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# FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in  
central governments (top executive functions) and  
law enforcement agencies

## EVALUATION REPORT

# CZECH REPUBLIC



Adopted by GRECO  
at its 94<sup>th</sup> Plenary Meeting (Strasbourg, 5-9 June 2023)



Group of States against Corruption  
Groupe d'États contre la corruption

COUNCIL OF EUROPE



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## **I. EXECUTIVE SUMMARY**

1. This report evaluates the effectiveness of the framework in place in the Czech Republic to prevent corruption among persons with top executive functions (the Prime Minister, ministers, deputy ministers and ministers' individual advisers, hereafter "PTEFs") and members of the Czech Police. It aims at supporting the on-going reflexion in the country as to how to strengthen transparency, integrity and accountability in public life.

2. The Czech Republic has a robust legal framework for the prevention of and fight against corruption, but it is a rules-based system, in which PTEFs are expected to know the rules and to comply with them, with too little focus on guidance, training and awareness activities, as well as on supervision and enforcement.

3. Integrity risks specifically affecting PTEFs need to be better captured by ensuring that integrity checks take place prior to appointment, that ministers' advisers are subject to clear rules of recruitment and employment and that a risk analysis covering PTEFs is carried out and remedial measures included in a dedicated anti-corruption programme at the level of the Government.

4. There is no code of conduct and no ethical rules applicable to the majority of PTEFs, no awareness-raising activities on integrity-related matters, nor any dedicated mechanism to provide them with confidential counselling on ethical issues. Lobbying remains unregulated despite several attempts and there is insufficient transparency of contacts between lobbyists and PTEFs. These gaps must be addressed as a matter of priority. Rules applicable to PTEF as regards incompatibilities and accessory activities, as well as rules regarding the acceptance of gifts or invitations and on post-employment restrictions, need to be substantially streamlined and strengthened. Disclosure requirements in respect of assets, interests and activities have to be made applicable to ministers' advisers and declarations by PTEFs must be made accessible to the public at large in an easy and timely manner. Verification of these declarations should be carried out by an independent review mechanism adequately equipped to carry out substantive controls in an effective manner, and to impose administrative sanctions.

5. Turning to the Police, GRECO recommends that measures be taken to increase the representation of women at all levels, in particular in managerial positions, and that integrity checks be carried at regular intervals throughout the career of police officers. Donations and sponsorships to the Police must be better regulated to increase transparency and prevent potential, actual or perceived conflicts of interest.

6. In order to further strengthen integrity, ethical norms need to be complemented by practical guidance and by a confidential counselling mechanism, post-employment restrictions should be adequately regulated, and dedicated awareness-raising activities on the new Act on the protection of whistleblowers need to be developed. Finally, complaints against police staff and measures taken in this respect should be published.

## II. INTRODUCTION AND METHODOLOGY

7. The Czech Republic joined GRECO in February 2002 and has been evaluated in the framework of GRECO's First (in March 2003), Second (in May 2006), Third (in April 2011) and Fourth (in July 2016) Evaluation Rounds. The relevant Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's website ([www.coe.int/greco](http://www.coe.int/greco)). This Fifth Evaluation Round was launched on 1 January 2017.<sup>1</sup>

8. The objective of this report is to evaluate the effectiveness of the measures adopted by the authorities of the Czech Republic to prevent corruption and promote integrity in central governments (top executive functions) and law enforcement agencies. The report contains a critical analysis of the situation, reflecting on the efforts made by the actors concerned and the results achieved. It identifies possible shortcomings and makes recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed, via the Head of delegation in GRECO, to the authorities of the Czech Republic, which determine the national institutions/bodies that are to be responsible for taking the requisite action. Within 18 months following the adoption of this report, the Czech Republic shall report back on the action taken in response to GRECO's recommendations.

9. To prepare this report, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to the Czech Republic from 21 to 25 November 2022, and reference is made to the responses by the Czech Republic to the Evaluation Questionnaire, as well as other information received from governmental institutions, civil society etc. The GET was composed of Ms Shaista ABID, Senior adviser, Ministry of Justice and Public security, Police department, Section for crime prevention (Norway), Mr Peter DE ROECK, Integrity Coordinator, Federal Public Service Policy and Support (Belgium), Mr Hermin SABOTIC, Acting General Director (Deputy Minister) at the Directorate for normative and legal issues, Ministry of Internal Affairs (Montenegro) and Ms Zuzana ŠTOFOVÁ, Director, European and Foreign Affairs Division, International Law Department, Ministry of Justice (Slovak Republic). The GET was supported by Ms Sophie MEUDAL-LEENDERS from GRECO's Secretariat.

10. The GET met with representatives of the Cabinet of the Prime Minister, the Ministry of Justice, the Ministry of Interior, the Ministry of Finance, the Legislative Council of the Government, and the Institute for Public Administration. It also interviewed representatives of the Police, the Public Prosecution Service, the Criminal Police and Investigation Service (NCOZ), the General Inspectorate of Security Forces (GIBS), the Financial Analytical Office, Tax Cobra, the Police Ombudsman and the Police Academy. Finally, the GET held discussions with representatives of the Supreme Audit Office, civil society and academia.

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<sup>1</sup> More information on the methodology is contained in the Evaluation Questionnaire which is available on GRECO's [website](http://www.coe.int/greco).

### III. CONTEXT

11. The Czech Republic has been a member of GRECO since 2002 and it has been subject to four evaluation rounds focusing on different topics related to the prevention and fight against corruption<sup>2</sup>. Overall, the Czech Republic has a good track record in implementing GRECO recommendations: 89% of recommendations of the first evaluation round had been fully implemented (with one recommendation partly implemented out of nine), 58% of recommendations of the second evaluation round (with three recommendations partly implemented and two recommendations not implemented out of twelve), 77% of recommendations of the third evaluation round (with three recommendations partly implemented out of thirteen) and 7% of recommendations of the fourth evaluation round (with seven recommendations partly implemented and six not implemented out of fourteen). The compliance procedure under the fourth evaluation round is, however, still on-going.

12. The Czech Republic's position in public perception surveys has remained fairly stable in the past five years, with scores ranging from 54 to 59 and ranking between the 38<sup>th</sup> and 49<sup>th</sup> positions in Transparency International's Corruption Perception Index<sup>3</sup>. According to Transparency International's Global Corruption Barometer 2022<sup>4</sup>, 85% of respondents living in the Czech Republic think that corruption in Government is a big problem (EU average: 62%) and, with 57% of respondents having used personal connections for public services in the previous 12 months, the Czech Republic has the highest score in the EU (EU average: 29%). The European Commission's 2020 Special Barometer on Corruption<sup>5</sup> shows that 87% of respondents in the Czech Republic think that corruption is widespread in their country (EU average: 72%) and only 41% of respondents think that corruption is unacceptable (EU average: 69%). By contrast, the Czech Police is seen as the institution being least affected by corruption, with only 6% of respondents seeing most of its members as corrupt in the Global Corruption Barometer. 62% of respondents would turn to the Police to report a corruption case (EU average: 58%)<sup>6</sup>.

13. The fight against corruption has been at the forefront of the successive governments' priorities for many years and the Czech Republic has a well-established legal framework in this area. However, progress with some key pieces of legislation has recently been very slow. This includes the reform of the Civil Service Act and the Public Prosecution Act, as well as the adoption of the Act on Lobbying or the Act on Whistleblower Protection. Some of these texts will be dealt with in more detail in this report.

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<sup>2</sup> Evaluation round I: Independence, specialisation and means available to national bodies engaged in the prevention and fight against corruption / Extent and scope of immunities; Evaluation round II: Identification, seizure and confiscation of corruption proceeds / Public administration and corruption / Prevention of legal persons being used as shields for corruption / Tax and financial legislation to counter corruption / Links between corruption, organised crime and money laundering; Evaluation round III: Criminalisation of corruption / Transparency of party funding; Evaluation round IV: Prevention of corruption in respect of members of parliament, judges and prosecutors.

<sup>3</sup> [2022 Corruption Perceptions Index: Explore the... - Transparency.org](#)

<sup>4</sup> [Global Corruption Barometer EU: People worried... - Transparency.org](#)

<sup>5</sup> [Corruption - June 2020 - Eurobarometer survey \(europa.eu\)](#)

<sup>6</sup> European Commission's 2020 Special Barometer on Corruption.

14. Several high-level corruption investigations and cases are on-going, with concerns expressed as to the length of the proceedings<sup>7</sup>. In one recent case, the former Prime Minister was found not guilty of fraud in relation to EU subsidies<sup>8</sup>, after this case triggered in 2019 some of the largest public demonstrations since the end of communism<sup>9</sup>. The use of the presidential pardoning power in another high-level corruption case also sparked public controversy<sup>10</sup> (see paragraph 22).

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<sup>7</sup> [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2022-rule-law-report\\_en](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2022-rule-law-report_en)

<sup>8</sup> [Czech ex-Premier Babis acquitted in EU funds fraud case | AP News](#)

<sup>9</sup> <https://learngerman.dw.com/en/czechs-demand-prime-ministers-resignation-in-massive-protest/a-49060093>

<sup>10</sup> EU 2022 Rule of Law Report.

#### **IV. CORRUPTION PREVENTION IN CENTRAL GOVERNMENTS (TOP EXECUTIVE FUNCTIONS)**

##### **System of government and top executive functions**

###### *System of government*

15. The Czech Republic is a parliamentary republic. Since legal amendments in 2012, the Head of State, the President, is elected by direct vote. The legislative power is vested in the Parliament, composed of two chambers, the Chamber of Deputies and the Senate (Art. 15, Constitution). The Government is the highest body of executive power (Art.67(1) Constitution). It is accountable to the Chamber of Deputies.

###### **President of the Republic**

16. The Head of State of the Czech Republic is the President of the Republic. According to Art. 62 of the Constitution, the President:

- a) appoints and recalls the Prime Minister and other members of the Government and accepts their resignations, recalls the Government and accepts its resignation;
- b) convenes sessions of the Chamber of Deputies;
- c) may dissolve the Chamber of Deputies;
- d) entrusts the Government whose resignation it has accepted, or which s/he has recalled, with the temporary performance of its duties until a new Government is appointed;
- e) appoints Justices of the Constitutional Court, its Chairperson and Vice-Chairpersons;
- f) appoints from among judges the Chairperson and Vice-Chairpersons of the Supreme Court;
- g) may grant pardons or commute sentences imposed by courts and order that a criminal record be expunged;
- h) has the right to return to Parliament acts it has adopted, with the exception of constitutional acts;
- i) signs statutes;
- j) appoints the President and Vice-President of the Supreme Auditing Office;
- k) appoints members of the Banking Council of the Czech National Bank.

17. In addition, according to Art. 63(1) of the Constitution, the President:

- a) represents the state externally;
- b) negotiates and ratifies international treaties; s/he may delegate the negotiation of international treaties to the Government or, with its consent, to individual members thereof;
- c) is the supreme commander of the armed forces;
- d) receives heads of diplomatic missions;
- e) accredits and recalls heads of diplomatic missions;
- f) calls elections to the Chamber of Deputies and the Senate;
- g) commissions and promotes generals;
- h) may grant and award state honours, unless s/he has empowered another body to do so;
- i) appoints judges;
- j) orders that criminal proceedings not be instituted or if they have been instituted, that they be discontinued;
- k) has the right to issue amnesties.

