

Overall Score:

74 - Moderate

Legal Framework Score:

84 - Strong

Actual Implementation Score:

64 - Weak

Category 1. Non-Governmental Organizations, Public Information and Media

1.1. ⁸⁵Anti-Corruption Non-Governmental Organizations

1. Are anti-corruption/good governance NGOs legally protected?

67

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

No

Comments:

From the law's point of view, there are various forms of NGOs (foundation, generally beneficial companies, and civil associations). The church and sects belong to the NGO classification, but they are not relevant for this assessment. A new proposal of Civil Code concerning NGOs is in process. According to this proposal, the NGO would not be defined by a legal status, but as the public benefit (public utilities organizations).

References:

Act No. 83/1990, Zákon o sdružování občanů (Law on Association of Citizens).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb019-90.pdf>

Act No. 248/1995, Zákon o občanských prospěšných společnostech (Law on benevolent societies).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb65-95.pdf>

Act No. 227/1997, Zákon o nadacích a nadacích fonděch (Law on Foundations and Endowment Funds).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1997/sb080-97.pdf>

Yes: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

No: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

Comments:

Several NGOs follow their ethical and fundraising codes.

References:

Transparency International – Czech Republic: Etický kodex pracovníku kanceláře, členu Správní rady a Dozorcí rady (Ethical code for the staff, management board and supervisory board). Last modified January, 2008. Available at: http://www.transparency.cz/pdf/eticky_kodex.pdf (see part D 1-7)

Oziveni – NGO: Etický kodex pracovníku a členu občanského sdružení (Ethical code for the staff and members of the NGO). Last modified December, 2010. Available at: <http://www.bezkorupce.cz/wp-content/uploads/2009/12/eticky-kodex-oziveni.pdf>

The sources of NGO funding are chosen in order to not interfere with the goals and mission of anti-corruption and good-governance NGOs. This includes funding from any foreign or domestic sources.

Yes: A YES score is earned if anti-corruption/good governance NGOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

No: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

Comments:

The annual reports are in many cases not sufficiently completed. No regulation about disclosure of their sources of funding exists. Generally beneficial companies publish their annual reports online.

<http://www.justice.cz/xqw/xervlet/insl/index?sysinf.@typ=or&sysinf.@strana=searchSubject>

By “beneficial companies” I mean beneficial organizations. These organizations include: civil organizations [občanská sdružení], public interest organizations [obecně prospěšné organizace], charities [církve] and associations [asociace].

Public beneficiary organizations and foundations are obliged to disclose their sources of funding to public.

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | **50** | 25 | 0

Comments:

Transparency International – Czech Republic is the most important NGO in the Czech Republic. It was successful with passing a conflict-of-interest act (2006), but it was unsuccessful with passing a lobbying law (2009-2010). There are about seven NGOs (<http://www.mvcr.cz/clanek/organizace-a-institute.aspx?q=Y2hudW09Mg%3d%3d>) handling anti-corruption matters, but they haven't been really successful.

References:

Müller, Karel: "Nevládní neziskové organizace – hrozba či požehnání? (Non-governmental organizations – a threat or blessing?)". Politologická revue 2007, Vol. 14, No.2., pp. 155-168.

Ministry of Interior. "Vyjádření Ministerstva vnitra ke stanovisku Transparency International (Statement of the Ministry of Interior on the opinion of Transparency International),"last modified June 18, 2010.

<http://www.mvcr.cz/clanek/vyjadreni-ministerstva-vnitra-ke-stanovisku-transparency-international-ti-935586.aspx>

100: Non-governmental organizations focused on anti-corruption or good governance are an essential component of the political process. NGOs provide widely valued insights and have political power. Those NGOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes | No

Comments:

No database of canceled NGOs exists. There is no other media coverage available. The NGOs can face existential problems when being involved in a court trial.

References:

Press release of NGO "Ruzovy Panter" on the matter. Lawsuit of Tomáš Paclík vs. Růžový Panter, September 3, 2007. Available at: http://www.ruzovypanter.cz/file/Tiskove_prohlaseni_k_TK_NPO_Ruzovy_panter_3_9_07.doc

Yes: A YES score is earned if there were no NGOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

No: A NO score is earned if any NGO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

No

Comments:

David Ondracka has graduated from the political economics school of the Central European University in Budapest after he passed studies in international relations at Palacky University and political science at Charles University in Prague.

He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Radim Bures has studied philosophy and political economics at the Philosophy Department at Charles University in Prague and graduated from Oxford University. He taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since the mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Ministry of Interior.

Bures worked on the human-rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in the short-term training in the US and Great Britain. Between 2000 and 2005, he participated in the UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

References:

No evidence on this matter exists.

Yes: A YES score is earned if there were no NGO activists imprisoned because of their work covering corruption. YES is a positive score.

No: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes

No

References:

David Ondracka has graduated from the political economics school of the Central European University in Budapest after he passed studies in international relations at Palacky University and political science at Charles University in Prague.

He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Yes: A YES score is earned if there were no documented cases of NGO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

No: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes

No

References:

David Ondracka graduated from the political economics school of the Central European University in Budapest after he passed studies in international relations at Palacky University and political science at Charles University in Prague.

He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Yes: A YES score is earned if there were no documented cases of NGO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

No: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

04a. In law, citizens have a right to organize into trade unions.

Yes

No

References:

Act No. 83/1990, Zakon o sdruzovani obcanu (Law on Association of Citizens).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb019-90.pdf>

Act No. 489/1990, Umluva o svobode sdruzovani a ochrane prava odborove se organizovat (Freedom of Association and Protection of the Right to Organize).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb081-90.pdf>

Act No. 470/1990 Umluva o provadeni zasad prava organizovat se a kolektivne vyjednavat [Convention on the Right to Organise and Collective Bargaining]<http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb078-90.pdf>

Yes: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

No: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

04b. In practice, citizens are able to organize into trade unions.

100

75

50

25

0

Comments:

The institution of tripartite negotiations exists.

CMKOS is the strongest and largest trade union confederation in the Czech Republic and is a permanent member of the Council of Economic and Social Agreement. Within it, there are 35 trade unions, bringing together employees by their sector of the economy. These members then form trade unions, which operate with individual employers (basic trade union organizations), or working at the regional level, such as bringing together unions from more employers in the region.

The objective of the unions is to conclude collective agreements, which regulate particular working conditions and wages of all employees (including non-organized trade union) with the employer.

References:

Cesky rozhlas. "Tripartita bude jednat o státním rozpočtu (Tripartite will discuss the state budget," Last modified September 14, 2010.

<http://www.rozhlas.cz/zpravy/politika/zprava/783183>

CMKS. Last modified N/A.

<http://ww2.cmkos.cz/doodboru.php>

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

1.2. Media's Ability to Report on Corruption

5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes

No

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 17.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

No: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

05b. In law, freedom of speech is guaranteed.

Yes

No

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 17.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

No: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

100

06a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

Practice follows the law – the print media only have to announce the start of publication, Act No. 46/2000, Article 7.

In the last year, the government introduced programs of budgetary responsibility. In the bundle of measures suggested, the print media should be burdened by a 20% VAT (value added tax) instead of the current 10%. The conflict was whether the print media are common goods or cultural goods. The VAT for print media stays at 10%.

In addition, an indirect barrier that could be mentioned are the cuts of the subsidies for minority print media (as a result of general cuts in subsidies). This could be problematic or even cause for liquidating many minority newspapers.

References:

Jan Jirak, Ph.D., is a professor at Charles University in Prague at the Department of Media Studies. He authored the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies.

Interview was given in Prague, November 26, 2010.

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

Comments:

Obtaining a license is only an announcing procedure, so no appeal mechanism is ever needed. The Ministry only could ask applicants to complete information.

References:

Act No. 46/2000, Zákon o právech a povinnostech při vydávání periodického tisku a o změně některých dalších zákonů (tiskový zákon (Print Media Law).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb017-00.pdf>

Act No. 37/1995, Zákon o neperiodických publikacích (The law on non-periodical publications).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb08-95.pdf>

Yes: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

No: A NO score is earned if there is no appeal process for print media licenses.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Practice follows the law; citizens only register the print media.

References:

Jan Jirak, Ph.D. is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies.

Interview was given in Prague, November 26, 2010.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Practice follows the law – in order to obtain a license, citizens are required to write a letter of application by mail (via post office).

References:

Jan Jirak, Ph.D. is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

69

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

Broadcasting is moving toward a digitalized form. Due to that, the broadcast bandwidth will widen. The process shifts towards the announcement requirement, rather than a strict bureaucratic license-obtaining procedure as before.

On the other hand, the law is somewhat problematic, and the Board for Broadcasting can change the conditions for the applicants. In addition, members of Parliament could be influenced by lobbyist groups when passing the law (especially the advertising law). This could have an indirect influence on private and public media.

The digital media relaxed the strictness of the license procedure when the wavelength for DVB-T broadcasting was broaden. Moreover, the state could influence and change the digital space for each station.

References:

Jan Jirak, Ph.D. is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes

No

References:

Rada pro rozhlasove a televizni vysilani (Council for Radio and TV Broadcasting).

Act No. 231/2001, Zakon o provozovani rozhlasoveho a televizniho vysilani a o zmene dalsich zakonu (Law on Radio and Television Broadcasting).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2001/sb087-01.pdf>

Yes: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

No: A NO score is earned if there is no appeal process for broadcast media licenses.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100

75

50

25

0

Comments:

Practice follows the law. The license can be obtained in within two to three months.

A condition of the law is that after the license is granted, the operator has to start within one year. That's why, before the license process starts, there is an agreement on the broadcasting starting day. In some cases the process could take more than three months because the applicants take time and do not hurry.

References:

Jan Jirak, Ph.D. is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

CZK 50 thousand (US\$3,000) for ten years.

References:

Jan Jirak, Ph.D. is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

No restriction or law handling this matter has existed until 2010. In April 2010, we had to adopt Directive 2007/65/EC by the European Parliament and of the European Council on December 11, 2007. This directive is handling Internet broadcasting.

References:

Polesny, David. "Internetová videa v ČR budou od června regulována, (From June, the internet video will be controlled in the Czech Republic)." Last modified May 28, 2010. Available at: <http://www.zive.cz/clanky/internetova-videa-v-cr-budou-od-cervna-regulovana/sc-3-a-152477/default.aspx>

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

08b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

Comments:

There are no limits other than those defined in the law (child pornography, xenophobia, etc.).

References:

Jan Jirak, Ph.D., is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored a of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

75

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

No

References:

Act No. 106/1999, Zákon o svobodném přístupu k informacím (The Law on Free Access to Information).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 17.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

No: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100

75

50

25

0

Comments:

There are often questions about connections of the journalists to the political parties or some politicians. The politicians frequently use the courts as a mechanism to intimidate a particular media (not only a journalist).

References:

Jan Jirak, Ph.D., is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored a of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

Weston Stacey, MBA, has been an executive director of the American Chamber of Commerce in the Czech Republic since 1996. He earned his MBA at the Thunderbird School of Global Management during 2005 to 2006 and has studied English literature, English and history between 1984-1988 at Sewanee, the University of the South. He has many years of experience as a journalist.

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

There are several pressures – especially the threats of the court accusations. During the last year, no article was published concerning government restraint on publishing corruption-related stories. Czech media are adequately independent and willing to provide as much information as possible on any corruption-related issue.

Politicians, however, tend to sue newspapers, magazines, etc. when they feel that their rights of dignity, honor, privacy, etc. have been challenged (last year's case of the ex-premier's wife did not concern corruption-related issues). The court costs in the event of defeat could liquidate a small publication.

References:

Weston Stacey, MBA, has been an executive director of the American Chamber of Commerce in the Czech Republic since 1996. He earned his MBA at the Thunderbird School of Global Management during 2005 to 2006 and has studied English literature, English and history between 1984-1988 at Sewanee, the University of the South. He has many years of experience as a journalist.

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

85

10a. In law, print media companies are required to publicly disclose their ownership.

Yes | No

References:

Act No. 46/2000, Zakon o pravech a povinnostech pri vydavani periodickeho tisku a o zmene nekterych dalsich zakonu (tiskovy zakon) (Print Media Law), Article 7, 2-e.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb017-00.pdf>

Yes: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

No: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

Yes | No

References:

Act No. 231/2001, Zakon o provozovani rozhlasoveho a televizniho vysilani a o zmene dalsich zakonu (Law on Radio and Television Broadcasting), Article 3.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2001/sb087-01.pdf>

Yes: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

No: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

Journalist should, in practice, follow an ethical code available at: <http://syndikat-novinaru.cz/1/5/36/etika/eticky-kodex>.

However, there are no doubts about political connections with some printed media/journalists. Some media are clearly connected to particular political parties, but, in general, the Czech media favor right-wing, liberal political parties.

References:

Media server aktualne.cz: "Media jsou pravocova a skodi, shodli se Paroubek a Fico (Media are Right-wing and Damaging, Agreed Paroubek and Fico)," last modified December, 2009. Available at: <http://aktualne.centrum.cz/zahranici/evropa/clanek.phtml?id=655083>

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Conference speech at University of Economics, Prague, "Lobbying in Modern Democracies, " November 3, 2010.

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to "sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | **50** | 25 | 0

Comments:

The main political candidates and parties have obtained more space in the most watched TV political discussions. Moreover, the broadcasting time that the public media are obliged to grant to every political party running in the election is equal for every party, but the main candidates are usually presented when the majority of people watch TV (evening).

References:

Jan Jirak, Ph.D., is a professor at Charles University in Prague at the Department of Media Studies. He authored of the concept of media education for elementary and high schools and co-authored a of number of publications dealing with media studies. Interview was given in Prague, November 26, 2010.

Weston Stacey, MBA, has been an executive director of the American Chamber of Commerce in the Czech Republic since 1996. He earned his MBA at the Thunderbird School of Global Management during 2005 to 2006 and has studied English literature, English and history between 1984-1988 at Sewanee, the University of the South. He has many years of experience as a journalist.

Conference speech at University of Economics, Prague, "Lobbying in Modern Democracies, " November 3, 2010.

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

The practice follows the law (Act No. 247/1995, Article 16, Part 4). The last elections to the Chamber of Deputies in the Czech Republic were on May 28 and 29. In total, Czech television gives 14 hours of free broadcasting to all parties. The Czech radio is also required to provide free air time for 14 hours. The order of the parties' presentation was chosen by lot.

There are some exceptions: There was a case when only the leading political parties were invited to the political discussion (the program "Questions of Vaclav Moravec"), but this broadcasting time prescribed by the law cannot apply to Czech television and Czech radio that goes beyond the "legal" time (see the Resolution of the Constitutional Court).

References:

TN CZ, "Strany zahájily kampaň ve veřejnoprávních médiích (The Parties have Launched a Campaign in the Public Media)," last modified on May 13, 2010. <http://tn.nova.cz/zpravy/domaci/start-oficialni-predvolebni-kampe-verejnopravni-media-vysilaji-spoty.html>

Resolution of the Constitutional Court from May 10, 2010. <http://kraken.slv.cz/Pl.ÚS70/06>

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

Yes | No

Comments:

According to the last report of the Committee to Protect Journalists, there was no imprisoned journalist in the Czech Republic. Historical evidence of this committee shows the same result.

References:

Committee to Protect Journalists, last modified December 1, 2009. Available at: <http://www.cpj.org/imprisoned/2009.php>

Yes: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

No: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

Yes | No

Comments:

At regional media, there is some evidence of physical assault to journalists, but this is not true with the national media. The article above refers to these professionally motivated attacks:

1. Jan Rodling (28) in Chomutov (a town with about 50 thousand inhabitants) in September 2010. While writing about issues concerning the town hall representatives, someone punctured tires on his vehicle and came to his apartment and physically attacked and threatened him.
2. Frantisek Rynes in Trebic, a few years ago. He repeatedly mentioned the strange sales of the land in the town's ownership. They beat him and threw him into the river. Later, someone repeatedly threw stones at his windows.
3. Tomas Nemecek, six years ago. Two thugs attacked a former editor of the Respekt in front of his house. It was at a time when the Respekt wrote about a gang of extortionists in the Most area.

References:

Lauder, Silvie, "Prestan blbe psat (Stop Silly Writing)," Respekt. 2010, No.40., pp. 18-20.

Yes: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

No: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes

No

Comments:

According to the Committee to Protect Journalists, there is no historical or recent evidence of such cases.

References:

Committee to Protect Journalists, last modified December 1, 2009. <http://www.cpj.org/killed/>

Yes: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

No: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

85

1.3. Public Requests for Government Information

12. Do citizens have a legal right to request information?

100

12a. In law, citizens have a right to request government information and basic government records.

Yes

No

Comments:

The law says that all information must be public, except business secrets or confidential information endangering national security. Neither is personal information disclosed. It is not possible to label any document as a state or business secret; subject to confidentiality are only a small number of documents. The public can request any information that authorities have or will have. No matter how the information looks or how it is published (on paper, in electronic form, written or audio, etc.).

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 17.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 106/1999, O svobodnem pristupu k informacim (Act on Free Access to Information).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if there is a formal right to request government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

No: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if a request for a basic government record is denied.

Yes | No

Comments:

Within 15 days after receipt of a decision, the public could appeal to someone who has the information request rejected. The rejection of an appeal can be passed further to the court.

References:

Act No. 106/1999, O svobodnem pristupu k informacim (Free access to Information), Article 16.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

No: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Yes | No

Comments:

There is no special central body dealing with providing information. Each government office has to provide information by the mentioned law. Mostly there are some branches or people responsible for providing information (information centers, information offices).

References:

Act No. 106/1999, O svobodnem pristupu k informacim (Free Access to Information), Article 16.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

No: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right to information requests effective?

