

SURVEY OF ANTI-CORRUPTION MEASURES IN THE PUBLIC SECTOR IN OECD COUNTRIES : CZECH REPUBLIC

1. What anti-corruption mechanisms exist for the public sector in your country?

a) *Legislation proscribing corrupt activities and establishing sanctions*

The Criminal Code defines several types of criminal corruption offences:

- receiving bribes;
- offering bribes (a stricter punishment is imposed to offenders who have committed these crimes in the position of public official);
- indirect bribery; and
- abuse of powers by public officials.

b) *Other anti-corruption regulations or orders*

The Labour Code, applicable to the majority of civil servants (public administration employees, judges, etc.). These employees are obliged to:

- act and decide impartially;
- refrain from anything that could damage credibility in their impartial decision;
- refrain from accepting gifts or other benefits during execution of their duties, except for cases specified by law;
- refrain from acts that could cause any conflict of interests (abuse of information acquired in connection with execution of their duties).

The Act on Conflict of Interests was adopted with the intention to prevent any act or omission which could damage credibility in the impartiality of public officials, by abusing their position, or by obtaining an unjustified benefit for themselves or for another person. This Act:

- is applicable to public officials (Deputies and Senators of the Parliament, members of the Government, heads of central administrative officers;
- determines the duty of public officials to give a statement of personal benefits, activities, incomes and gifts, immovable property etc. This statement is open to the public, is filed in the Mandate and Immunity Committees of both the Chambers of the Parliament (Chamber of Deputies, Senate) and can be reviewed with regard to completeness and correctness.

The Act on Illicit Incomes from Criminality gives the framework and creates conditions for investigation and prevention of “money laundering”; determines duties for certain institutions; and defines powers of

state authorities in this field (for example, duty of financial or custom institutions to identify contract parties in some types of business transactions to report about dubious and unusual transactions etc.)

The Act on Public Procurement (Compulsory Competitive Tendering) determines the rules of assignment for public commercial procurement and rules regulating cases where such procurement is accepted by public administration authorities and organisations. These institutions are supervised from the view of legality of their actions by the Czech Office for Protection of Economic Competition (by control and sanctions).

The Commercial Code contains provisions against unfair competition (including corruption and protective practices).

c) *Oversight by the legislature or parliament (directly or through scrutiny committees)*

Oversight is realised through scrutiny committees. The Chamber of Deputies is entitled, in serious cases, to establish an “Investigatory Commission” (according to the Constitution of the Czech Republic) for investigation of matters of public interest (such as corruption). Such a commission has relatively extensive powers to inquire into the matters in question.

Pursuant to the Constitution, both Chambers are authorised to establish “commissions and committees”. This means that they could establish such institutions also for problems of corruption. At the same time, the “Control Commission” has been established.

d) *Investigation systems or bodies with powers to investigate corrupt activity*

Generally speaking, the authorities responsible for criminal proceedings have powers to investigate corrupt activity (the Police of the Czech Republic, state attorneys, independent courts). They have to operate according to the Criminal Procedure code.

Moreover, there is a specialised corps, “Service for Detecting of Corruption and Serious Economic Criminality” within the framework of the Police. This Service is equipped with an intelligence centre for analysis and its branches operate in several of the biggest cities. It deals with problems of corruption and organised crime, its powers are specified by law and it also ensures training of police persons in this field, in co-operation with foreign police and security corps.

e) *Supreme financial audit authority*

No.

f) *Ombudsman*

No.

g) Bodies to enforce sanctions and prosecute corrupt activity, e. g. specialised prosecutors, investigators, courts, tribunals, etc.

No

h) Human resources management procedures intended to prevent corruption

No

i) Financial management controls intended to prevent or deter corrupt practices

No

j) Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity

No

k) Transparency mechanisms e.g. independent or public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity

The Act on Conflict of Interests is mentioned in the answer to *Question 1(b)*.

l) Guidance and training for public officials or politicians (e. g. codes of conduct, ethics)

The rules described in the answer to *Question 1(b)* substitute codes of conduct.

m) Other measures intended to control, detect or deter corruption

No

2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?

Penal anti-corruption mechanisms as described in *Question 1(a)* seem to be most effective.

3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?

The effectiveness of these mechanisms is not formally evaluated.

4. What if any new actions against corruption in the public sector is your country currently considering?

Legislative measures are being prepared, including, *inter alia*:

- the Act on Civil Service, which should generally determine the legal position, rights and duties of civil servants;
- new regulations concerning financing of political parties (preventing them from influence by economic pressure groups);
- additions to the Criminal Code to cover financial crimes committed through negligence.

In addition, the Government has decided to establish the institution of Public Defender of Human Rights and Freedoms (Ombudsman). Also under consideration are the establishment of specialised financial police and prosecution and a state information system, and a reform of the tax system.

5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?

The Czech Government stressed (as one of its main priorities) the fight against economic criminality (e.g. money laundering, tax and credit fraud, corruption), conducted in ways similar to countries of the European Union (Italian campaign “Clean Hands”). Intelligence services will also be used for this purpose. In addition, the control of questionable privatisation cases is of great importance.