

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY
CZECH REPUBLIC**

ARTICLE 7 UNCAC

PUBLIC SECTOR

CZECH REPUBLIC (EIGHTH MEETING)

In relation to measures concerning article 7 of the Convention and the public sector, States parties and signatories may wish to cite and summarize measures that:

- **Establish and strengthen systems to ensure transparency and accountability in the recruitment, hiring, retention, promotion and retirement of public officials in criminal justice institutions, including whether specific procedures exist for the recruitment and hiring of senior officials in criminal justice institutions, if they are different from other civil servants;**

Both the government's anti-corruption strategy for the years 2013-2014 and the subsequent anti-corruption action plan for the year 2015, which was issued on the basis of the government's Anti-Corruption Conception for the years 2015-2017, included the preparation of a new law on public prosecution. One of the main focuses of the reform is ensuring the independence of the public prosecution service from political influence also in the area of recruitment, hiring, retention, promotion public prosecutors.

The Ministry of Justice prepared a draft Law on the Public Prosecutor's Office and, following the comment procedure, submitted it to the government on 12 October 2015 for further deliberation. On 21 April 2016, the government submitted the draft law to Parliament.

The most significant changes proposed by the draft law include arrangements to increase the independence of the Supreme Public Prosecutor and other chief public prosecutors, to ensure the transparency of their selection and to eliminate the risk of possible external influence especially by the executive; changes to the status of public prosecutors, whose function will in the future be carried out as a public function (i.e. the subsidiary use of the Labour Code will be excluded); the abolishment of the High Public Prosecutor's Office and the establishment of a nationwide Special Prosecutor's Office focused mainly on the most serious forms of property and economic crimes and corruption; the creation of a consultative body, the Advisory Board which will be linked to the Supreme Public Prosecutor's Office and be composed of public prosecutors from different levels elected for six-year terms. The draft law, if adopted, would also introduce/regulate regular performance evaluation of public prosecutors and their work schedule, and restrict the issuance of so-called negative guidance/allow such guidance to be rejected if it is obviously in contradiction to the established interpretation of the law. It also aims at increasing transparency in internal relations, reducing the possibility of covert interference in how specific matters are dealt with and strengthening the accountability of individual prosecutors for the outcome of cases.

With regard to the upcoming elections to the Chamber of Deputies of Parliament of the Czech Republic, which will be held on 20. and 21. 10. 2017, it is unlikely that the bill will be approved.

Current situation:

Public prosecutors are appointed by the Ministry of Justice for an indefinite period upon a proposal of the Supreme Public Prosecutor. They must be Czech citizens, have full legal capacity, no criminal conviction, be over 25 years old, have achieved university education by studying a masters study programme in the area of law at a university in the Czech Republic, have successfully passed the final examination and have moral attributes guaranteeing due execution of the office. As for judges, in order to assess the moral character of candidates, the previous and current life is taken into account, including the absence of criminal and administrative sanctions, the content of different references, sometimes assessment from previous employment, etc. The final examination is taken, after a 36 month internship, before the examination board which is appointed by the Ministry of Justice and includes public prosecutors, judges and other legal experts. Some other examinations specified by law – such as the bar examination and the judges examination – have the same status as the final examination concluding the prosecutorial internship.

Selection of candidate public prosecutors is under the responsibility of Regional Public Prosecutors. Mostly it includes a written test (model situation) and an oral interview, usually attended by the head of prosecutor's offices where posts are to be occupied, which is focused on confirming the expert level of the applicant in substantive and procedural criminal law. The selection of candidates by Regional Public Prosecutors and the appointment decisions by the Ministry of Justice do not have to be reasoned and are not subject to appeal by unsuccessful candidates.

Public prosecutors are assigned by the Minister of Justice upon a proposal of the Supreme Public Prosecutor to perform their position at a specific public prosecutor's office with their previous approval. The Minister of Justice may transfer a public prosecutor to another public prosecutor's office of the same or higher instance with his/her approval or at his/her request; as a rule, a public prosecutor can be transferred to a public prosecutor's office of a lower instance at his/her request only. Unless due performance of the responsibilities of the Public Prosecutor's Office can be secured by the above procedure, the Minister of Justice may, upon hearing the opinion of the chief public prosecutor of the public prosecutor's office concerned, transfer a public prosecutor even without his/her approval or application to another public prosecutor's office if its organisation or jurisdiction has been changed by law; the decision by the Ministry of Justice may be appealed to the administrative court. Temporary assignment of a public prosecutor to another public prosecutor's office, to the Ministry of Justice or the Judicial Academy requires his/her approval.

The promotion of public prosecutors is not regulated in detail by the APPO. Section 19(2) only states that when public prosecutors are transferred to a higher public prosecutor's office, their level of expertise is taken into account. The authorities indicate that the draft Law on the Public Prosecutor's Office defines the minimum experience required, namely five years for Regional Public Prosecutor's Offices and eight years for the High Public Prosecutor's Office and the Supreme Public Prosecutor's Office.

The Supreme Public Prosecutor is appointed – and can be removed – by the government at the proposal of the Minister of Justice, for an indefinite period of time. S/he is appointed from among the public prosecutors, so s/he has to fulfil the same requirements for appointment. The decision by the government to dismiss the Supreme Public Prosecutor does not have to

be reasoned. As far as the Supreme Public Prosecutor deputies are concerned, they are appointed and may be removed by the Minister of Justice at the proposal of the Supreme Public Prosecutor.