71

13a. In practice, citizens receive responses to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

<http://www.otevrete.cz/hodnoceni-uradu/soutez-otevreno-zavreno/cena-verejnosti-2010/hlasovani-zavreno-pristup-k-informacim1/>

For this year, among the nominated subjects are also the ministries, custom offices, municipal authorities (Prague, Usti nad Labem), Forests of the Czech Republic (state owned company), with several examples becoming evident when the institutions failed to fulfill the right to free access to information. For example, the municipal office in Prague had labeled all documents as “private” or “secret” because of the Open Card project.

References:

According to the law, institutions are obliged to respond to the information request within 30 days. Some institutions, in practice, take a shorter time to respond (within few days).

An initiative to monitor efficiency of the work of public offices exists: <http://www.otevrete.cz/en/>.

The program Right to Information and its Otevřete.cz (Open It) project support the accessibility to public administration. The aim of this project is to support people to exercise their right to information, ensure the required accessibility of public service and, at the same time, promote people’s ability to participate in the public decision-making process.

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the information request mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are several possible ways to obtain information, depending on the institution or information requested. Citizens can obtain the information by e-mail, post or a special office (e.g., municipal office or state capital) and make a photocopy.

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

13c. In practice, responses to information requests are of high quality.

100 | 75 | **50** | 25 | 0

Comments:

Depends on the offices (ministries, local offices) and persons met. There could be some obstructions made by the offices – e.g., their reply deals with different affairs than asked. Mostly, they are not willing to answer sensitive data.

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The institutions mostly follow the 15-day limit defined by law. However, exceptions exist. For example, the Otevřete NGO (Open It) mentions a case of the Ministry of Finance (its auditing organ). The ministry was not able to provide required information and labeled it as secret information without giving an appropriate statement of the reasons. The ministry was obstructing and was giving only three days to appeal.

Another source describes the D8 motorway case, when the regional office failed three times to provide information on the construction of the D8 motorway. The case was handled by the Supreme Administrative Court of the Czech Republic.

References:

Otevřete.cz (Open It) – NGO. Available at: <http://www.otevřete.cz/hodnoceni-uradu/soutez-otevřeno-zavřeno/cena-verejnosti-2010/hlasovani-zavřeno-pristup-k-informacim1/#11>

Občanská společnost (Civil Society) – NGO. Available at: <http://www.obcan.ecn.cz/index.shtml?apc=pj-1-132050&w=z&s=n&x=2122921>

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The appeals cost is small (only the mail or travel costs). When taking the case to court and in the case of a loss in court, citizens have to carry the trial costs, which are about 3,000 CZK, (\$US150).

References:

Annual Report of the Ministry of Interior, Czech Republic. Available at: <http://www.policie.cz/clanek/o-nas-povinne-zverejnovane-vyrocn-zprava-za-rok-2009.aspx>

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13f. In practice, the government gives reasons for denying an information request.

100 | 75 | **50** | 25 | 0

Comments:

The NGO Otevrete.cz monitors several examples, as when governmental institutions give a vague reason for denying an information request. For example, in the case of the Pedagogical Research Institute in Prague (granted by the Ministry of Education, Youth and Sports), the request was denied incorrectly. The decision of the director incorrectly argued that the research institute is not a public entity and it had to protect personal data (names of employees).

A NGO Obcanska spolecnost provides several examples of the insufficient/wrong reasons for denying the free access to information at its website (the second source above).

References:

Otevrete.cz (Opet it) – NGO. Available at: <http://www.otevrete.cz/hodnoceni-uradu/soutez-otevreno-zavreno/cena-verejnosti-2010/hlasovani-zavreno-pristup-k-informacim1/#29>

Obcanska spolecnost (Civil Society) – NGO. Taken from the annual report of Ekologicky pravni servis – NGO). Available at: <http://obcan.ecn.cz/text.shtml?x=135299>

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

2.1. ⁶⁸Voting and Party Formation

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

Yes

No

Comments:

Suffrage is universal and equal and shall be exercised by secret ballot.

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 21, Part 3.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

No: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes

No

Comments:

Elections must be held at intervals not exceeding the regular election period established by law. There are also other laws specifying election to the local, regional and European offices.

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 21, Part 2.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 247/1995, zakon o volbach do parlamentu CR (Act on Election to the Parliament of the Czech Republic).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb65-95.pdf>

Yes: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

No: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

100

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

This indicator is out of discussion. Voting is open to all citizens, including minorities, prisoners, disabled, etc. Exclusions only apply for the legally incapacitated citizens (by court decision). Basic age requirement is 18 years.

References:

Practice follows the law.

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

Everyone votes behind a curtain in full privacy, where he/she opens the envelope, makes a decision and votes. There is no evidence of breaking this practice.

References:

Review of Czech media.

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

All elections are held according to law per Act 247/1995, zakon o volbach do parlamentu CR (Election to the Parliament of the Czech Republic), Article 14, Part 1). If there are any pre-term elections, they are announced 90 days in advance (before the election day) by the president of the Czech Republic.

References:

(No comments.)

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

90

16a. In law, all citizens have a right to form political parties.

Yes | No

References:

Act 2/1993, Charter of Fundamental Rights and Freedoms, Article 20 and Article 21, Part 4.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act 424/1991, Zakon o sdruzovani v politickych stranach a politickych hnutich (Association in political Parties and Political Movements).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Yes: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

No: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

Yes

No

Comments:

To run for a political office (any citizen) in the Czech Republic the following legal age requirements apply:

To run for a political office in the Parliament of the Czech republic, a citizen has to be older than 21 year (Act No. 247/1995, Article 25).

To run for a political office in the Senate or to run for president of the Czech republic, a citizen has to be older than 40 years (Act No. 247/1995, Article 57).

According to Act No. 6/2002, Zakon o soudech a soudcich (Courts and Judges), the position of judge is incompatible with the office of president, member of Parliament or with another function in public administration.

References:

Act 1/1993, Constitution, Article 19, Part 1 and 2 and Article 57, Part 1.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act 2/1993, Charter of Fundamental Rights and Freedoms, Article 20 and Article 21, Part 4.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 424/1991, Zakon o zdruzovani v politickych stranach a politickych hnutich (Association in Political Parties and Political Movements).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Act 247/1995, Zakon o volbach do Parlamentu CR (Election to the Parliament of th Czech Republic], Article 25.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb65-95.pdf>

Yes: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

No: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

In the Czech Republic, citizens can freely register a political party. The only exceptions are cases where the statutes violate the fundamental rights and freedoms (as defined in the Charter of Rights and Freedoms), or openly violate other laws. Practice strictly follows the law.

Discussions are dealing with the ideological background of parties (for example neo-Nazism, xenophobia). The last case involved the Workers' Party (Delnicka strana), which was dissolved by the Supreme Administrative Court because some members and leaders "seek to invoke the racial, ethnic and social intolerance, and ultimately tend to the limitation of fundamental rights and freedoms of certain people of the Czech Republic ... Workers' Party sought to suppress the equality of citizens, particularly on key ethnic or sexual orientations. Furthermore, the Workers' Party follows the symbolism used by the German National Socialism, i.e., totalitarian ideology incompatible with democracy and human rights and fundamental freedom."

References:

Nejvyšší správní soud (Supreme Administrative Court). Media report, last modified February 17, 2010. Available at: http://www.nssoud.cz/main.aspx?cls=art&art_id=427

Verdict of the Supreme Administrative Court. Evidence Number Pst 1/2009-348, last modified February 17, 2010. Available at: <http://www.nssoud.cz/main.aspx?cls=anonymZneni&id=22047&mark=>

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

Barriers certainly exist, but they are not openly discussed. Choosing a selection of candidates on ballots is not transparent and the clear criteria for inclusion of candidates are not defined.

From a financial perspective, the candidates for the Chamber of Deputies are supported by a political party (which they are running for). Candidates for the Senate have to finance their campaign themselves, as well as the candidates at the local level. The costs of running the political campaign are significant and candidates for the Senate and the local governments might be dissuaded from running the political campaign.

There are several limits – e.g., the law defines certain financial guaranties that should be paid before running the campaign. Another barrier could be the amount of signatures needed for being nominated as an independent candidate.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Dr. Jana Reschová, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books.

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Opposition parties are represented and can influence the legislative process. Bill proposals are usually submitted by the government, but they may also be submitted by deputies, senators, etc. All voting records are publicly available on the Internet (see the first link). There are also dynamic voting models developed by professional groups (see the second link).

References:

Parliament of the Czech Republic, Chamber of Deputies. Available at: <http://www.psp.cz/sqw/hlasovani.sqw>

Hlasovani v parlamentu (Voting in Parliament)m, last modified November 11, 2010. Available at: <http://parlament.m-core.net/>

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

2.2. Election Integrity

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17a. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

Yes

No

Comments:

There is one electoral body in the sector of elections, which is the State Election Commission, with District Election Committees. They verify the election results and release the media reports.

References:

Statni volebni komise (State Election Commission) and Okresni volebni komise (District Election Committees).

Act No. 247/1995, Zakon o volbach do parlamentu CR (Election to the Parliament of the Czech Republic), Article 8 and Article 14e.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb65-95.pdf>

Act No. 130/2000 Zákon o volbách do zastupitelstev krajů a o změně některých zákonů [The law on elections to regional councils]

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb038-00.pdf>

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

No: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

70

18a. In law, the agency or set of agencies/entities is protected from political interference.

Yes

No

Comments:

The chairman of the State Election Commission is the Minister of Interior. The members and alternates of the State Election Commission are high-ranked state officials. The State Election Commission is independent. However, the clear political representation could be seen at the local level – in small constituencies the mayor chooses his own people to the local Election Commission.

References:

Act No. 130/2000, Zakon o volbach do zastupitelstev kraju a o zmene nekterych zakonu (Elections to Regional Councils).
<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb038-00.pdf>

Yes: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100

75

50

25

0

Comments:

The chairman of the State Election Commission is the Minister of Interior. The recent members of the State Election Commission also hold other governmental offices such as Director of General Administration, Vice President of the Czech Statistical Office, deputies of particular ministries (Ministry of Finance, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labor and Social Affairs, Ministry of Defense), and Deputy of the President's Office. The alternate members also have clear party loyalties. (The office of deputy is a political function in the Czech Republic – they are closely connected to the political parties.)

References:

Ministry of Interior of the Czech Republic. The State Election Commission, last modified November 4, 2011. Available at: <http://www.mvcr.cz/clanek/statni-volebni-komise.aspx>

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

An amendment of the Election Law from 2000 has established a State Election Commission Secretary at the Ministry of Interior, which employs professional full-time staff.

During the last parliamentary election, there were no incidents or violations (of ballot box, etc.) in any district according to the National Electoral Commission's report. "The election was provided by 100-110 thousands amateurs, so some minor shortcomings have appeared, but nothing that significant that could affect the election results," said the Director of General Administration of Ministry of the Interior, Vaclav Hanych.

References:

Act No. 130/2000, Zakon o volbach do zastupitelstev kraju a o zmene nekterych zakonu (Elections to Regional Councils). <http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb038-00.pdf>

Czech Television – CT 24. Statni volebni komise: Volby do Senatu probehly bez vetsich problemu (National Electoral Commission: Elections to the Senate Passed without Major Problems), last modified October 25, 2010. Available at: <http://www.ct24.cz/domaci/105267-statni-volebni-komise-volby-do-senatu-probehly-bez-vetsich-problemu/>

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

Comments:

Practice follows the law (Act No. 130/2000, Article 40) and the Czech State Election Commission acts on time (mostly on the third day after an election's end).

References:

Czech media server. Statni volebni komise vzala na vedomi vysledky senatniho finale (State Election Commission took note of the outcome of Senate finale), last modified October 25, 2010. Available at: <http://www.ceskamedia.cz/article.html?id=353940>

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

Under the law, the State Election Commission shall provide only the organizational and technical supervision for the elections and has no power to impose sanctions. In the case of any violation, the State Election Commission initiates the subsequent investigations. It can ensure only the remedy, not the punishment.

References:

Practice follows the law (Act No. 130/2000, Article 8, Part 2).

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

100

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

Registration is performed at the polling station, where the Electoral Commission has the list of voters of a particular district (obtained from the Ministry of Interior). Each voter must show valid ID during the registration. Also, a voter who resides outside of the Czech Republic may be entered on the special electoral roll kept abroad by the representative offices of the Czech Republic.

References:

Krajane.org. End of the voter registration on April 18. Last modified April 12, 2010. Available at: <http://www.krajane.org/en/ca/news/article/registrace-volicu-konci-18-dubna>

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and “ghost” voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

Yes

No

Comments:

Within a ten-day period, citizens can challenge the fairness of the elections at the district or county court.

References:

Act No. 130/2000, Zakon o volbach do zastupitelstev kraju a o zmene nekterych zakonu (Elections to Regional Councils), Article 86-88.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb038-00.pdf>

Yes: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

No: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100

75

50

25

0

Comments:

During the last parliamentary elections, the court received 45 complaints on the electoral process. The objections were related to: insufficient number of electoral commission members in the room during the election, the so-called election tourism (the intentional change of residence of around 60 people to a small village in order to vote for a single candidate), and buying electoral votes.

References:

Media server iDnes. Soud prijal 45 stiznosti na prubeh voleb. Vadila agresivni kampan i media (The trial received 45 complaints about the electoral process. Annoyed and aggressive media campaign), last modified June 10, 2010. http://zpravy.idnes.cz/soud-prijal-45-stiznosti-na-prubeh-voleb-vadila-agresivni-kampan-i-media-1mv-/domaci.asp?c=A100611_103243_domaci_klu

Media server Denik.cz. U soudu je dalsi stiznost na prubeh voleb [A next complaint about the electoral process is in the court]. Last modified October 22, 2010. Available at: <http://www.denik.cz/regiony/u-soudu-je-dalsi-stiznost-na-prubeh-voleb20101022.html>

Media server Denik.cz. Soud bude resit udajne neregulerni prubeh voleb v Hrensku [The court will deal with alleged irregular conduct of elections in Hrensko]. Last modified October 21, 2010. Available at: <http://www.denik.cz/regiony/soud-bude-resit-udajne-neregulerni20101021.html>

Media server Denik.cz. Na Ustecku chtel nekdo ovlivnit vysledky voleb [Someone wanted to influence election results in the Usti region]. Last modified October 18, 2010. Available at: <http://www.denik.cz/regiony/na-ustecku-chtel-nekdo-ovlivnit-vysledky-voleb.html>

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

No such evidence in the election of 2010.

References:

Review of Czech media reports.

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

Yes | No

Comments:

This issue is not restricted by law. The permission could be awarded by the State Election Commission.

References:

Act No. 130/2000, Zakon o volbach do zastupitelstev kraju a o zmene nekterych zakonu (Elections to Regional Councils), Article 23.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb038-00.pdf>

Yes: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

No: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books.

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

90 2.3. Political Financing Transparency

20. Are there regulations governing the financing of political parties?

33

20a. In law, there are limits on individual donations to political parties.

Yes

No

Comments:

There are no such limits.

References:

Act No. 1/1993, Constitution, Article 5 and Article 9.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 20, Article 21, and Article 22.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 247/1995 Zakon o volbach do parlamentu CR [Act on election to the Parliament of the Czech Republic]<http://aplikace.mvcr.cz/archiv2008/sbirka/>

Act No. 424/1991 Zakon o sdruzovani v politickych stranach a politickych hnutich [The law on association in political parties and political movements]<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Act No. 90/1995 Zakon o jednacim radu Poslanecke snemovny [The law on the Rules of Procedure of the Chamber of Deputies]<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>

Yes: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

No: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | **No**

Comments:

There are no such limits.

References:

Act No. 1/1993, Constitution, Article 5 and Article 9.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 20, Article 21, and Article 22.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 247/1995, Zakon o volbach do parlamentu CR (Election to the Parliament of the Czech Republic).

<http://aplikace.mvcr.cz/archiv2008/sbirka/>

Act No. 424/1991, Zakon o sdruzovani v politickych stranach a politickych hnutich (Association in Political Parties and Political Movements).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Act No. 90/1995, Zakon o jednacim radu Poslanecke snemovny (Rules of Procedure of the Chamber of Deputies).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>

Yes: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

No: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on total political party expenditures.

Yes | **No**

References:

Act No. 1/1993, Constitution, Article 5 and Article 9.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 20, Article 21, and Article 22.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 247/1995 Zakon o volbach do parlamentu CR (Election to the Parliament of the Czech Republic).

<http://aplikace.mvcr.cz/archiv2008/sbirka/>

Act No. 424/1991, Zakon o sdruzovani v politickych stranach a politickych hnutich (Association in Political Parties and Political Movements).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Act No. 90/1995, Zakon o jednacim radu Poslanecke snemovny (Rules of Procedure of the Chamber of Deputies).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>

Yes: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

No: A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes | No

Comments:

All donations and member contributions to the political party which exceed 50 thousand CZK (approximately US\$2800) have to be disclosed in the party's annual report.

References:

Act No. 340/2000, Article 17a, Part 1 – this law has amended Act No. 424/1991.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb092-00.pdf>

Yes: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

Yes | No

Comments:

The governmental notices above determine the auditing requirements for the various subjects. Political parties are not included in these governmental notices. Political parties are, however, required to submit, by April 1, an annual financial report to the Chamber of Deputies, which includes auditor's reports on the financial statement, without reserve.

References:

Governmental Notice No. 500-504/2002, O ucetnictvi (On accounting).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb174-02.pdf>

Governmental Notice No. 410/2009, O ucetnictvi (On accounting).

<http://www.mvcr.cz/soubor/sb133-09-pdf.aspx>

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

Comments:

At the latest, by April 1st, political parties have to submit the annual financial reports to the Chamber of Deputies.

References:

“Poslanecka snemovna (Chamber of Deputies).”

Act No. 424/1991, Zakon o sdruzovani v politickych stranach a politickych hnutich (Associations in Political Parties and Political Movements) – in the text of later amendments, Article 18.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb081-91.pdf>

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

21. Are there regulations governing the financing of individual political candidates?

0

21a. In law, there are limits on individual donations to political candidates.

Yes | No

Comments:

The law doesn't restrict individual donations to political candidates.

