination Committee in the context of the country visit to Czechia.

¹²⁹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 11.

Committee indicates current rules ensure both transparent and public selection of persons representing the state in the management and supervisory bodies of these companies¹³⁰.

A reform of the whistleblower protection legislation is ongoing. As the revised legislation, aiming to transpose the EU Whistleblower Directive,¹³¹ was not approved in Parliament before the end of its term, it lapsed¹³². The revised legislation is expected to be re-approved by the government during 2022, with slight amendments compared to the previous draft reforms, in particular relating to the scope of crimes covered¹³³, after which it will have to be taken up by Parliament.

Corruption-risks related to the COVID-19 pandemic are being audited and analysed. An internal audit in the health sector in the course of the COVID-19 pandemic helped identify a new approach to mitigating corruption risks for the Ministry of Health¹³⁴. The Court of Audit is also looking into the Government's COVID-19 response. An initial audit found signs of inefficiencies, a decrease in transparency in the purchase of personal protective equipment¹³⁵ and chaos and improvisation in the construction of IT systems to manage the pandemic¹³⁶. Further audits are ongoing on the pay-out of a Government bonus linked to the COVID-19 measures¹³⁷.

III. MEDIA PLURALISM AND MEDIA FREEDOM

Freedom of expression and the right to information are guaranteed by the Czech Charter of Fundamental Rights and Basic Freedoms. The Act on Radio and Television Broadcasting, guarantees the independence of the Czech media regulator while the Czech Television Act provides the framework for the supervision and independence of Czech public service media. The Act on Free Access to Information¹³⁸ regulates access to information held by public authorities¹³⁹.

The independence of the media regulator, the Council for Radio and Television Broadcasting, is expected to be strengthened via pending amendments to the Act on Radio and Television Broadcasting. The reform geared at, among others, transposing the AVMS Directive¹⁴⁰ including by a strengthening of the independence of the media regulator, scheduled for August 2020¹⁴¹ was not approved by the Parliament before the end of its term,

¹³⁰ Written contribution received from the Personnel Nomination Committee in the context of the country visit to Czechia.

¹³¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 11.

¹³² Input from Czechia for the 2022 Rule of Law Report, pp. 8-9.

¹³³ Information received from the Ministry of Justice in the context of the country visit to Czechia. Czechia has committed to approving this legislation under its Recovery and Resilience Plan. See European Commission, Annex to the Proposal for a Council Implementing Decision on the approval of the assessment of the recovery and resilience plan for Czechia, p.129- 130. It also needs to transpose Commission Regulation 2019/1939.

¹³⁴ Input from Czechia for the 2022 Rule of Law Report, p. 14.

¹³⁵ Czech Republic Supreme Audit Office (2022), Press release on Audit No 20/32.

¹³⁶ Czech Republic Supreme Audit Office (2022), Press release on Audit No 21/35.

¹³⁷ Written contribution received from the Czech Court of Audit in the context of the country visit to Czechia.

¹³⁸ A draft act amending the Act and transposing Directive (EU) 2019/1024 on open data and the re-use of public sector information was submitted to the Czech Parliament for approval in May 2022.

¹³⁹ Czechia ranks 20th in the 2022 Reporters without Borders World Press Freedom Index compared to 40th in the previous year.

¹⁴⁰ Directive (EU) 2018/1808 of 14 November 2018. On 19 May 2022 the Commission decided to refer Czechia to the Court of Justice of the European Union over its failure to transpose the Directive.

¹⁴¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 12.

and consequently lapsed¹⁴². The new Government subsequently submitted a very similar proposal to Parliament¹⁴³. The proposed amendments¹⁴⁴ would eliminate the role of the Prime Minister in the nomination and dismissal of Council members as they would place both procedures fully in the hands of the Chamber of Deputies. The reform would simultaneously limit the power of the Chamber of Deputies in the sense that only the dismissal of *individual* Council members would be possible, thereby strengthening the independence of the Council as a body. Furthermore, the amendments would require the Parliament to provide substantiated reasons for any dismissal decision and would expressly provide for a right of reply and a right of defense before the Chamber of Deputies for any member facing dismissal.