18. Art. 63(2) of the Constitution stipulates that the President of the Republic also possesses powers which are not explicitly enumerated in the Constitution if a law so provides.

However, in order to be valid, decisions of the President of the Republic issued pursuant to Art. 63(1) and (2) require the countersignature of the Prime Minister or a member of the Government designated by him or her. The Government is responsible for these decisions.

19. According to Art. 64 of the Constitution, the President of the Republic has the right to take part in the meetings of both chambers of Parliament, as well as those of their committees and commissions. S/he shall be given the right to speak whenever s/he requests. S/he also has the right to take part in the meetings of the Government, to request reports from the government or its members, and to discuss with the Government or its members issues that fall within their competence.

20. As agreed by GRECO, a Head of State would be covered in the 5<sup>th</sup> Evaluation Round under “central governments (top executive functions)” when s/he actively participates on a regular basis in the development and/or the execution of governmental functions or advises the government on such functions. These may include determining and implementing policies, enforcing laws, proposing and/or implementing legislation, adopting and implementing by-laws/normative decrees, taking decisions on government expenditure, taking decisions on the appointment of individuals to top executive functions.

21. The GET notes that the functions of the President of the Czech Republic are to a large extent of a formal, representative and ceremonial nature. S/he is not part of Government and does not actively and regularly participate in day-to-day governmental functions. The Constitution defines the President as the Head of State, but expressly names the Government as the highest body of executive power. Decisions made by the President are always proposed by either the Parliament or the Government and are countersigned by ministers, who bear the corresponding political responsibility. The President never attends meetings of the Government.

22. The President of the Republic who was in office at the time of the on-site visit was the first one to have been elected by popular vote in 2012, unlike his predecessors who were elected by Parliament. This gave him a perception of higher legitimacy, which he used to delay some appointments, as a bargaining chip with other political actors. He also used the presidential pardon in respect of one of his direct subordinates, who had been sentenced for corruption<sup>11</sup>. Furthermore, the GET was informed of several cases in which the Office of the President requested exceptions to anti-corruption measures set out in law. However, all its interlocutors agreed that these situations were exceptions, connected to the strong personality of the former President, who completed his last term in office in March 2023.

23. In view of the above, the President of the Czech Republic, cannot be considered as exercising top executive functions as understood in paragraph 20 and does not fall within the framework of the current evaluation round. Nevertheless, the Czech authorities may wish to examine the legal framework applicable to the President and the senior staff of his/her office in light of the integrity measures recommended in this report, in order to prevent any misuse of their powers.

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<sup>11</sup> <https://english.radio.cz/czech-president-sparks-outrage-controversial-pardon-8746286>

## Government

24. The Government of the Czech Republic consists of the Prime Minister, deputy prime ministers and ministers (Art. 67(2), Constitution). The current Government has 17 members, including two women (the Minister of Defence and the Minister of Science, Research and Innovation). There are no standards or rules to promote gender equality in the composition of the Government. Therefore, the GET wishes to draw attention to the Council of Europe's Committee of Ministers Recommendation Rec(2003) 3 on balanced participation of women and men in political and public life<sup>12</sup>, according to which the representation of women and men in any decision-making body in political or public life should not fall below 40%.

25. The main texts regulating the activity of the Government and the competences of each ministry are Act no. 2/1969 Coll., on the Establishment of Ministries and Other Central Bodies of State Administration of the Czech Republic (hereinafter the Competence Act) and the Rules of Procedure of the Government (hereinafter the RoP). These areas are also governed by specific laws.

26. The Government is headed by the Prime Minister who organises its work and convenes and chairs government meetings. In the Prime Minister's absence, s/he is represented by a Deputy Prime Minister or another minister appointed by him/her (art. 77 Constitution).

27. The Government adopts decisions as a collective body at a government meeting. These decisions are adopted by absolute majority of all its members, usually by means of government resolutions or in the form of draft laws or by-laws. The powers of the Prime Minister, the Government as a whole and government members to take individual decisions are entrusted to them by specific laws. The Government is accountable to the Chamber of Deputies.

28. As a rule, government meetings are held once a week, in camera (section VI(1) of the RoP). The Government may decide that a certain item on the agenda be discussed in a closed meeting, without the participation of persons who are not members of the Government. In such a case, it will also decide whether a sound recording of that item will be made (section VI(17) RoP). Minutes of government meetings are placed in the government's electronic library and a summary of the issues discussed and the decisions taken is made public on the government's website<sup>13</sup>.

29. Tasks connected with the professional, organisational and technical assistance towards the Government's activity are fulfilled by the Government Office; it also fulfils these tasks for the expert bodies of the Prime Minister and for Government members who do not head a ministry, such as ministers without portfolio or deputy prime ministers.

## Ministries

30. The competence of each ministry is based upon the Competence Act and its activities upon specific laws and government resolutions. Ministries are directed, coordinated and overseen by the Government. The decision-making process on specific issues within the

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<sup>12</sup> <https://rm.coe.int/1680519084>

<sup>13</sup> See for example: <https://www.odok.cz/portal/zvlady/jednani-detail/2023-04-19/> - ("záznam z jednání – doc.")

jurisdiction of each ministry is governed by that ministry's organisational rules. The minister bears the constitutional responsibility for the ministry's activities.

31. At the time of the on-site visit, there were two types of deputy ministers: first, expert deputy ministers who held managerial positions in ministries. These persons go through civil service selection procedures and are subject to the Civil Service Act. Their mandate is not tied to that of ministers. There were also political deputy ministers, who are the ministers' closest colleagues. They are chosen discretionarily by the minister they serve, they are subject to the Labour Code and their mandate is tied to their minister's. Pursuant to a change in the Civil Service Act that entered into force on 1 January 2023, the denomination of the expert deputy ministers was changed to directors general and the only deputy ministers are now the politically appointed officials. This is also the term that will be used in this report.

32. There are two categories of individual advisers to the Prime Minister and ministers. First, some advisers are employees of the ministry. They may either form part of the cabinet of a minister or of a dedicated advisory department. For ministers who do not head a ministry, such as the Minister for European Affairs, the advisers are employed by the Office of the Government. These advisers may be civil servants subject to the Civil Service Act or employees of the ministry under private law contracts and subject to the Labour Code, depending on how the ministry is set up.

33. The second group of advisers consists of individuals or companies that provide advice based on a task-based one-off or long-term contract. These advisers are not employed by the ministries and they retain their main occupation. For instance, the Prime Minister has 12 advisers who are not employed by the Prime Minister's Office and a majority of whom still carry out their main functions in addition to their advisory role.

34. The Government<sup>14</sup> may set up its own advisory and working bodies (*Pracovní a poradní orgány vlády*, hereafter PPOVs) on a permanent or temporary basis. They are composed of members of the government and of experts who act as representatives of individual public bodies or institutions and are not remunerated for their work. If external experts are involved, they receive a symbolic compensation. Under Government Resolution No. 175 of 20 February 2002, when establishing new PPOVs, members of government and heads of other central government bodies are obliged to draw up statutes and rules of procedure on the basis of models which are published online<sup>15</sup>. The chairpersons of PPOVs have to publish annual

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<sup>14</sup> The following PPOVs activities are guaranteed by the Office of the Government: [National Security Council](#), [Government Legislative Council](#), [The Government Council for Sustainable Development](#), [Committee for EU, Ethics committee Czech](#), [Inter-ministerial Commission for Roma Community Affairs](#), [Government Council for Human Rights](#), [Government Council for Gender Equality](#), [Government Council for National Minorities](#), [Non-Governmental Organisations](#), [Government Council for the Coordination of Addiction Policy](#), [Government Board for Persons with Disabilities](#), [Government Dislocation Committee](#), [Research and Development Council](#), [Information Society](#). The following PPOVs activities are guaranteed by specific ministries: Ministry of Industry and Trade: [Governmental Council for energy and raw materials strategy of the Czech Republic](#), [The Czech Republics' Council for Quality](#); Ministry of the Environment: [Government Council for Sustainable Development](#), [Central Flood Commission](#); Ministry of Labour and Social Affairs: [Council of Economic and Social Agreement of the Czech Republic](#), [Government Council for Safety, Hygiene and Health at Work](#), [Government Council for Seniors and Population Ageing](#); Ministry of Transport: [Czech Republic Government Council for Road Safety](#); Ministry of the Interior: [National Co-ordination Group for Digital Broadcasting in the CR](#); Ministry of Foreign Affairs: [The Czech Commission for UNESCO](#); Ministry of Culture: [Commission for the Reconciliation of Relations between the State and Churches and Religious Societies](#).

<sup>15</sup> <https://www.vlada.cz/cz/ppov/ppov-50611>

reports online following a standardised template. The cabinet of the Head of the Office of the Government maintains an up-to-date overview of PPOVs<sup>16</sup>.

35. The Prime Minister, ministers, deputy ministers and individual advisers to the Prime Minister and ministers are to be regarded as “persons with top executive functions” (PTEFs) for the purposes of this evaluation.

#### *Status and remuneration of persons with top executive functions*

36. The Prime Minister is appointed by the President of the Republic. As a rule, s/he is the leader of the majority party or of the coalition holding a majority in the Chamber of Deputies. The Prime Minister is recalled by the President in cases determined by the Constitution.

37. The Prime Minister and the Government are accountable to the Chamber of Deputies. Within 30 days of its appointment, the Government must ask the Chamber of Deputies for a vote of confidence. If it is not granted, the process of appointment of the Prime Minister and ministers is repeated. If the Chamber refuses to grant confidence for a second time, the President appoints the Prime Minister based on a proposal by the Speaker of the Chamber of Deputies. If the appointed Government does not receive confidence for a third time, new elections are called.

38. During its mandate, the Government may submit to the Chamber of Deputies a request for a vote of confidence. The Chamber may also adopt a resolution of no confidence in the Government. Such a debate and a vote of no confidence took place on 1-2 September 2022 with a negative result. Therefore, the current Government continues its mandate.

39. On the proposal of the Prime Minister, the President appoints and recalls other government members. Government members usually simultaneously hold a parliamentary mandate.

40. Ministers’ individual advisers are selected and appointed at the discretion of the minister. As explained above, they may be civil servants, employees of the ministry or work under a task-based advisory contract. They may be remunerated or not, work full-time or part-time, alongside their main activity.

41. The GET notes that ministers’ individual advisers work under different statuses and that there are no clear and common rules governing their engagement and employment. The only strict rules as regards procedures for appointment, remuneration and conditions of employment are set out in the Civil Service Act for those who fall within its scope. For the advisers who work under task-based contracts, or who are not remunerated, there are no rules on the prevention of conflicts of interest, unless they are specified in a given ministry’s internal rules. Some of the GET’s interlocutors characterised the situation in practice as rather chaotic. This is clearly problematic, as working in an advisory capacity for members of the Government on a part-time basis or in a *pro bono* capacity in particular may raise questions as to whether the content of certain advice was influenced by the possibility of acquiring lucrative contracts and/or whether persons benefited from access to certain privileged information. The GET understands that a certain amount of flexibility should be preserved regarding the conditions of recruitment and work of ministers’ individual advisers. However,

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<sup>16</sup> <https://www.vlada.cz/cz/pracovni-a-poradni-organy-vlady/#urad>

this flexibility needs to be counterbalanced by a formalised check upon recruitment and the unambiguous applicability of certain standards of ethical conduct. In view of the foregoing, **GRECO recommends that the recruitment process and obligations of ministers' individual advisers be regulated, ensuring that appropriate rules on conflicts of interest and use of confidential information apply to them.** A recommendation regarding the need to introduce integrity checks for all PTEFs appears below in paragraph 46.