References:

N/A

Yes: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

No: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21b. In law, there are limits on corporate donations to individual political candidates.

Yes | **No**

Comments:

The law doesn't restrict corporate donations to political candidates.

References:

N/A

Yes: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

No: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are requirements for the disclosure of donations to individual political candidates.

Yes | **No**

Comments:

Is not specified by law.

References:

N/A

Yes: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

Yes | **No**

Comments:

Is not specified by law. The only regulation in this matter is that the candidate has to disclose all contributions and gifts from third parties in his/her tax declaration. The tax declaration is not a public document, so it is not audited and publicly available (interview with Ing. Marie Kucerova).

References:

Ing. Marie Kucerova is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

Yes | **No**

Comments:

Is not specified by law. The only office that could monitor campaign contributions, is the tax office. It could assess whether a tax declaration is correctly filled in.

References:

N/A

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

22. Are the regulations governing the political financing of parties effective?

0

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Many large financial donations to political parties take the form of acknowledgment for services rendered, or a future service expected (from political parties). Very often these large donations are made by well-known entrepreneurs or athletes. The media reports above also describe the following case:

One of the leaders of the Political Party TOP 09 – Mr Kalousek – refused to admit financial gifts from Mr. Bakala – a famous Czech entrepreneur. However, Mr. Bakala confirmed that he has supported the TOP 09 by CZK 7.5 million (approximately US\$417,000).

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the Chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

Media server aktualne.cz: Kdo sponzoruje ceske politiky? Jagr, Berdych i Zelezny (Who Sponsors Czech Politics? Jagr, Berdych and Zelezny), last modified April 3, 2010. Available at: <http://aktualne.centrum.cz/domaci/volby/clanek.phtml?id=665023>

Media server Novinky.Cz: Paroubkuv spoluzak sponzoruje CSSD, Berdych ci Jagr zase ODS. (Paroubek's classmate sponsor Social Democrats, Berdych and Jagr ODS). Last modified April 3, 2010. Available at: <http://www.novinky.cz/domaci/196637-paroubkuv-spoluzak-sponzoruje-cssd-berdych-ci-jagr-zase-ods.html>

Parlamentni listy: Dilema v TOP 09. Zapreny dar, nebo spatna prognoza. (The Dilemma in the TOP 09 Props Gift, or a Poor Prognosis). Last modified September 26, 2010. Available at: <http://www.parlamentnilisty.cz/arena/176478.aspx>

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Some companies that wish to receive (or have already obtained) public procurement very often sponsor the political parties. There is a high degree of non-transparency.

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

Transparency International: Kvalita a integrita verejnych zakazek (Quality and Integrity of Public Ordering). Prague 2009. Available at: http://www.transparency.cz/pdf/olafII_vz_skripta.pdf

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

Limits on total party expenditures don't exist, but an initiative has risen from the political parties:

The parties above have introduced eight different proposals on how to make financing of political parties more transparent. One of these proposals includes setting a threshold of cost (ceiling) on the election campaign, depending on the type of election.

The CSSD has proposed to set the limit at CZK 100 million for the parliamentary election (approximately US\$6,000,000). The biggest political parties spent double that amount (CZK 200 millions) in the last parliamentary election in 2010.

References:

Strana zelenych [The green party]: Press release. Last modified May 10, 2010. Available at: <http://www.zeleni.cz/media/tiskove-zpravy/tezistem-korupce-je-nepruhledne-financovani-politickych-stran/>

CSSD (The Czech Social Democratic Party): Navrh na stanoveni maximalnich vydaju politickych stran (Proposal to Set Maximum Expenditures of Political parties). Last modified October 11, 2010. Available at: <http://www.cssd.cz/inews/video/navrh-na-stanoveni-maximalnich-vydaju-politickych-stran>

Media server iHned: Zavedme limit na predvolebni kampan ve vysi 100 mil Kc (Let's Introduce the Election Campaign Limit at 100 mil CZK). Last modified June 3, 2010. Available at: <http://volby.ihned.cz/c1-44061770-cssd-zavedme-limit-na-predvolebni-kampan-ve-vysi-100-milionu>

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The only body that could monitor political-party financing is the Parliamentary Monitoring Committee. It could monitor only finance in general, not the campaign financing. This body does not investigate, however.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Any penalties that could be imposed would be by the Ministry of Interior that is dealing with the registers of political parties. No penalties were ever imposed.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

The annual financial reports are audited. However, the audit is only a balance sheet, income statement, assets overview and accounting methods used. The campaign contributions, as well as other details of accounting, are not audited.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

TOP09: Vyroční finanční zpráva politické strany za rok 2009 (Annual Financial Report of Political Parties for 2009). Last modified 2010. Available at <http://www.top09.cz/files/soubory/vyrocní-finanční-zpráva-top-09-za-rok-2009.pdf>

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the

University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

Limits are not specified by law so they do not apply in practice.

References:

N/A

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

Limits are not specified by law so they do not apply in practice.

References:

N/A

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The candidates have to disclose all contributions and gifts from third parties in their tax declaration. These are not publicly available. The tax office could initiate investigations only for inaccurate filling, suspicion of fraud, etc.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

According to the tax declaration, some penalties could be imposed for inaccurate filling, forgetting to disclose some income, etc. These penalties are mostly financial. In some serious cases, the agency can recommend criminal investigations. In most of the cases, the media reveal suspicions before the investigations take place.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

No special auditing of individual candidates' campaign finances exists. The individual candidates must, however, give a statutory declaration on the finances of their campaign.

References:

Ing. Mgr. Jan Nemeč is currently employed at the Parliamentary Institute (a body of the Chamber of Deputies handling the scientific, information and training tasks). At the same time, he teaches at the Political Science Department of the University of Economics, Prague.

Ing. Marie Kucerová is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

63

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The practice strictly follows the law (Act No. 424/1991, Article 18). The political parties are required to publish their financial reports once a year. Political parties are required to submit their annual financial report to the Chamber of Deputies by April, 1.

References:

Hospodarske Noviny. Informační povinnost účetních jednotek (Information Requirements on the Accounting Entities). Last modified November 18, 2010. Available at: <http://hn.ihned.cz/c1-48216810-informacni-povinnost-ucetnich-jednotek>

Cevro Deník. Hospodárení politických stran v roce 2009 (Political Parties' Finances in 2009]. Last modified 2010. Available at: www.cevro.cz/dwn/217408/219387_D_cs_14denik_2010_7.pdf

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Annual financial reports of political parties are public and can be obtained in the Office of the Chamber of Deputies. The citizens are allowed to make copies. The waiting time is not long, however, the citizens have to visit an office in order to get a copy of the annual financial reports.

Only two political parties in the Czech Republic have their latest annual reports available on-line (see above).

References:

Hospodarske Noviny. Informační povinnost účetních jednotek (Information Requirements on the Accounting Entities). Last modified November 18, 2010. Available at: <http://hn.ihned.cz/c1-48216810-informacni-povinnost-ucetnich-jednotek>

TOP 09. Výroční finanční zpráva (Annual Financial Report). Last modified 2010. Available at: <http://www.top09.cz/dokumenty/vyrocní-financni-zprava/>

Strana zelených. Vyroční finanční zpráva politické strany ... za rok 2009 (Annual Financial Report of Political Parties ... in 2009). Last modified 2010. Available at: <http://www.zeleni.cz/underwood/download/files/vyrocní-zprava-ppsp-2009.pdf>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

A visit to a special office (secretary of the Chamber of Deputies) in the national capital is required. Moreover, citizens can not make photocopies; they can only take notes.

References:

Jan Nemeč.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Information included is, in many cases, only very general and lacking some desirable specifications.

References:

Block.cz: Financování politických stran se zvláštním zretelem k reklamním kampaním (financing of political parties, with particular attention to advertising campaigns). Last modified August 6, 2009. Available at: http://www.bloc.cz/bloccz/art_236/financovani-politickyh-stran-se-zvlastnim-zretelem-k-reklamnim-kampanim.aspx

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no laws regulating the financing of individual candidates' campaigns. Only some of the individual candidates voluntarily disclose some of their financial reports (for example gifts, etc.), but the most of them do not.

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no laws regulating the financing of individual candidates' campaigns. Only some of the individual candidates voluntarily disclose some of their financial reports (for example gifts, etc.), but the most of them do not.

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no laws regulating the financing of individual candidates' campaigns. Only some of the individual candidates voluntarily disclose some of their financial reports (for example gifts, etc.), but most of them do not.

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

There are no laws regulating the financing of individual candidates' campaigns. Only some of the individual candidates voluntarily disclose some of their financial reports (for example gifts, etc.), but the most of them do not.

References:

Prof. Vladimira Dvorakova, CSc., is a Czech political scientist, the chief of the Czech Accreditation Committee for university programs and the head of the Political Science Department at the University of Economics, Prague. Interview was given in Prague, November 22, 2010.

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

3.1. ⁶²Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

26. In law, can citizens sue the government for infringement of their civil rights?

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes

No

References:

Act No. 1/1993, Constitution, Article 91.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act. No. 150/2002, Soudni rad spravni (Administrative Procedure Act).
http://www.nssoud.cz/zakony/150_2002.pdf

Act No. 151/2002, Zakon, kterym se neni nektere zakony v souvislosti s prijitim soudniho radu spravniho (changing certain accounting laws and adoption of the Administrative Procedure Act).
http://www.nssoud.cz/zakony/151_2002.pdf

Yes: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

No: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

27. Can the chief executive be held accountable for his/her actions?

100

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

The Chief Executive (Prime Minister) and cabinet ministers meet with the media right after every government meeting, meeting with unions, meeting with the president and so on and answer all questions at the press conferences. These conferences are recorded and are available online in the full version (in MP3 format). In October 2010, there were 12 press conferences. See link above.

References:

Government of the Czech Republic: Press Conference. Last modified November 11, 2010. Available at: <http://www.vlada.cz/scripts/detail.php?pgid=218>

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

Yes

No

Comments:

The Constitutional Court is responsible for constitutional reviews. The Supreme Administrative Court deals with jurisdiction disputes.

References:

Act No. 1/1993, Constitution, Article 87.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act. No. 150/2002, soudni rad spravni (Administrative Procedure Act).

http://www.nssoud.cz/zakony/150_2002.pdf

Act No. 131/2002, zakon o rozjodovani nekterych kompetencnich sporu (Act on deciding certain questions of jurisdiction).

http://www.nssoud.cz/zakony/131_2002.pdf

Yes: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

No: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100

75

50

25

0

Comments:

Approximately 95 percent of the constitutional complaints are rejected by the Constitutional Court. The most common reasons for rejection of the constitutional complaints are:

Ineligible applicant, lack of grounds of the proposal, proposal defects from the absence of legal representation, exceeding the period set by the Constitutional Court, and correcting proposal defects.

References:

Constitutional Court. Statistics 2009. Last modified 2010.

Available at <http://www.concourt.cz/clanek/GetFile?id=4073>

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

The government can issue only such executive orders that can specify affairs not precisely defined by the law (Act No. 1/1993, Constitution, Article 78). Several specifications are, in most cases, left to the government.

In some cases, the government can call for a so-called legislative emergency (Act No. 90/1995, Zakon o jednacim radu Poslanecke snemovny (Rules of Procedures of the Chamber of Deputies), <http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>).

This is to shorten the legislative process in the times of crisis. Last time this happened was in November 2010, when the government called for a legislative emergency. It was due to economic crises and the new savings measures taken to deal with the state's budget deficit.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

100

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | No

Comments:

Article 54: The president of the Czech Republic is not responsible for exercising his functions.

Article 65: 1) The president of the Czech Republic may not be detained or prosecuted for a misdemeanor or other administrative offenses. 2) The President of the Czech Republic may be prosecuted for high treason before the Constitutional Court by the Senate. The penalty can be loss of the presidency and the inability to regain eligibility. (3) The results of criminal prosecution for serious crimes committed during the term of office of president of the Czech Republic are permanent.

That is why, the only possibility to trail president is the high treason, which is not a crime. Other ministers and prime minister could be prosecuted for crimes they commit.

References:

Act No. 1/1993, Constitution, Article 54 and Article 65.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes

No

Comments:

All ministerial-level officials can be prosecuted for the crimes they commit.

References:

Act No. 40/2009, Trestni zakonik (Criminal code).

www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

No: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

66

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interest), amended, Article 10, Part 1.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes | No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interest), amended.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

No: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes | No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interest), amended, Article 11.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not

appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | **No**

Comments:

The assets of the Executive Branch are audited by Supreme Control Office.

References:

Act No. 320/2001, Zakon o financi kontrole ve verejne sprave (financial control in public administration), Article 3.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2001/sb122-01.pdf>

Act No. 166/1993, Zakon o Nejvyssim kontrolnim uradu (Supreme Control Office), Article 3.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

Yes | No

Comments:

A contracting public-office holder should not become a partner or work in corporate business for one year after the end of office if the business is connected to the government or its subjects within the last three years before the public official has left office.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interest), amended, Article 4 and Article 6.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

No: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

However, according to the law, ministers and other heads of state and government should not own a company or be active in its business. There is evidence available when the government officials are somehow connected to the business sphere (through family members, etc.).

References:

Media server iDnes.cz: Exministr Řebíček půjčil 40 milionů firmě, která za jeho vlády zažila rychlý růst (Former minister Rebiček borrowed 40 million for a company, which during his reign witnessed a rapid growth). Last modified August 20, 2010. Available at: http://ekonomika.idnes.cz/exministr-rebicek-funguje-jako-banka-pujcil-40-milionu-staviteli-cest-1jz-/ekonomika.aspx?c=A100819_185432_ekonomika_vel

Media server Novinky.cz: Ministri Topolankovy vlady konci podnikani (Ministers of Topolaneč's government have quit their firms). Last modified September 6, 2006. Available at: <http://www.novinky.cz/ekonomika/94959-ministri-topolankovy-vlady-konci-podnikani.html>

Parlamentni listy (Parliamentary papers). Barta prodal svou polovinu bezpecnostni agentury ABL. Bratrovi (Barta sold 50 percent of shares of his firm to his brother). Last modified June 22, 2010. Available at: <http://www.parlamentnilisty.cz/zpravy/168635.aspx>

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

The requirement for disclosing gifts and hospitality is in force for three years. It is very hard to evaluate the efficiency of the measure in such a short period. On the other hand, there are many doubts about some activities of the ministers. The ministers are allowed to accept any gifts during their diplomatic visits, but they are obliged to disclose them.

Senior-level officials also have to disclose any gifts. However, lower-level officials don't fall under this regulation. On the other hand, other laws — such as Act No. 262/2006, Zakonik prace (Labor Code) and Act No. 218/2002, Sluzebni zakon (Administrative Law) — strictly ban accepting of gifts.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Lenka Andrysova: Otazniky kolem majetkovych priznani politiku (Doubts about assets-disclosure reports of politicians). Last modified January 10, 2010. Available at: <http://www.zpravdu.cz/news/lenka-andrysova-otazniky-kolem-majetkovych-priznani-politiku/>

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | **25** | 0

Comments:

There are no requirements by law for external auditing. On the other hand, people can access the asset disclosures and can monitor ministerial activities. By law, officials have to provide precise information — otherwise, there are sanctions (Act No.159/2006, amended, Article 23).

References:

Ing. Marie Kucerova is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms.

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books.

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

81

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

Comments:

Everyone has the right, upon written request, to view the register free of charge and to make copies and extracts. The register can be viewed in person at the registration authority or in electronic form via the public data network.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 13, Parts 2-4.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

No: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Requests for user names and passwords are submitted online. After verifying the data, the user names and passwords are sent by mail into the hands of the applicants. After the online application, the user names and passwords are received within three working days. The access is granted for the following four years.

References:

Chamber of Deputies: Informace o nahlížení do registru (Information on access to the register). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=406>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Chamber of Deputies: Informace o nahlížení do registru (Information on access to the register). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=406>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The registers provide only very general information. In most cases, only loan details (liabilities) are provided. In many cases, the asset-disclosure forms lack information.

References:

Chamber of Deputies: Nahlizeni do registru (Register view). Available at: http://www.psp.cz/sqw/hp_sqw?k=403

Lenka Andrysova: Otazniky kolem majetkovych priznani politiku (Doubts about asset-disclosure reports of politicians). Last modified January 10, 2010. Available at: <http://www.zpravdu.cz/news/lenka-andrysova-otazniky-kolem-majetkovych-priznani-politiku/>

Information server iHned: Majetkova priznani politiku: Ne vsechna jsou uplna (Asset disclosure of politicians: they are not always complete). Last modified July 5, 2008. Available at: <http://domaci.ihned.cz/c1-25835550-politici-si-koleduji-o-desetitiscove-pokuty>

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

50

31a. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | **50** | 25 | 0

Comments:

It is hard to observe because political parties are financed from the state budget. On the other hand, politicians sometimes misuse their government cars for attending their election campaigns.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

32. Can members of the legislature be held accountable for their actions?

58

32a. In law, the judiciary can review laws passed by the legislature.

Yes

No

References:

Act No. 1/1993, Constitution, Article 83-89.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

No: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100

75

50

25

0

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

Yes

No

Comments:

A deputy or Senator may not be disciplined for voting in the Chamber of Deputies or the Senate or its organs. A deputy or Senator is only subject to the disciplinary jurisdiction of the chamber of which he/she is a member. A deputy or Senator may not be criminally prosecuted without the consent of the chamber of which he/she is a member.

Refusal of consent by the Chamber makes criminal prosecution impossible. The deputy or Senator may be detained only if he/she is apprehended while committing a criminal act or immediately thereafter. A competent authority shall immediately report the detention to the chairman of the Chamber. If the president of the Chamber, within 24 hours after detention, does not give consent to the surrender of the detainee, an authority is obliged to release him/her. At the first subsequent meeting of the Chamber, a final decision on the admissibility of the prosecution's case is made.

References:

Act No. 1/1993, Constitution, Article 27.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

No: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

36

33a. In law, members of the national legislature are required to file an asset disclosure form.