Concerns voiced with regard to the selection process and the independence of the members of the Czech TV supervisory board¹⁴⁵ have led to calls for an overhaul of the relevant provisions of the Czech Television Act¹⁴⁶. Under the Act, the supervisory functions of Czech public service media television and radio are the responsibility, respectively, of the Czech Television Council (15 members) and the Czech Radio Council (nine members). Under the current legislation Council members are appointed for a 6-year term by the Chamber of Deputies following nominations made by ‘organizations and associations representing cultural, regional, social, trade union, employer, religious, educational, scientific, environmental and national interests’¹⁴⁷. The Councils, by qualified majority, appoint the relevant Directors-General whose salaries are subject to Council approval. The Directors-General must seek the relevant Council’s approval when appointing studio directors and must consult the Council prior to filling or vacating senior management positions. The Councils may remove a Director-General from office by a two-thirds majority if, in the opinion of the Council, he or she has not ensured the fulfilment of the broadcaster’s public service role. While the Act ensures editorial independence by expressly stipulating that the Councils shall have no say in programming¹⁴⁸, the current system does not prevent the political majority in the Chamber of Deputies, via political influence over the Councils, from securing the dismissal of a Director-General. A bill currently under discussion would distribute nominations to the relevant Councils between the Chamber of Deputies and the Senate. Law No. 348/2005 governs the funding of Czech public service media which is, apart from advertising revenues, largely dependent on a fee levied on households. It has been pointed out that the amount of the fee, which has not been revised since 2008, will not provide sufficient funding going forward unless it is raised¹⁴⁹. Due to these concerns, the Media Pluralism Monitor (MPM) 2022 now considers the independence of public service media governance and funding to be an area presenting high risk¹⁵⁰.

¹⁴² Input from Czechia for the 2022 Rule of Law Report, p. 18.

¹⁴³ Ibid.

¹⁴⁴ Government Bill on Video Sharing Platform Services and amending certain related acts, part of the Czech Republic’s transposition of Directive (EU) 2018/1808 on Audiovisual Media Services. Chamber of Deputies Print no. 30, <https://www.psp.cz/sqw/text/historie.sqw?o=9&T=30>.

¹⁴⁵ The concerns were well documented here: European Broadcasting Union (2021), ‘Public service media in the Czech Republic under threat’; International Press Institute (2021), ‘Concerns over increased meddling in independence of Czech public broadcaster’; Public Media Alliance, (2021), ‘The threat facing Czech TV’; 2021 Media Pluralism Monitor, Czech Republic, p. 12.

¹⁴⁶ Act No. 483/1991.

¹⁴⁷ Art. 4(2) of the Act No. 483/1991; Art. 4(2) of the Act No. 484/1991.

¹⁴⁸ An internal Code of Conduct secures editorial independence within the organisations.

¹⁴⁹ Information received in the context of the country visit to Czechia from the Director General of the Czech Television.

¹⁵⁰ 2022 Media Pluralism Monitor, Czech Republic, p.13-14.

Reforms have partially addressed concerns relating to lack of media ownership transparency. The reforms introduced in 2021¹⁵¹ which guarantee public access, via a registry held by the Ministry of Justice, to a limited amount of ownership information, and establish mechanisms enabling certain authorities to sanction the absence of required data are considered to only partially address the issue. Given that the system obliges companies to provide information about their ultimate owners does not provide for disclosure of full ownership structures to the general public, outside of the Public Register of Corporate Entities, the Media Pluralism Monitor (MPM) 2022 once more considers this as a high risk area, albeit with a reduced risk level¹⁵². Currently the Council for Radio and Television Broadcasting does not have access to the entirety of the data held by the Ministry of Justice and has asked for a remedy thereto¹⁵³. High concentration continues to characterise different media sub-sectors, in particular the regional daily press market¹⁵⁴.

