



**Programme Area 25: Capacity building and Institutional Cooperation
between Beneficiary State and Norwegian Public Institutions, Local and Regional
Authorities**

**Project to strengthen anti-corruption and anti-money laundering systems in the
Czech Republic**

Technical Paper

**ROADMAP FOR ANTI-CORRUPTION RISK-ASSESSMENT
ON CONFLICT OF INTEREST**

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October 2014

ECCU-ACAMOL CZECH REPUBLIC -eng-TP2-2014

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Introduction

On 2 October a workshop was held in Prague on ‘Risks and Threats in the area of Corruption and related Economic Crime’, under the ‘Project to strengthen anti-corruption and anti-money laundering systems in the Czech Republic’. The main objective of the event was to choose 2 specific areas -under the areas of corruption and money laundering – on which to conduct risk assessments. It was agreed by the event participants to select the issue of ‘Conflict of Interest’ under the corruption component. This document outlines a proposed schedule/roadmap for conducting the assessment.

1. Rationale

Conflict of interest regulation in the Czech Republic embraces not only regulation of conflicts of interest *per se* (for example establishment of incompatible functions/activities, duties to notify interests in a proceeding), but also a wider issue of declarations of interests and assets/incomes/liabilities in general. Reform of conflict of interest regulation is one of the priorities of the anti-corruption strategy of the Czech Government.¹ The original timetable for reform envisaged the completion of a draft legislative solution by April 2014, meaning amendments to the existing 2006 Law on Conflicts of Interest. However, as of 1 October 2014 the government was in the process of drafting. In 2015 the Council of Europe’s Group of States Against Corruption will conduct its Fourth Round evaluation, which will include evaluation of conflict of interest/asset declaration obligations for members of parliament and judges. The project is therefore in an ideal position in terms of timing and relevance of issue to provide expert assistance on this issue.

In addition, significant work has been conducted previously by NGOs on the issue of conflict of interest and asset declarations, including the engagement of Transparency International Czech Republic (TIC) in the process of drafting the 2006 law, and brief coverage by the same organisation of the same topic in its 2011 National Integrity Study.² The most important such output however is a study conducted by ‘Oživení’ NGO in 2011, which analysed the declarations of interests and assets of several hundred public officials and i) the performance of the authorities in overseeing and verifying the declarations ii) imposition of sanctions in cases of violations (failures to declare or declare accurately).³ The existence of this body of work is of particular importance due to the limited time allocated to conduct the risk assessment envisaged under this project (1 month of working days in the budget, and completion of the final version within 3 months maximum as indicated by the Project Promoter at the 2 October meeting).

2. Issues to be covered

The main focus of reform discussions to date has centred on the lack of a central registry for declarations of interests and assets/incomes/liabilities, and of a unified authority to process/verify them and address violations. However, the Government’s anti-corruption strategy also identifies other

¹ See http://www.korupce.cz/assets/protikorupcni-strategie-vlady/na-leta-2013-2014/Strategie-2013-a-2014---aktualni-verze_1.pdf (Czech version), http://www.korupce.cz/assets/Strategy-2013-a-2014_FINAL.pdf (English version)

² http://www.transparency.cz/doc/TIC_Studie_narodni_integrity_www.pdf

³ <http://www.bezkorupce.cz/nase-temata/stret-zajmu/#monitoring>

issues needing attention, including the level of sanctions for violations and their imposition in practice, public access to declarations and results of proceedings in cases of violations, the lack of any obligation to make declarations on taking office, and restrictions on activities after leaving office. The Strategy notes explicitly the coming 4th Round GRECO Evaluation and that the objective should be to complete legislative reform in time to receive a positive evaluation.

In the opinion of the expert, it should be also be noted that the conflation of ‘conflict of interest regulation’ with the system for regular declaration of interests and assets has also meant that little attention appears to be paid to the adequacy of regulation relating to day-to-day management of conflicts of interest– for example declarations of interests on a case-by-case basis when being involved in a particular decision process, etc. This area should also be covered by any risk assessment.

The expert recommends that the provisional scope of the risk assessment should be as follows:

- i. Overview of ‘conflict of interest regulation’, including its scope and coverage and institutional framework for implementation and enforcement
- ii. Provisions on conflict of interest prevention: incompatibility provisions, duties of declaring on a case-by-case basis, duties of recusal from procedures/activities
 - a. Coverage
 - b. Content
- iii. Provisions on regular declarations of interests, assets, incomes and liabilities:
 - a. Coverage
 - b. Content
 - c. Timing
 - d. Format and process of declaration
- iv. Oversight and verification
 - a. Responsibility for ruling on conflicts of interest (on request, allegation etc.)
 - b. Authorities responsible for receiving declarations
 - c. Authorities responsible/authorised to verify declarations
 - d. Powers and responsibilities of verification of declarations (access to relevant data etc.)
- v. Transparency
 - a. Availability of declarations: general mechanism for public access, distinction between different levels of official, etc.
 - b. Availability of decisions on alleged violations

2. Methods

In view of the very short time period allocated to the risk assessment, it is recommended that the following methods are used

- i. Analysis of existing legal and draft legal provisions:
 - a. Conflict of Interest Law, amendments to Conflict of Interest Law (if available)
 - b. Civil Service Law as amended October 2014⁴
 - c. Labour Code
 - d. Other sectoral provisions (e.g. for judges, prosecutors, Parliament, regional governors/elected representatives)
- ii. Existing reports and documents on Czech system of regulation of conflict of interest and asset declarations (Oživení especially, but also other NGO activities including cases)
- iii. Interviews with:
 - a. NGOs that have been engaged on the issue of conflict of interest/declaration of interests and assets
 - b. Officials from sample of authorities responsible for receiving declarations
 - c. Judges (both on their own obligations under the law, and on issues connected with enforcement)

2. Risk Assessment Schedule

The period for conducting risk assessments is envisaged in the project document as September-November 2014. On the basis of the discussion held at the 2 October roundtable, it was agreed that the assessment should produce a first draft during December and be finalised by the end of January at the latest. The proposed schedule for the assessment is therefore as follows:

- Selection of national and international experts: by 24 October 2014
- Agreement on risk assessment methods and areas of focus: by 31 October 2014
- Collection of data by national expert (under guidance of international expert): 6-21 November 2014
- Provision of gathered data and draft of content of assessment by national expert to international expert: 21 November 2014
- Drafting text of draft assessment by international expert: by 3 January 2014
- Review of draft by project stakeholders: 30 January 2015
- Completion of final version by international expert with national expert input: 15 February 2015

⁴ Note: amendments to the 2002 Civil Service Law (2002/2018) were approved by the Senate on 1 October 2014 and sent to the President for approval on 3 October 2014.