Yes

No

Comments:

An asset-disclosure form is publicly available.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 10.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

Yes

No

Comments:

This question's concern is not to ban totally an entry to private sector by national legislators, but rather eliminate such entry which would present a conflict of interest. The entry, which could present a conflict of interest, is restricted by law for executive bodies, but not for legislators (i.e. for members of Parliament of the Czech Republic and Senators of Senate of the Czech Republic).

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 6.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

Yes

No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 11.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

Yes

No

Comments:

Not defined by law.

References:

Ing. Marie Kucerova is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague, and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100

75

50

25

0

Comments:

The act on conflicts of interest does not include any limits for the legislators.

References:

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

David Ondracka

has graduated from the political economy of the Central European University in Budapest after he has passed International relations at Palacky's University and Political science at Charles University in Prague. He is employed at Transparency International – Czech Republic (TIC) since 2001. He works as a director of TIC since January 2008. He specializes in issues of political corruption, conflict of interest and procurement spending. He has participated at many conferences and seminars in Germany, USA, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities.

Interview was given in Prague on December 3, 2010.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulation exists, but the scrutiny is not rigid. No law on lobbying exists. The Act on Conflicts-of-Interests sets no limits on legislators to take jobs in the private sector (cooling-off period).

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

By law, there are no requirements for external auditing. People can access the asset-disclosure forms of legislators and can monitor their activities. By law, the legislators have to fill out required information. Otherwise, the sanctions are applied (Act No. 159/2006, amended, Article 23).

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

34. Can citizens access the asset disclosure records of members of the national legislature?

81

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes

No

Comments:

There are the same requirements as in the case of ministers (Executive Branch). According to the law, everyone has the right (upon written request) to view the register free of charge and to make copies and extracts. The register can be viewed in person at the registration authority or in electronic form via the public data network.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment of the Act No. 216/2008, Article 13, Part 2.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, non-governmental groups or journalists).

No: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are the same requirements as in the case of ministers (Executive Branch). Requests for user names and passwords are submitted online. After verifying data, the names and passwords are sent by mail into the hands of applicants. After the online application, the user names and passwords are received within three working days. The access is granted for the following four years.

References:

Chamber of Deputies: Informace o nahlížení do registru (Information on access to the register). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=406>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

It is completely free of charge.

References:

Chamber of Deputies: Informace o nahlížení do registru (Information on access to the register). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=406>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

100 | 75 | 50 | **25** | 0

Comments:

The register provides only very general information. In most cases, only loan details (liabilities) are provided . In many cases, the asset-disclosure forms lack information.

References:

Chamber of Deputies: Nahlížení do registru (Register view). Available at: <http://www.psp.cz/sqw/hp.sqw?k=403>

Lenka Andrysova: Otazniky kolem majetkovych priznani politiku (Doubts about asset-disclosure reports of politicians). Last modified January 10, 2010. Available at: <http://www.zpravdu.cz/news/lenka-andrysova-otazniky-kolem-majetkovych-priznani-politiku/>

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

Yes | No

Comments:

This act gives citizens the right to obtain information about the activity of government bodies.

References:

Act No. 106/1999, O svobodnem pristupu k informacim (Access to information), Article 5.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

No: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The sessions' program is published online, including discussed law proposals. Moreover, the Chamber of Deputies and Senate are obliged to provide information, according to Act No. 106/1999, and they follow the law.

All records of legislative processes and documents since 1992 (first election term after the establishment of the Czech Republic) can be accessed online at <http://www.psp.cz/sqw/sntisk.sqw?o=5&zvo=1>. There is no need to register in order to access the database. The Czech Parliament and its Chamber of Deputies also offer digital recordings (with sound) from the meetings. Live coverage is available also in audio-visual formatting. In addition, all voting records are available online at <http://www.psp.cz/sqw/hlasovani.sqw>.

References:

Poslanecka snemovna (Chamber of Deputies): Jednani (Sessions). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=27#porad>

Poslanecka snemovna (Chamber of Deputies): Vyrocní zpráva o činnosti Kanceláře Poslanecké snemovny v oblasti poskytování informací za rok 2009 (Annual Report of the Chamber of Deputies on providing information for 2009). Last modified January 29, 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=142>

Senate: Vyrocní zpráva o podávání informací dle zákona č. 106/1999 a přehled ostatních podání a dotazů v roce 2009 (Annual report for 2009 on the access of information according to Act No. 106/1999 and a list of other submissions and inquiries). Last modified 2010. Available at: http://www.senat.cz/informace/zadosti/vyrzpr09.php?ke_dni=27.11.2010&O=7

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The majority of information is available online and the database is free of charge.

References:

Poslanecka snemovna (Chamber of Deputies): Jednani(Sessions). Last modified 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=27#porad>

Poslanecka snemovna (Chamber of Deputies): Vyrocní zpráva o činnosti Kanceláře Poslanecké snemovny v oblasti poskytování informací za rok 2009 (Annual Report of the Chamber of Deputies on providing information for 2009). Last modified January 29, 2010. Available at: <http://www.psp.cz/sqw/hp.sqw?k=142>

Senate: Vyrocní zpráva o podávání informací dle zákona č. 106/1999 a přehled ostatních podání a dotazů v roce 2009 (Annual report for 2009 on the access of information according to Act No. 106/1999 and a list of other submissions and inquiries). Last modified 2010. Available at: http://www.senat.cz/informace/zadosti/vyrzpr09.php?ke_dni=27.11.2010&O=7

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

69

3.3. Conflicts of Interest Safeguards & Checks and Balances: Judicial Branch

36. Are judges appointed fairly?

92

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes

No

Comments:

There is a formal process. The candidate needs to have a Master's degree from a law school, three years of practice in the legal profession, pass a special state law exam and be over 30-years-old. The candidate must be a citizen with good moral character. The judges are appointed by the President of the Czech Republic.

References:

"Jmenovani soudcu (A national-level judge's appointment)."

Act No. 6/2002, Zakon o soudech, soudcich, prisedicich a statni sprave soudu (Courts, judges, associate justices and the State Administration of Courts), Article 60-63 and Article 109-117.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb004-02.pdf>

Yes: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

No: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100

75

50

25

0

Comments:

There are no other barriers other than those defined by law. In the past, there was discussion about psychological testing of the candidates. Generally, the discussion held that the tests are not able to demonstrate the qualification of candidates.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes

No

Comments:

If the candidate fulfills all requirements (Master's degree from a law school, three years' practice, a special state exam in law and the age at least 30 years) and is appointed by the President of the Czech Republic, he/she becomes a national-level judge.

Reviewer's comments are totally right, however, they don't imply that the professional criteria are not stressed by law in selecting the national-level judges.

References:

"Jmenovani soudcu (A national-level judges appointment)."

Act No. 6/2002, Zakon o soudech, soudcich, prisedicich a statni sprave soudu (Courts, judges, associate justice and the State Administration of Courts), Article 60-63 and Article 109-117.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb004-02.pdf>

Act No. 1/1993, Constitution, Article 63, Part 1, (i).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity independent from the body appointing the judges.

No: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

92

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes

No

Comments:

Judgments are always in written form.

References:

Act No. 99/1963, Obcansky soudni rad (Civil Procedures), Articles 152-175.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb086-91.pdf>

Act No. 141/1961, Tresni soudni rad (Criminal Procedures), Article 120, Part 1.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1961/sb66-61>

Yes: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

No: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

This practice strictly follows the law. The judges have to give explanations for their decisions.

References:

Server Epravo: 64829. Oduvodneni rozsudku (Explanation of the decision). Last modified 2010. Available at: <http://www.epravo.cz/top/soudni-rozhodnuti/oduvodneni-rozsudku-64829.html>

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

Yes | No

Comments:

There are two disciplinary tribunals – Vrchni soud (Highest Court) in Prague and Vrchni soud (Highest Court) in Olomouc.

References:

“Karne soudy (Disciplinary tribunals).”

Yes: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

No: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

References:

Act No. 6/2002, Zakon o soudech, soudcich, prisedicich a statni sprave soudu (Courts, judges, associate justices and the State Administration of Courts), Articles 86-90.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb004-02.pdf>

Act No. 7/2002, zakon o rizeni ve vecech soudu a statnich zastupcu (Matters relating to courts and prosecutors), Articles 8-30.

Yes: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

No: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | **75** | 50 | 25 | 0

Comments:

Cooperation with the "Ceska advokatni komora" (Chamber of Czech Lawyers) can take place.

References:

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

0

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

Yes | **No**

Comments:

The judges were obligated to give assets disclosure by the former law. The amendment in 2008 has canceled this requirement.

The legislators follow the reasoning that disclosure could harm the independence of the judges.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended by 216/2008.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

Yes | **No**

Comments:

After the amendment of a former act in 2008, the judges are no longer obliged to disclose gifts and hospitality.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment, No. 216/2008.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

No: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

Yes | **No**

Comments:

There is no such regulation.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment, No. 216/2008.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

Yes | **No**

Comments:

There are no such provisions.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment, No. 216/2008.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | **0**

Comments:

No such practice exists.

References:

N/A

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Doesn't exist.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

Yes | **No**

Comments:

This regulation does not exist.

References:

N/A

Yes: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

No: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Practice does not exist.

References:

N/A

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

This practice does not exist.

References:

N/A

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

This practice does not exist.

References:

N/A

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

3.4. Budget Process Oversight & Transparency

40. Can the legislature provide input to the national budget?

100

40a. In law, the legislature can amend the budget.

Yes

No

Comments:

By law, the legislature has unlimited authority to amend the budget. The state budget of the Czech Republic is approved by an act of the Parliament of the Czech Republic. The draft is drawn up by the Ministry of Finance and the government. After the third reading of the law, the members of Parliament vote. The law must obtain an absolute majority of votes to be approved. The law is then signed by the president of the Czech Republic and published.

The law on the state budget is adopted annually for the new fiscal year. If the law on the state budget is not adopted by December 31, the state economy follows the rules of the previous budget year. A decision on the budget is then made in January or February. The Senate is not able to take a legal action concerning the state budget (see Article 33 of the Constitution).

The International Budget Partnership's assessment for 2010 is available for the Czech Republic. The Czech Republic has scored 62 points and provides extensive budget information to the public according to the Open Budget Survey 2010.

References:

Act No. 1/1993, Constitution, Article 5 and Article 9.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 218/2000, O rozpoctovych pravidlech (Law on state budget), Article 8.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb065-00.pdf>

Act No. 90/1995, O jednacim radu Poslanecke snemovny (Act on rules of procedure of the Chamber of Deputies), Article 101-106.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>

Yes: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

No: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

The appropriate legislative committee or members of the Legislature provide extensive information on all spending on secret items, which includes detailed, line-item descriptions of all expenditures. Program-level data are presented for all expenditures.

References:

International Budget Partnership: The Open Budget Survey 2010. (Open Budgets Transform Lives), Washington D.C., 2010. Available at: http://www.internationalbudget.org/files/2010_Full_Report-English.pdf

International Budget Partnership: Open Budget Questionnaire. Czech Republic, September 2009. Available at: <http://internationalbudget.org/files/CzechRepublic-OB12010QuestionnaireFinal.pdf>, pp.12, 76

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

According to the Open Budget Survey, 2010, the Czech Republic's Legislature is found to be strong in the budget process and in its oversight (see table at Pg. 51).

The budget proposal shall be submitted to Parliament at least three months before the beginning of the budget year (Act No. 90/1995, Art. 101) – please see Pg.72 of the questionnaire.

References:

International Budget Partnership: The Open Budget Survey 2010. (Open Budgets Transform Lives), Washington D.C., 2010. Available at: http://www.internationalbudget.org/files/2010_Full_Report-English.pdf, p.51

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

58

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

The Executive Branch holds very limited consultations, involving only a few constituencies (with the public). For example, if trade unions are considered as public (citizens) then, typically, consultations are held with trade unions, but only on an occasional basis.

References:

International Budget Partnership: Open Budget Questionnaire. Czech Republic, September 2009. Available at: <http://internationalbudget.org/files/CzechRepublic-OBI2010QuestionnaireFinal.pdf>, pp.68

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

“The public is allowed to follow the discussion, but cannot participate without previous approval of the majority of committee members (Pg. 73).”

“The public is not allowed to participate actively during the discussion without prior approval (Pg. 74).”

References:

International Budget Partnership: Open Budget Questionnaire. Czech Republic, September 2009. Available at: <http://internationalbudget.org/files/CzechRepublic-OB12010QuestionnaireFinal.pdf>, pp.73-74

100: Citizens, usually acting through NGOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or NGOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

The latest document published at the website of the Ministry of Finance contains itemized budget allocations for January to June, 2009, so is not really up to date.

References:

Ministry of Finance: Celkove prijmy statniho rozpoctu Ceske republiky podle kapitol – tabulkova cast (Total budget of the Czech Republic by chapters and tables). Last modified August 4, 2010. Available at: http://www.mfcr.cz/cps/rde/xbcr/mfcr/PPSR_2009Q2_tabulky_pdf.pdf

100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

42. In law, is there a separate legislative committee which provides oversight of public funds?

0

42a. In law, is there a separate legislative committee which provides oversight of public funds?

Yes

No

Comments:

Resolutions of committees (or the opponent's message) for the individual chapters are submitted per the Act on the State Budget and discussed by the Control Committee. The Control Committee, moreover, adopts resolutions on all committee resolutions. The Control Committee shall submit its resolution (or an opponent's message) to the chairman of the Chamber of Deputies, delivered to all members of Parliament, parliamentary clubs, and petitioners (at least 24 hours before the start of the second reading of a law's draft on the state budget).

References:

"Rozpocetovy (prip. Kontrolni) vybor Poslanecke snemovne (Budget [or Control] Committee of the Chamber of Deputies)."

Act No. 90/1995, O jednacim radu Poslanecke snemovny (Act on the rules of procedure of the Chamber of Deputies), Article 32, 104.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1995/sb20-95.pdf>

Yes: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

No: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

43. Is the legislative committee overseeing the expenditure of public funds effective?

42

43a. In practice, department heads regularly submit reports to this committee.

100

75

50

25

0

Comments:

"The Control Committee puts all audit reports on its agenda and concerned ministries shall present their opinions. A committee of the Legislature will view and scrutinize most audit reports (Pg.109)." The response to this question was "b" in the Open Budget Survey.

References:

International Budget Partnership: Open Budget Questionnaire, Czech Republic, September 2009. Available at: <http://internationalbudget.org/files/CzechRepublic-OBI2010QuestionnaireFinal.pdf>, pp.73-74

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

On December 2, 2010, the following legislators were members of the Control Committee:

Chairman of the Control Committee is Vojtech Filip (the opposition party member – Communist Party of the Czech Republic [KSCM]).

Vice-chairmen are:

Zdenka Hornikova (the ruling coalition representative – Civic Democratic Party [ODS]).

Hana Orgonikova (the opposition party member – Czech Social Democratic party [CSSD]).

Jaroslava Schejbalova (the ruling coalition representative – TOP09).

Jaroslav Skarka (the ruling coalition representative – “Veci Verejne” [VV]).

References:

Parliament of Czech Republic: Kontrolni vybor (Control Committee). Last modified December 2, 2010. Available at: <http://www.psp.cz/sqw/fsnem.sqw?id=956>

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee – including opposition party members – are able to fully participate in the activities of the committee and influence the committee’s work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members’ ability to shape the committee’s activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | **25** | 0

Comments:

The two agencies mentioned do not cooperate together and have limited effectiveness.

References:

Parliament of the Czech Republic: Zapis ze 43. schuze kontrolniho vyboru (Minutes from the 43rd appointments of the Control Committee). Last modified May 27, 2009. Available at: <http://www.psp.cz/sqw/hp.sqw?k=93&ido=760>. Section 9-11.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category 4. Public Administration and Professionalism

4.1. ⁵⁶Civil Service: Conflicts of Interest Safeguards and Political Independence

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

0

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

Yes | **No**

Comments:

The law passed in 2002, but it is not yet fully in force. It will be in force from January 1, 2012, for all civil servants.

References:

Act No. 218/2002, Zakon o službě státních zaměstnanců ve správních úřadech a o odměnování těchto zaměstnanců a ostatních zaměstnanců ve správních úřadech — služební zákon (The Law on Civil Service employees in administrative authorities and on remuneration of employees in administrative offices — Civil Service Act), Article 61, Part 1, letters (b) and (i).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb084-02.pdf>

Yes: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

No: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

Yes | **No**

Comments:

Only an indirect “regulation” in Act No. 218/2002 exists. There is a requirement for integrity, which, if absent, has to be proved by clear criminal records. No other formal regulation concerning nepotism, etc. applies.

References:

N/A

Yes: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

No: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

Yes | **No**

Comments:

An ombudsman is not able to help with labor matters (signing a contract, termination of employment, etc.). Such mechanisms for civil servants are described by laws (Act No. 218/2002, Articles 70-79 and Articles 216-225), but are not in force yet.

References:

Verejny ochrance prav (Ombudsman): S cim ochrance muze pomoci a s cim ne (What the ombudsman can help with what he/she cannot). Last modified 2010. Available at: <http://www.ochrance.cz/chcete-si-stezovat/s-cim-muze-ochrance-pomoci/>.

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, November 29, 2010.

Yes: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

No: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | **No**

Comments:

It is not explicitly defined by law. A requirement for integrity and loyalty exists – so that a clear criminal record is needed in order to be employed as a civil servant. If there is a record of criminal activity (including corruption, etc.), the employment is ended. No specification of the length of the ban is given by law.

References:

N/A

Yes: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

No: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

22

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | **0**

Comments:

The law is not yet fully in force.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The law is not fully in force yet. The law will be fully in force on January 1, 2012. It will also define professional criteria for civil servants. These days, civil servants are also appointed according to professional criteria, even if it is not clearly defined by law.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

Comments:

Is not defined by law.

References:

N/A

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

The law is not fully in force yet. The law will be fully in force on January 1, 2012. It will also define job descriptions of civil servants, even if they are not clearly defined by law.