Concerns persist with regard to political independence of the media due to the conflation of political and media interests. This has mainly concerned the former Prime Minister's media interests as well as certain other media owners who have either been active in politics or who have openly declared their political ambitions¹⁵⁵. In the case of the former Prime Minister, though his company Agrofert has been in a trust fund since 2017, he is nonetheless still regarded as its beneficial owner¹⁵⁶. With a view to addressing this problem, a group of MPs representing the governing political parties have drafted an amendment to the Conflict of Interest Act¹⁵⁷ (see also above, Section II) which would strengthen the current conditions and preventing active politicians from any form of involvement in print or audio-visual media business exceeding certain revenue thresholds¹⁵⁸. Furthermore, the fact that there are no rules ensuring transparency in state advertising exacerbates suspicions of favouritism by state-owned companies to media close to the government¹⁵⁹.

Support for the needs of journalists and their working conditions is missing while legal and verbal harassment of journalists remains part of the political landscape. The alerts registered since the publication of the last rule of law report and published by the Council of Europe Platform to promote the protection of journalism and the safety of journalists, concern a defamation case lodged by the former Deputy Prime Minister against a media house, a verbal attack on a journalist by the former Prime Minister on the campaign trail, a criminal complaint lodged against an editor and a cyber attack against a news website¹⁶⁰. According to the Media Pluralism Monitor, the main professional association representing journalists, the Czech

¹⁵¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p.12-13.

¹⁵² 2022 Media Pluralism Monitor, Czech Republic, p.11.

¹⁵³ Written contribution from the Council for Radio and Television Broadcasting in the context of the country visit.

¹⁵⁴ 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.

¹⁵⁵ 2022 Media Pluralism Monitor, Czech Republic, p.13.

¹⁵⁶ Final report on the audit of the functioning of the management and control systems in place to avoid conflict of interest in Czechia, carried out by the Commission's Directorates-General for Regional and Urban Policy and Employment, Inclusion and Social Affairs, published in 2021.

¹⁵⁷ Act No. 159/2006.

¹⁵⁸ Written input provided by the Czech authorities for the 2022 Rule of Law Report.

¹⁵⁹ 2022 Media Pluralism Monitor, Czech Republic, p.13.

¹⁶⁰ Council of Europe, Platform to promote the protection of journalism and the safety of journalists, the Czech Republic.

Syndicate of Journalists, is weak, meaning that ‘the necessary support for the specific needs of journalists and their working conditions is missing’.¹⁶¹ Unlike most sectors of the economy, the media sector did not receive relief funding from the COVID-19 recovery fund established by the government.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Czechia has a bicameral parliamentary system of government¹⁶² 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 regions¹⁶³. The Constitutional Court can carry out ex-post constitutional review. In addition to the justice system, the Ombudsperson’s Office and civil society play a role in the system of checks and balances.

The number of acts adopted in accelerated legislative procedure has decreased. Between February 2021 and November 2021, out of total 74 approved acts 11 acts were adopted in the shortened emergency legislative procedure and 10 acts were adopted in a fast-track legislative procedure¹⁶⁴, which represents a decrease in comparison to the 60 acts adopted in the shortened emergency legislative procedure during the last reporting period¹⁶⁵. As in the preceding reporting period, some of these acts were not related to the COVID-19 pandemic¹⁶⁶.

On 1 January 2022, Czechia had two leading judgments of the European Court of Human Rights pending implementation¹⁶⁷. At that time, Czechia’s rate of leading judgments from the past 10 years that remained pending was only at 5% and the average time that the judgments had been pending implementation was 7 years and 8 months¹⁶⁸. This figure is influenced by a case pending implementation for 14 years, which concerns discrimination in education of Roma children¹⁶⁹. On 1 July 2022, the number of leading judgments pending implementation remains two¹⁷⁰.

¹⁶¹ 2022 Media Pluralism Monitor, Czech Republic, p. 10.

¹⁶² Composed of the lower chamber, the Chamber of Deputies and the higher chamber, the Senate.