42. In accordance with the Framework Ministerial Internal Anti-Corruption Programme (see below), ministries have to publish and update online every six months<sup>17</sup> the list of:

- advisory bodies and working teams established by ministers and their deputies, including their members, statutes and rules of procedure;
- advisers, consultants, analysts (natural persons) to ministers and their deputies, where these posts are paid from public funds, provided that they do not carry out the standard activities of the ministry as laid down in the Competence Act and other legislation;
- consultancies and other external companies operating under a mandate or other contract;
- lawyers and law firms which have concluded contracts for the provision of legal services.

43. For all the above-mentioned persons and bodies (hereafter referred to as "advisers"), the following information must be included in the published list:

- the names of the advisers, or the name of the legal entity;
- the agreed or contractual remuneration for the activities of natural persons shall be disclosed only with the consent of the adviser concerned;
- the agreed or contractual remuneration for the above activities of individual legal persons;
- the total amount paid to the advisers, unless only one adviser is a natural person.

44. The GET welcomes as a good practice the fact that the names, the remuneration (hourly rate and total amount paid over the reporting period) of the advisers and the subject of the advice provided are published online by the Government and the ministries in an easily accessible manner. The GET's interlocutors agreed that these lists were generally kept up to date. However, it was pointed out that it could not be excluded that some advisers might be excluded from these lists due to the form of their legal relationship with ministries and PTEFs. In the GET's view, the recommendation given above to better regulate the conditions of recruitment and employment of individual advisers may help ensure that the concerns in this area are comprehensively targeted.

45. Furthermore, the GET notes that PTEFs, be they ministers, deputy ministers or individual advisers, are not subject to proper integrity checks prior to their employment. There is no institutional procedure prescribing such checks for ministers. The GET was informed that the human resources departments of some ministries check the CVs of prospective deputy ministers and individual advisers to detect possible conflicts of interest and advise the minister

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<sup>17</sup> See for example the list of advisers of the Prime Minister (<https://www.vlada.cz/cz/clenove-vlady/premier/poradci/poradni-sbor-predsedy-vlady-petra-fialy-193673/>), the list of advisers and advisory bodies of the Ministry of Justice (<https://justice.cz/web/msp/seznam-poradcu-a-poradnich-organu>) and of the Ministry of Transport (<https://www.mdcr.cz/Ministerstvo/Boj-s-korupci>, in section "Poradci a poradní orgány", paragraphs starting with "Přehled poradců")

accordingly. However, this only applies to persons who have a contractual relationship with the ministry and to the information that appears on the CV. Moreover, the minister may still choose to appoint a collaborator irrespective of the advice received.

46. The GET takes the view that integrity checks should be carried out when persons are being considered for a ministerial post or an advisory position or contract. Such checks would play an important role in preventing corruption by providing an opportunity to identify any potential, actual or perceived conflicts of interest prior to PTEFs' appointment. This preliminary check could be done for example by the Office of the Government or the ministries, based on asset and income declarations when already available and/or interviews to identify possible risks of conflicts of interest. Therefore, **GRECO recommends laying down rules requiring that adequate integrity checks take place prior to the appointment of ministers, deputy ministers and individual advisers in order to identify and manage possible risks of conflicts of interest before these persons take up office.**

47. The remuneration of members of the Government is regulated by law.<sup>18</sup> They are entitled to a salary, reimbursement of expenses, benefits in kind and severance pay.

48. The salary is determined as the product of the salary base and a coefficient fixed according to the responsibilities of the post. The Prime Minister is entitled to a monthly salary of 2,90 times the base amount – CZK 243,774/€ 9,914; the Deputy Prime Minister's monthly salary coefficient is 2,49 – CZK 209,310/€ 8,512; ministers' monthly salary coefficient is 2,06 – CZK 173,174/€ 7,043<sup>19</sup>.

49. Members of the Government are entitled to the reimbursement of the following expenses: representation expenses, transport expenditures domestically and abroad in connection with the performance of their duties, meals and accommodation on domestic and foreign travel in connection with the performance of their duties, expenditure on temporary accommodation at the place of residence of the institution in which they are serving, expenses for professional and administrative work, expenditure on the activities of a guide or personal assistant and expenditure on professional literature.

50. These expenses are provided in the form of cash benefits paid monthly at a predetermined amount to cover one type of expenditure ("single-purpose lump sum") or several types of expenditure ("multi-purpose lump sum"), reimbursement of proven expenses or reimbursement of proven expenses up to a specified amount. The "lump sum" is calculated by percentage of the salary base (CZK 84,060 for 2022). The Prime Minister is entitled to a lump sum equivalent to 37% of the salary base, the Deputy Prime Minister to 33% and ministers to 30%.

51. The Prime Minister is entitled to the following benefits in kind: use of a service vehicle with or without a driver, for the performance of, or in connection with, the performance of his/her duties and for the purpose of enabling him/her to communicate with his/her family, accommodation at an official or suitably equipped residence, and establishment and use of a single local telephone exchange.

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<sup>18</sup> Law No. 236/1995 Coll. on the salary and other benefits connected with the performance of the duties of public officials and certain state bodies and of judges and members of the European Parliament, as amended.

<sup>19</sup> The average gross monthly salary in the first quarter of 2022 was CZK 37.929/€ 1.542.

52. Ministers are entitled to the following benefits in kind: use of a service vehicle with or without a driver, for the performance of, or in connection with, the performance of their duties and for the purpose of enabling them to communicate with their family, accommodation at the seat of the ministry if they are not permanent residents in Prague, and establishment of a single local telephone exchange.

53. The Prime Minister and ministers are entitled to a severance payment equal to their last monthly salary, plus the product of that amount multiplied by the number of completed years of service, not exceeding four years.

54. Monthly salaries of deputy ministers are set at the 16<sup>th</sup> salary grade. For instance, in the Ministry of Justice, the remuneration of deputy ministers is on average CZK 124.267/€ 5.295, which includes the basic salary, a personal surcharge (up to 100% of the basic salary) and an additional surcharge for management. The situation is similar in other ministries. Benefits include the use of a service vehicle with and without a driver under the same conditions as ministers, as well as CZK 10.000/€ 425 per month as a representational fund to be used for hospitality.

55. As regards individual advisers, using the example of the Prime Minister's advisers, six of the 12 are working on a task-based long-term contract with an average remuneration of CZK 18.247/€ 779 per month. Five advisers charge nothing – either because they work for free or they do not report any long-term activity, such as persons who were advising the Prime Minister on energy crises; one adviser is employed by the Directorate of the cabinet of the Prime Minister, managing the department supporting the activities of the Prime Minister. It is therefore impossible to distinguish between his consultative and managerial activities.

56. Information on PTEFs' salaries and benefits is available to the public based on a request for information under the Free Access to Information Act no. 106/1999 Coll.

### **Anticorruption and integrity policy, regulatory and institutional framework**

#### *Policy framework*

57. The Government Anti-Corruption Concept for 2018-2022 creates a medium-term framework for individual anti-corruption measures and sorts them into four interconnected priority areas: 1. Efficient and Independent Executive, 2. Transparency and Open Access to Information, 3. Efficient Management of the State Property and 4. Development of Civil Society. The 2018-2022<sup>20</sup> Concept contains general outlines of the anti-corruption measures, rather than specific descriptions of individual measures. Therefore, it is implemented by distinct anti-corruption action plans that assign individual responsibility for the implementation of anti-corruption measures to relevant authorities and, in combination with government legislative and non-legislative work plans for the given year, stipulate the deadlines for their completion.

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<sup>20</sup> <https://korupce.cz/protikorupcni-dokumenty-vlady/na-leta-2018-az-2022/>. This link displays the Anti-Corruption Action Plan 2021-2022, Anti-Corruption Action Plan 2020, Government Anti-Corruption Concept 2018-2022 and Basis for the development of an anti-corruption strategy document of the Czech Republic for the period after 2017.

58. On 7 December 2020, the Government adopted its Anti-Corruption Action Plan for 2021 and 2022 by resolution no. 1273. This action plan for the first time covered a two-year period in order to ensure the continuation of already adopted anti-corruption measures and the fulfilment of the relevant international obligations of the Czech Republic during the period following general elections to the Chamber of Deputies in October 2021. The implementation of measures foreseen in the Government Anti-Corruption Action Plans is evaluated ex-post on an annual basis, where the evaluation reports are discussed by the Government and published by the end of March of the following year.

59. The new Government Anti-Corruption Concept for the 2023-2027 was under preparation at the time of the on-site visit. It has been approved by Government resolution no. 228 of 5 April 2023 and it is published online. This Concept follows up on the previous one, with the same priority areas and a focus on the enforcement of anti-corruption measures to which the Czech Republic has committed itself at international level. It does not contain a detailed description of individual operational measures, which are meant to be dealt with by the action plans.

#### Risk management mechanism

60. The Internal Anti-Corruption Programme Framework was established in 2013 by the government. It builds on the principles of internal risk management in the form of corruption risk management within ministries, other central authorities and their subordinate bodies and agencies. This framework therefore also applies to PTEFs.

61. At the top level, there is a Framework Ministerial Internal Anti-Corruption Programme document which was originally adopted by Government Resolution No. 752 of 2 October 2013 and has been updated periodically. Its latest update was by Government Resolution No. 769 of 20 November 2018. This Programme serves as the primary internal Government anti-corruption strategy. It is implemented at the level of individual ministries and other central authorities, which adopt their own internal anti-corruption programme documents that are subsequently reflected at the level of their subordinate bodies and agencies. All these documents follow the structure of the Framework Ministerial Internal Anti-Corruption Programme but are tailored to each body's individual needs and to the corruption risks they may face.

62. Under this framework, ministries have an obligation to identify, assess and mitigate corruption risks, as well as to monitor risk areas, on a yearly basis. This is accompanied by regular testing of the mechanisms used to identify and mitigate corruption risks. Methodological support is provided to ministries and other agencies by the Inter-ministerial Anti-Corruption Coordination Group and the Conflict of Interests and Anti-Corruption Department of the Ministry of Justice, in its capacity as coordinator of the government anti-corruption agenda (see below).

63. The Office of the Government, like the ministries, has its own Internal Anti-Corruption Programme<sup>21</sup>, which was last updated in July 2019 to take into account the above-mentioned update of the Framework Ministerial Internal Anti-Corruption Programme.