References:

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | **50** | 25 | 0

Comments:

The tariffs are defined by executive orders and could be changed on a year-by-year basis. At this moment, around 70 percent of the salaries of state and government employees have a tariff component and the rest is from personal evaluation. The personal evaluation can, by law, make up to 50 percent of the tariff (in exceptional cases even 100 percent).

References:

Ministry of Labor and Social Affairs: Media report. Last modified September 21, 2010. Available at: <http://www.mpsv.cz/cs/950>.

Oziveni-NGO: Platy uredniku jsou tabu (The wages of officials are taboo). Last modified June 25, 2006. Available at: <http://www.bezkorupce.cz/2006/07/platy-uredniku-jsou-tabu/>

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0

Comments:

The latest list of filled civil service positions is available for January 1, 2007. It is available at the website of the government of the Czech Republic. There is also a table characterizing a change in number of filled civil service position from 2000 to 2007. However, the number of authorized civil service positions is not available and a summary for 2008, 2009 and 2010 is not published online as well..

References:

Vlada (Government): Prehled poctu mist ve spravnich uradech (Table of employees in administrative sector). Last modified 2010. Available at: <http://www.vlada.cz/assets/urad-vlady/statni-sluzba/pocty.pdf>

Vlada (Government): Prehled poctu mist ve spravnich uradech 2000-2007 (Table of employees in administrative sector in 2000-2007). Last modified 2010. Available at: <http://www.vlada.cz/assets/urad-vlady/statni->

iDnes media server: Take o ceskem statu plati: Urednik, kam se podivas! (For the Czech Republic: officials where you look!). Last modified May 26, 2010. Available at: http://zpravy.idnes.cz/take-o-ceskem-statu-plati-urednik-kam-se-podivas-f5s-/kavarna.asp?c=A100525_165901_kavarna_chu

Media server Tyden: Statnich uredniku je o osm set vic nez loni (There are 800 more civil servants compared the last year). Last modified April 23, 2010. Available at: http://www.tyden.cz/rubriky/byznys/cesko/statnich-uredniku-je-o-osm-set-vic-nez-loni_9209.html

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

The law is not fully in force yet.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

No evidence on late payment of wages to the civil servants in the last year exists.

References:

N/A media reports

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2 , 2010.

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

The ban is permanent when corruption arises and the civil servant is accused and convicted.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2 , 2010.

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

72

46a. In law, senior members of the civil service are required to file an asset disclosure form.

Yes

No

Comments:

By the law, only several public officers are covered.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 1, Part 1, letter (c).
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

No: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

Yes

No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 3.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Act No. 218/2002, Zakon o sluzbe statnich zamestnancu ve spravnych uradech a o odmenovani techto zamestnancu a ostatnich zamestnancu ve spravnych uradech (sluzebni zakon) (The Law on Civil Service employees in administrative authorities and on remuneration of employees and other employees in administrative offices [Civil Service Act]), Article 61, Part 1, (b) and (i).
<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb084-02.pdf>

Yes: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

No: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

Comments:

There is a cooling-off period for some civil servants lasting one year.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended, Article 6.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

No: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

Yes | No

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests)], amended, Articles 11 and 12.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb055-06.pdf>

Yes: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

No: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes | No

Comments:

Random auditing takes place and citizens are able to access the asset-disclosure forms online (when they require access).

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), amended.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Act No. 159/2006 (Conflicts-of-Interests) deals only with the chiefs of the offices, not all civil servants. Act 218/2002 (Act on Civil service) is not in force yet.

References:

Media server Aktualne.cz: Uředníci dopravy přihlrali "svym" firmam statni miliony (Civil servants passed state billions to their companies). Last modified September 13, 2010. Available at: <http://aktualne.centrum.cz/domaci/spolecnost/clanek.phtml?id=676878>

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate "cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants do not disclose sufficient information about their assets, gifts and hospitality.

References:

Oziveni – NGO: Majetkova priznani vysokych prazskych uredniku? Tabu! (The asset disclosures of Prague civil servants? Taboo!). Available at: <http://archiv.bezkorupce.cz/tiskove-zpravy/majetkova-priznani-vysokych-prazskych-uredniku-tabu/>

Media server iHned.cz: Urednici magistratu ukazou ucty (The magistrate officials disclose their accounts). Last modified July 30, 2010. Available at: <http://hn.ihned.cz/c1-37934420-urednici-magistratu-ukazou-ucty>.

Media server Denik: Majetkova priznani vysokych prazskych uredniku? Tabu! (The assets disclosure of Prague civil servants? Taboo!). Last modified July 31, 2009. Available at: <http://prazsky.denik.cz/podnikani/majetkova-priznani-vysokych-prazskych20090730.html>

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | **25** | 0

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

Comments:

Practice follows the law (Act No.166/1993) and the Supreme Control Office audits civil service assets.

References:

Nejvyšší kontrolní úřad (Supreme Control Office). Vestník NKU (Bulletin of Supreme Control Office). Last modified 2010. Available at: <http://www.nku.cz/cz/publikace/vestnik-nku.htm>

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

81

47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | No

References:

Act No. 159/2006, Zákon o střetu zájmů (Conflicts-of-Interests)], amended, Article 13, Parts 2-4.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Act No. 106/1999, Zákon o svobodném přístupu k informacím (Act on free access to information).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

No: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Practice follows the law. It takes several days (no more than two weeks).

References:

N/A

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Only the cost of photocopying.

References:

Ministry of Interior: Informace k vyžadáním informací, doporučené formuláře a sazebník úhrad (Information to requested information, registered mail forms, fees and payments). Last modified February 25, 2009. Available at: <http://www.mvcr.cz/clanek/informace-k-vyzadanim-informacim-doporucene-formulare-a-sazebnik-uhrad-902739.aspx>

Government order No. 173/2006, o zásadách stanovená úhrad a licenčních odměn za poskytování informací (principles for pricing for providing information). Available at: <http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb060-06.pdf>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records' costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | **50** | 25 | 0

Comments:

Very often insufficient information is provided.

References:

Media server Denik: Majetkova priznani vysokych prazskych uredniku? Tabu! (The asset disclosures of Prague civil servants? Taboo!). Last modified July 31, 2009. Available at: <http://prazsky.denik.cz/podnikani/majetkova-priznani-vysokych-prazskych20090730.html>

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

6

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | **No**

Comments:

Protection for public sector whistle blowers is not yet defined in the Czech legislation. From the times of socialism, snitching is

perceived as something very negative.

References:

N/A

Yes: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

No: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Jitka Smidova, an employee of the National Security Agency, has announced that a director, Tomas Kadlec, ordered her to verify Deputy Police President, Vaclav Jakubik, with a positive result. Vaclav Jakubik was running a joint venture with a former communist spy. Smidova said that he should not pass through inspection. In the end, the director of the National Security Agency, Tomas Kadlec, issued a positive result for the inspection by himself. Smidova was fired.

References:

Transparency International – Czech Republic. 199 – protikorupční linka (Anti-corruption hotline 199). Last modified August 10, 2010. Available at: <http://www.transparency.cz/index.php?lan=cz&id=2930>, pp.60-62.

Transparency International – Czech Republic. Whistleblowing a ochrana oznamovatelů v České republice (Whistle blowing and protection of whistle blowers in the Czech Republic). Prague: November, 2009. Available at: http://www.transparency.cz/pdf/TIC_whistleblowers_2009_cz.pdf

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

Yes | **No**

Comments:

In the Czech Republic, there is no comprehensive legislation that would regulate the protection of whistle blowers and whistle blowing. The main legislation applicable in this area are labor regulations. The protection they provide is uncertain and is limited to the area of employment problems of individual employees. It does not explicitly cover unfair or illegal practices of the employer, as in, for example, criminal conduct.

References:

Act No. 500/2004, Zakon spravní rad (Administrative Procedure Act), Article 42.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2004/sb174-04.pdf>

Act No. 262/2006, Zakoník práce (Labor Code Act), Articles 13, 16, 52, 305.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb084-06.pdf>

Act No. 198/2009, Antidiskriminacní zákon (Anti-discrimination).

<http://www.mvcr.cz/soubor/sb058-09-pdf.aspx>

Act No. 349/1999, Zakon o veřejném ochranci práv (Ombudsman law). <http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

Act No. 251/2005, Zakon o inspekci práce (Labor Inspection Act).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2005/sb094-05.pdf>

Act No. 40/2009 Trestní zákoník (Criminal Code), Article 363, Article 367 and 368.

<http://www.mvcr.cz/soubor/sb011-09-pdf.aspx>

Yes: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

No: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | **25** | 0

Comments:

Ivan Pribík, Trebic Hall spokesman, refused to conceal and delay information on which a reporter of Czech Television had a lawful right. City Hall did not succeed in concealing a suspected contract and Pribík lost his job as a spokesman for Trebic Hall.

Radek Vana, a former club Libice nad Cidlinou captain, was one of the main witnesses in a case of corruption in the lower-division football competitions. Along with a reporter of public television, he offered a bribe to the judges in 2003 and made a hidden-camera video. Two judges were fined. Vana was not punished for his action in any way. He believes that corruption in football has not diminished since 2003.

References:

Transparency International – Czech Republic, 199 – protikorupční linka (Anti-corruption hotline 199). Last modified August 10, 2010. Available at: <http://www.transparency.cz/index.php?lan=cz&id=2930>, pp.60-62.

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49a. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

Yes

No

Comments:

Generally, unless otherwise stated in a separate law, (i.e., in most cases) the procedure for submitting suggestions is provided in Act No. 500/2004. Under the provisions of Article 42, each administrative body is obliged to take suggestions to initiate proceedings ex officio.

The notifiers may contact the various anti-corruption hotlines or e-mail addresses that are created or operated by public authorities. They can also turn to a central anti-corruption hotline set up by the Ministry of Interior and operated by the Transparency International – Czech Republic (<http://www.linka199.cz/>).

References:

Act No. 500/2004, Zakon spravní rad (Administrative Procedure Act), Article 42.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2004/sb174-04.pdf>

Act No. 251/2005, Zakon o inspekci práce (Labor Inspection Act).
<http://aplikace.mvcr.cz/archiv2008/sbirka/2005/sb094-05.pdf>

Act No. 349/199,9 Zakon o veřejném ochranci práv (Ombudsman law). <http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

Prague server. Protikorupční politika – protikorupční linky institucí a organizací (Anti-corruption policy – anti-corruption hotlines of institutions and organizations). Last modified May 9, 2009. Available at: <http://korupce.praha-mesto.cz/Protikorupcni-portal/Odkazy>.

Yes: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

No: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

63

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Hotline 199 is available 24 hours a day. On the weekdays, from 9-17 hours are dedicated to attorneys and legal assistants. Otherwise, you can leave a message on the answering machine.

All other institutions have full-time staffs: Labor Inspector and Labor offices; local authorities and other competent administrative authorities; law enforcement authorities; Ombudsman; Czech Trade Inspection; Czech Environmental Inspector; all other public authorities that have established or operated anti-corruption hotlines and e-mail addresses; and central anti-corruption hotlines set up by the Ministry of Interior.

References:

Transparency International – Czech Republic. 199 – protikorupční linka (Anti-corruption hotline 199). Last modified August 10, 2010. Available at: <http://www.transparency.cz/index.php?lan=cz&id=2930>, pp.43-44.

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The operation costs of anti-corruption hotlines are covered by the Ministry of Interior. In 2009, the costs of anti-corruption hotlines reached CZK 2.5 million (US\$135,000).

References:

Transparency International – Czech Republic. 199 – protikorupční linka (Anti-corruption hotline 199). Last modified August 10, 2010. Available at: <http://www.transparency.cz/index.php?lan=cz&id=2930>

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | **25** | 0

Comments:

Practice follows the law: If the person who has filed a complaint asks, the administrative authority shall notify him/her within 30 days after receipt of the complaint. The notification should state whether the authority has initiated the proceedings or if it has not recognized sufficient reasons to initiate proceedings ex officio or, alternatively, that it has referred the complaint to another competent authority.

References:

Act No. 500/2004, Zakon spravní rad (Administrative Procedure Act), Article 42.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2004/sb174-04.pdf>

Ekologický právní servis (Environmental Law Service) – NGO. Podávání podnetu podle spravního radu (Submission of complaints under the administrative procedure). Last modified December 2008. Available at: <http://www.eps.cz/cz2072693pp/pravni-poradna/>

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Comments:

Proper examination of the reported facts and, in particular, the real protection of whistle blowers in employment is in most cases not provided. The process is very slow and ineffective. If reports on corruption concerns some “important” person, the process is prolonged. The process and conclusions take only a very formal character.

References:

Protikorupcni linka 199 (Anti-corruption hotline 199). Modelove pripady k protikorupcni lince (Model cases for the anti-corruption hotline). Available at: http://www.linka199.cz/scripts/uploaded/pdf/modelove_pripady.pdf

Transparency International – Czech Republic. 199 – protikorupční linka (Anti-corruption hotline 199) Last modified August 10, 2010. Available at: <http://www.transparency.cz/index.php?lan=cz&id=2930>, pp.54.

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

56 4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

51. Is the public procurement process effective?

53

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

Yes

No

Comments:

Currently, not much property is left in the government's hands. Very problematic is the local level, especially for municipal property. There are very few rules governing privatization at the local level. The Act on Municipalities is very brief and opens a broad area for non-transparency.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Article 6, Article 74, Parts 7-8.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Act No. 159/2006, Zakon o stretu zajmu (Act on Conflicts-of-Interests), in the final Amendment of Act No. 216/2008.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Act No. 40/2009 Trestni zakonik (Criminal code), Article
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

No: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | **No**

Comments:

A committee must have at least five members. If it is justified by the contact's procurement area, the evaluation committee must have at least one-third of members with appropriate expertise in relation to the contact's procurement area. By law, there is no mandatory training requirement.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Article 74, Part 3.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

No: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | **25** | 0

Comments:

According to the article above, a change in the tendering rules for a building contractor was applied in order to favor one of the participants. Procurement official bias is difficult to prove according to interview above.

References:

Regenerace pěší zóny: Střet zájmů se škodou v milionech nebo jen pouhý politický boj o nová koryta? (Regeneration of the pedestrian zone: Conflicts-of-interest involving the loss of millions or just a political struggle for a new trough?). Last modified May 11, 2010. Available at: <http://www.orlicky.net/tisk.php?id=11548113211273560977>

David Ondracka

has graduated from the political economy of the Central European University in Budapest after he has passed International relations at Palacky's University and Political science at Charles University in Prague. He is employed at Transparency International – Czech Republic (TIC) since 2001. He works as a director of TIC since January 2008. He specializes in issues of political corruption, conflict of interest and procurement spending. He has participated at many conferences and seminars in Germany, USA, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities.

Interview was given in Prague on December 3, 2010.

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

Yes

No

Comments:

Only the chiefs of offices are obliged to provide disclosure forms. Generally, in the commissions, lower-level officials also participate.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment of Act No. 216/2008. <http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

No: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

Yes

No

Comments:

The law differentiates between three different types of public orders. For all cases, if only one bidder participates in the bidding

process, the contracting authority can, but doesn't have to, cancel the public-procurement process.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Article 12.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

No: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

Yes | **No**

Comments:

According to a discussion with David Ondracka.

There no limits on SOLE sourcing.

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Yes: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

No: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

Yes | No

Comments:

Any supplier may submit an objection, with the reasoning, and deliver it to the contracting authority within 15 days from the date of the alleged violation. Objection against the tendering conditions must be send to the contracting authority no later than five days after the deadline for submission of tenders. Objections are submitted in written form.

The contracting authority shall examine the objections and within 10 days from receipt, send to the complainant a written decision on whether the opposition is agreeable (the means of the correction) or not, stating the reason. If the authority fails to comply with

the objections, it shall notify the complainant in a written decision on the possibility of reviewing proceedings in court (under § 113, Paragraph 2 and § 114, Paragraph 4). The authority has to notify, in written form, about all submitted objections and subsequent decisions for all applicants.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Articles 110, 111, 113-119
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

No: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

Yes

No

Comments:

The appeal mechanism starts at the Office for the Protection of Competition (Urad pro hospodarskou soutez). If the office confirms that an objection is relevant, it asks a contracting authority for a correction. If the contracting authority fails to respond, the unsuccessful bidder can challenge the procurement decision in the Supreme Administrative Court.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Articles 110, Article 111 and Article 113-119
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

No: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

Yes

No

Comments:

Article 144, cited above, handles the keeping of a register of persons prohibited from carrying out procurements. The register should be available online, according to the law, and is operated by a particular ministry. The companies registered on a blacklist are prohibited for three years to carry out procurements. The company is added to the blacklist only if it lies about the fulfillment of qualification criteria defined by particular procurement processes.

You can find the existing blacklist here: <http://www.isvz.cz/isvz/>. Also this article describes existence of the blacklist: <http://ekonomika.ihned.cz/c1-46727260-poprve-k-verejnym-zakazkam-nesmi-prvni-firma-na-tri-roky-je-na-indexu>.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Article 144.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

No: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Criminal liability of companies is missing.

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

92

52a. In law, citizens can access public procurement regulations.

Yes | No

Comments:

Citizens could not always access detailed information.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Articles 146-149, Articles 26-28.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

No: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Yes | No

Comments:

The contracting authority shall, within 48 days after the conclusion of the contract, send a notification about the outcome of the tendering procedure for publication. In the case of a sole contractor, the deadline is two months.

References:

Act No. 137/2006, Zakon o verejnych zakazkach (Public Procurement Act), Articles 146-149, Articles 81-85.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb047-06.pdf>

Yes: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

No: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The information system offers general information about procurement. A bidder has to ask for more specific information.

References:

Informacni system o Verejnych Zakazkach (Information system for public procurement). Last modified 2010. Available at: <http://www.isvz.cz/isvz/>

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed

at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The information concerning small procurements is generally available for little cost. Tendering documentation for big procurements could be charged tens of thousands of CZK.