¹⁶³ Constitution of Czechia, Art. 41.

¹⁶⁴ Input from Czechia for the 2022 Rule of Law Report, p. 26.

¹⁶⁵ Out of the total 128 approved acts between January 2020 and mid-February 2021. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 14. In 2022, several acts were enacted in the emergency legislative procedure in reaction to the influx of refugees from Ukraine and in reaction to the economic situation.

¹⁶⁶ Information collected from the website of the Chamber of Deputies <https://www.psp.cz/sqw/sntisk.sqw?o=8&F=N>.

¹⁶⁷ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee’s practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁶⁸ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2022. See the Contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 36.

¹⁶⁹ Judgment of the European Court of Human Rights of 13 November 2007, *D.H. and Others v. the Czech Republic*, 57325/00, pending implementation since 2007.

¹⁷⁰ Data according to the online database of the Council of Europe (HUDOC).

Validity of the Pandemic Act has been extended until November 2022 after public debate.

Following several extensions and declaration of states of emergency in 2020 and early 2021¹⁷¹, the Government declared a state of emergency due to the COVID-19 pandemic again as of 26 November 2021. It lasted until 25 December 2021. Another state of emergency was declared as of 4 March 2022 in reaction to the situation of the large number of refugees arriving from Ukraine¹⁷². The Pandemic Act, adopted in February 2021, as reported in the 2021 Rule of Law Report¹⁷³, was reviewed by the Constitutional Court¹⁷⁴, which upheld the majority of the Act¹⁷⁵. The sections of the Act which regulate extraordinary measures were originally valid only until 28 February 2022, however after political discussions¹⁷⁶, their validity was extended until 30 November 2022¹⁷⁷. The Act contains a list of measures which may be adopted to address the COVID-19 pandemic¹⁷⁸ if a “state of pandemic emergency” is declared¹⁷⁹, and sets forth the conditions of their judicial review¹⁸⁰. The state of pandemic emergency was declared from 27 February 2021 to 5 May 2022¹⁸¹.

Judicial review of pandemic measures has continued, and an audit was conducted by the Ministry of Health to identify shortcomings in the process of their adoption.

The administrative courts, the Supreme Administrative Court and the Constitutional Court have continued to review measures and laws enacted in the context of the COVID-19 pandemic¹⁸². Several measures were annulled, chiefly due to lack of proper justification of the measure and a lack of competence for its adoption. Courts also found that certain measures were re-enacted immediately after having been struck down, without remedying the identified shortcomings¹⁸³. In reaction to a high number of measures declared unlawful by courts, the Ministry of Health conducted an internal audit to analyse the process of drafting of the measures¹⁸⁴. The audit concluded in August 2021 found that the process of adoption of measures lacked methodology

¹⁷¹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 14-15.

¹⁷² Input from Czechia for the 2022 Rule of Law Report, pp. 14-15. The state of emergency was declared in order to enable the police and state administration to process faster the support to and registrations of the large number of refugees arriving from Ukraine, without limiting human rights and freedoms. On 29 March 2022 and again on 19 May 2022 the Chamber of Deputies agreed to the extension of the state of emergency.

¹⁷³ 2021 Rule of law Report, Country Chapter on the rule of law situation in Czechia, p. 15.

¹⁷⁴ Judgment of the Constitutional Court of 7 December 2022, *No. Pl. ÚS 20/21*.

¹⁷⁵ The Constitutional Court struck down a part of the law regarding the determination of damages provided for measures related to the COVID-19 pandemic. For further information see also Contribution from the Conference of European Constitutional Courts for the 2022 Rule of Law Report, p. 14.

¹⁷⁶ The draft was subject to obstructions in the Chamber of Deputies and rejected by the Senate. The Chamber of Deputies then overruled the Senate’s rejection. Senators criticised among others the fact that the Chamber of Deputies adopted the Act in a state of legislative emergency. Speech of Senator Holasek, rapporteur of the Opinion of the Constitutional Committee of the Senate, during the discussion in the Senate of 10 February 2022.