The appointment of other chief public prosecutors is regulated by section 10 APPO as follows. The Minister of Justice appoints high public prosecutors at the proposal of the Supreme Public Prosecutor, regional public prosecutors at the proposal of the relevant high public prosecutor, and district public prosecutors at the proposal of the relevant regional public prosecutor. Chief public prosecutors are appointed for an indefinite period of time. The Minister may remove them from office 1) in case of a serious breach of duties resulting from the execution of the public prosecutor's competence or 2) at the proposal of the relevant chief public prosecutor of the superior level. The Minister may also appoint or remove chief public prosecutors of Regional or District Public Prosecutors' Offices at the proposal of the Supreme Public Prosecutor. The authorities indicate that decisions on appointment of chief public prosecutors are not reasoned, whereas decisions on their dismissal are reasoned and are subject to appeal under the Administrative Procedure Code.

• Implement adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption in criminal justice institutions and the rotation, where appropriate, of such individuals to other positions;

The Public Prosecutor's Office is aware of the need to **specialize** on individual types of criminal activity in order to secure sufficient expert knowledge and experience of the individual public prosecutors on the area of crime in question. There are specialized public prosecutors within the system of Public Prosecutor's Office on corruption criminality. The issue of specialization of public prosecutors is governed by the Instruction of General Nature no. 4/2009, the Sample Rules of Organization, as amended. The Instruction of General Nature is an internal regulatory act of the Public Prosecutor's Office system and it is binding to all public prosecutors, and also for other employees of the Public Prosecutor's Office, if the Supreme Public Prosecutor so stipulates (see Section 12 (1) of APPO). For the area of money laundering the said Instruction of General Nature in Annex 1 and 2 stipulates under item I. Economic and property crime, paragraph B) corruption, criminality of public officials (with exemption of security forces and intelligence services). These specializations are mandatory at all Prosecutor's Offices. The allocation of individual public prosecutors to each specialization is decided by the chief public prosecutor of the respective Public Prosecutor's Office. In general each public prosecutor handles cases according to his specialization. The list of occupation of specializations and changes thereof are notified to the Supreme Public Prosecutor's Office, which keeps a list of specializations and allocation of public prosecutors; this list is updated quarterly and published on the Extranet website of Public Prosecutor's Office, and as such it is accessible to all public prosecutors and other expert employees of the Public Prosecutor's Office.

Since 2011 the Public Prosecutor's Office system includes a position of National Correspondent for fight against corruption and search and draining of proceeds from crime. This was put to practice on the basis of a Provision of the Supreme Public Prosecutor no. 25/2011, which established the position of National Correspondents for various areas of criminal activity. Currently this issue is regulated by Provision of the Supreme Public Prosecutor no. 2/2013, on National Correspondents and their expert teams, as amended; this Provision also follows up on Section 25 of the Act no. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters, as amended. With effect as of 1. 5. 2016, this

Provision was amended (amendment effected by Provision no. 8/2016), whereas the amendment consisted in certain redistribution of agenda among National Correspondents, specifically among other things by establishing a position of **National Correspondent for combating corruption**. National Correspondent, or his expert team, not only form a point of cooperation for the National Member in Eurojust in the given area, but also serve as a guarantor of interdepartmental cooperation and cooperation with foreign countries; they also analyze case law and specialized publications, participate on execution of questionnaires, educational activities secured in particular by the Judicial Academy, on interdepartmental cooperation and meetings, they attend or propose attendance on domestic and foreign conferences. Currently there are a total of ten National Correspondents, appointed also for other areas.

From the methodology point of view on the area of criminal prosecution of corruption, the **existence of Extranet of the Public Prosecutor's Office** is also worth mentioning. Extranet of the Public Prosecutor's Office is not accessible to the general public, it is an internal source of information within the Public Prosecutor's Office system. It is available to all public prosecutors and all expert employees of the Public Prosecutor's Office. Extranet of the Public Prosecutor's Office is used for publishing and permanent availability of various materials, mostly of methodological nature (methodology, opinions, case law, news, minutes from meetings etc.), also for the area of corruption criminality.

Furthermore it is worth mentioning that especially the area of corruption criminality is regularly the subject of **educational events organized by the Judicial Academy**, which are attended by public prosecutors, as well as judges.

It is also important to mention, that in the area of corruption Public Prosecutor's Offices issue the **Internal Anti-corruption Programme** (hereinafter only "IACP"). This is the internal document stemming from the Government Strategy to Fight Corruption for the Years 2013 and 2014, the Government Anti-Corruption Conception for the Years 2015 to 2017 and the Framework of internal anti-corruption programme and sets the control and management mechanisms in the areas with a risk of corruptive conduct. IACP contains also the education of public prosecutors and other employees of Prosecution service in the anti-corruption area.

• **Prescribe criteria concerning candidature for and election to public office for members of criminal justice institutions, if applicable, as well as measures to enhance transparency in the funding of candidatures and of contributions to political parties, where applicable.**

It is mentioned above.

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ARTICLE 7 UNCAC

PUBLIC SECTOR

CZECH REPUBLIC (THIRD MEETING)

In order to increase efficiency and stabilization of state administration new Act on Civil Servants has been elaborated. The Act uniquely determines the margins between political and clerical occupied seats in public administration, ensures depoliticisation, professionalization and stabilization of public administration, sets a system of remuneration and designs clear and meaningful solution to the issue of accepting gifts by representatives of public authorities. The emphasis should be placed on the presentation of the basic duties of the official, including mandatory training. Deadline for submission of the draft Law on Civil Servants has been newly set on 30th June 2012.