



Open Government Partnership Introductory Propositions to the Action Plan

Informational context

The Open Government Partnership – OGP – is an international initiative from the US administration supporting **openness, transparency** and **the fight against corruption**. Its objective is for governments to deliver concrete commitments to support budget transparency, empower citizens, fight corruption and transform into more open, effective and responsible institutions.

At the present time eight nations are involved in the initiative (Brazil, Indonesia, Mexico, Norway, Philippines, South Africa, the United Kingdom and the United States). On 12 July 2011 an international conference was held in Washington by the US Department of State, the objective of which was to present the OGP to other countries and thereby enable them to make informed decisions about their potential involvement. The initiative was formally launched on 20 September 2011 in New York under the joint presidency of the USA and Brazil, with 38 countries formally joining the initiative in New York.

Countries must complete the following seven steps for full participation in the OGP:

1. Meet the minimum eligibility criteria and agree to the OGP's five common expectations.
2. Signal the government's intent to participate in the OGP by sending a letter to the OGP Steering Committee for posting on the OGP portal.
3. Undertake the broad public consultation to inform the government's OGP commitments, and identify a multi-stakeholder forum for regular public consultation on OGP implementation.
4. Develop an OGP country plan with concrete commitments on open government that address at least one grand challenge, drawing on the expertise provided by the OGP networking mechanism as needed.
5. Participate in peer consultation on the OGP country plan with participants and the Steering Committee.
6. Publically endorse the so-called OGP Declaration of Principles and deposit the final country plan on the OGP portal.
7. Publish a self-assessment report on progress after 12 months of OGP implementation, and cooperate with the independent reporting mechanism in generating its own report.

The Czech Republic fulfils all the criteria for participation in the initiative, while the government approved the accession of the Czech Republic to the OGP through its Resolution of 14 September 2011 and instructed the Deputy Prime Minister to submit an Action Plan to the government by 15 February 2012. The government's intention to participate in the OGP

was expressed through a letter from the Deputy Prime Minister Mgr. Karolína Peake dated 14 September 2011.

The Action Plans of the individual countries will be presented at the anniversary high-level meeting to be held on **16 to 18 April 2012** in Brazil. Here the states will also formally support the so-called *Declaration of Principles*.

The Action Plan commitments should be oriented around five grand challenges, while it is fully up to the country in question as to which challenge or challenges it chooses. These are:

- 1. Improving Public Services** - measures that address the full spectrum of citizen services including health, education, criminal justice, water, electricity, telecommunications and any other relevant service areas, by fostering public service improvement or private sector innovation
- 2. Increasing Public Integrity** - measures that address corruption and public ethics, access to information, campaign finance reform, and media and civil society freedom
- 3. More Effectively Managing Public Resources** - measures that address budgets, procurement, natural resources and foreign assistance
- 4. Creating Safer Communities** - measures that address public safety, the security sector, disaster and crisis response, and environmental threats
- 5. Increasing Corporate Accountability** - measures that address corporate responsibility on issues such as the environment, anti-corruption, consumer protection, and community engagement

Preparation of the propositions

The Office of the Government of the Czech Republic has prepared, in cooperation with the central administrative authorities as well as the non-state non-profit sector, basic propositions that will form the basis for the Action Plan, and which will form the basis for public discussion during the creation of the Action Plan.

At the meeting of the Inter-Ministerial Coordination Group for the Fight against Corruption on 31 October 2011 the representatives of the central administrative authorities were asked to send proposals for the Action Plan. At the same time, members of the Government Anti-Corruption Committee, and non-state non-profit organisations focusing on the fight against corruption in the Czech Republic, were contacted. The principle requirement was to propose the themes that the Action Plan should primarily focus on, and which commitments the Czech Republic should undertake within the framework of the Action Plan.

In view of the fact that the government of the Czech Republic has unequivocally stipulated the priorities of its anti-corruption policy within the framework of the Government Strategy for the Fight against Corruption for the Period 2011 and 2012, this material was taken into account during the creation of the propositions for the Action Plan.

