



**Action Plan of the Czech Republic
"Open Government Partnership"**

I. Introduction

The Government of the Czech Republic approved the accession to the Open Government Partnership, an international initiative, in its Resolution no. 691 of 14 September 2011, and it authorised the Deputy Prime Minister, Chairwoman of the Legislative Council of the Government and Chairwoman of the Government Committee for coordinating the fight against corruption, to prepare an Action Plan to achieve open government and to meet the principles of the Open Government Partnership (hereinafter referred to as the "Action Plan").

The decision by the Government of the Czech Republic to join the Open Government Partnership initiative reflects the Czech Republic's strong commitment to promote transparent, open and effective state administration. The Action Plan, which has emerged from inter-ministerial cooperation and has been the subject of consultations with the not-for-profit and private sectors, primarily responds to the need to improve access to data, to improve the efficiency of the state administration and to encourage public participation in decision-making processes at a national level.

The drafting of the present Action Plan was coordinated by the Office of the Government of the CR, which actively involved both the central administrative authorities and the not-for-profit sector in the development of its final form. The Office of the Government of the CR was also the main coordinator of the public debate that took place in January 2012. The Action Plan was also presented to the public, and the main objective of this public discussion was to determine priorities for the issues presented and to select the most important areas on which the Action Plan will focus. The Office of the Government of the CR also informed the general public of the preparation of the Action Plan through the national media and via its official website, on which an interactive discussion platform was opened to the public.

The obligations arising from the Action Plan and resulting from this public debate are presented below.

II. Previous efforts to achieve open government

The current coalition government of fiscal responsibility, the rule of law and the fight against corruption has set as one of its priorities the fight against corruption.

A top-quality institutional and legal environment is one of the main conditions for preventing corruption, as is also emphasised in the International Competitiveness Strategy of the Czech Republic for the period from 2012 – 2020.

The central governmental document is the government's policy statement, which contains a number of measures to increase the transparency of the public administration and to reduce corruption in the Czech Republic. In its fight against corruption, the Government has approved a separate document – the **Government Strategy for the Fight against Corruption for the period from 2011 to 2012** (hereinafter referred to as the "Strategy"). The aim of this Strategy is to eliminate conditions that enable the emergence of an environment of corruption in the Czech Republic through the progressive adoption of individual measures, providing a balanced ratio of prevention and repression, and to make the related processes

transparent. The Strategy divides measures into five basic categories, which are public administration, public tenders, Czech police, public prosecution and courts and the legislative power and includes dozens of legislative and non-legislative measures.

The Strategy also sets out priorities, which include the adoption of an Act on Civil Servants, the improvement of the system allowing free access to information, the strengthening of the independence and accountability of the state prosecution service in the exercise of the powers conferred on it and the reinforcement of the restitutive function of criminal proceedings, including the seizure of profits, protection of whistleblowers, etc.

Major advances were made in rendering public administration processes in the Czech Republic more transparent in 2011 through the implementation of one of the Strategy tasks relating to the **fairness of public procurement by strengthening the transparency of**, and equal access to, public tenders. The goal was also to ensure access to information during the entire public procurement process (including identifying processes where the public can participate in decision-making), from the drafting of the tender to the evaluation of whether the contract has been fulfilled, etc. The outcome of this work is Act No. 55/2012 Coll., amending Act No. 137/2006 Coll., on public procurement, as amended, which comes into effect on 1 April 2012.

Based on task No. 1.17 of the Strategy there had been a development in the area of **publicizing the sales of public property** at the level of central administrative bodies in 2011. Currently all central administrative bodies publish this information on their websites.

Halfway through 2011 based on the task No. 5.1 the **Central Register of Record Authorities** had been made available according to the Act No. 159/2006 Coll., on Conflict of Interests as amended, to facilitate the public access to information in individual registers of announcements (activity, property and income, gifts and liabilities of public officials according to the Act on Conflict of Interests) and for a more effective supervision of public officials.