¹⁷⁷ Act No. 39/2022, amending Act No. 94/2021. The Amendment was challenged before the Constitutional Court by a group of Members of the Parliament, the proceedings are pending.

¹⁷⁸ Sec. 2 of Act No. 94/2021 on extraordinary measures during the COVID-19 disease.

¹⁷⁹ The state of pandemic emergency is declared and recalled by the Chamber of Deputies on proposal of the Government or 1/5 of the Members of the Chamber of Deputies. Sec 1(3) of Act No. 94/2021.

¹⁸⁰ Depending on the authority which adopted them, the measures can be reviewed by the Supreme Administrative Court or an administrative court. The proceedings can continue even after the measure in question has been changed or cancelled. Sec. 13 of the Act No. 94/2021; Input from Czechia for the 2022 Rule of Law Report, p. 28.

¹⁸¹ Information received from the Ministry of Health.

¹⁸² Input from Czechia for the 2022 Rule of Law Report, p. 28.

¹⁸³ Input from Czechia for the 2022 Rule of Law Report, p. 29.

¹⁸⁴ Input from Czechia for the 2022 Rule of Law Report, p. 28 - 32.

and pointed to issues of competency. It also concluded that judgments of the Supreme Administrative Court were not always respected¹⁸⁵.

The projects ‘eCollection’ and ‘eLegislation’, which have suffered from delays, are ongoing. The projects aim to set up portals, which would enable easier control and participation in the legislative process¹⁸⁶. As already reported in the 2021 Rule of Law Report¹⁸⁷, they were delayed due to the state of emergency and to the impact of restrictions related to the COVID-19 pandemic but continue. When operational, they will increase the transparency of the legislative drafting and amendment process, make it fully digitalised and make accessible both the consolidated and amended versions of promulgated legislation and other related documents to the public¹⁸⁸. The projects are expected to be fully operational from 1 January 2024.

No steps have been made towards acting on recommendations for the establishment of a National Human Rights Institution (NHRI) compliant with the Paris principles. As already reported in the 2020 Rule of Law Report¹⁸⁹, despite recommendations from the UN Universal Periodic Review (UPR)¹⁹⁰, Czechia has not yet established a national human rights institution (NHRI) in line with the Paris Principles. There are no specific plans in this regard by the Government¹⁹¹. The Public Defender of Rights (Ombudsperson) performs some of the duties of a NHRI¹⁹². However, it does not have the broad mandate to promote and protect human rights as required by the Paris Principles¹⁹³. Stakeholders reiterated¹⁹⁴ concerns over statements and conduct of the current Public Defender of Rights, in particular regarding Roma or LGBTIQ people¹⁹⁵. The draft law on the Defender of Children’s Rights, mentioned in the 2021 Rule of Law Report¹⁹⁶, was not adopted in time before the end of the legislative period in autumn 2021. The Government has no current plans to submit a new proposal¹⁹⁷.

Work is ongoing to enhance the participation of civil society in policy-making processes. Stakeholders reported that professional and business organisations are regularly consulted in the decision-making process¹⁹⁸, while involvement of civil society organisations (CSOs) is

¹⁸⁵ Written contribution from the Ministry of Health in the context of the country visit.

¹⁸⁶ 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.

¹⁸⁷ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 15.

¹⁸⁸ Input from Czechia for the 2022 Rule of Law Report, p. 24 and information provided in the context of the country visit to Czechia from the Ministry of Interior.

¹⁸⁹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 13.

¹⁹⁰ Recommendations received in November 2017 and adopted by the Human Rights Council in March 2018.

¹⁹¹ Information provided in the context of the country visit to Czechia from the Office of the Government.

¹⁹² Contribution from the European Network of National Human Rights Institutions for the 2022 Rule of Law Report, p. 187 ;Contribution from proFem – Center for Victims of Domestic and Sexual Violence for the 2022 Rule of Law Report, p. 18.