On the basis of the materials sent, the Office of the Government of the Czech Republic, Section to Coordinate the Struggle Against Corruption, is submitting a list of themes that have been proposed for the Action Plan. All the proposals from the participating entities have not been accented in these propositions. Proposals that are too wide-ranging or on the contrary too tightly specialised, or that are oriented only on measures of a single authority have been removed. Proposals that could not be placed into any of the five OGP grand challenges have also been removed.

As regards the proposals relating to making public procurement more transparent, it is important to highlight the fact that in 2011 significant progress was made in this area from the legislative perspective. The Government Strategy for the Fight against Corruption for the Period 2011 and 2012 imposed the obligation to amend the Act on Public Contracts in such a way as to improve transparency and equal access to public tenders. Another objective is to ensure access to information throughout the public procurement process (including the identification of processes where the public can become involved in decision-making), and this from the creation of the order through to the assessment of the performance of the commission and so on.

The amendment to the Act on Public Contracts ensuring the measures indicated above is currently at an advanced stage in the legislative process, and therefore we do not currently consider it effective for the Czech Republic to consider in its Action Plan the performance of tasks that are at the current time practically about to be fulfilled.

It is also necessary at this time to wait and see what impacts the adopted measures will have in the near future. Only then will it be possible to stipulate new tasks and measures to further improve the public procurement process, and this for example via the new Government Strategy for the Fight against Corruption, which will be prepared during 2012.

In order to ensure the successful and full performance of the Action Plan it is necessary to select from the submitted propositions only several concrete themes that will be fulfilled within the framework of the Action Plan.

The main objective of the public discussion is therefore to specify the priorities of the submitted propositions and to select the most important themes that the Action Plan will focus on.

Within the framework of public discussion, we are therefore asking everybody interested in participating in the creation of the Action Plan to stipulate a maximum of 5 priorities from the submitted themes, and potentially to make a statement on the proposed priorities.

On 16 January 2012 a workshop will be held under the auspices of Mgr. Karolína Peake, Deputy Prime Minister and Chair of the Government Anti-Corruption Committee, in the building of the Office of the Government of the Czech Republic, náměstí Edvarda Beneše 4, from **10:00am**, in room no. 47 "Starý tiskový sál" on the proposed measures and the form of the Action Plan. Participation in the workshop must be confirmed by 13 January 2012 using the e-mail address leblova.marta@vlada.cz.

The propositions for the OGP Action Plan (the number of the grand challenge into which the proposal falls according to the OGP is indicated for each proposition in brackets):

1. The adoption of an act on officials ensuring the depoliticisation, professionalisation and stabilisation of public administration (2):

In European Union Member States the legislation of a state service is not uniformly stipulated through any regulation and is left to national law making. This applies in particular to questions of the establishment, change and termination of a service, rights and obligations and also securing state employees, their service discipline and disciplinary responsibility, service evaluation and education. However, some international treaties impact the amendment of a Civil Service Act. The Czech Republic has adopted, as one of the priorities of its membership in the European Union, the existence of Civil Service Act in its body of laws. Both the European Commission and also, for example, the

Group of States against Corruption at the Council of Europe (GRECO), are pressing for such an Act to be put into effect.

At the present time there are two Acts regulating the issue of officials in the Czech body of laws. Act no. 312/2002 Coll., on Officials of Local Self-Government Units and Amendment of Certain Acts, as amended, and Act no. 218/2002 Coll., on the Service of Officials in Public Administration and on Remuneration of these Employees and other Employees in the Public Administration (Public Service Act), as amended. These Acts should introduce clear rules for the officials of central authorities, regions and municipalities. Putting these Acts into effect should ensure the end of unnecessary bureaucracy, the depoliticisation of state administration, the dismantling of corruption, the impartiality and stabilisation of officials, ensure unified organisation and management, improve the quality of services to citizens, the organisation of further education, and the remuneration system. Act no. 312/2002 Coll. has been effective since 1 January 2003, while the effect of Act no. 218/2002 Coll. has been postponed through the most recent amendment to 1 January 2015. One reason for the repeated postponement of the full effect of this Act is the lack of both political and expert support for the solution it contains. Another reason for the postponement of the effect of this Act is the significant financial and administrative burden it represents.