In connection to the accessibility of public administration data and information, improved access of citizens to the valid legislation, easier orientation in the law and improvement of its creation it is also necessary to mention the **project of the Electronic Collection of Laws and International Treaties (eSbírka)**, which would also enable binding issue of laws and international treaties in electronic form and the **project of the Electronic Legislation Process (eLegislativa)**. The projects will be launched after the sufficient resources will be allocated from the EU Integrated Operation Program (expected in the second half of 2012). The Act on the Collection on Laws and International Treaties and Electronic Creation of Legislation, which should be presented to the government by June 2013, should enter into force on 1st July 2015. During the execution of the project gradual access to the informative version of the Collection will be provided. Thanks to these projects the citizens will be able to find out more easily what is the current wording of the given legislation, what are its contents, what changes does it bring, how does it complement the EU law and what was the reason for its adoption. The projects also strive to provide as efficient as possible process of creation of legislation and high-quality and generally comprehensible legislation. They will provide the public with better possibilities to take part in the legislative process and ensure better transparency of the process as a prerequisite for the lowering of corruption risks, which are related to it.

As for the fulfillment of Czech Republic's international obligations, it is necessary to mention that the Czech Republic signed the **United Nations Convention against Corruption – UNCAC** already on 22nd April 2005. The ratification of this Convention is conditioned by the implementation of the liability of legal persons into the Czech legislation. The Act No. 418/2011 Coll., on Corporate Criminal Liability, has been announced on 22nd December 2011 in the Collection of Laws, part 146 and is effective since 1st January 2012. Consequent to the adoption of this Act and in accordance with the Plan of Non-legislative Tasks of the Czech Government for the 1st half of 2012 a proposal for the UNCAC ratification will be presented to the government. This also means that the conditions of the Council of Europe's Criminal Law Convention on Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions have been fulfilled.

III. Commitments of the Czech Republic

The present commitments of the Czech Republic clearly reflect the priorities set out in the Strategy, where its stated commitments focus on the challenge **to improve public integrity, through measures dealing with corruption and access to information.** The Government of the Czech Republic fully supports attempts to remove regulatory and technical barriers to access to information and its goal is to enable the general public to share, combine and freely use the available data.

The three main areas, which were included in the Action Plan as a result of the public debate, are:

- **the adoption of an Act on Civil Servants, to ensure the depoliticisation, professionalisation and stabilisation of the public administration sector,**
- **streamlining the system allowing free access to information,**
- **improving access to data and information.**

By meeting these commitments, the Czech Republic will significantly improve the transparency of public administration procedures and will simplify access to the information and data held by the public administration.

III./1. The adoption of an Act on Civil Servants, to ensure the depoliticization, professionalization and stabilisation of the public administration sector

Responsible party: Ministry of Interior, Ministry of Labor and Social Affairs (system solution of inner construction of wages, remuneration)

Rationale:

The starting point for this priority area was the Program Declaration of the Government (chapter IV. Law, Justice, Public Administration, Bureaucracy and Corruption – Public Administration and eGovernment), which needs legislation, which would lead to depoliticization, professionalization and stabilization of the public administration.

This priority was also set by the Strategy in point 1.7: "Increasing the efficiency of performance and stabilization of public administration through the new Act on Civil

Servants”, update of which has been approved by the Government Resolution of 16th November 2011 No. 837. This task is also included in the Plan of Legislative Tasks of the Government for 2012, which was approved by the Government Resolution of 14th December 2011 No. 941 (the draft Act on Civil Servants was approved by the Government Resolution of 31st August 2011 No. 647, the draft theses of the Act on Civil Servants were approved by Government Resolution of 15th February 2012 No. 92).

The need of the Act on Civil Servants is embedded in the Article 79 par. 2 of the Czech Constitution – *“The legal status of government employees in ministries and other administrative agencies shall be defined by law”* and its existence is one of the accession obligations to the EU.

The aims of this legislation include: improved protection of public officials, more duties for the public officials, increased liability for damages and breach of duty, increased permeability between state and local administration, stabilization and professionalization of the public administration, system measures leading to depolitization of the public administration, increased transparency of the public administration and creation of the unified system of education of public officials.