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<sup>21</sup>[https://www.vlada.cz/assets/urad-vlady/Boj\\_s\\_korupci\\_na\\_Uradu/protikorupcni-program/IPP-UV-CR\\_cervenec-2019\\_aktualizace.pdf](https://www.vlada.cz/assets/urad-vlady/Boj_s_korupci_na_Uradu/protikorupcni-program/IPP-UV-CR_cervenec-2019_aktualizace.pdf)

64. The compliance of the individual anti-corruption programmes with the Framework Ministerial Internal Anti-Corruption Programme is evaluated every two years by the ministries and authorities responsible for those distinct programmes. Subsequently, a summary report is published by the Ministry of Justice. The Framework Ministerial Internal Anti-Corruption Programme is updated either on the basis of the evaluation findings or sooner if the circumstances (e.g. new relevant legislation) require it. The changes are approved by the Government.

65. Measures enshrined within this corruption risk management framework include for example integrity trainings, publication of financial information and lists of advisers, advisory bodies and their members, publication of the CVs of high-ranking civil servants (directors of departments and above functions), internal whistleblowing procedures or creation of corruption risk maps.

66. The GET takes the view that the Framework Ministerial Internal Anti-Corruption Programme and the subordinated anti-corruption programmes adopted at the level of the ministries are worthwhile documents. They provide for an on-going identification of corruption risks, mitigation measures, such as training activities, public disclosure, codes of ethics, reporting and whistleblower protection. The programmes and their implementation are monitored on a regular basis.

67. That said, these programmes do not target all PTEFs or the Government, as an overarching structure responsible for directing, coordinating and overseeing the ministries. They apply to the ministers themselves only in the sense that ministers are required to set out rules for the ministries under their supervision. This is a gap in the GET's view. The absence of a strategic integrity goal at the highest level sends the wrong signal and may impact risk management at the operational level. Some integrity risks are especially relevant for PTEFs, such as nepotism or those arising from the interface between businesses and political actors (see also further below as regards conflicts of interest). So are certain areas like lobbying, asset disclosure or post-employment restrictions. Addressing these specific risks and areas in a coordinated manner would clearly provide added value, also as regards some of the deficiencies highlighted in this report. Therefore, **GRECO recommends that a risk analysis specifically covering persons with top executive functions' specific integrity risks be carried out on a regular basis and that remedial measures be included in a dedicated anti-corruption programme at the level of the Government.**

#### *Institutional framework*

68. The main entity responsible for promoting integrity and preventing corruption is the Conflicts of Interest and Anti-Corruption Department within the Ministry of Justice. It has 23 employees and for the year 2021, the financial resources allocated to their salaries were CZK 11,797,988/€ 481,747. The department consists of three units, two dealing with conflicts of interest and one with the coordination of anti-corruption efforts at government level. The units dealing with conflicts of interest manage the central electronic register of declarations, provide methodological support and perform supervisory activities over the authorities dealing with misdemeanours and administrative offences in this area; they relay both their own and received findings to these authorities.

69. The anti-corruption unit drafts government anti-corruption strategic documents; coordinates and controls the implementation of the tasks arising from governmental anti-corruption strategies; prepares materials, such as draft legislation, analyses and comparative studies relating to the fight against corruption; evaluates corruption impact assessments for government sponsored legislation by individual ministries and other central authorities; performs education and awareness-raising activities and discusses its activities with the non-governmental, non-profit organisations engaging in combating corruption; provides support to the Government Anti-Corruption Council.

70. The Government Anti-Corruption Council<sup>22</sup> provides advice to the Government in this area. It was established by Government Resolution No. 629 of 30 July 2014. Since October 2022, it is presided by the Minister for Legislation and Chairman of Government Legislative Council, while the Prime Minister, the Minister of Justice, Minister of Interior, Minister of Finance, Minister of Health and Minister of Regional Development are its vice-presidents. It comprises 20 members, including all main stakeholder groups – state administration, law enforcement authorities, NGOs, professional associations and chambers, local authorities and academia. Seven thematic working commissions function as the working and preparatory bodies of the Council. The Council adopts its resolutions by majority. Membership of the Council is not remunerated.

71. An inter-ministerial Anti-Corruption Coordination Group serves as a coordination body where all ministries and other central administrative authorities can exchange views and best practice with regard to their internal anti-corruption measures and strategies. This Group discusses individual aspects of the Framework Ministerial Internal Anti-Corruption Programme, its strengths and weaknesses, methodological issues and also possible ways of updating and enhancing it. This working group is run and presided by the Ministry of Justice. Due to the pandemic, it met in person only four times between 2020 and 2022, as opposed to two to four times a year usually and minutes of its meetings are available online<sup>23</sup>. Regular communication between the members of the Group is on-going by electronic means.

#### *Ethical principles and rules of conduct*

72. There are several regulations on ethics and conduct that apply to civil servants, employees in ministries and some ministers' individual advisers, depending on their status. A Code of Ethics for Civil Service Officials and Employees<sup>24</sup> was approved by Government Resolution No. 331 from 9 May 2012. It is binding on all employees working for the central administrative authorities. It contains some rules on conflicts of interest and corruption, e.g.:

- an official and civil servant shall act in such a way that, in the performance of the tasks entrusted to him/her concerning the public administration, s/he does not end up in a position in which s/he is obliged or feels obliged to repay or other compensate for the service or kindness shown to him/her,
- an official and civil servant who has learned in a credible manner of any corruption or suspicion of such conduct is obliged to report it to his/her superior or to the body competent for following up through criminal proceedings.

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<sup>22</sup> [Rada vlády – Korupce.cz](https://rada.vlady.cz)

<sup>23</sup> <https://korupce.cz/mezirezortni-koordinacni-skupina/zapisy-z-jednani/>

<sup>24</sup> <https://www.mvcr.cz/soubor/extremismus-a-eticky-kodex-eticky-kodex-uredniku-a-zamestnancu-verejne-spravy.aspx>

Furthermore, they are obliged to immediately notify an offer or acquisition of an unjustified advantage.

73. The Framework Ministerial Anti-Corruption programme described above establishes the obligation for ministries to adopt codes of conduct/ethics for all employees. These codes have to be made widely available to all employees and adequate awareness is to be raised, along with an explanation of the codes' content, oversight and appropriate control mechanisms.

74. Accordingly, most individual ministries have adopted their own code of conduct or ethics, which are available on the ministries' website<sup>25</sup>. Ministries may either adopt a single code for both civil servants and other employees, or two separate documents. These codes are part of the ministries' internal rules and thus are binding and enforceable within these entities. Some ministries have chosen not to adopt a separate code and to rely instead on the Civil Service Regulation and the Code of Ethics for Civil Service Officials and Employees<sup>26</sup>.

75. These internal codes may be applicable to some PTEFs, depending on their individual status and position in the ministries. For instance, the Prime Minister's advisers, who work under a Labour Code contract, have signed an agreement to respect the Code of Ethics of the Government Office, irrespective of whether they are remunerated or work *pro bono*. For advisers who work under a consultancy contract, the contract contains a clause requiring them to act in accordance with the client's instructions and to protect the confidentiality of the information they acquire. As from 2023, a new Directive of the Government Office on the management of internal regulations No. 9/2022 (of 30 June 2022) foresees the inclusion in the new consultancy contracts of a provision requiring consultants to abide by the Code of Ethics and all internal regulations of the Office of the Government. Regarding deputy ministers, there were some uncertainties among the GET's interlocutors, some of them stating that as employees of the ministries, they would be subject to their ministry's ethical rules; other interlocutors took the view that these rules did not apply to politically appointed officials. After the visit, the authorities clarified that the employment of deputy ministers is regulated by the Labour Code, which contains some integrity-related provisions in section 303.2. They are also subject to all their employer's internal regulations.

76. The GET notes that none of the codes of ethics adopted at the level of the ministries cover the Prime Minister and ministers, as it was acknowledged by the authorities on-site. The Government Anti-Corruption Council had proposed under the previous Government that a code of conduct be developed for ministers, but this initiative did not bear fruit. This shortcoming is of serious concern, as it has been GRECO's constant position that PTEFs must be subject to a code describing the conduct expected of them during the government decision-making process. Such a document should deal with topical issues such as conflicts of interest; gifts and contacts with lobbyists and other third parties aimed at influencing government policies or bills; post-employment restrictions, with a view to avoiding that the prospect of future employment in the private sector taints the taking of decisions, etc. This code should also apply to ministers' individual advisers who, depending on their status and

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<sup>25</sup> See for instance the Code of Ethics of the Office of the Government at: <https://www.vlada.cz/cz/urad-vlady/eticky-kodex/eticky-kodex-zamestnancu-uradu-vlady-cr-100436/>; and the Ministry of Justice's code of ethics at: <https://www.justice.cz/web/msp/eticky-kodex>

<sup>26</sup> Regulation of the Deputy Minister of the Interior for the Civil Service no. 13/2015 of 14 December 2015 laying down rules of ethics for civil servants

position in different ministries, may not be covered by any such document at present. The standards contained in such a code should be clear to the persons concerned and to the public. Finally, it is particularly important that the effectiveness of such standards be ensured through adequate monitoring and enforcement. Consequently, **GRECO recommends (i) that a code of conduct for persons with top executive functions be adopted, published and complemented with clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, outside activities, contracts with state authorities, the handling of confidential information and post-employment restrictions); and (ii) that such a code be coupled with a credible and effective mechanism of supervision and sanctions.**

### *Awareness*

77. As regards information about issues covered by the Act on Conflict of Interests, the Ministry of Justice provides PTEFs with methodological documents, also available online, covering all relevant information. This information is regularly updated and any significant update, regarding for example deadlines for submitting declarations, new methodological documents or legislative changes, is announced separately or via press release. According to the authorities, PTEFs are mostly well aware of the general rules of the Act on Conflicts of Interest. The Ministry of Justice, through its Conflicts of Interest and Anti-Corruption Department, handles all legal and technical inquiries from PTEFs, and from public bodies and the general public. Several hundreds of them are received every year<sup>27</sup>, mostly as regards asset declarations, but some of them concern incompatibilities or other issues.

78. The GET notes that, in the absence of rules of conduct targeting PTEFs, there are no awareness activities available to them on integrity-related matters, apart from the advice provided by the Conflicts of Interest and Anti-Corruption Department of the Ministry of Justice, which focuses mainly on disclosure obligations. There is also no dedicated mechanism for providing PTEFs with confidential counselling on ethical issues more generally. The GET stresses that these activities are important in order to strengthen integrity in decision-making and inform PTEFs about how to deal with ethical dilemmas in their daily activities. Therefore, **GRECO recommends developing efficient internal mechanisms to promote and raise awareness of integrity matters in the Government, including confidential counselling and training at regular intervals of persons with top executive functions.**

## **Transparency and oversight of executive activities of central government**

### *Access to information*

79. Access to public information is foreseen in Act No. 106/1999 Coll. on free access to information, which sets out in its section 2 the obligation for state agencies, among others, to provide information related to their powers and decisions. This covers as a rule all government documents relating to executive function decision-making, unless such documents are classified under Act No. 412/2005 on the protection of classified information and on security competence. Under the Act on free access to information, information must either be published as open data in a manner allowing remote access or be provided upon request to applicants (section 4(1)). Requests for information may be submitted orally or in writing, as well as by e-mail. The law foresees a 30-day deadline for handling requests, with an appeal

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<sup>27</sup> All above mentioned [methodologies](#) and [statistics](#) are available online (in Czech only).

possible to a higher authority in case of refusal<sup>28</sup>. In 2022, an amendment to the Act was passed containing a number of positive elements, such as the obligation to inform about the salaries of high-ranking officials and the introduction of an information obligation for state-owned companies.