The lack of the legal regulation of rules for the officials of administrative authorities is criticised by the majority of non-government non-profit organisations that focus on the fight against corruption, as well as the expert public. To ensure the more effective operation of state administration, to strengthen impartiality and political independence and the general depoliticisation of the whole of public administration and a reduction in the corrupt behaviour of officials, it is unconditionally essential to adopt legislation stipulating rules for the officials of central administrative authorities.

Commentary from the Section to Coordinate the Struggle Against Corruption: this task is included in the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 under no. 1.7. The task is being fulfilled. On 1 July 2011 the subject matter of a Civil Service Act was submitted to the government. This subject matter unifies the legislation for both local self-government and state officials. By 30 June 2012 an articulated bill for the Civil Service Act should be submitted to the government.

2. Improving the transparency of the financing of political parties and movements, the financing of election campaigns (2):

In the Czech Republic the financing of election campaigns is subject to regulation through several Acts. However, the political parties themselves declare that these Acts are not perfect and require amendment. Measures relating to the financing of election campaigns must focus on a commitment directed towards the amendment of Acts and rules for the financing of election campaigns. In the case of controls on the disposal of funds by political parties, the greatest problem is considered to be the lack of transparency. It is necessary to ensure systematic monitoring of the financing of political parties (an independent monitoring body) and the obligation of the political parties to use transparent accounts, which are already regularly available in the Czech Republic today (this obligation can be imposed at several levels of transparency – applying only to gifts to political parties, to all incomes or to both incomes and expenditure).

In an effort to find a solution, an analysis with a proposal for the performance of legislative steps to improve the transparency of the financing of political parties was submitted to the government for discussion on 29 June 2011. This task is closely tied to

the amendment to Act no. 424/1991 Coll., on Association in Political Parties and Political Movements, as amended, currently under preparation and which is, in accordance with the Government Programme Declaration, included in the Policy Statement of the Government with effect from 1 July 2013. This analysis reacts to all 9 recommendations from the 3rd round of the GRECO evaluation. The government took this material into consideration through its Resolution of 20 July 2011 no. 553.

The financing of political parties will be the subject of further discussions at political level. The final legal framework for this issue will then be amended based on the results.

Commentary from the Section to Coordinate the Struggle Against Corruption: the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 reacts to the need for greater transparency of the financing of political parties through task no. 5.4, on the basis of which the analysis with proposals for the performance of legislative steps was submitted – as indicated above, this analysis was submitted and the articulated bill of the Act was also subsequently prepared, while the individual institutes of the proposed legislation are currently being discussed, and this at the level of the Government Anti-Corruption Committee.

3. Protection for whistleblowers (4)

Whistleblowing is a term defined as the “notification of illegal or ethically doubtful practices at the place of work”. Support for whistleblowers means the creation of (in particular for the employees of authorities or companies, but also any other persons coming into contact with an authority) such conditions that ensure that they have a different way to provide notification of corrupt or other unfair behaviour than to have to go to their superior or to the police. Going to the police to notify a suspicion that a colleague or superior has committed a crime is too difficult psychologically for many people and, in addition, they might not be sure whether it was really a crime. Discussing the matter with a superior is often precluded because of the risk relating to the inscrutability of his/her reaction and fear that the identity of the whistleblower will be revealed without correction of the problem or the adoption of relevant measures. A guarantee that the identity will not be revealed or the possibility of remaining anonymous is thus a basic principle of the protection for whistleblowers. The main current method for the protection of whistleblowers working “inside” a corrupt institution is a restriction on reasons for giving notice in the Labour Code. In view of the fact that the Labour Code may be amended in this area in order to increase the flexibility of employment contracts, it is all the more urgent to find other methods for the protection of these people.