The Ministry of Interior is the primary responsible party for the coordination of the performance of public administration.

Manner of performance:

The Czech Republic undertakes to adopt the following measures as part of its implementation of these priorities:

- 1) to create a unified labour law based on private law principles;
- 2) to depoliticise the public administration, not institutionally, but by setting maximum possible levels of legal protection for civil servants and by increasing legal protection for employees relative to the conditions laid down in the Labour Code;
- 3) to expand institutional competency (with the exception of the Czech National Bank and Ministry of Foreign Affairs employees to be covered by a special Act on diplomatic services);
- 4) to define personal competence through a system to determine levels for civil servants and employees both in terms of their rights and obligations, their level of remuneration, compensation for additional duties and in terms of their level of legal protection, which will significantly reduce the number of members of the public administration with the status of civil servants;
- 5) to extend compensation, particularly of a non-financial nature;
- 6) to strengthen the state’s role in providing uniform training methods, testing the knowledge and skills of civil servants, coordinating the system and responding to the specific needs of individual public authorities arising from the nature of their missions.

Milestones:

Preparation of the draft paragraph wording of the Act	February - May 2012
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Departmental consultations	June 2012
Interdepartmental consultations	July – August 2012
Presentation at Government meeting	30. 9. 2012
Expected date of entering into force	1. 1. 2014

III./2. Streamlining the system allowing free access to information

Responsible party: Ministry of Interior, Ministry of Environment, Ministry of Justice

Rationale:

The base point for this priority area is the Strategy – its point 1.15 tasks the Interior Minister to present to the government material which includes identification of problems related to free access to information, including draft legislative solutions. The Interior Minister's task to prepare a draft Act, which will change Act No. 106/1999 Coll., is also included in the Plan of Legislative Tasks of the Government for 2012.

At the present time the Ministry of Interior is preparing the paragraph wording of the amendment to the Act No. 106/1999 Coll. on Free Access to Information (hereinafter only as "InfAct"), where the below mentioned legislative theses will be reflected.

Manner of performance:

The Czech Republic undertakes to adopt the following measures as part of its implementation of these priorities:

- 1) to repeal the Act on the right to information on the environment and to include this area in an Act on free access to information;
- 2) to specify the range of mandatory disclosures by individual "types" of obligated entities;
- 3) to introduce a so-called "information ban" when decisions are being made on appeal and on complaints brought by the governing body of the obligated entity;
- 4) to introduce an authorisation enabling the obligated entity, under specific conditions, to require that an applicant specify in more detail (or limit) the range of information requested;
- 5) to introduce a public interest test;
- 6) to implement measures to prevent abuse of the law by applicants (rejection of clearly obstructive request, advance deposits against costs and the explicit combination and distribution of requests submitted by an individual applicant), on condition that a legislative solution can be found that will minimise the possibility of abuse of such measures on the part of the obligated entities;
- 7) simplified response to anonymous requests for information contained in documents provided elsewhere (without always having to issue a formal administrative decision rejecting the request for information);

- 8) to repeal the obligation to publish information provided;
- 9) to specify clearly the methods by which information is provided, including the methods of its publication;
- 10) to amend the provision of information concerning criminal proceedings by amending the Criminal Code so that this regulation meets the conditions for special treatment within the meaning of Section 2 para. 3 of Act No. 106/1999 Coll., on free access to information;
- 11) to amend the provision of information on pay and remuneration of employees of obligated entities to reflect the spirit of the joint recommendations of the Ministry of Interior and the Office for Personal Data Protection on the provision of information on public sector salaries;
- 12) to amend the provision of information on the activities of the Armed Forces and the Military Police;
- 13) fully to apply the Administrative Procedure Code, setting out justified exceptions and deviations, or establishing an exhaustive definition of these provisions of the Administrative Procedure Code, which will be applied to procedures falling under Act No. 106/1999 Coll., on free access to information (with the proviso that the chosen solution may not lead to a substantial increase in the administrative load placed on applicants);
- 14) to amend other provisions of the Act in order to be in conformity with the Council of Europe Convention on Access to Official Documents which the Czech Republic intends to ratify.