80. Information on government decision-making is available through the [zVlády database](#). It displays, and allows the public to search, government meeting programs, records, resolutions and published legislative and non-legislative materials for government meetings.

81. The discussions on-site did not reveal any major concerns as regards the practice of public access to official documents. The GET notes, however, that the Czech Republic has not signed or ratified the Council of Europe Convention on Access to Official Documents (CETS 205). It invites the authorities to envisage joining the state parties to this important instrument.

#### *Transparency of the law-making process*

82. Transparency measures relating to the preparation by the central government of draft laws and regulations stem from the right to free access to information. All non-classified draft laws are made available to the public through the government web portal ODok. To research draft legislation, the public can access the VeKLEP database, which is accessible to anyone free of charge and without the need for to register.

83. VeKLEP is the public version of the government's electronic library for the legislative process, in which relevant legislative materials have been publicly available since 2016. The materials are continuously updated in the non-public version of the system. This allows the public to follow the life cycle of individual legislative drafts from their creation to their approval or rejection. In VeKLEP it is possible to find out which draft legislation the Government is preparing and which it has discussed. It is also possible to submit comments to the submitter's electronic address which is provided as part of the material. VeKLEP contains both the full text of the draft legislation itself and related attachments – e.g. the submission report, explanatory report, table containing the comments received and follow-up given, etc.

84. Public consultation on government draft legislation and regulation is organised in the context of the obligatory application of the Regulatory Impact Assessment (RIA), adopted by Government Resolution No.877/2007. While public consultations are compulsory, their form and length are determined by the regulation's submitter on the basis of the principle of proportionality. A 2009 document on methodology and a 2010 Handbook for public engagement in the preparation of government documents explain the procedural rules for public consultations. To assist governmental authorities in identifying the relevant persons and bodies to consult, the DataKo database contains a list of subjects that have expressed their interest in active participation. The RIA is concluded by a final report, which contains an evaluation of the consultation process and is submitted to the legislative council of the government.

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<sup>28</sup> Data concerning the handling of access requests by the Office of the Government are available in its annual reports: <https://www.vlada.cz/cz/urad-vlady/poskytovani-informaci/vyrocní-zpravy-15775/>

85. The Government Council for Non-Governmental Non-Profit Organisations approved on 28 June 2022 a Methodology of participation of non-state non-profit organisations in advisory and working bodies and in the creation of state administration documents. It authorised the Secretariat of the Government Council for NGOs to ensure the pilot implementation of the methodology in ministries as from 1 January 2023.

86. This Methodology was prepared to fill a gap identified while drafting the Strategy for Cooperation Between Public Administration and Non-governmental Non-profit Organisations 2021-2030. Inconsistencies were identified in the way ministries and other central state administration bodies ensure the participation of representatives of civil society, e.g. NGOs, in participatory processes and appoint those representatives to individual working groups, advisory bodies or expert panels.

87. Therefore, the Methodology aims at increasing the rate and effectiveness of the participation of NGOs in governance at the level of ministries and other central administrative authorities. According to the authorities, with the implementation of the Methodology, the NGOs' involvement is meant to become a more integral part of the legislation-drafting and decision-making processes. Data collected from the NGOs' involvement will then be evaluated and made public. The implementation of the Methodology will be evaluated yearly through monitoring reports, that will take into account input from ministries, NGOs and other entities.

88. Section 5(1)(g) of the Legislative Rules of the Government provides for the direct involvement of trade unions in the government legislation drafting and decision-making process. After a draft law or regulation is entered in the government's electronic library, it is transmitted through the library to trade unions and employers' organisations, if the draft's objective relates to the important interests of workers, especially economic, production, working, wage, cultural and social conditions (Section 320, paragraph 1 of the Labour Code). Comments received from these organisations are then made public in the VeKLEP database and taken into consideration before presenting the draft legislation to the Government for approval.

89. The GET discussed the practical implementation of the rules on transparency of the legislative process and on public consultation on-site, in light of the findings in GRECO's 4th Round Evaluation Report on the Czech Republic (paragraph 26) that the RIA rules were not sufficiently applied. Civil society representatives met during the latest on-site visit underlined that, while these rules were well established and useful, a significant portion of new regulation was exempt from the RIA process. Moreover, access to the non-public version of the legislative library of the government VeKLEP was restricted for some NGOs which are members of the Anti-Corruption Council by decision of the former Minister of Justice, which significantly complicates their participation in the consultation processes. Finally, representatives of civil society referred to a "black box governance" trend in the current Government, in which the main decisions are taken at a very early stage, before the legislative process even starts, with ministers' advisers playing a leading role. This was said to lead to low-quality legislation, a lack of transparency and a low level of civil society participation in policy making.

90. Overall, the GET takes the view that the existing tools for transparency and public participation are worthwhile, but that their effectiveness in practice depends on the different ministries' practice. In contrast to the difficulties highlighted in the above paragraph, some examples were also given to the GET of successful public participation processes. The GET

invites the authorities to take account of the concerns expressed above and to reflect on possibilities for making public participation processes more inclusive, across the board.

### *Third parties and lobbyists*

91. There are currently no legally binding rules regulating the relationship between lobbyists and the executive, even though the regulation of lobbying has been the subject of long-term public and expert debate and of several unsuccessful legislative attempts since 2009. A draft law on lobbying, which aimed at including a legislative footprint, by making public relevant information on lobbyists' involvement in the legislative process, passed the second reading in the Chamber of Deputies in 2021, but the end of the Parliament's term of office resulted in the suspension of this work. Another draft law on lobbying that built heavily on the previous government's draft was submitted to the Chamber of Deputies by a group of deputies on 15 November 2021. It was discussed in the first reading and returned by the Chamber of Deputies for amendments on 3 March 2022.

92. According to the Government's Legislative Work Plan, a new draft law on lobbying has been prepared by the Ministry of Justice, with a planned entry into force by 1 January 2025. After the inter-ministerial commentary procedure, the draft law was submitted to the Government on 9 May 2023<sup>29</sup>. The Czech Republic is bound to introduce a lobbying regulation by the end of March 2026, according to the anti-corruption reform included in the National Recovery Plan of the Czech Republic which was adopted within the framework of the EU Recovery and Resilience Facility.

93. The GET welcomes the current Government's plans to regulate lobbying and hopes that they will bear fruit, following several previously unsuccessful attempts. It also notes that PTEFs are not subject to any rules or guidance as regards their contacts with lobbyists or other third parties who may try to influence them. Some ministers do publish their agendas online, but this is done on a voluntary basis and there is no obligation to do so. The GET recalls GRECO's long standing position on the need for sufficient transparency as regards the involvement of third parties and lobbyists, particularly from the business sector, in the legislative and policy-making process. Therefore, **GRECO recommends that (i) rules be introduced on how persons with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government's legislative and other activities; and (ii) sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion.**

### *Control mechanisms*

94. As regards transparency of the state budget, the Ministry of Finance publishes on its website materials for the preparation of the state budget, including data of the two years preceding and following the year in which the budget is prepared, information on interest rates, a debt maturity profile, whether the debt is domestic or foreign, as well as information on tax expenditure.

95. The Ministry of Finance has also been publishing annually since 2014 an information booklet, the State Budget in a Nutshell, which summarises the parameters and priorities of

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<sup>29</sup> It was registered in the Government's electronic library under no. 410/23.

the state budget for a given year and presents the process of its preparation to the professional and general public. Another element of transparency is the specialised information portal of the Ministry of Finance, MONITOR, which provides the public with free access on an open data basis to budget and accounting information from all levels of state and local government. The information presented comes from the Integrated Treasury Information System (IISSP) and the Central Accounting Information System (CASIS) and is updated quarterly.

96. Two independent expert bodies, the Office of the National Budget Council and the Committee on Budget Forecasts, oversee the quality and transparency of the budget process.

97. Finally, according to the Law on the Register of Contracts (Regulation No. 340/2015 Coll.), a private law contract (if the value of its subject matter exceeds CZK 50,000/€ 2,035), as well as a contract for the provision of a subsidy or repayable financial assistance to which the Czech Republic or a state-established organisation, fund, etc. is a party, is compulsorily published through the Register of Contracts.

98. Internal audit activities in public administration bodies are primarily governed by Act no. 320/2001 Coll., on Financial Control in public administration and Decree no. 416/2004 Coll. implementing the Act. The main objectives of internal audits are the following:

- (a) ensuring compliance with legal regulations and measures regarding the management of public funds by public administration bodies when carrying out their specified tasks,
- (b) ensuring the protection of public funds against risks, irregularities, or other shortcomings caused by breaches of legal provisions, wasteful, inefficient, and ineffective use of public funds or criminal activity,
- (c) providing timely and reliable information to the heads of public administration bodies on the management of public funds, on the operations carried out and on their reliable accounting treatment,
- (d) ensuring the economic, efficient, and effective performance of public administration.

99. Internal audits mainly perform an assurance function and an advisory/consultative function. The assurance function is primarily conducted through routine audit engagements, which are included in the internal audit plans in accordance with the provisions of Section 30 of the Financial Control Act or are carried out as extraordinary audits outside the approved plan. The advisory (consultancy) function of internal audit may be performed through consultancy engagements, which are carried out similarly to audits, but the objective of which is not to provide assurance, i.e., to verify that there are no deficiencies in each area, but to provide expert methodological assistance in solving a specific problem. The exercise of the advisory (consultative) function may include, for example, the provision of opinions at the request of other departments of the public authority, telephone consultations or comments on draft internal rules.

100. Every state institution is required by law to have an internal audit function. The internal audit of the Ministry of Justice of the Czech Republic can be used as an example to explain its operation and role. According to the organisational regulations of the Ministry of Justice, the Internal Audit Department is a functionally independent unit under the direct authority of the Minister of Justice, organisationally separate from the Ministry's executive management

structures. Its role is to independently and objectively review and evaluate the Ministry of Justice's internal management and control system, processes, activities and working procedures. It identifies and assesses the risks associated with the management and administration of the Ministry of Justice as part of the internal audit function. To this end, the internal audit in particular:

- (a) comprehensively conducts internal audits,
- (b) examines and evaluates the effectiveness of the internal control system in place at the Ministry of Justice,
- (c) identifies and assesses risks in the audited areas and individual processes,
- (d) makes recommendations to the management of the Ministry of Justice to improve the effectiveness of the internal management and control system, to prevent or mitigate risks and to take measures to correct deficiencies identified during the internal audit,
- (e) informs the heads of the relevant organisational units of the Ministry of Justice of risks identified during audit or consultancy engagements,
- (f) prepares, based on risk assessments, medium-term and annual internal audit plans,
- (g) prepares an annual report for the Ministry of Justice on the results of internal audit,
- (h) provides methodological guidance for the performance of internal audit in the Ministry,
- (i) provides assurance and consultancy on management and control systems.

101. The Supreme Audit Office (SAO) audits the state's economy, both on the income and the expenditure sides, to provide feedback on the cost, the efficiency, economy, effectiveness and other effects of state policies, including compliance of the audited operations to legal regulations. It audits the management of state property and funds received from abroad. It comments on the draft of state final accounts and on the implementation of the state budget.