The Action Plan should therefore include the task of ensuring the protection of whistleblowers in the Czech Republic.

Commentary from the Section to Coordinate the Struggle Against Corruption: it is the task of the Office of the Government Czech Republic according to the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 pursuant to Chapter no. 1.18 to analyse the current situation (including potential proposals for measures of an organisational and legislative nature) in the area of whistleblowing, including the identification of the principle problems and proposals for their resolution, and this by 30 April 2012.

4. Making data and information available (2)

One of the pillars of the Action Plan of the Czech Republic could also be a commitment towards ensuring the maximum possible access to data and information as a basic condition for open governing. The making of data available could focus on several areas:

→ The creation of an open data infrastructure in the Czech Republic and its rules:

Today public administration produces the majority of the data needed. Data are often accessible via the internet, or can be obtained pursuant to the Act on Free Access to Information. However, thanks to the method of publishing data, the further use and processing of this data and the subsequent creation of useful applications is demanding both technically and in terms of the time required, and sometimes even impossible. Data are published in formats and forms that do not enable their further processing and use.

The transparent publishing of data by public administration means the publication of data that is appropriate in view of the fundamentals of the matter (in particular information from the most varied registers, lists, records and databases), using standard, non-proprietary formats that permit the greater public to freely share, combine and use this data, in particular via automated computer processing, while this approach is also sometimes called machine processing. The basic objective of the OGP Action Plan could thus be the creation of an open public administration data infrastructure.

An open data infrastructure would lead, thanks to the possibility to freely share and combine data, to new discoveries and innovations, would increase the effectiveness of the use of public resources, increase integrity, improve control over public administration and, as a consequence, also improve the quality of public services from both the public and private sectors.

These are the following parameters:

- Technical openness, i.e. publishing data in a standard, machine-readable format,
- Legislative openness, i.e. publishing data under an open licence,
- Availability and genuineness, i.e. the individual data sets are published as a single whole and unchanged (i.e. not statistics, but data on the basis of which statistics can be calculated). There is no restriction on access to the data (e.g. the number of queries from a single IP address per day),
- Clarity, i.e. the cataloguing of the data sets in a data catalogue to facilitate searches.

In some areas, technical openness has already been complied with in the Czech Republic. However, other points have not been fulfilled. In some areas of course it is not possible to openly publish data (e.g. strategic data on the electricity grid or data protected by the Act on the Protection of Personal Data), while the personal data of natural persons in the sense of Section 4 a) of Act no. 101/2000 Coll., on the Protection of Personal Data, are included in the majority of public administration records. There are, however, a great many data that can be published.

The following procedure has been proposed:

- The creation of a working group for the open data infrastructure
- The identification of problems (legislative, organisational and technical)
- The creation of and proposals for the modification of system standards
- The creation of a binding methodology
- Proposals for ensuring access to new data sources from the most varied areas

→ The creation of a public administration data catalogue and opening up the most important data sources for automatic software processing:

The public administration of the Czech Republic already has available a large quantity of data sets that it can publish in open, standardised and machine-readable formats. The Czech Republic should adopt the commitment that, within the framework of the first phase of the OGP Action Plan, it will publish the following registers in a content-unrestricted, machine-readable, standardised and open form:

- The Commercial Register
- The Insolvency Register
- The public procurement information system
- The results of elections and the current composition of the individual representative bodies from the volby.cz server
- The publication of data from the National Information System on Public Transport Timetables in such a way so that any entity can access and use them under fair conditions and not only a single authorised private firm.

At the present time some parts of these registers are already available, not however within their full scope or enabling their use at the level of current needs. E.g. the Commercial Register is accessible via the Ministry of Finance's ARES system, which however is not the primary source and does not contain all the content, including the Collection of Documents, and in addition access to it is very restricted in terms of the number of queries per day (it principally does not fulfil the condition of unrestricted use).