References:

David Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

Comments:

All institutions have their own register of public procurements (for example Ministry of Finance: http://www.mfcr.cz/cps/rde/xchg/mfcr/xsl/fnm_zadav_rizeni2007.html) and registers of all public procurements also exist — see sources. The main information system for public procurements in the Czech Republic is hard to find through search engines, but, when found, the information provided is sufficient.

References:

Informacni system o Verejnych Zakazkach (Information system for public procurement). Last modified 2010. Available at: <http://www.isvz.cz/isvz/>

Katalog vyhlasenych verejnych zakazek (Register of announced public procurements). Available at: <http://www.verejne-zakazky-cr.cz/>

E-zakazky (E-procurements). Available at: <http://www.e-zakazky.cz/>

Nabidka Gordion (Supply Gordion). Available at: <https://www.egordion.cz/nabidkaGORDION/zakazkaList.seam>

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

References:

Informacni system o Verejnych Zakazkach (Information system for public procurement). Last modified 2010. Available at: <http://www.isvz.cz/isvz/>

Policie CR: Verejne zakazky (Public Procurement). Last modified November 19, 2010. Available at: <http://www.policie.cz/sprava-severoceskeho-kraje-verejne-zakazky.aspx>

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

67

53a. In law, all businesses are eligible to compete for privatized state assets.

Yes

No

References:

Act No. 92/1991, Zákon o podmínkách převodu majetku státu na jiné osoby (Act on conditions of transfer of state property to other persons), Article 10.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb020-91.pdf>

Act No. 201/2002, Zákon o Úradu pro zastupování státu ve věcech majetkových (Act on the office for the government representation in property matters).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb082-02.pdf>

Yes: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

No: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

Yes

No

Comments:

It is stated very generally in this law, not directly for privatization matters. The major problem is bias of officials, which is hard to prove.

References:

Act No. 159/2006, Zakon o stretu zajmu (Conflicts-of-Interests), in the final amendment of Act No. 216/2008, Article 3.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2008/sb069-08.pdf>

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

No: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

The first study refers to politician Michal Klima and to clientelism in the Czech government and political parties.

The second article describes an actual privatization case: The Social Democrats have direct responsibility for the precarious situation of hundreds of thousands of tenants in the flats of the former mining company OKD. It was a social-democratic government, headed by Stanislav Gross, who has privatized the state stake in OKD and caused the state to lose influence in the company's affairs. The Social Democrats have deprived the state of tens of billions of the Czech crowns due to this sale.

According to the interview, no one enforced the conflicts-of-interest regulations for government officials involved in privatization.

References:

Cerny P., Klanicova K: Klientelisticky nebo pravni stat? Priciny nedostatecne odpovednosti uredniku za nezakonne rozhodovani. (Clientelism or rule of law? Causes of insufficient liability of officials for unlawful decision making). Ekologicky pravni servis: 2010. Available at: http://aa.ecn.cz/img_upload/8d7362970723bd7ec5a17e791cf88d95/Analyza_urednici_2010.pdf, p.34.

Media server Parlamentni listy.cz, Shrnuti fakt ke kauze bytu OKD (Summary of facts on the case of OKD apartments). Last modified March 2010. Available at: http://www.parlamentnilisty.cz/zpravy/161022.aspx?from=tagcloud_1

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

35

54a. In law, citizens can access privatization regulations.

Yes

No

References:

Act No. 92/1991, Zakon o podminkach prevodu majetku statu na jine osoby (Act on conditions of transfer of state property to other persons).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb020-91.pdf>

Act No. 178/2005, Zakon o zruseni Fondu narodniho majetku Ceske republiky a o pusobnosti Ministerstva financi pri privatizaci majetku Ceske republiky (zakon o zruseni Fondu narodniho majetku) (The law on the abolition of the National Property Fund of the Czech Republic and the Ministry of Finance in the privatization of property of the Czech Republic (Act on the abolition of the National Property Fund)).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2005/sb065-05.pdf>

Act No. 106/1999, Zakon o svobodnem pristupu k informacim (Act on free access to information).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb039-99.pdf>

Yes: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

No: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100

75

50

25

0

Comments:

Until 2005, all privatization was advertised at the Fund of National Property (Fond Narodniho Majetku). Since 2005, the Ministry of Finance took this agenda and information is available at the website of the Ministry of Finance.

References:

Ministry of Finance: Privatizacni projekty (Privatization projects). Last modified December 31, 2009. Available at: http://www.mfcr.cz/cps/rde/xchg/mfcr/xsl/fnm_priv_projekty.html

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes | **No**

Comments:

Is not defined by law.

References:

Ministry of Finance, Department for implementation of privatization of state property. Last modified c2010. Available at: http://www.mfcr.cz/cps/rde/xchg/mfcr/xsl/orgstru_23278.html#book1

Yes: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

No: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Not defined by law.

References:

N/A

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Not defined by law.

References:

N/A

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

Category 5. Government Oversight and Controls

5.1. ⁹¹ National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

Comments:

In the Czech Republic the Ombudsman's office is also called the Public Defender of Rights. See his web page at: <http://www.ochrance.cz/>

References:

"Verejny ochrance prav (Ombudsman)."

Act No. 349/1999, Zakon o verejnem ochranci prav (Ombudsman law).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

Yes: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

No: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

56. Is the national ombudsman effective?

84

56a. In law, the ombudsman is protected from political interference.

Yes | No

Comments:

According to law, he/she cannot be partisan, but must be strictly independent when acting.

References:

Act No. 349/1999, Zakon o verejnem ochranci prav (Ombudsman law), Article 3. and Article 5.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

Yes: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Indirectly, the political parties can have some influence due to the fact that the Chamber of Deputies nominates candidates for the ombudsman's office. The candidate should not be partisan. The ombudsman only monitors all objections; he/she does not make decisions.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

So far, there has been only one ombudsman. He has in office from December 2000 and was re-elected in 2006. After his death in 2010, new elections for the position of Ombudsman were held. (The ombudsman is elected for a six-year term.)

References:

Media Server iDnes.cz: Zemřel ombudsman a exministr Otakar Motejl, bylo mu 77 let (Ombudsman and former minister Otakar Motejl died. He was 77- years-old). Last modified May 9, 2010. Available at: http://zpravy.idnes.cz/zemrel-ombudsman-a-exministr-otakar-motejl-bylo-mu-77-let-pke-/domaci.asp?c=A100509_180631_domaci_kop

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Following the law, the ombudsman's office has around 100 employees. A working contract with an assistant is regulated by the Labor Code. The assistant must be a respectable citizen who has a university education with a Master's degree in law. Moreover, he/she has to have trained in the office for at least 12 months.

References:

Act No. 349/1999, Zakon o verejnym ochranci prav (Ombudsman law), Article 25, Art 4, Part 5.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

Verejny ochrance prav (Ombudsman): Organizacni struktura Kancelare (Office organizational structure). Last modified 2010.
Available at: http://www.ochrance.cz/fileadmin/user_upload/Kancelar/Org_schema_KVOP_2010.pdf.

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Strictly follows the law.

References:

Act No. 349/1999, Zakon o verejnym ochranci prav (Ombudsman law), Articles 2, 3, 5, 25.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Total expenditures planned for 2010 are CZK 104 million (US\$5.7 million).

Practice follows the law — Expenditures of the Ombudsman's Office are covered by a separate chapter in the state budget.

References:

Verejny ochrance prav (Ombudsman), Povinne zverejnovane informace (Compulsory disclosed information). Last modified 2010. Available at: <http://www.ochrance.cz/kancelar-verejneho-ochrance-prav/povinne-zverejnovane-informace/>

Act No. 349/1999, Zakon o verejnem ochranci prav (Ombudsman law), Article 26. <http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

Both press releases and reports for the Chamber of deputies are available online, according to law, on a daily basis (press releases) or quarterly (reports for the Chamber of deputies).

References:

Verejny ochrance prav (Ombudsman), Zprávy pro Poslaneckou sněmovnu (Reports for the Chamber of Deputies). Last modified September 30, 2010. Available at: <http://www.ochrance.cz/zpravy-pro-poslaneckou-snemovnu/>

Verejny ochrance prav (Ombudsman), Tiskove spravy (Press Release). Last modified November 18, 2010. Available at: <http://www.ochrance.cz/tiskove-zpravy/tiskove-zpravy-2010/>

Verejny ochrance prav [Ombudsman]. Povinne zverejnovane informace [Compulsory disclosed information]. Last modified c 2010. Available at: <http://www.ochrance.cz/kancelar-verejneho-ochrance-prav/povinne-zverejnovane-informace/>

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman can start an independent investigation. In 2008, the special privileges over state administration of justice — the right to propose the initiation of disciplinary proceedings against the chairmen and deputy chairmen of the court if they violate the obligations associated with the exercise of their functions — was granted to the ombudsman.

References:

Verejny ochrance prav (Ombudsman), Pusobnost verejneho ochrance prav (Ombudsman's mandate). Last modified 2010. Available at: <http://www.ochrance.cz/verejny-ochrance-prav/pusobnost-verejneho-ochrance-prav/>

Act No. 349/1999, Zakon o verejnem ochranci prav (Ombudsman law), Article 14 and Article 19. <http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

According to law, the ombudsman only asks for a correction of failures revealed. Disclosure of information about actions taken by the ombudsman is a form of sanction under the Act on the Ombudsman.

The publication in the media is a penalty granted by law to the ombudsman. In this case, the ombudsman can even disclose the names of particular persons acting on behalf of the person in question.

References:

Verejny ochrance prav (Ombudsman), Sankce (Penalties). Last modified 2010. Available at: <http://www.ochrance.cz/stanoviska-ochrance/sankce/>

Verejny ochrance prav (Ombudsman). Ceska obchodni inspekce nezakonne odmíta informace (Czech Trade Inspection unlawful — refuses to provide information to public). Last modified January 22, 2009. Available at: <http://www.ochrance.cz/stanoviska-ochrance/sankce/sankce-proti-coi-2212009/>

Verejny ochrance prav [Ombudsman]. Prazsky magistrat odmíta napravit pochybeni. Jeho nazor je v rozporu s nazorem odborniku. [Prague's City Hall refuses to correct its error. Its opinion is in contrary with experts.]. Last modified March 24, 2010. Available at: <http://www.ochrance.cz/stanoviska-ochrance/sankce/sankce-proti-magistratu-prahy-stridava-pece-2432010/>

Act No. 349/1999 Zakon o verejnym ochranci prav [Ombudsman law], Article 19 and Article 20
<http://aplikace.mvcr.cz/archiv2008/sbirka/1999/sb111-99.pdf>

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | **50** | 25 | 0

Comments:

Articles cited above refer to the following two cases:

1. The central director of the Czech Trade Inspection refused to change the legal opinion on the ombudsman's advice and the ombudsman has therefore turned to the Ministry of Industry and Trade.
2. After informing the superior authority (which is the Ministry of Health) a hospital sent its statement to the ombudsman.

However, the statement cannot be described as satisfactory, since it implies that the hospital still does not respect any ombudsman's recommendations to correct the errors leading to harming the dignity of patients and the violation of their rights.

According to the interview, ombudsman only warns on violation of laws.

References:

Verejny ochrance prav (Ombudsman). Ceska obchodni inspekce nezakonne odmita informace (Czech Trade Inspection unlawful – refuses to provide information to public). Last modified January 22, 2009. Available at: <http://www.ochrance.cz/stanoviska-ochrance/sankce/sankce-proti-coi-2212009/>

Verejny ochrance prav (Ombudsman), Psychiatrická léčebna Šternberk dlouhodobě nerespektuje práva pacientů (Psychiatric Hospital Sternberk disregards the rights of patients). Last modified April, 2010. Available at: <http://www.ochrance.cz/stanoviska-ochrance/sankce/sankce-proti-psychiatricke-lecebne-sternberk/>

Doc. JUDr. Jana Reschova, CSc.

is an assistant professor at Department of Constitutional Law, Law Faculty, Charles University in Prague and the Department of Political Science, Faculty of International Relations, University of Economics in Prague. She is the author and co-author of many articles, book-chapters and books.

Interview was given in Prague, December 2, 2010.

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

According to law, the ombudsman's agency acts on citizen complaints within seven days. The office involved has 30 days to reply to the ombudsman.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

100

57a. In law, citizens can access reports of the ombudsman(s).

Yes

No

Comments:

The ombudsman shall annually submit by March 31 a written report on its activities during the past year to the Chamber of Deputies. The report will also be sent to the Senate, the President of the Czech Republic, the government, and other administrative authorities and will be published in an appropriate manner. The ombudsman informs the public of his activities and the findings that emerged from those activities, according to the law.

References:

Act No. 349/1999, Zakon o verejnym ochranci prav (Ombudsman law), Article 21(b), Part 3 and Article 23.
<http://www.ochrance.cz/verejny-ochrance-prav/zakon-o-verejnym-ochranci-prav/>

Yes: A YES score is earned if all ombudsman reports are publicly available.

No: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100

75

50

25

0

Comments:

Reports are usually available online, but when additional information is required by citizens, it takes 15 days or less according to Act No. 106/1999 (Act on Free access to information) to obtain this information. In the case that the request is incomplete, the ombudsman's office has to give notice on this matter within seven days and ask for completion..

References:

Verejny ochrance prav (Ombudsman), Zasady pro poskytovani informaci kancelári veřejného ochrance prav podle zakona c. 106/1999 Sb., o svobodnem pristupu k informacim (Principles for providing information by the office of Ombudsman under Act No. 106/1999 — freedom of information]. Last modified 2010. Available at: <http://www.ochrance.cz/kancelar-verejneho-ochrance-prav/poskytovani-informaci-podle-zakona-c-1061999-sb/>

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The office of the Ombudsman requires no payments for information services (only costs of photocopying are applicable).

References:

Verejny ochrance prav (Ombudsman), Povinne zverejnovane informace (Compulsory disclosed information). Last modified 2010. Available at: <http://www.ochrance.cz/kancelar-verejneho-ochrance-prav/povinne-zverejnovane-informace/>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes

No

Comments:

Supreme Control Office.

References:

Act No. 1/1993, Constitution, Article 97.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 166/1993, Zakon o Nejvyssim kontrolnim uradu (Act on Supreme Control Office).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

Act No. 320/2001 Zakon o financi kontrole ve verejne sprave [Act on financial control in public administration]<http://aplikace.mvcr.cz/archiv2008/sbirka/2001/sb122-01.pdf>

Yes: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

No: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

59. Is the supreme audit institution effective?

81

59a. In law, the supreme audit institution is protected from political interference.

Yes

No

Comments:

The Supreme Control Office performs its functions independently and is not dependent on the legislature (Parliament) nor on the executive (government) power. Political influences on its work are eliminated to the maximum extent.

References:

Act No. 1/1993, Constitution, Article 97, Part 1.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 166/1993, Zakon o Nejvyssim kontrolnim uradu (Act on Supreme Control Office), Article 2, Part 1.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

Yes: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The president of the Supreme Control Office is appointed for the nine-year term by the president of the Czech Republic.

The cited article above refers to the current president of the Supreme Control Office, Mr. Dohnal: “Mr Dohnal is now untouchable. He can be recalled only by the president of the Czech Republic on a proposal from members of the Chamber of Deputies. However, they have to wait until the final verdict from the disciplinary chamber, which will convict Mr Dohnal for serious wrongdoing.”

References:

Media server iDNES.cz: Sef NKU Dohnal celi trem novym zalobam a pokute (President of Supreme Control Office, Mr Dohnal, faces three new impeachment actions and a penalty). Last modified March 17, 2010. Available at: http://ekonomika.idnes.cz/sef-nku-dohnal-celi-trem-novym-zalobam-a-pokute-flp-ekonomika.aspx?c=A100316_205351_ekonomika_abr

Act No. 166/1993, Zakon o Nejvyssim kontrolnim uradu (Act on Supreme Control Office), Article 10, Parts 2, 8-9. <http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

On December 31, 2009, the Supreme Control Office had 472 employees. The average employee’s age was 45 years and 82 percent of all employees have a university degree (a Bachelor’s degree and higher).

References:

Nejvyšší kontrolní úřad (Supreme Control Office): Vyroční zpráva 2009 (Annual Report 2009). Available at: <http://www.nku.cz/vyr-zpravy/vyrocní-zprava-nku-2009.pdf>, pp. 28-29.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | **50** | 25 | 0

Comments:

Mr František Dohnal, president of the Supreme Control Office (SCO), was recognized as guilty for endangering the confidence in the independence and impartiality of the office. In past media interviews, it was said that in some cases political parties affected the work of the SCO and forced the nomination of its members as heads of this institution.

References:

Media server Denik.cz. Karna komora NKU napomenula sefa uradu Dohnala (The Disciplinary Chamber of NKU scolded for its boss — Mr Dohnal). Last modified November 12, 2010. Available at: http://www.denik.cz/z_domova/karna-komora-nku-napomenula-sefa-uradu-dohnala-.html

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In 2009, Budget Chapter 381 of the state budget of the Czech Republic (including expenses of the Supreme Control Office) was

approved by Act No. 475/2008.

References:

Nejvyšší kontrolní úřad (Supreme control office), Vyroční zpráva 2009 (Annual Report 2009). Available at: <http://www.nku.cz/vyr-zpravy/vyrocnizprava-nku-2009.pdf>, pp. 27.

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

In 2009, the Supreme Control Office has published several reports and other publications:

1. Bulletin of the Supreme Control Office was published in four issues at the end of each calendar quarter (including the individual figures of a total 33 audit findings, the annual report for 2008, additions and changes to the audit plan and the audit plan for 2010).
2. Handbook of international accounting standards for the public sector, providing an overview of developments within the International Federation of Accountants (IFAC). The publication is open to the public on the website of the Supreme Control Office.
3. EU Report 2009 – Report on financial management of EU funds in the Czech Republic.
4. Outcomes of audits are also published regularly on the website of the Supreme Control Office.
5. Annual reports of the Supreme Control Office from 1993 to 2009 are also available on its website.