102. The SAO is an independent institution that reports to the Chamber of Deputies, to the Senate and to the Government. It is managed by a college (with the President, the Vice-President and 15 members), which approves, among others, the plan of audit activities and the audit conclusions (final audit reports). The SAO's President manages the office and acts on its behalf. The SAO's President and Vice-President are appointed by the President of the Republic on the proposal of the Chamber of Deputies (based on results of elections by the Chamber) for a renewable term of 9 years. The other members are elected by the Chamber of Deputies on the proposal of the President of the SAO. The SAO enjoys financial independence (Act No 166/1993 Coll. on the Supreme Audit Office).

103. The Financial Analytical Office (FAO) is the financial intelligence unit of the Czech Republic and it is part of the global network of financial intelligence units. It is an independent office with national competence, which aims at combating money laundering, terrorist financing and the proliferation of weapons of mass destruction in the Czech Republic. In accordance with Act No 253/2008 Coll. on certain measures against the legalisation of the proceeds of crime and the financing of terrorism, as amended (AML Act) and Act No 69/2006 Coll. on the implementation of international sanctions, as amended, it carries out *inter alia* the following activities:

- collecting and analysing data on suspicious transactions;
- ensuring the performance of conceptual activities within its competence and preparing proposals regarding the legalisation of the proceeds of crime, the

financing of terrorism and the application of international sanctions in the national and international context;

- preparing draft laws and implementing regulations in its area of competence, including their harmonisation with EU legislation and the preparation of the Czech Republic's positions on new draft regulations and other EU documents;
- coordinating the assessment of risks of money laundering and terrorist financing in the Czech Republic (National Risk Assessment);
- issuing, within the scope of its competence, decisions in administrative proceedings.

104. The National Centre against Organised Crime is an executive department of the Criminal Police and Investigation Service with a nationwide area of activity. It is based in Prague and has regional branches. It specialises in the detection of organised crime, serious economic crime and corruption with a special focus on the highest representatives of the executive and judicial powers. It also performs the tasks of Asset Recovery Office, National Anti-Money Laundering Headquarters, National Contact Point for Terrorism, National Cybercrime Focal Point and National Cybercrime Focal Point for the cyber reporting of harmful content and activities on the Internet and is a designated unit for combating tax evasion and tax crime.

105. Tax Cobra (Daňová Kobra) is a joint team of the National Headquarters against Organised Crime, the General Directorate of Finance, and the General Directorate of Customs. Members of the team work together to combat tax evasion and tax crime, especially in value added tax and excise duty, in order to ensure proper tax collection, the return of illegally obtained funds to the state budget and the punishment of offenders.

106. Members of Parliament (MPs) have a right to question the Government or one of its members on matters within their competence, either orally at a meeting of the Chamber or in writing through the Speaker. The Prime Ministers or other ministers have to respond immediately to an oral question or within 30 days to a written one, in case they are absent from the sitting at which the question is asked. The Chamber is informed in case a minister fails to reply to a written question. If an MP is not satisfied with the reply to a written question, s/he may request the Speaker to place the question on the agenda of the Chamber. A debate ensues and the Chamber, on the proposal of the MP, may adopt a resolution in favour or against the answer to the question. In the latter case, the minister being questioned must draw up a new reply within 30 days (Act No. 90/1995 Coll. on the Rules of Procedure of the Chamber of Deputies).

### **Conflicts of interest**

107. The Act on Conflicts of Interest (Act No. 159/2006 Coll., hereafter the ACI) contains rules on conflicts of interest, incompatibilities, post-employment restrictions and declarations of assets, income, liabilities, activities and interests for public officials. Most of these rules apply to a closed list of public officials as defined in Section 2 of the Act and which comprise ministers and deputy ministers. Declaration duties, however, apply to a wider range of public officials (see below under declarations of assets, income, liability and interests).

108. Section 3 of the ACI defines conflicts of interest as every conduct in which a public official's personal interest can influence their practice in office. In this context, personal

interest is understood as any interest securing any private benefit or preventing the possible reduction of any material or other benefit to the public official, a person close to a public official, a legal person controlled by a public official or by a person close to a public official. This does not apply to the cases in which it is a generally obvious benefit or interest in relation to an unlimited number of addressees (section 3(1) ACI). If such a conflict occurs, the public official must refrain from preferring his/her personal interests over those s/he is bound to enforce and defend as a public official (section 3(2) ACI).

109. Under Section 8 of the ACI, public officials are required to declare personal interests when they address, present a petition to, or are entitled to vote in, any constitutional body, another state body or any body of a territorial self-governed unit. They have to announce any relationship with the issue being considered, point out any personal benefit or injury that they may obtain or suffer as a result, and state whether they have any personal interest in the issue being considered. This rule does not apply to “generally obvious benefits or interests”. This *ad hoc* declaration of conflicts of interest must be made verbally in the course of the meeting, at the latest before the issue under consideration is subject to a vote. The declaration becomes an integral part of the meeting minutes.

110. In addition, the Public Procurement Act (PPA) contains its own definition of conflicts of interest related to public procurement. Accordingly, a conflict of interest arises when the impartiality or independence in relation to the public procurement process of persons who are a) involved facilitating the public procurement process, or b) can or could in any way influence the outcome of the public procurement, are threatened by their interest. The rules of procedure of PPOVs also contain provisions aiming at disclosing *ad hoc* conflicts of interest<sup>30</sup>.

111. The GET welcomes that the ACI contains a duty to declare *ad hoc* conflicts of interest. However, there is room for improvement regarding this rule in several respects. First, it covers only ministers and deputy ministers and not ministers’ individual advisers. Next, the declaration only applies in the context of meetings, while *ad hoc* conflicts of interest may occur in many other aspects of PTEFs’ activities. Moreover, this declaration is made only for informative purposes, and it does not prevent the person concerned from participating in the meeting or from voting. The declaration is recorded in the minutes of the meetings but as those of the Government are not public and the Ministry of Justice has no competence to control the fulfilling of this obligation, its usefulness is limited. The GET was informed during the on-site visit that this provision is not often used in practice. Finally, the GET notes that there is no definition of the notion of “generally obvious benefits or interests”. This is problematic in practice according to representatives of civil society, as there are diverging interpretations of some concrete situations. In view of the above, **GRECO recommends that the duty to declare *ad hoc* conflicts of interest be strengthened: (i) by making it applicable to all persons with top executive functions and all situations or activities connected with their functions; (ii) by making such declarations public and introducing a requirement of exclusion of the person concerned from decision-making; (iii) by providing guidance on the notion of generally obvious benefits or interests.**

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<sup>30</sup> See for instance the Rules of Procedure of the Legislative Council of the Government ([https://www.vlada.cz/assets/ppov/lrv/Jednaci\\_rad\\_LRV---od-20160101.pdf](https://www.vlada.cz/assets/ppov/lrv/Jednaci_rad_LRV---od-20160101.pdf)) or of the Grant Commission of the Council for Equality between Women and Men ([https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/dotace/Priloha-c--9-Jednaci-rad-Dotacni-komise\\_3.pdf](https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/dotace/Priloha-c--9-Jednaci-rad-Dotacni-komise_3.pdf))

## **Prohibition or restriction of certain activities**

### *Incompatibilities, outside activities, contracts with state authorities and financial interests*

112. There is no general concept of incompatibility of functions in Czech law. Instead, incompatibilities are set out in numerous laws regulating various state bodies. As regards ministers and deputy ministers specifically, Art. 70 of the Constitution stipulates that “members of the government may not engage in activities which are by their nature incompatible with the performance of a minister’s duties. Detailed provisions shall be set down in a statute.” The Constitution also establishes the incompatibility of the functions of a member of government with the office of a judge or a prosecutor (Art. 82). There is no incompatibility between the function of minister and that of parliamentarian and most ministers do simultaneously hold parliamentary mandates.

113. For ministers’ advisers who are civil servants, incompatibilities are set out in Section 81 of the Civil Service Act, which provides that they may not be members of the executive of supervisory bodies of legal entities operating as business companies, except when nominated to any such body by the appointing authority; in that case, they act as representatives of the state in these bodies and are obliged to enforce the state interest. However, many ministers’ advisers are not subject to this provision as they are employed under labour law or other types of contracts.

114. As regards outside activities, Section 4 of the ACI states that, among other public officials, ministers and deputy ministers should not: a) be engaged in business or any other gainful activity, b) act as a statutory body or a member of a statutory body, managing body, supervisory body or controlling body of any business corporation, c) enter into any employment or similar relation or service relationship, except for relations resulting from their public office. The above-mentioned restrictions are not applied to the management of the public official’s own assets or to scientific, teaching, journalistic, literary, artistic or sporting activities, except for business activities in such areas.

115. Section 4a of the ACI provides that the above-mentioned public officials cannot be operators of a Radio or TV Broadcasting outlet, publishers of periodical press or owners, members or controlling persons of a legal entity, which is an operator of a Radio or TV Broadcasting outlet or publisher of periodical press.

116. As regards ministers’ advisers who are civil servants, according to Section 81(2) of the Civil Service Act, a civil servant may hold a remunerated outside activity only with the prior written consent of the authority that appointed him/her. The restriction shall not apply to the following activities: research, teaching, publication, literature or art; performing services as a sworn expert or interpreter under another law for a court or another public authority than the place of service; performing service in consultative and advisory bodies to the Government; performing service in consultative or other bodies of the Central Administrative Authority or special authorities which, pursuant to another act, exercise the powers of state administration; and the management of their own property.

117. Concerning contracts with state authorities and financial interests, Section 4b of the ACI contains a restriction on participating in public procurement proceedings for business

companies in which cabinet members or an entity controlled by them owns an interest of at least 25 %. The contracting authority is obliged to exclude such business companies from their public tenders.

118. Section 4c of the ACI contains a restriction on providing an investment grant to a business company, in which cabinet members or an entity controlled by them owns an interest of at least 25%. These provisions, as well as Section 4a of the ACI mentioned above in paragraph 115, were reportedly added to address cases similar to the so-called “Stork’s Nest” alleged fraud case involving the former Prime Minister (see paragraph 14 in the context section of this report). However, according to civil society representatives, they are easy to circumvent in practice.

119. The GET is of the strong opinion that the incompatibilities and outside activities regime applicable to PTEFs needs to be substantially streamlined and strengthened. The rules on incompatibilities are scattered over many different legal texts and their details vary. As there is no general concept of incompatibility of functions, every time a new institution is set up, a list of incompatibilities is created. These are often made up for the occasion or copied from other laws, which leads to discrepancies among different legal texts. It also makes it very difficult to have an overview of the applicable rules, including for the persons who have to apply them. The accumulation of functions by PTEFs was signalled to the GET as a problematic area during the on-site visit, as it appears that many ministers sit on the boards or councils of private companies, sometimes related to their ministerial portfolio. Therefore, there would be added value in a set of guidelines or a handbook clarifying which rules on incompatibilities are applicable to each category of PTEFs.

120. Moreover, the GET is concerned by the absence of common rules regarding the exercise of outside activities by ministers’ advisers. Civil servants and employees working under Labour law contracts have to seek authorisation from their employer for the exercise of any remunerated outside activities. However, as described above, some ministers’ advisers work under a task-based advisory contract. They may work full-time or part-time, may or may not be remunerated and may keep their other functions. This is a wide-open door for possible conflicts of interest<sup>31</sup> that needs to be regulated in order to differentiate between acceptable and unacceptable activities in a transparent and consistent manner.