At the same time, additional data resources that the state could make accessible according to the rules indicated above should be defined and a central catalogue of these data resources should be created, which must contain both links to the individual data resources and also all the necessary documentation and the technical and content descriptions of the open data. This should also serve for feedback for the government in this area and should enable the participation of the expert public in improving the quality of the Czech Republic's data infrastructure.

Subsequently, the publishable parts of the four most important public administration registers prepared within the framework of the "Basic Registers Information System" project should be prepared for access, and also data from the Czech Statistical Office.

→ Central Vehicle Register:

The maximum possible level of user convenience is being prepared in the Central Vehicle Register. This will represent the highest possible level of automated user support for work relating to vehicle transactions. Its second, less published side, is a dramatic restriction of room for subjective decision-making by the user and thereby also the possibility of abusing the registration of vehicles, intended to support the fight against criminal acts and corruption. The new vehicle register will include the monitoring of non-standard states which will then become the basis for activity by control bodies. This system has already been tried and tested in the existing driver register.

→ Electronic Collection of Laws and International Treaties (e-Collection) project and the Electronic Legislative Process (e-Legislation) project

The starting point for the implementation of both projects is a situation in which the quantity and complexity of legislation has grown in the Czech Republic since 1990, with a corresponding gradual worsening in its quality. The form of valid law, the tools for its creation and access to it have not yet reflected these changes. High quality and

comprehensible law and corresponding access to it can be considered as one of the fundamental rights of the citizen, and therefore also a basic public administration service that the state should provide to its citizens. The e-Collection and e-Legislation projects are reacting to the problems indicated above. They will bring a system for the binding electronic notification of legal regulations and databases of legal information (e-Collection), an electronic tool for the creation, discussion and approval of law in its full wording (e-Legislation) and legislation on the binding electronic form of legal regulations and their electronic creation and notification in their full wording. The implementation of the projects will take place in two phases. The first phase of the e-Collection and e-Legislation projects will take place in 2012 and 2013 and will ensure the basic modernisation of access to valid law and the creation of law, in particular the creation of a system database, the entry into it of the texts of legal regulations and the full wording of those regulations. The second phase of the e-Collection and e-Legislation projects will take place in 2014 and 2015.

The principle of the e-Collection lies in that it will contain 100% correct and state-guaranteed data of the consolidated wording of legal regulations, which does not exist on the market (all databases of legal regulations actually contain errors). The e-Collection should act as a stimulus to improve the quality of the application of Czech (commercial as well as non-commercial) legal systems (which is, by the way, very weak in a European comparison because even the most respected ones focus on the provision of the consolidated wording of legal regulations, meaning what "the state should provide"). This of course assumes that the government will provide all the data for the e-Collection and potentially also publishable e-Legislation data via an open interface, while the first clients could be precisely the legal systems that will be forced to create new quality on this basis. New quality in the sense of work with the meanings of legal norms and not only "section numbers" (the spirit of the law versus the letter of the law), and finally the proper preparation of jurisprudence, literature and so on.

Other proposals regarding making information accessible to the public:

- Ensure online access for the public to up-to-date information about legislation and comments under preparation, meaning "public access to eKLEP".
- The preparation of a Register of Active Legislative Work – RALP (a departmental tool supporting transparency of the performance of state administration and the involvement of the public (by 15 February 2012).
- Transparency of state finances, control of public resources – unity, simplicity, online budgets of public institutions – the creation of unified platforms for online access, the publication of information about the disposal of public assets, in particular all state administration expenditure items.
- Online access to all notifications of public functionaries pursuant to the Act on Conflict of Interest at a single place in an electronically readable form.
- Online access to data about the financing of political parties.