References:

Nejvyšší kontrolní úřad (Supreme Control Office): Vyroční zpravy (Annual Reports). Last modified 2010. Available at: <http://www.nku.cz/cz/publikace/vyrocnizpravy.htm>

Nejvyšší kontrolní úřad [Supreme control office]: Vyroční zpráva 2009 [Annual Report 2009]. Available at: <http://www.nku.cz/vyr-zpravy/vyrocnizprava-nku-2009.pdf>, pp. 25-26.

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

The findings of the Supreme Control Office include no penalties. The penalties are left to the government or particular ministries, which could call for corrections. If a correction is proceeded with, it is not severe.

References:

DDavid Ondracka graduated from the Political Economics Department of the Central European University in Budapest after he studied international relations at Palacky University and political science at Charles University in Prague. He has been employed at Transparency International – Czech Republic (TIC) since 2001. He has worked as a director of TIC since January 2008. He specializes in issues of political corruption, conflicts-of-interest and procurement spending. He has participated at many conferences and seminars in Germany, US, Belgium, Bulgaria, Georgia, Armenia, Azerbaijan, Kyrgyzstan, and Mongolia. He also teaches at Czech universities. Interview was given in Prague on December 3, 2010.

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

It follows the law. The office only controls different matters handling the state property or the state finances. It can initiate controls

and for every control, the final report is produced and published. The office can impose some financial penalties.

References:

Act No. 166/1993, Zakon o Nejvyšším kontrolním úřadu (Act on Supreme Control Office).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

100

60a. In law, citizens can access reports of the audit agency.

Yes

No

References:

Act No. 166/1993, Zakon o Nejvyšším kontrolním úřadu (Act on Supreme Control Office), Article 18, Part 3.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb43-93.pdf>

Yes: A YES score is earned if all supreme auditor reports are available to the general public.

No: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The bulletin of the Supreme Control Office was published in four installments, at the end of each calendar quarter (including the individual figures of a total of 33 audit findings, the annual report for 2008, additions and changes to the audit plan and the audit plan for 2010). Outcomes of audits are published regularly on the website of the Supreme Control Office (see above).

Reports are usually available online, but when additional information is required by citizens, it takes 15 days or less, according to the Act No. 106/1999 (Act on Free access to information).

References:

Nejvyšší kontrolní úřad (Supreme Control Office): Registr kontrolních akcí NKU (Register of controls of Supreme Control Office). Last modified November 23, 2010. Available at: http://www.nku.cz/scripts/rka/prehled_akci.asp?sestava=5

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The Supreme Control Office requires no payments for information services (only the cost of photocopying are applicable).

References:

Nejvyšší kontrolní úřad (Supreme Control Office): Sazebník úhrad nakladu za poskytování informací podle zákona č. 106/1999 (Fees and Charges for providing information under Act No. 106/1999). Last modified 2010. Available at: <http://www.nku.cz/cz/poskytovani-informaci/sazebnik-uhrad.htm>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or NGOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

94 5.3. Taxes and Customs: Fairness and Capacity

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes

No

Comments:

The competent authorities are: Ministry of Finance, financial directors, financial offices.

References:

Act No. 531/1990, Zakon o uzemnich financnich organech (Act on the Territorial Financial Authorities).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1990/sb087-90.pdf>

Act No. 337/1992, Zakon o sprave dani a poplatku (Act on the Administration of Taxes and Fees).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1992/sb070-92.pdf>

Yes: A YES score is earned if there is a national agency formally mandated to collect taxes.

No: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100

75

50

25

0

Comments:

According to the latest Ministry of Finance's data, on January 1, 2007, there were 15,861 officials dealing with the tax

administration.

References:

Ministry of Finance: Institucionalni reforma (Institutional reform). Last modified April 2005. Available at: http://www.mfcr.cz/cps/rde/xbcr/mfcr/RDS_2010_-_IV_Institucionalni_reforma_03042008_doc.doc

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The tax administration section consumes CZK 7,235 billion (nearly US\$400,000,000).

References:

Ministry of Finance: Institucionalni reforma (Institutional reform). Last modified April 2005. Available at: http://www.mfcr.cz/cps/rde/xbcr/mfcr/RDS_2010_-_IV_Institucionalni_reforma_03042008_doc.doc

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

63. In practice, are tax laws enforced uniformly and without discrimination?

75

63a. In practice, are tax laws enforced uniformly and without discrimination?

Comments:

When a soldier moves out of the Czech Republic, he/she is not obliged to pay taxes on his/her service pension. But a soldier living in the Czech Republic will be discriminated against, compared to the soldier who lives outside of the CR. A Czech soldier is, moreover, discriminated against, compared to other NATO soldiers (who also don't pay tax on their service pensions). The problem is also applying a tax on a service pension before the law's application (when soldiers were not obliged to pay taxes on their service pensions).

References:

Kohout, Jiri: Problematika retroaktivního zdanění výsluh (The issue of retroactive tax on service pensions). Last modified 2010. Available at: www.legionar.org/soubor.php?databaze=soubor&uid=787

Podnikatel.cz: Za danové úniky hrozí vězení, přesto podnikatele riskují (Tax evasion to prison, but businesses still take risks). Last modified August 17, 2009. Available at: <http://www.podnikatel.cz/clanky/za-danove-uniky-hrozi-podnikatelum-vezeni/>

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes

No

References:

Act No. 185/2004, Zákon o Celní správě České republiky (Act on Customs Administration of the Czech Republic). <http://aplikace.mvcr.cz/archiv2008/sbirka/2004/sb062-04.pdf>

Act No. 337/1992, Zákon České národní rady o správě daní a poplatků (Czech National Council Act on the Administration of Taxes and Fees). <http://aplikace.mvcr.cz/archiv2008/sbirka/1992/sb070-92.pdf>

Yes: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

No: A NO score is earned if that function is spread over several agencies, or does not exist.

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency had 6,899 employees on January 1, 2007.

References:

Ministry of Finance: Institucionalni reforma (Institutional reform). Last modified April 2005. Available at: http://www.mfcr.cz/cps/rde/xbcr/mfcr/RDS_2010_-_IV_Institucionalni_reforma_03042008_doc.doc

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The agency is financed from the state budget. The annual budget in 2006 was CZK 4,542 billion (over US\$200,000,000).

References:

Ministry of Finance: Institucionalni reforma (Institutional reform). Last modified April 2005. Available at: http://www.mfcr.cz/cps/rde/xbcr/mfcr/RDS_2010_-_IV_Institucionalni_reforma_03042008_doc.doc

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

Comments:

For the first six months of this year, tax evasions were revealed in several cases. The cigarette and tobacco tax evasion was CZK 56 million, CZK 3.2 million on alcohol and spirits, and CZK 15.5 million on fuel.

References:

Hospodarske noviny: Celnici meni styl. Danovych uniku pribyva (Customs change style. Tax evasion is increasing). Last modified July 9, 2010. Available at: <http://hn.ihned.cz/c1-44724460-celnici-meni-styl-danovych-uniku-pribyva>

Customs Administration of the Czech Republic: Celnikum se dari pri kontrolach vozidel odhalovat danove uniky (Customs officers thrive in vehicle inspections and tax evasion is detected). Tisková zpráva celní správy (Customs Press Release). Plzeň. Last modified June 15, 2010. Available at: <http://www.celnisprava.cz/cz/crplzen/tiskove-zpravy/2010/Stranky/celnikum-se-dari-pri-kontrolach-vozidel-odhalovat-danove-uniky.aspx>

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

5.4. Oversight of State-Owned Enterprises

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes

No

Comments:

According to the law, only the ministries could set up a state enterprise. The ministry monitors the state enterprise mostly indirectly via the State Enterprise's Supervisory Board, where two-thirds of the members are nominated by the ministry.

References:

"Dozorci rada statniho podniku (State Enterprise's Supervisory Board).

Act No. 77/1997, O statnim podniku (Act on state enterprise), Articles 1 and 15.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1997/sb025-97.pdf>

Yes: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

No: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

65

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes

No

Comments:

A member of the Supervisory Board should be a legally competent person. Members are appointed and elected from independent experts, economists, scientists, employees in the banking sector, and representatives of employees of the state enterprise.

References:

Act No. 77/1997 O statnim podniku (Act on state enterprise), Article 13, Part.

3. <http://aplikace.mvcr.cz/archiv2008/sbirka/1997/sb025-97.pdf>

Yes: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The ministry monitors the state enterprise mostly indirectly via the Supervisory Board, where two-thirds of the members are nominated by the ministry. Mostly, the members have other employment and the posts are very often held by former politicians or senior civil servants. The research done in May 2010 shows that 95 percent of the members fulfill the criteria defined for being a member of the Supervisory Board.

References:

iDnes media server. V dozorcich radach statnich firem nemaji sedet urednici, ukazal audit (The supervisory boards of state companies are not for the officials, the audit showed). Last modified May 19, 2010. Available at: http://ekonomika.idnes.cz/v-dozorcich-radach-statnich-firem-nemaji-sedet-urednici-ukazal-audit-1ic-/ekonomika.aspx?c=A100518_191616_ekonomika_abr

Media server iHned: Politiky v dozorcich radach statnich firem cekaji testy zpusobilosti (Integrity tests are suggested for the politicians in the supervisory boards of the state companies). Last modified January 21, 2010. Available at: <http://domaci.ihned.cz/c1-40097380-politiky-v-dozorcich-radach-statnich-firem-cekaji-testy-zpusobilosti>

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The are many doubts about the inadequate amount of rewards for the members of the Supervisory Board of the state enterprises.

References:

iDnes media server: V dozorcich radach statnich firem nemaji sedet urednici, ukazal audit (The supervisory boards of state companies are not for the officials, the audit showed). Last modified May 19, 2010. Available at: http://ekonomika.idnes.cz/v-dozorcich-radach-statnich-firem-nemaji-sedet-urednici-ukazal-audit-1ic-/ekonomika.aspx?c=A100518_191616_ekonomika_abr

Media server iHned: Politiky v dozorcich radach statnich firem cekaji testy zpusobilosti [The integrity tests are suggested for the politicians in the supervisory boards of the state companies]. Last modified January 21, 2010. Available at: <http://domaci.ihned.cz/c1-40097380-politiky-v-dozorcich-radach-statnich-firem-cekaji-testy-zpusobilosti>

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

The Supervisory Board has limited powers to start investigations. It could monitor the activities inside a company only. The problem is that a company is not legally responsible by law. Also, the ministry could monitor the state enterprises only in limited ways (through changing of the Supervisory Board's members).

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start

investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

Comments:

The Supervisory Board has limited power. It could recall the general manager of the state enterprise, cancel rewards, etc.

References:

Dr. Jana Reschova, CSc., is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

95

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

Comments:

By law, all companies have to be listed in a publicly available database. The access is online (<http://www.justice.cz/xqw/xervlet/insl/index>) without registration needed.

References:

Obchodni rejstrik (Register of companies).

Yes: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

No: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

According to the law, companies are obliged to update all information to the publicly available database and on its website. State-owned enterprises are required to provide information online and on time. They follow this requirement.

References:

Ministry of Justice: Obchodni rejstrik a Sbirka listin (Register of Companies and Collection of Documents). Last modified 2010. Available at: <http://www.justice.cz/xqw/xervlet/insl/index>.

Lesy CR, s.p. (Czech Forests): Download vyrocní zpravy (Download annual reports). Last modified 2010. Available at: <http://www.lesy.cz/cs/download.ep/>

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

In the Czech Republic, the Czech Accounting Standards (CAS) are used. The CAS meet the International Accounting Standards. The quality and depth of audits of the state enterprises depends on the third-party auditor chosen.

References:

Ministry of Justice: Obchodni rejstrik a Sbirka listin (Register of Companies and Collection of Documents). Last modified 2010. Available at: <http://www.justice.cz/xqw/xervlet/insl/index>.

Marie Kucerova is on the faculty of Social Sciences and teaches Course Auditing at the Institute of Economic Studies, Charles University in Prague, and is employed in Deloitte, Czech Republic. She earned her degree in international trade at the University of Economics, Prague. She is listed with the Chamber of Auditors of the Czech Republic and has a seat in its office. Maria has more than 10 years of audit experience in both small and large audit firms. Interview was given at the Institute of Economic Studies at Charles University in Prague, November 22, 2010.

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

All documents are published online, either in the database for all companies or at the web page of a particular state-owned enterprise.

References:

Ministry of Justice: Obchodni rejstrik a Sbirka listin (Register of Companies and Collection of Documents). Last modified 2010. Available at: <http://www.justice.cz/xqw/xervlet/insl/index>.

Ceska posta, s.p. (Czech Post Office): Vyrocni zpravy (Annual Reports). Last modified 2010. Available at: <http://www.cpost.cz/o-ceske-poste/profil/vyrocní-zpravy-id362/>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

Comments:

Annual reports, financial statements, attachments, press releases, etc. are available online, both in the database and at the website of a particular state enterprise.

References:

Ministry of Justice: Obchodni rejstrik a Sbirka listin (Register of Companies and Collection of Documents). Last modified 2010. Available at: <http://www.justice.cz/xqw/xervlet/insl/index>.

Letecke Opravny Malesice, s.p.: Ke stazeni (Download). Last modified 2010. Available at: http://www.lompraha.cz/?page_id=43.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

87

5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

81

70a. In law, anyone may apply for a business license.

Yes

No

References:

Act No. 513/1991, Obchodni zakonik (Business Act).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb098-91.pdf>

Act No. 455/1991, Zakon o zivnostenskem podnikani (Business Licensing Act).
<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb087-91.pdf>

Yes: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

No: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

Comments:

A license is denied only when the legal requirements are not fulfilled. If the information is not sufficient, the office can ask the applicant to supply needed additional information.

References:

Act No. 455/1991 Zakon, o zivnostenskem podnikani (Business Licensing Act), Article 47, Parts 4 and 5.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb087-91.pdf>

Yes: A YES score is earned if there is a formal process for appealing a rejected license.

No: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the World Bank's Doing Business Survey, the Czech Republic needs nine procedures (number of steps) in order to start a business and the whole process lasts 20 days.

If all information and other documents (clear criminal record, receipts, etc.) are sufficient and correct, the license is granted while one waits.

References:

World Bank and International Finance Corporation: Governance Matters 2011. "Making a Difference for Entrepreneurs," Washington, 2010. Available at: <http://www.doingbusiness.org/~/media/fpdkm/doing%20business/documents/annual-reports/english/db11-fullreport.pdf>

Vladimir Vymetal is a businessman and executive secretary of several private firms. Interview was given in Prague, November 27, 2010.

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

According to the World Bank's Doing Business Survey, the costs of starting a business is 9.3% of income per capita in the Czech Republic. The minimum capital needed is 30.9% of income per capita.

There are several fees that need to be paid for a new (the first) license. After paying a final CZK 1,000 (nearly US\$60), an unlimited number of business types can be written on the license. After the license is granted, if the applicant needs to narrow or broaden the business type, it is free of charge.

References:

World Bank and International Finance Corporation: Governance Matters 2011. "Making a Difference for Entrepreneurs," Washington, 2010. Available at: <http://www.doingbusiness.org/~/media/fpdkm/doing%20business/documents/annual-reports/english/db11-fullreport.pdf>

Vladimir Vymetal is a businessman and executive secretary of several private firms. Interview was given in Prague, November 27, 2010. was given in Prague, November 27, 2010.

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

References:

Act No. 309/2006, Zakon o zajisteni dalsich podminek bezpecnosti a ochrany zdravi pri praci (Act on further safety and health requirements at work), Article 3, Article 7, Articles 12-13.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb096-06.pdf>

Act No. 258/2000, Zakon o ochrane verejneho zdravi (The law on public health).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2000/sb074-00.pdf>

Act No. 262/2006, Zakonik prace (Labor Code).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb084-06.pdf>

EU Directives and Government Regulations.

Yes: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

Yes | No

References:

Ministry of the Environment of the Czech Republic: Platna legislativa (Existing legislation). Last modified 2010. Available at: http://www.mzp.cz/_c1256e7000424ac6.nsf/Categories?OpenView&Start=1&Count=30&Expand=1.1#1.1

Act No. 17/1992, Zakon o zivotnim prostredi (Act on environment).

<http://aplikace.mvcr.cz/archiv2008/sbirka/1992/sb004-92.pdf>

Yes: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes | No

References:

Act No. 309/2006, Zakon o zajisteni dalsich podminek bezpecnosti a ochrany zdravi pri praci (Act on further safety and health requirements at work), Article 3, Article 7, Articles 12-13.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb096-06.pdf>

Act No. 262/2006, Zakonik prace (Labor Code).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2006/sb084-06.pdf>

EU Directives and Government Regulations

Yes: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

100

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

A network of Regional Labor Inspectors exists. An article above refers to a case when the unions at Hyundai announced a strike alert. The Labor Inspector decided to make inspections in the company and discovered several shortcomings.

References:

Ceske noviny: Inspektorat prace odhalil v Hyundai radu zavaznych nedostatku (The Labor Inspector revealed a number of serious shortcomings at Hyundai). Last modified February 22, 2010. Available

at: <http://magazin.ceskenoviny.cz/auto/zpravy/inspektorat-prace-odhalil-v-hyundai-radu-zavaznych-nedostatku/439108>

Statni urad inspekce prace (National Labor Inspector), Rocni zpravy (Annual Reports). Last modified 2010. Available

at: http://www.sujp.cz/files/sujp-973b8924ca6e3dbe0e67573ee667bb9e/zprava_cinnost_2008.pdf

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Ceska Inspekce Zivotniho Prostredi (Czech Environmental Inspection) imposes measures and remedies to eliminate identified deficiencies, controls fulfillment of measures imposed, reduces or stops the harmful activity of individuals and companies, and imposes legal penalties on individuals and companies when a breach of obligations in the environmental area is proved.