Milestones:

Preparation of the draft paragraph wording of the Act and its publishing on the website www.mvcr.cz/odk	30th April 2012
Interdepartmental consultations	30th June 2012
Presentation at Government meeting	31st October 2012
Expected date of entering into force	1st January 2014

III./3. Access to data and information

Responsible party: Ministry of Interior, Ministry of Finance, Ministry of Justice, Ministry for Local Development, Ministry of Transport and the Czech Statistical Office

Rationale:

To actively provide public access to information and data, which the public administration bodies have at their disposal, becomes a standard of communication between public administration and the citizens. All over the world there is an increasing number of governments, which automatically publish data without evaluating whether these are

beneficial for the citizens. Experience from such countries (USA, UK, Slovakia, Kenya etc.) confirm that the available data encourage the activity and creativity of companies, NGOs or individual citizens, who create application and innovative services for others.

The concrete examples are:

- **Benefits for the public administration**
 - resource savings – the administration gains an overview where the data are created or gathered and creates a strategy for the creation of important information systems,
 - more efficient work with data – systemization of the data gathering and publishing, it is easier to uncover sources of duplicate data,
 - data will be a comprehensive source for analyses and subsequent qualified decisions.
- **Benefits for the public and commercial and academic spheres**
 - background data for free commercial, scientific or research activity,
 - more efficient supervision of the administration's functioning,
 - support of the data journalism phenomenon, which is able to interpret the data and thus make them accessible to the citizens,
 - background data for creation of software applications.

The aim of the Action Plan is to transform the below listed public administration data files to an open data standard and create a base for their application by citizens and the administration.

Description of the current state: Most of the data needed is currently provided by the public administration through websites, or can be requested on the basis of the Act on free access to information. However, this method of publication, which does not meet the definition of open data, means that its further use is time consuming and technically demanding, sometimes even impossible.

A number of important data files will be transferred to systems that comply with open data standards, to ensure that anyone can freely incorporate this data in their work and publish it, particularly through automated computer processing.

Open data or the manner of their publishing must fulfill the following conditions:

- technical openness, i.e. their publishing in a standard machine-readable format,
- legal openness, i.e. data published under an open license,
- availability and originality, i.e. individual data storages are published as a whole and unchanged (e.g. not statistics, but data, based on which the statistics can be calculated – with the exception of data where this is prohibited by the law),
- well arranged, i.e. the cataloguing of data sets in a data catalogue to facilitate searching.

Outcomes, standards and processes resulting out of this plan must be set in such way, that in the long-term could be published any public data [of course with the exception of those whose publication is prohibited by law, e.g. strategic data on the distribution or personal information of individuals as defined in Act No. 101/2000 Coll. on Protection of Personal Data].

Manner of performance:

Improved access to data and information will be achieved over four consecutive stages:

1. Identification and removal of obstacles

a) Legal openness, i.e. the publication of data under an open licence

The majority of data files produced by the public administration don't have a specified license or generally any conditions of use, i.e. not even those given by the Copyright Act (i.e. it isn't clear whether the work is fully protected or free, whether there are any restrictions concerning its further use etc.). Currently there is no license used in the Czech Republic, which would be suitable for open data.

The translation of a suitable license and its harmonization with the Czech law would probably require changes in legislation. Therefore there will be these two steps within the Action Plan:

- Open data made available within the execution of the Action Plan will be subject to the valid Czech Copyright Law, within the "most open" license Creative Commons; this condition will be included in the methodological instruction or notice on the publication of the public administration data.
- At the same time a license tested abroad will be selected and a legal analysis of its harmonization with Czech law will be prepared. According to the analysis by the Faculty of Law of the Masaryk University in Brno the most suitable license is PDDL (Public Domain Dedication and License), which is de facto a combination of the Creative Commons Zero license and a deed of gift. The license is already usable, within this activity it will be necessary to translate the license and fully harmonize it with the Czech law.

b) Technical openness, i.e. the publication of data in a standard machine-readable format

To remain open, the data must be machine readable and structured. That is often not the case (a number of documents is in the format of the scanned PDF files). The access to data is in some cases limited e.g. by the number of accesses from one IP address.