Commentary from the Section to Coordinate the Struggle Against Corruption: the publication of data using formats that allow the general public to freely share, combine and use this data, the openness of data and enabling public access to information are not addressed in this sense in the Government Strategy for the Fight Against Corruption for the Period 2011 and 2012. The Section to Coordinate the Struggle Against Corruption fully supports this proposition and considers it to be one of the main pillars of the Action Plan.

5. Strengthening the restitution function of criminal proceedings, including confiscation of the proceeds of crime (4)

The issue of securing the proceeds from criminal acts has a much wider impact than merely the fight against corruption. The successful discovery, securing and, most importantly, confiscation of the proceeds of crime will inevitably lead to a reduction in criminality as it will remove offenders' main motivation to dedicate themselves to a criminal career. For organised crime, which dedicates a certain amount of its proceeds to ensuring "problem-free" relationship with state administration and public authorities, such an approach is one of the main anti-corruption trends, as the loss of proceeds will result in organised crime lacking the means to make bribes and procure other advantages. The fight against the legalisation of the proceeds of crime is then indivisibly connected with this area. The objective is thus at the current time to fully support investigating, prosecuting and adjudicating bodies to effectively discover, identify and secure the proceeds of criminal activities.

Commentary from the Section to Coordinate the Struggle Against Corruption: task of the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 no. 3.8 focusing on this theme has been fulfilled.

6. Making the legislative process more transparent (2)

- Ensuring high quality regulation of lobbying in the Czech Republic.
- The implementation of the CIA (Corruption Impact Assessment) as an extension to the already implemented RIA (Regulation Impact Assessment) will provide the systematic evaluation of corruption risks within the framework of the legislative and regulatory environment and is one of the government's key measures to reduce corruption risks and, therefore, also the level of corruption in the Czech Republic. It will be implemented in two forms. The CIA as a structured analysis of corruption risks arising from a specific legal regulation, the implementation of which into the legislative process will lead to preclude the adoption of legislation and regulations that would increase corruption risks, or lead to corrupt behaviour in another way. The retroactive evaluation of selected already valid legislation would then permit the identification of its weak points from the perspective of corruption risks and then remove them through amendments, or avoid similar cases in the future. The CIA is built on the principles of proportionality, responsibility, consistency, transparency and specificity. Its implementation will not entail increased financial demands on state administration nor will it require additional numbers of officials. The CIA will be performed with the involvement of both the expert and the lay public, in the form of consultation and the collection of stimuli. It will thus also permit transparent lobbying from the environment of persons affected by the legislation under preparation and is thus fully in accordance with principles of open government.
- Improving the transparency of the legislative process through measures such as restricting law-making initiatives by individual members of parliament on the basis of an amendment to the standing rules of the Chamber of Deputies of the Parliament of the Czech Republic.
- The involvement of the public in the preparation of legislative proposals, the organising of expert seminars on legislative proposals under preparation, and public comments procedures.

Commentary from the Section to Coordinate the Struggle Against Corruption:

The Government Strategy for the Fight against Corruption for the Period 2011 and 2012 addresses the issue of lobbying through task no. 5.5, the issue of the implementation of a compulsory Corruption Impact Assessment (CIA) through task no. 5.6 and the issue of law-making initiatives through task no. 5.2. At the present time all these three tasks are under preparation by the Office of the Government of the Czech Republic.

7. Improving the effectiveness of the system for free access to information (2)

One of the very effective tools to improve public integrity is providing access to information. Access to information is provided in the Czech Republic through the right to information, which is enshrined in the Charter of Fundamental Rights and Freedoms, which has been prepared in two forms. One as a fundamental political right – the right to information in Article 17, declared in paragraph 1 (wording: “The freedom of expression and the right to information are guaranteed”) and in paragraph 5 (wording: “State bodies and territorial self-governing bodies are obliged, in an appropriate manner, to provide information on their activities. Conditions therefore and the implementation thereof shall be provided for by law”). The second form is specified as one of the economic, social and cultural rights in Article 35 (2) (wording: “Everyone has the right to timely and complete information about the state of the environment and natural resources”).