121. In view of the above, **GRECO recommends strengthening the system of incompatible and outside activities applicable to all persons with top executive functions by: (i) summarising the applicable rules on incompatibilities in one single text; (ii) ensuring that the retention or acceptance of paid and unpaid outside positions, occupations, board positions, or other paid assignments are prohibited unless the person has received a written authorisation based on a considered determination that the position/activity will not impede ordinary work or raise an issue of conflicts of interest, and (iii) making such authorisations available to the public.**

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<sup>31</sup> In a recent case highlighted to the GET, the Minister of Education stepped down from his position because of close contacts with a person involved in a large corruption case and was later reappointed to work part-time for the new minister as an adviser, all the while remaining an MP. He later resigned from his advisory function, as new information emerged on his involvement in the corruption case: see <https://www.seznamzpravy.cz/clanek/domaci-politika-exministr-gazdik-se-vratil-na-ministerstvo-skolstvi-dela-poradce-216931>

## *Gifts*

122. According to the ACI, public officials must declare all gifts exceeding the value of CZK 10,000/€ 408 in the Central Register of Declarations, but only if their overall value exceeds CZK 100,000/€ 4,080 (see below). This obligation applies to ministers and deputy ministers but not to advisers. However, under this rule, gifts are not reported individually but as part of the declaration of income.

123. PTEFs who are civil servants, which is the case for some ministers' advisers are subject to Section 77(1)j of the Civil Service Act, which prohibits civil servants from accepting gifts or hospitality exceeding CZK 300/€ 12.

124. Some ethical rules on gifts may apply to other PTEFs, depending on their status, under the ethical codes adopted by the different ministries. For instance, the Code of Ethics of the Office of the Government contains an Article XII on corruption, which mainly deals with gifts. This article, however, contains different rules for civil servants and employees and these provisions appear to do little more than mirroring legislative provisions. However, the GET was not able to establish precisely what rules apply to all ministers' advisers, given the variety in their employment situations in the different ministries.

125. The GET notes that no common rules and guidance are applicable to all PTEFs on how to handle situations where gifts, advantages or invitations are offered in the exercise of their functions. The only existing rules are the declaration duties applicable to ministers and deputy ministers and the prohibition on accepting gifts above a certain value which applies to civil servants. However, as highlighted already in this report, many advisers do not have this status. Moreover, these rules focus solely on the value of the gifts and not on the context in which they are offered. The GET also has misgivings about the transparency of the declaration system, which will be developed further below.

126. In addition to the future code of conduct, which should address the issue of gifts and invitations received by PTEFs, the GET takes the view that a set of common and specific rules is necessary. It should clearly define what gifts are acceptable according to their value and the context in which they are given, and cover gifts in cash and in kind, invitations, services, sponsorships and other benefits. Finally, in the interests of transparency, there should be a dedicated system for declaring and registering gifts received by PTEFs in connection with their functions. This would allow the public to be regularly informed about such gifts and the donors' identity. In light of the foregoing, **GRECO recommends ensuring that a full set of rules on gifts and other benefits be applicable to all persons with top executive functions, in the form of appropriate practical guidance, the obligation of reporting gifts and other benefits, and making this information available in a timely manner to the public.**

## *Misuse of public resources*

127. The Public Procurement Act provides rules on the public procurement process, one of the law's focuses being on the prevention of misuse of public resources.

128. Misuse of public resources is criminalised in the Criminal Code as “machinations in commission of public contract and public contest” (Section 257 of Act no. 40/2009 Coll.). It carries a penalty of up to 10 years of imprisonment when the perpetrator is a public official.

#### *Misuse of confidential information*

129. Most PTEFs are subject to specific legislation regulating their field. These laws generally include an obligation not to disclose any information that the PTEF comes across during his/her term of office. Moreover, in relation to classified information, the Act on Protection of Classified Information No 412/2005 Coll. applies, which states that the Prime Minister and ministers have access to classified information for the duration of their term of office to the extent necessary, without the need for a security clearance. Deputy ministers and advisers need a security clearance, in so far as they need access to classified information for the performance of their duties. All these persons incur (criminal) liability for breach of their duties of confidentiality according to the law.

130. The GET refers in this respect to the need for adequate guidance for all PTEFs and to the recommendation contained in paragraph 76.

#### *Post-employment restrictions*

131. Section 6 of the ACI provides for a one-year cooling off period for ministers and deputy ministers to accept any position in an entity which concluded an agreement with the state in the three years preceding the end of their term of office, if the conclusion of such an agreement fell within their competence or within the competence of any authority on behalf of which they were acting. In relation to ministers’ advisers who are civil servants, Section 83 of the Civil Service Act applies, which contains a non-competition clause.

132. The GET discussed the issue of post-employment restrictions on site and all its interlocutors agreed that the current rules were too narrow in scope and largely ineffective in practice. They are aimed at the public procurement area but do not cover all economic activities. Moreover, they do not apply to most ministers’ advisers, who are neither covered by the ACI, nor by the Civil Service Act. The sanctioning of breaches of the ACI is entrusted to municipalities, but this system does not work in practice (see paragraph 148). As a result, revolving doors are an issue of concern in the Czech Republic. Several examples were provided to the GET of problematic moves of PTEFs to the private sector<sup>32</sup>, which were possible under the current legislation. In light of the foregoing, **GRECO recommends that (i) the rules on post-employment restrictions be broadened to cover all persons with top executive functions and avoid potential conflicts of interest when the employment concerns a field of activity subject to authorisation or scrutiny by the body the person is leaving and (ii) an effective enforcement mechanism regarding these rules be implemented.**

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<sup>32</sup> In one of the most recent examples, the former Minister of Interior became a vice-president of the Department of Defense Industry of the Czech Chamber of Commerce, four months after leaving his office. His ministry was responsible for gun regulation and his new employer lobbies for extending gun rights: <https://www.ceskenoviny.cz/zpravy/hamacek-je-mistopredsedou-sekce-obranneho-prumyslu-hospodarske-komory/2195812>; [https://www.idnes.cz/zpravy/domaci/hamacek-zakon-o-zbranich-delka-zbrojniho-prukazu-snemovna.A200625\\_121101\\_domaci\\_kop](https://www.idnes.cz/zpravy/domaci/hamacek-zakon-o-zbranich-delka-zbrojniho-prukazu-snemovna.A200625_121101_domaci_kop)

## **Declaration of assets, income, liabilities and interests**

### *Declaration requirements*

133. Ministers and deputy ministers, who are among the officials listed in Section 2(1) of the ACI, are obliged to submit declarations of activities (Section 9), assets (Section 10), and income and obligations, including gifts (Section 11). The declarations are submitted electronically to the Central Register of Declarations<sup>33</sup> (CRD), which is maintained by the Conflicts of Interest and Anti-Corruption Department of the Ministry of Justice. Declarations have to be filed at the beginning of the mandate, yearly by 30 June and at the end of the mandate. If an official holds several public offices subject to declaration duties, s/he has to submit declarations for each of these offices.

134. Declaration duties also apply to senior public officials within ministries who hold financial responsibilities, participate in public tenders, decide in administrative proceedings or participate in criminal proceedings (Section 2(2) ACI). This does not include ministers' individual advisers.

135. According to section 9 of the ACI, the following activities have to be declared at the beginning of the mandate, every year and at the end of the mandate:

- a) participation in businesses or self-employment, along with the object, manner and place where these activities are carried out,
- b) partnerships or memberships in legal entities engaged in business activities, identifying the entities concerned,
- c) memberships in the statutory, management or supervisory bodies of legal entities engaged in business activities, identifying the entities concerned,
- d) employment and service relationships, except for public functions,
- e) participation in radio, television broadcast or periodical publishing companies, as well as memberships in the statutory, management or supervisory bodies of such companies.

136. According to Section 10 of the ACI, ministers and deputy ministers have to declare the property they own the day before they begin to exercise their duties, as well as any property acquired during the exercise of their duties, namely:

- a) real estate,
- b) securities, dematerialised securities or securities-related rights,
- c) interests in a business corporation, which is not represented by security or dematerialised security,
- d) other movable property, identified by type, of a value exceeding CZK 500,000/€ 20,400.

137. Section 11 of the ACI provides for the obligation to declare income and liabilities. At the beginning of the mandate, unpaid debts exceeding CZK 100,000/€ 4,078 have to be declared. As regards income and liabilities incurred during the mandate, the following must be declared: any income or other material benefits, gifts above CZK 10,000/€ 408, bonuses, revenues from business or other remunerated activities, dividends or other income from the official's interests in or for his/her activities for business corporations, if the overall amount of such income or other material benefits exceeds 100,000 CZK /€ 4,078 in one calendar year. This does not include any salary, remuneration or allowance to which a public official is

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<sup>33</sup> Declaration forms (in Czech) are available at: <https://www.justice.cz/web/msp/ke-stazeni>

entitled in connection with his/her execution of official duties, or the income of his/her husband/wife or partner.

138. Before 2020, declarations of certain public officials were published online. However, further to a decision of the Constitutional Court<sup>34</sup>, an amendment to the ACI entered into force on 1 July 2022 which makes declarations available to the public only upon request. Anyone submitting a request is provided with a login and password, valid for 6 months, which allow them to consult all declarations submitted by the public official who is the subject of the request.

139. In the GET's view, it is necessary to increase the transparency on several aspects of the declaration system. First, it notes that ministers' individual advisers are not subject to declaration duties. It recalls GRECO's long-standing position that ministers' advisers are subject to similar integrity risks as other PTEFs and should therefore be subject to the same disclosure regime. The GET also notes that the declarations do not extend to the assets, activities and interests of spouses and dependent family members. However, such information may be of relevance when identifying possible conflicts of interest.

140. Moreover, transparency as regards gifts is insufficient. Gifts exceeding CZK 10,000/€ 408 have to be declared, but only if their overall value exceeds CZK 100,000/€ 4,080 in a given year. This makes it possible to receive several gifts exceeding CZK 10,000 without declaring them, as long as their overall value remains below the CZK 100,000/€ 4,080 threshold that applies to gifts and other income from business activities. This overall value is much too high and will need to be lowered in the context of the implementation of the recommendation contained in paragraph 126 to increase the transparency around gifts by establishing a dedicated declaration system.