¹⁹³ Principles relating to the Status of National Institutions.

¹⁹⁴ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 16.

¹⁹⁵ Contribution from the European Civic Forum for the 2022 Rule of Law Report, p. 20; Contribution from the Network for Protection of Democracy for the 2022 Rule of Law Report, p. 18; Contribution from ILGA-Europe for the 2022 Rule of Law Report, p. 8; Contribution from Glropolis for the 2022 Rule of Law Report, pp. 25-26, 29.

¹⁹⁶ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Czechia, p. 15.

¹⁹⁷ Information provided in the context of the country visit to Czechia from the Office of the Government.

¹⁹⁸ Information received in the context of the country visit to Czechia from the Czech Union of Judges, the Supreme Court, the Supreme Administrative Court, Czech Union of Public Prosecutors and the Bar Association.

much less systematic¹⁹⁹. The Strategy for Cooperation between Public Administration and NGOs from July 2021²⁰⁰ contains concrete measures to support effective partnership and cooperation between public administration and the non-profit sector. A public consultation was organised in January 2022 on a draft methodology for the participation of civil society representatives in advisory and working bodies of the government and in the development of state administration documents. The main goal of the methodology is to contribute to the effective use of participatory processes within advisory and working bodies and in the development of public policies, strategic materials, legislative and other non-legislative materials by individual ministries and other central administrative authorities. Following the approval of the finalized methodology by the Government Council of NGOs, selected ministries will carry out its validation until the end of 2024²⁰¹.

Concerns have been expressed regarding obstacles to accessing public funding by civil society organisations. While the general regulatory framework for freedom of association, expression and assembly is set-out and implemented fairly²⁰², the space for civil society has been downgraded from open to narrowed over concerns over declining media independence²⁰³. Certain stakeholders report obstacles in access to public funding for certain types of CSOs, in particular those engaged in environmental, rule of law, LGBTIQ or asylum-related issues and advocacy. They consider that there is a high administrative burden which creates further obstacles to access public funding, and that the termination of a tax exemption for entities carrying out public benefit activities also limits funding²⁰⁴. Negative public discourse, targeting in particular CSOs raising awareness of developments linked to conflict of interest and corruption, or LGBTIQ activists, has also been reported²⁰⁵.

¹⁹⁹ Contribution from the European Civic Forum for the 2022 Rule of Law Report, p. 22; Contribution from Glopolis for the 2022 Rule of Law Report, p. 24.

²⁰⁰ Czech Government (2021), Strategy of cooperation of public administration with non-governmental non-profit organizations for the years 2021 to 2030, July 2021.

²⁰¹ Input from Czechia for the 2022 Rule of Law Report, p. 40.

²⁰² Contribution from European Civic Forum for the 2022 Rule of Law Report, p. 21.

²⁰³ Rating given by CIVICUS. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

²⁰⁴ Contribution from the European Civic Forum for the 2022 Rule of Law Report, pp. 21-22; Contribution from Glopolis for the 2022 Rule of Law Report, p. 28; Contribution from the Organisation for Aid to Refugees for the 2022 Rule of Law Report, p. 20; Contribution from proFem – Center for Victims of Domestic and Sexual Violence for the 2022 Rule of Law Report, p. 19.

²⁰⁵ Contribution from Glopolis for the 2022 Rule of Law Report, p. 28; Contribution from Síť na ochranu demokracie for the 2022 Rule of Law Report, p. 20; Contribution from European Civic Forum for the 2022 Rule of Law Report, p. 6; Contribution from ILGA-Europe for the 2022 Rule of Law Report, p. 9.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2022 Rule of Law report can be found at https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en.

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Annex II: Country visit to Czechia

The Commission services held virtual meetings in March 2022 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
- Article 19
- Civil Liberties Union for Europe
- Civil Society Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Human Rights Watch
- ILGA Europe
- International Federation for Human Rights (FIDH)
- International Press Institute
- Open Society European Policy Institute (OSEPI)
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- Transparency International Europe