Availability (implementation, enforceability) of access to information is regulated through two acts. Generally the right to information is stipulated in Act no. 106/1999 Coll., on Free Access to Information, as amended, i.e. the general regulation of the right to information, while the specific regulation is given through Act no. 123/1998 Coll., on the Right to Environmental Information, as amended. At the same time it is necessary to emphasise the relationship between Acts no. 101/2000 Coll., on the Protection of Personal Data and no. 106/1999 Coll., on Free Access to Information, namely that the obligated entity providing information must, in the case of personal information, proceed pursuant to the Act on the Protection of Personal Data.

The current legislation on the provision of information pursuant to Act no. 106/1999 Coll. makes possible the delaying of access to information. Defending against unauthorised denial of information is lengthy and there is often no satisfactory result. There are documented cases of procedural phases lasting over one year involving repeated decisions and appeals without the possibility of court protection, without the applicant getting the information. It is necessary to analyse the deficiencies in the current legislation on the provision of information and to remove the application problems.

At the same time, in connection with proposition no. 4, there is a proposal to add to Section 5 after the sentence “enabling remote access” also the obligation “in a machine-readable and standardised format”. This obligation already *de iure* arises from the Act on Public Administration Information Systems, nevertheless not all data sources of this type are covered by this Act. In practice, unfortunately, the Act is not complied with at all and the real situation is very grave and enforceability debatable.

With the objective of improving access to information there is also the possibility of institutional change. In accordance with experience abroad, a key shift appears to be the establishment of an enforcement institution (e.g. Information Commissioner). It is anticipated that the methodological and mediatory influence of the enforcement institution, the unification of appeals practice, supervision over active publication and the

imposition of sanctions could improve the situation. The budget demands are not high and insignificant in comparison with the savings as a result of transparency¹.

Commentary from the Section to Coordinate the Struggle Against Corruption:

Task of the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 no. 1.15 is fulfilled through the work on the material that will contain the identification of the problems connected with free access to information, including proposals for the resolution of identified problems. A proposal for the signing and ratification of the Council of Europe Convention on Access to Official Documents will subsequently be submitted to the government. The deadline for the fulfilment of this task has been set as 31 December 2012.

8. Act on Conflict of Interest (2)

Non-state non-profit organisations agree that the current wording of the Act on Conflict of Interest is unsatisfactory and that its contents should be amended in a conceptual way. This would involve in particular its practically non-existent enforceability; the immunity of public functionaries in the event of conflicts of interest; and the absence of effective tools for public control.

In the current legislation on conflict of interest in the Czech Republic we can clearly see several basic systematic deficiencies of such a nature that it is not even clear whether compliance with the rules stipulated through Acts is counterproductive in specific cases in relation to the purpose of the Act. Examples are the affirmations pursuant to the Act on Conflict of Interest. It is difficult for the public to gain access to these declarations, while political representatives have available integrated information on the asset situations of leading officials, which can theoretically be abused, e.g. for establishing to what extent a specific official is dependent on his salary. Apart from this, the asset declarations do not operate in a desirable way. This is because the initial asset situation of public functionaries is not known and, in addition, it is possible to successfully conceal assets in trading companies with anonymous ownership structures.

The Act on Conflict of Interest only addresses concurrence of functions and not the system of so-called "revolving doors", whereby a public functionary may, pursuant to the Act, alternate between individual functions. There is also a lack of severe sanctions, both in the case of the absence of asset declarations and also in the case of the breach of the obligation to provide notification of a personal interest.

Fatally lacking in the whole system is public control, whereby proceedings on the breach of obligations stipulated by the Act on Conflict of Interest are addressed by administrative infraction commissions of local authorities based on the permanent address of the public functionary. In practice this often means that a *de facto* subordinate official decides, in completely closed proceedings, on the guilt of his superior. In the case of our members of parliament the Committee on Mandate and Parliamentary Privilege also has this competency, where the members of parliament themselves decide on their own infractions.