References:

TV Nova: Sokolovska uhelna se brani pokute za zneclistovani vody (Sokolov monoxide avoids fine for water pollution). Last modified November 27, 2010. Available at: <http://tn.nova.cz/zpravy/doporucujeme/sokolovska-uhelna-se-brani-pokute-za-zneclistovani-vody.html>

Ceska Inspekce Zivotniho Prostredi (Czech Environmental Inspection): Pusobnosti a kompetence (Power and competence). Last modified December 13, 2003. Available at: <http://www.cizp.cz/Pusobnosti>

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

A network of Regional Labor Inspectors exists. An article above refers to a case where the unions at Hyundai announced a strike alert. After this problem, the Labor Inspector decided to make inspections in the company and discovered several shortcomings.

References:

Ceske noviny: Inspektorat prace odhalil v Hyundai radu zavaznych nedostatku (Labor Inspector has revealed a number of serious shortcomings at Hyundai). Last modified February 22, 2010. Available at: <http://magazin.ceskenoviny.cz/auto/zpravy/inspektorat-prace-odhalil-v-hyundai-radu-zavaznych-nedostatku/439108>

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

6.1. ⁸⁰Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes

No

References:

Act No. 40/2009, Trestni zakonik (Criminal code), Articles 331 – 334.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if corruption laws include attempted acts.

No: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

References:

Act No. 40/2009, Trestni zakonik (Criminal code), Article 175.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

No: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

Comments:

Article 333 deals with indirect bribing.

References:

Act No. 40/2009, Trestni zakonik (Criminal code), Article 332 and Article 333.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if offering a bribe is illegal.

No: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

References:

Act No. 40/2009, Trestni zakonik (Criminal code), Article 331.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if receiving a bribe is illegal.

No: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

References:

Act No. 40/2009, Trestni zakonik (Criminal code), Article 334.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if bribing a foreign official is illegal.

No: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

References:

Act No. 40/2009, Trestni zakonik (Criminal Code), Articles 205-207, Article 212, and Articles 220-221.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if using public resources for private gain is illegal.

No: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

Yes | No

References:

Act No. 40/2009, Trestni zakonik (Criminal Code), Article 255.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if using confidential state information for private gain is illegal.

No: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes

No

References:

Act No. 40/2009, Trestni zakonik (Criminal Code), Article 216 and Article 217.
www.mvcr.cz/soubor/sb011-09-pdf

Act No. 253/2008, Zakon o nekterych opatrenich proti legalizaci vynosu z trestne cinnosti a financovani terorismu (Act on certain measures against money laundering and financing of terrorism).
www.mvcr.cz/soubor/sb011-09-pdf

Act No. 254/2008, Zakon, kterym se meni nektere zakony v souvislosti s prijetim zakona o nekterych opatrenich proti legalizaci vynosu z trestne cinnosti a financovani terorismu (Act which amends other acts due to the adaption on certain measures against money laundering and financing of terrorism).
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

No: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes

No

References:

Act No. 40/2009, Trestni zakonik (Criminal Code), Article 24.
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if organized crime is illegal.

No: A NO score is earned if this is not illegal.

6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes

No

Comments:

There are some bodies set up at the Ministry of Interior in the Czech Republic:

Unit for Combating Corruption and Financial Crime (Utvar odhalovani korupce a financni kriminality SKPV).

Permanent Anti-Corruption Commission, Police of the Czech Republic

Intersector Coordination Group for Combating Corruption

This unit is not created by law. It's a unit set up by the police and, hence, the Ministry of Interior. Even if this unit has a nationwide scope, it is certainly not defined by law. It somehow works under the police and it is not an independent unit, since it has to accept orders from the head of the police and, hence, the Minister of Interior. Bribes, corruption, etc. are investigated, just like other crimes. Only the "big fish" are assigned to the special police department mentioned above.

References:

N/A

Yes: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

No: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

75. Is the anti-corruption agency effective?

72

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes

No

Comments:

No such agency is defined by law and the agency that works within the police is not protected by law.

References:

N/A

Yes: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

No: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Not defined by law so there is no such practice.

References:

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

Comments:

The director of the anti-corruption unit is chosen by the police president. The director can be removed from office if there is cause discovered after a police investigation. There are obviously different pressures from the media and political parties (usually ones in opposition) when a removal occurs.

References:

Media server Novinky.cz: Protikorupcni policie ma po peti mesicich noveho sefa (The anti-corruption police finally have a new chief after five months). Last modified December, 2005. Available at: <http://www.novinky.cz/domaci/71080-protikorupcni-policie-ma-po-peti-mesicich-noveho-sefa.html>

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100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

Comments:

Just like ordinary policemen, the AC unit staff has to meet requirements concerning physical health, knowledge of the law, taxes, good character, etc. Most of them have graduated from the police academy or the police college.

References:

Policie (Police). Podminky prijati do sluzebniho pomeru (Criteria for employment in police forces). Last modified 2010. Available at: <http://www.policie.cz/clanek/podminky-prijeti-do-sluzebniho-pomeru.aspx>

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100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The AC unit within the police has a professional, full-time staff.

References:

Utvar odhalovani korupce a financni kriminality SKPV (Unit for Combating Corruption and Financial Crime). Organizacni struktura (Organizational Structure). Last modified 2010. Available at: <http://www.policie.cz/clanek/organizacni-struktura-591298.aspx>

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100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The AC unit working within the police receives regular funds as part of the budget of the Ministry of Interior.

References:

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100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | **75** | 50 | 25 | 0

Comments:

The reports to the public are made regularly and are available online. The reports to the legislature (i.e., to the police president who passes them further to minister of interior) are hard to track. Moreover, only general information is published online for the public, not details.

References:

Utvár odhalování korupce a finanční kriminality SKPV (Unit for Combating Corruption and Financial Crime). Archiv tiskových zpráv (Press release archive). Last modified December 21, 2010. Available at: <http://www.policie.cz/clanek/archiv-tiskovych-zprav-563029.aspx>

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The AC unit, as a part of the police, has sufficient powers to investigate.

References:

Ministerstvo vnitra (Ministry of Interior): Utvar odhalovani korupce a financni kriminality SKPV (Unit for Combating Corruption and Financial Crime). Last modified 2010. Available at: <http://www.policie.cz/clanek/uokfk-skp-utvar-odhalovani-korupce-a-financni-kriminality-skp.aspx>

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100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

This unit is highly specialized and in serious cases takes action by itself. In other cases, problematic investigations are passed to this unit by police.

References:

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100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76. Can citizens access the anti-corruption agency?

13

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

It takes too long to act on complaints. Acknowledgment of some complaints takes several months or even years.

References:

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100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Whistle blowers are not protected.

References:

Radim Bures has studied philosophy and political economy at the Philosophy Department at Charles University in Prague and has graduated from Oxford University. He has taught the history of philosophy and analytical ethics at the Department of Philosophy, Charles University. Since mid-1990s, he has focused on the prevention of crime and was employed at the Crime Prevention Department of the Interior Ministry. He worked on human rights issues, prevention of trafficking, prevention of violence in sports and the prevention of corruption. He participated in short-term training in the US and Great Britain. Between 2000 and 2005, he participated in UN world conferences on crime prevention. He has been employed at Transparency International – Czech Republic since 2008. He has published numerous articles in professional journals and has participated at numerous international conferences. Interview was given in Prague, December 3, 2010.

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

62

6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

83

77a. In law, there is a general right of appeal.

Yes

No

References:

Act No. 141/1961, Trestni soudni rad (Criminal Procedure Act), Articles 245-265.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1961/sb66-61>

Yes: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

No: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100

75

50

25

0

Comments:

The court trials are very slow. Many prosecutions are passed to the European Court of Justice.

References:

Media server Lidovky.cz: Pomale soudy stoji miliony (Slow courts cost millions of crowns). Last modified March 19, 2009.

Available at: http://www.lidovky.cz/pomale-soudy-stoji-miliony-dfp-/ln_noviny.asp?c=A090319_000017_ln_noviny_sko&klic=230609&mes=090319_0

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the middle-class citizen can hire an attorney for a reasonable price.

References:

Mesec.cz: Kolik stojí advokát? (How much does an attorney cost?). September 5, 2003. Last modified Available at: <http://www.mesec.cz/clanky/kolik-stoji-advokat/>

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

75

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

The judgments follow the written law. There is only a little space for political interference. Occasionally, the judges or politicians try to influence the court's judgments.

References:

iDnes media server: Soudce Kucera prisel o talar. Ovlivnoval kauzu Cunek, rekl karny senat (Judge Kucera lost his post. He influenced Cunek's affair, said the disciplinary tribunal). Last modified September 7, 2010. Available at: http://zpravy.idnes.cz/soudce-kucera-prisel-o-talar-ovlivnoval-kauzu-cunek-rekl-karny-senat-1jq-/krimi.asp?c=A100907_074008_krimi_cen

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100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

75

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

Generally, decisions are enforced by the state. Sometimes convicted persons postpone going to prison using arguments such as illness.

References:

Dr. Jana Reschova, CSc. is an assistant law professor at the Department of Constitutional Law, Charles University in Prague, and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

100

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

References:

Act No. 1/1993, Constitution, Article 81 and Article 87.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Yes: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence includes financial issues (drafting, allocation, and managing the budget of the courts).

No: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Constitutional Court, as whole, is sometimes criticized by political figures.

References:

Rozhlas.cz: S Klausovou kritikou Ústavního soudu poslanci většinou souhlasí (Members of the Chamber of Deputies mostly agree with President Klaus' criticism of the Constitutional Court). Last modified September 7, 2010. Available at: <http://www.rozhlas.cz/zpravy/politika/zprava/s-klausovou-kritikou-ustavniho-soudu-poslanci-vetsinou-souhlasi-780505>

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100: National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes

No

Comments:

Distribution of the cases is transparent. They are distributed by the place where the offense was committed. In the next step, they are distributed to the judges by professional specialization and by the first letter of the offender's surname.

References:

Act No. 6/2002, Zakon o soudech, soudcich, prisedicich a statni sprave soudu (Law on courts, judges, associate justices and the state administration of courts).

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb004-02.pdf>

Act No. 99/1963, Obcansky soudni rad (Civil Procedure Act), Articles 152-175.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb086-91.pdf>

Act No. 141/1961, Tresni soudni rad (Criminal Procedure Act), Article 120, Part 1.

<http://aplikace.mvcr.cz/archiv2008/sbirka/1961/sb66-61>

Act No. 150/2002, Soudni rad spravni (Administrative Procedure Code), Article 54, Part 2.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb061-02.pdf>

Yes: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

No: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes

No

Comments:

A process in front of the Disciplinary Tribunal takes place when needed.

References:

Act No. 6/2002, Zakon o soudech, soudcich, prisedicich a statni sprave soudu (Law on courts, judges, associate justices and the state administration of courts), Articles 86-90.

<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb004-02.pdf>

Yes: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

No: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

References:

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Yes: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

No: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

References:

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Yes: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

No: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

82

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

Comments:

Only a little evidence exists. The most recent case is of the arsonists that burned a house of a Roma family and a child was seriously harmed. The case got broad media coverage. The offenders were sentenced to 20-22 years in prison.

References:

Novinky media server: Tri zhari z Vitkova dostali trest 22 let vezeni, ctvrty 20 let (Three arsonists from Vitkov got 22 years' prison sentence, the fourth got 20 years). Last modified October 20, 2010. Available at: <http://www.novinky.cz/krimi/214563-tri-zhari-z-vitkova-dostali-trest-22-let-vezeni-ctvrty-20-let.html>

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100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

Comments:

Evidence of women having non-equal status in the eyes of the courts is not available.

References:

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100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

Yes | No

References:

Act No. 2/1993, Charter of Fundamental Rights and Freedoms, Article 40, Part 2.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1993/sb01-93.pdf>

Act No. 99/1963, Obcansky soudni rad (Civil Procedure Act), Articles 152-175.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1991/sb086-91.pdf>

Act No. 141/1961, Tresni soudni rad (Criminal Procedure Act), Article 120, Part 1.
<http://aplikace.mvcr.cz/archiv2008/sbirka/1961/sb66-61>

Act No. 150/2002, Soudni rad spravni (Administrative Procedure Code), Article 54, Part 2.
<http://aplikace.mvcr.cz/archiv2008/sbirka/2002/sb061-02.pdf>

Yes: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

No: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

References:

Tyden.cz: Obhajci ex offa stoji rocne pulmiliardu. A bude hur (Ex officio defenders cost half a billion CZK p.a. And it will be worse). Last modified May 30, 2008. Available at: http://www.tyden.cz/rubriky/domaci/obhajci-ex-offo-stoji-rocne-pulmiliardu-a-bude-hur_62250.html

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100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

Comments:

This depends on the particular case. Mostly, civil disputes and the costs of attorneys are derived from the price of the property that is being resolved by the court. That's why it could sometimes be costly for a party that loses a trial.

References:

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100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

Comments:

Generally yes, but small businesses suffer from slow processing and slow conflict solving. The costs of stopping the use of some property (which can be an objective of the court proceedings) could significantly harm small businesses.

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and the Department of Political Science and International Relations, University of Economics in Prague. She is the author and co-author of many articles, book chapters and books. Interview was given in Prague, December 2, 2010.

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

Yes, there is a network of courts located in all former district towns. Reaching the courthouse doesn't pose any significant cost barrier.

References:

Oficialni server ceskeho soudnictvi (Official server of Czech judicial system): Okresni a krajske soudy (District and regional courts). Last modified 2010. Available at: <http://portal.justice.cz/justice2/uvod/Soudy.aspx>

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100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

They follow the requirements set by the law, which are the completion of the health screening, physical examinations and a psychological check. The other basic conditions are that they must be Czech citizens over 18-years-old who have completed at least upper secondary education (high school graduation) and have no criminal records.

References:

Policie Ceske republiky (Policy of the Czech Republic): Nabor k Policii CR (Police Recruitment). Last modified 2010. Available at: <http://www.policie.cz/clanek/nabor-k-policii-cr.aspx>

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100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

There are some barriers: some limits exist on the fuel used by police cars and some facilities are insufficiently equipped (mobile radars, for instance). Moreover, part of the austerity measures that the police face include reduction in the salaries, decreasing funds for operating costs, lack of money for fuel, and the sale of unneeded property.

References:

Denik.cz: Policii chybeji penize, pomoci museji obce, pokud ji chteji udrzet v regionu (Police don't have money; the municipality

must help if it wants to keep police in the region). Last modified December 4, 2010. Available at: http://prachaticky.denik.cz/zpravy_region/pt_policie0220101204.html

iDNES.cz: Policie setri. Strazcum zakona klesne plat az o nekolik tistic mescne (Police save. Police officers have to face drop in salary by several thousand per month). Last modified June 25, 2010. Available at: http://zpravy.idnes.cz/policie-setri-strazcum-zakona-klesne-plat-az-o-nekolik-tistic-mescne-1i5-/krimi.asp?c=A100625_150938_krimi_js

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | **50** | 25 | 0

Comments:

There is no evidence in the media.

References:

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100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

References:

“Verejny ochrance prav (Ombudsman).”

“Inspekce Ministra vnitra (Inspection of the Ministry of Interior).”

Act No. 273/2008, Zakon o Policii Ceske republiky (Act on Police of the Czech Republic).

<http://www.policie.cz/soubor/zakon-o-policii-cr-273-2008-sb.aspx>

Yes: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

No: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen’s complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

It is a very slow process. The police have to give a report within 30 days after the notice about a complaint. This report has to contain results of the investigation and what actions were taken in a particular case. The efficiency is very low in most cases.

References:

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100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes

No

Comments:

These two bodies are established by the Ministry of Interior's regulation, not by law, see <http://www.policie.cz/clanek/uokfk-skpv-utvar-odhalovani-korupce-a-financni-kriminality-skpv.aspx> for exact numbers of the Ministry of Interior's regulations. On the contrary, from the Ministry of Interior's regulation, the law has to be accepted by the Chamber of Deputies and the Senate and approved by the president of the Czech Republic.

References:

"Inspekce Ministerstva vnitra (Inspection of the Ministry of Interior)."

"Utvar odhalovani korupce a financni kriminality sluzby kriminalni policie a vysetrovani (Unit for Combating Corruption and Financial Crime, Criminal Police and Investigation)."

Yes: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

No: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100

75

50

25

0

References:

Transparency International – Czech Republic: Korupce v ceske policii (Corruption in the Czech Police). Last modified January 14, 2007. Available at: <http://www.transparency.cz/index.php?lan=cz&id=373>

CT24 (Czech Television): Trojice policistu z Teplice obvinena z korupce, mezi nimi i bratr Rebicka (Three policemen from Teplice accused of corruption, including the brother of the Minister of Řebíček). Last modified August 5, 2009. Available at: <http://www.ct24.cz/domaci/62922-trojice-policistu-z-teplic-obvinena-z-korupce-mezi-nimi-i-bratr-rebicka/>

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

Comments:

Yes, by law, enforcement officials can be judged the same as common citizens.

References:

Act No. 40/2009, Trestni zakonik (Criminal code).
www.mvcr.cz/soubor/sb011-09-pdf

Yes: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

No: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

References:

Media server iDNES.cz: Byvaly policista znamy z kauzy Kajinek je ve vazbe kvuli padelanym obrazum (A former policeman known from the case of Kajinek is in custody because of a fake painting). Last modified November 5, 2010. Available at: http://zpravy.idnes.cz/byvaly-policista-znamy-z-kauzy-kajinek-je-ve-vazbe-kvuli-padelanym-obrazum-162-/domaci.asp?c=A101105_190303_vary-zpravy_sou

CT24 [Czech Television]: Trojice policistu z Teplic obvinena z korupce, mezi nimi i bratr Rebicka [Three policemen from Teplice accused for corruption, including brother of the Ministry Řebíček]. Last modified August 5, 2009. Available at: <http://www.ct24.cz/domaci/62922-trojice-policistu-z-teplic-obvinena-z-korupce-mezi-nimi-i-bratr-rebicka/>

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
