

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

ARTICLE 9, PARAGRAPH 1 UNCAC

PUBLIC PROCUREMENT

CZECH REPUBLIC (SIXTH MEETING)

1. Measures/steps taken to implement this provision of the Convention

• In the Czech Republic, the **Act No. 137/2006 Coll., on Public Contracts** has been adopted in 2006, and until to the beginning of 2015 it has undergone 19 amendments (the English version of this Act after 8 amendments is available at http://www.portalvz.cz/getmedia/50657500-3743-426a-8463-e3b46830ae04/ZVZ_english). The Act provides for procedures for the award of public contracts, design contest, supervision over compliance with this Act, conditions for the maintenance and purpose of the list of approved economic operators and of the system of certified economic operators.

• **Prevention of Corrupt Practices programme** - The Security Policy Department of the Ministry of the Interior of the Czech Republic has been in charge of the Prevention of Corrupt Practices grant programme as of 2009 and since then it has allocated grants in the total amount of CZK 16.757.346. The ratio of funds allocated to the total amount of grants requested by successful applicants is 70.1 %. The ratio of funds allocated to the total amount of grants requested (including unsuccessful applications) is 62.5 %. In November 2014, a meeting of the Grant Committee for the provision of grants for NGOs was held to decide upon the allocation of money within this grant programme in the year 2015. The committee has been set up in compliance with the Security Policy Department Director's Instruction and the committee is comprised of the representatives from the Ministry of the Interior, the Office of the Government of the Czech Republic, the Unit for Combating Corruption and the Financial Crime and Open Society Fund Prague. All the submitted applications complied with the formal requirements and were found eligible for consideration of the committee. Nine applications from nine organizations were submitted. Both the requested as well as at the end granted sums can be seen in the table below. **Total funds allocated for 2015: CZK 3.500.000.**

LIST OF PROVIDED GRANTS					
	Applicant	Name of the Project	Requested (in CZK)	Requested % from the Total Costs	Granted Amount (in CZK)
1.	Frank Bold Society, o.s.	Citizens support in the anticorruption	779.380	70,00	779.380

		activities 2.0 - New Challenges			
2.	Oživení, o.s.	Anticorruption ambulance - legal counselling	1.160.800	70,00	1.020.620
3.	Transparency International - Česká republika, o.p.s.	Lighthouse in a sea of corruption in 2015	1.710.000	80,00	1.100.000
4.	Liga lidských práv	Fair police	458.549	70,00	0
5.	Krajské protikorupční pracoviště, o.p.s.	Together effectively against corruption	1.211.376	65,80	600.000
6.	Otevřená společnost, o.p.s.	Using information against corruption	1.219.156	70,00	0
7.	W.B., o.s.	Building new information channels and providing counselling for whistleblowers	214.596	70,00	0
8.	Místní akční skupina Mladoboleslavský venkov, o.s.	Countryside without corruption	952.375	100,00	0
9.	Centrum pro ekologii, média a demokracii	Atlas of corruption	1.091.200	100,00	0

- The **Office for the Protection of Competition** exists in the Czech Republic, the task of which is to ensure that market behavior is in compliance with competition rules and benefits the consumers. It also supervises the procedures of awarding public procurement and concessions, thus ensuring better transparency in public spending. The Office for the Protection of Competition reviews the actions of procurement officials (contracting authorities), exercises supervision over procurement officials (contracting authorities), and participates in the creation and amendment of public procurement and concession legislation. The Consolidated Act No. 143/2001 Coll., on the Protection of Competition has been in practice since 2001, with many amendments since then (see the English version after some of the amendments at http://unctad.org/Sections/ditc_ccpb/docs/ditc_ccpb_ncl_CzechRepublic_en.pdf).
- The Office for the Protection of Competition is part of the Public Procurement Network (PPN), established at the initiative of the Danish Competition Authority in 2003 following very positive results from a three-year pilot project. The scheme has now been made permanent. Reflecting this success, the number of participants has risen to include all 25 EU Members, all EU candidate countries, as well as the EEA countries and Switzerland. The PPN has two primary functions: to provide practical assistance to individual companies facing barriers in public procurement procedures abroad, and to enable countries to exchange experience and best practice in public procurement.

2. Actions required to strengthen or to improve the measures described above

- The purpose of the public procurement supervision review is to use the public funds economically and in accordance with the competition rules. The Office for the Protection of Competition has exercised its supervision of this area since 1995. The administration of public tenders is closely watched in the Czech Republic, as it is in other countries, because a large portion of public funds is expended that way and the public has an understandable interest in seeing this money spent effectively and economically. The Office for the Protection of Competition's objective is to achieve, mainly through its decision-making activities, a free and open competition between the suppliers, along with a selection of the best proposal in a transparent manner devoid of any discrimination. The ultimate goal is the preservation of public funds. The parties should treat the individual tenders responsibly and suppress especially the cases that circumvent the public procurement law. That refers particularly to those situations where, by intent or by negligence, an agency may award a contract amounting to many millions of CZK directly to a specific firm without taking advantage of competitive bidding in a competitive climate. It is the obligation of the contracting authority to provide the basic elements of competitive bidding, those being transparency of the selection process and equitable, non-discriminatory treatment of the individual bidders. If the Office for the Protection of Competition detects a breach of the law, it may opt for what is called remedial measures, such as reinstating the unjustly excluded bidder to the process, or cancelling the entire tender. Should the contract be completed by the time the Office for the Protection of Competition finds indications that the law had been broken, it cannot impose remedial measures, only penalties. A separate category related to public procurement, as well as competition in general, are cartel agreements between the bidders. The bidders may, for example, agree which of them will submit the lowest bid and be assured of winning, only

to switch places on the next tender. However, since both bids are overpriced to some extent, the purchaser ends up paying much more for the contract than if the winner had been picked in a fair contest from fully competitive bids.

Supplement

With respect to the duty to transpose the new European Union Directives on public procurement it has been decided that a new Act on Public Procurement will be adopted in the Czech Republic. The draft of the new Act on Public Procurement has already entered into remarking process and now the remarks are settled.

The Act on Public Procurement is built on the principles of transparency, equal treatment and non-discrimination. In the new regulation the principle of proportionality will be added (along with the principle that the Contracting authority is obliged to obey the Act on public procurement). This regulative will strengthen the protection of competition which is one of the most important pillars of the anti-corruption policy. For example it is not allowed to set the procurement conditions in a way to provide certain economic operators unreasonably directly or indirectly with a competitive advantage and it is also forbidden to create unjustified obstructions for the competition. The importance of proper competition is highlighted at multiple locations simultaneously in the new regulation. High standard of publication adapted in the new regulation makes the award procedure transparent.

The draft of the new Act on internal management and control in the public administration (which is in competence of the Ministry of Justice) should ensure to reduce the corruption risks and strengthen the responsibility in the public administration. Anticorruption benefits of this new regulation can be expected in elimination of the duplicity ex-post controls, strengthening of the manager's responsibility, improving of the control of the financial management, improving of the internal audit, ensuring of the independence of the internal audit and mainly also fixing of the rules for the prevention of the conflict of interest in the field of public finance treatment. From the new regulation it will be obvious which body is competent to decide in a certain matter.

CZECH REPUBLIC (THIRD MEETING)

Amendments to the Act on Public Procurement No. 137/2006 Coll. newly stipulate among others that full details of the public procurement should be compulsory filed in electronic form in order to be published on the Internet. The Act defines an obligation to enter public procurement; in this regard the limits for the value of the contract which must enter the public procurement have been reduced.