The problems described above should be addressed through a change in the legislation on conflict of interest.

¹ The loss of up to 15% of public expenditure through corruption and poor management is estimated. Access to information is a key systematic means against such losses. If the enforcement institution resulted in savings of only 1% of public expenditure, this would still represent an amount approximately 500x higher than the costs for the enforcement institution.

In the interest of greater transparency, easy online access to notifications from public functionaries should also be addressed, including the distribution of these documents about information detailing the asset situations of the functionaries. In the area of supervision and enforceability of legal obligations, the consideration of the establishment of an anti-corruption agency is recommended (similar functions as in the proposition for the financing of political parties).

Commentary from the Section to Coordinate the Struggle Against Corruption:

The Government Strategy for the Fight against Corruption for the Period 2011 and 2012 will attempt to address at least part of the indicated problems and this through task no. 5.1 – implement a central register of registration points (web interface) pursuant to the Act on Conflict of Interest. The task is being fulfilled – the web application for the Central Register of Record-Keeping Bodies has been created.

9. Justice reform (2)

Ensure the fulfilment of the principles of greater independence of judicial power from executive power through the establishment of judicial self-administration. Similarly, it is necessary to constitutionally guarantee greater political independence of the Supreme Public Prosecutor's Office. Ensure transparent selection procedures for filling posts.

Commentary from the Section to Coordinate the Struggle Against Corruption:

Justice reform in some areas is dealt with in Chapter 4 of the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 (Investigating, prosecuting and adjudicating bodies – public prosecutor and courts). The Section to Coordinate the Struggle Against Corruption fully supports justice reform.

10. Creation of a concept for the completion of public administration reform (1)

The government, through its Resolution of 14 December 2011 no. 924, took into consideration the Analysis of the Current State of Public Administration and imposed on the Ministry of the Interior the task to prepare and submit to the government, by 30 June 2012, the material "Concept for the Completion of Public Administration Reform". The fulfilment of this task arises from the Government Programme Declaration. The main objective of the Concept is to stipulate the conditions for the optimum organisational layout of public administration performance, to set an effective method for its financing and set rules enabling the continuous modernisation of public administration in relation to transformations in social needs. This corresponds to the principles of the OGP initiative such as budget transparency in more open, effective and responsible institutions.

Commentary from the Section to Coordinate the Struggle Against Corruption:

The Section supports the setting of an effective method for the financing of public administration. In addition to the submission of the Concept, however, it also anticipates the completion of reform.

11. Transparent administration of state-owned firms (2)

The objective should be the introduction of a high quality legal framework according to OECD recommendations and good practice of OECD countries in such a way as to prevent risks of abuse of this type of public asset including its abuse for the concealed financing of political campaigns. The legislation should in particular guarantee

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- The existence of the so-called state ownership policy and the reporting of its fulfilment as a tool to improve the transparency of the disposal of these assets by the government,
- Clear rules for the guarantee of expert, apolitical appointments to bodies of the companies, including the legal framework for reporting, evaluating and remunerating the members of these bodies,
- Rules guaranteeing access for citizens to information about the management of state companies,
- The reflection of anti-corruption measures directly in the Articles of Association of controlled companies – anti-corruption mechanisms along the lines of anti-bribery legislation in the USA or Great Britain, restrictions on risky management operations and so on,
- All data that should be published to ensure transparent administration by state (or publicly) owned firms should be published according to the principles of the open data infrastructure.

Commentary from the Section to Coordinate the Struggle Against Corruption:

The above measures are connected to tasks in the Government Strategy for the Fight against Corruption for the Period 2011 and 2012 no. 1.3 Regulation of the Conditions for Disposing of the Assets of Legal Entities Established by the State or Local Self-Government Entities and Companies with State Ownership and 1.9 Introduction of Control Powers of the Supreme Audit Office in Relation to Local Self-Government Entities.