Therefore it is necessary to set standards of data publishing for all public administration bodies and further change the restrictions of the number of database accesses from one IP address (the new legislation should include, after the agreement between data managers and users, both the machine access and a reasonable load on the provider side - "fair use concept").

It will also be necessary for individual data managers to identify their possibilities in demands for publishing machine-readable data.

2. Creation of an open data infrastructure in the Czech Republic and the establishment of rules for the public procurement sector

The data infrastructure is a uniform structure of databases, which will enable to combine and share the data. A good data infrastructure will lead to linked data. For the purposes of the Action Plan the execution is proposed *only in the area of public procurement*, because in the

current projects of academic institutions and NGOs there has been done most of the work in this area. This point is not relevant to other data sources.

The first step should be the upholding of the current law. The Act on public administration information systems stipulates that the data producers should create and use an integrated system of data elements. Data elements are not always used consistently and in such cases the databases are hard to use by any other subject apart from the author.

It will be necessary to stress the recommendation to use an integrated system of data elements and set enforceable penalties for not using it.

Experience from the public procurement data can be used for eventual application on other data.

3. Opening up the most important sources of data

In the first phase the following sources will be opened:

Database/dataset	Data manager
The Commercial Register	Ministry of Justice
The Insolvency Register	Ministry of Justice
Public tenders information system	Ministry of Local Development
Election results	Czech Statistical Office
Register of Active Legislative Tasks – RALP (departmental tools supporting the transparency of state administration and the participation of the public)	Ministry of Transport
Financial statistics – government debt	Ministry of Finance
Financial statistics – government financial statistics	Ministry of Finance
ÚFIS – accounting records and financial data from the CSÚIS (Central System of State Accounting Information)	Ministry of Finance
Online access to data regarding the funding of political parties	Ministry of Interior
Central register of grants	Ministry of Finance

4. Creation of a catalogue of the public administration data

Open data are meaningful if they are accessible and traceable. This is usually ensured by a catalogue (not central data storage but a link directory providing search services). The data will be located on the servers of the data managers, who will only place links into the catalogue and will be responsible for the accuracy of the information in the catalogue.

An adequate research will be performed in order to select a suitable software package to create and manage this system; it is also possible to find inspiration abroad where several governments and international institutions (UK government, UN, World Bank etc.) have chosen the open-source product CKAN to address their needs. It will also be taken into account the fact that in the public service already exist or are created metadata systems.

Currently most of the listed areas are already being worked on by representatives of the academic sector, namely from the Faculty of Informatics and Statistics of the University of

Economics in Prague (FIS UE) and Faculty of Mathematics and Physics of the Charles University (FMP CU), associated under the initiative opendata.cz. The FIS UE team focuses on the definition of technological processes for the publishing and linking of public data, methodology of work and roles of individual participants of open public administration in the Czech Republic and abroad, the FMP CU team focuses on software tools for work with open data and creation of technological standards for individual areas of the open data infrastructure (in the first phase the area of public tenders). All these already existing activities will be included in the official creation process of the open data infrastructure in the Czech Republic.

Milestones:

1. Identification and removal of obstacles	30th September 2012
2. Creation of the open data infrastructure and their rules in the area of public tenders	31st December 2012
3. Opening of the most important data sources	31st December 2012
4. Creation of the public administration data catalogue, continuous filling and cleansing	31st March 2013

IV. Conclusion

The Czech Republic welcomes the establishment of the Open Government Partnership – OGP initiative and values its efforts to improve public access to government globally.

The Czech Republic supports cooperation between those countries that have joined the Open Government Partnership initiative. It considers consultation at an international level to be the key to sharing best practices in open government and also supports public debate on the individual priorities with the general and professional public.

The Czech Republic will perform the so-called self-assessment of the Action Plan, which will be presented to the government by 31st May 2013, whereas it is expected that after the approval this self-assessment together with the updated Action Plan will be sent to the Steering Committee of the Open Government Partnership.