141. Finally, the GET discussed at length during the visit the recent change in the modalities for access to PTEFs' declarations, further to the Constitutional Court's decision ruling out the publication of the declarations on the grounds that it would interfere disproportionately with the right to respect for private life. This change has raised questions and concerns from representatives of the media and civil society, all the more so since the data accessed may only be used to check for possible violation of the ACI and not for other purposes. On a general note, the GET wishes to stress that GRECO has consistently advocated for giving the public easy and free access to information on the assets, activities and interests of PTEFs, which allows for comparisons over time. In comparison to other categories of public officials, PTEFs should be subject to more stringent accountability and transparency standards and might expect less privacy. The recent restriction of access modalities, in the view of the GET, runs counter to these objectives. Conditioning access upon a request, identification and the granting of a password adds real and potential hurdles to this access, which could easily be delayed or limited, even if this does not appear to be the case at present. Therefore, ensuring

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<sup>34</sup> Pl.ÚS 38/17 of 11 February 2020: the Court found that, as publishing asset declarations is an intrusion into privacy, introducing the formal barrier of an individual request to access this data is not an obstacle to the purpose of preventing or revealing conflicts of interest or of increasing public confidence in the activities of public authorities. The Court also found that the provision of data from the register on request likewise sufficiently fulfils the preventive function of disclosure, i.e. the awareness by public officials of the possibility for anyone who identifies themselves to access data from the register of notifications and to detect a possible conflict. The potential costs or administrative burden of providing data on request is not a valid reason to opt for publication, as the principle according to which the State should only impose obligations which it is able to control and enforce should apply consistently.

the timely on-line publication of declarations by PTEFs is appropriate and would further enhance democratic control and satisfy legitimate public interests in obtaining information on the financial and other private interests of PTEFs as soon as it becomes available. This also implies as a logical consequence the abolition of the current sanctions applicable in case of illicit disclosure (see below, paragraph 146). In light of the foregoing, **GRECO recommends (i) that ministers' individual advisers be subject to the same disclosure requirements as ministers and deputy ministers; (ii) that declarations by persons with top executive functions be made accessible in an easy and timely manner to the public at large; and (iii) considering requiring information in such declarations on partners and dependent family members (it being understood that such information would not necessarily need to be made public).**

#### *Review mechanisms*

142. The CRD automatically checks if a public official did not submit a declaration on time. The content of the declarations is reviewed by the Unit of the Register of Declarations of Public Officials of the Conflicts of Interest and Anti-Corruption Department of the Ministry of Justice, which employs 11 persons. Two of them are tasked with the verification of declarations, which are reviewed when selected at random or upon report. Employees compare the content of the declaration against several public registers, such as the Land Register, the Business Register, the Register of Motor Vehicles, the Register of Beneficial Owners, etc.

143. In case of a suspicion of failure to comply with some of the obligations, the Ministry of Justice notifies a local authority which can then impose sanctions in accordance with the Act on Conflict of Interests. The local authority can also conduct its own review of the content of the declarations.

144. The GET learned from its discussions on site that the system of reviewing declarations is mostly geared towards checking that declarations are submitted on time. The system is largely automatic and it does not prioritise declarations of PTEFs or of persons who are considered more at risk from an integrity perspective. Two employees of the Conflicts of Interest and Anti-Corruption Department of the Ministry of Justice are tasked with verifying flagged declarations. This appears wholly inadequate to the GET, considering that around 30,000 officials submit declarations and around 2,000 of those do not submit them on time. The verification consists in cross-referencing data contained in the declarations with data from public registers, but the Department does not have access to all necessary registers in the economic sphere. Due to this severe understaffing, the Department relies solely on reports from the public to proceed with the verification of possible problematic declarations. The recent restriction of public access to declarations highlighted above (see paragraph 141) could dry up this source of information and further hamper the already weak substantive control of declarations. Furthermore, the current arrangements for imposing sanctions for violations of declaration duties cannot be seen as effective, proportionate and dissuasive (see below, paragraph 148). Last but not least, the GET wishes to stress that the control is carried out by a Department of the Ministry of Justice, which raises questions about its ability to control PTEFs in a sufficiently independent manner. Under these circumstances, in order to ensure the existence of an effective, credible and accountable review mechanism, a substantial reform would be desirable. Consequently, **GRECO recommends establishing an independent review mechanism for the declarations of assets, income, liabilities and interests of persons with top executive functions, provided with adequate legal and technical conditions to**

**ensure access to necessary information, as well as sufficient human and financial resources, to carry out substantive verifications in an effective and timely manner and to impose effective, proportionate and dissuasive sanctions.**

### **Accountability and enforcement mechanisms**

#### *Criminal proceedings and immunities*

145. There is no specific immunity applicable to ministers, deputy ministers or their advisers. Ministers are subject to immunity from criminal prosecution only when they are simultaneously MPs or senators. In such cases, they cannot be criminally prosecuted for speeches in their respective chamber or the bodies thereof. They are only subject to the disciplinary proceedings of the chamber of which they are a member. Deputies and senators may not be criminally prosecuted, except with the consent of the chamber. If the chamber withholds its consent, criminal prosecution is excluded for the duration of their mandate (Art. 27, Constitution). According to the discussions held on-site, parliamentary immunity was not seen as an obstacle to the prosecution of corruption, as all requests for the lifting of immunity were said to be granted.

#### *Non-criminal enforcement mechanisms*

146. Violations of the provisions of the ACI are administrative offences that incur fines or warnings, as follows:

- violation of the declaration duties and the provisions on access to declarations carry a fine of between CZK 1,000/€ 42 and CZK 50,000/€ 2,038, or a warning as regards late submission of information or violation of the access provisions;
- violation of the provisions on incompatible activities carries a fine of between CZK 5,000/€ 211 and CZK 250,000/€ 10,191;
- violation of the post-employment restrictions carries a fine of between CZK 25,000/€ 1,058 and CZK 500,000/€ 20,383 (section 23 ACI).

147. These sanctions are to be imposed by the municipality of the place of residence of the offender. If s/he is also an MP, s/he can choose to have the Commission on Immunities of the Parliament deal with the matter in disciplinary proceedings.

148. Many of the GET's on-site interlocutors criticised the arrangements for imposing sanctions under the ACI, which appear to have proven largely ineffective in practice. According to an impact assessment of the ACI carried out by the Ministry of Justice in 2018, most fines imposed by the municipalities under the law were the lowest possible under the law. For violation of the provisions on declarations, such a fine of CZK 1,000/€ 42 was even qualified by some interlocutors as a "privacy fee" allowing declarants to escape their disclosure duties. Whenever possible under the law, some municipalities preferred to impose repeated warnings to the officials concerned instead of fines. In the GET's view, these arrangements need to be reviewed in order to make sanctions effective, proportionate and dissuasive. It would clearly be preferable to grant an independent oversight body the competence to impose sanctions under the ACI. The GET refers in this respect to the recommendation in paragraph 144.

149. As regards sanctions for other rules on conduct applicable to PTEFs, the GET refers to the recommendation in paragraph 76.

150. Statistics on administrative offences, including on the failure to submit declarations, are available at: <https://justice.cz/web/msp/aktuality?clanek=rok-2022>, <https://justice.cz/web/msp/aktuality?clanek=rok-20-2> and <https://justice.cz/web/msp/aktuality?clanek=rok-20-1>

151. One minister of the current Government, which has been in office since December 2021, resigned because of contacts with a lobbyist involved in a corruption case under investigation. There were also several cases of dismissal and resignation under the previous Government. Several ministers resigned at their own initiative or at the request of the Prime Minister or of the President of the Republic for reasons including alleged plagiarism, violation of the lockdown rules during the Covid-19 pandemic or false declaration of property and income. The resignation of a former Minister of Justice was also linked to an alleged attempt by the former Prime Minister to influence criminal proceedings<sup>35</sup>. Furthermore, other ministers were dismissed inter alia for concluding a contract without public tender and without informing the Government.

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<sup>35</sup> See paragraph 14.

## V. CORRUPTION PREVENTION IN LAW ENFORCEMENT AGENCIES

### Organisation and accountability of selected law enforcement authorities

#### *Overview of various law enforcement authorities*

152. In the Czech Republic, the only law enforcement authority (LEA) with coercive powers and with general jurisdiction in the protection of persons, property and public order, as well as the investigation of misdemeanour and crimes, is the Police of the Czech Republic.

153. According to Section 1(12) of the Code of Criminal Procedure, the following authorities also have law enforcement powers within their area of competence:

- The General Inspectorate of Security Forces (GIBS) on the basis of Act No. 341/2011 Coll. on the General Inspection of Security Forces. GIBS inspects, detects and investigates crimes committed by members of the Police of the Czech Republic, the Customs Administration of the Czech Republic, the Prison Service of the Czech Republic or members of the GIBS, or by civilian employees of these corps;
- the Military Police in proceedings on criminal offences of members of the armed forces;
- the Prison Service of the Czech Republic in proceedings on criminal offences of members of this service;
- the Security Information Service in proceedings on criminal offences of members of this service;
- the Office for Foreign Relations and Information in proceedings on criminal offences of members of the Office for Foreign Relations and Information;
- the Military Intelligence in proceedings on criminal offences of members of the Military Intelligence;
- the Customs Administration of the Czech Republic in proceedings concerning offences related to;
  - i. customs legislation and regulations on the import, export or transit of goods, including in cases of criminal offences committed by members of the armed forces or security forces;
  - ii. legal regulations in the placement and acquisition of goods in the Member States of the EU, if these goods are transported across the state borders of the Czech Republic,
  - iii. tax provisions governing value added tax,
  - iv. tax regulations in cases where the customs authorities are the tax administrator.

#### *Organisation and accountability of selected law enforcement authorities*

154. The Police of the Czech Republic is a unified and hierarchical armed security corps. It is headed by the Police President, who is appointed by and accountable to the Minister of Interior, and composed of the Police Presidium, units having a nationwide competence, regional directorates and units managed within these regional directorates. The main texts governing the activities of the Police are Act No 273/2008 Coll. on the Police of the Czech Republic (hereafter “the Police Act”), Act No 361/2003 Coll. on the service relationship of

members of the security forces (hereafter the “ZSP”) and the Code of Criminal Procedure (Act No 141/1961 Coll. hereafter the “CCP”).

155. Departments with nationwide competence within the Police are established by the Minister of Interior upon the proposal of the Police President. Some of them provide specific support to other police units, while others are specialised as follows:

- Institute of Criminalistics Prague;
- Aviation Service;
- National Headquarters Against Organised Crime of the Criminal Police and Investigation Service (NCOZ), which investigates corruption-related crime;
- National Drug Headquarters of the Criminal Police and Investigation Service;
- National Centre against Terrorism, Extremism and Cybercrime;
- Unit for Special Operations of the Criminal Police and Investigation Service - cover IDs, undercover police officers, fake money transfers, short-term protection of important crime witnesses (support unit, no investigation);
- Unit for Intelligence Gathering of the Criminal Police and Investigation Service - wiretapping, personal surveillance, etc. (support unit, no investigation);
- Office of Documentation and Investigation of Crime of Communism of the Criminal Police and Investigation Service;
- Explosive Ordnance Disposal Service;
- Directorate of the Foreign Police Service;
- Unit for Protection of the President of the Czech Republic;
- Unit for Protection of constitutional office holders;
- Police Education and Service Training Unit;
- Rapid Response Unit.

156. There are 14 regional directorates, established by law, which serve the public in their allotted territories. Within the regional directorates, the Police President may, upon the proposal of the regional police director, establish other territorial units subordinated to them. This is the case in Brno, Ostrava and Pilsen, as well as in the capital city Prague where there are four district headquarters. Within these departments and directorates, district and local departments are then established.

157. The activities of the Police are managed by the Police Presidium, which determines the development objectives of the Police, sets out the concept for its organisation and management and determines the respective tasks of individual police services. The Police Presidium also analyses and supervises police activities, creates the conditions for units to perform their tasks and coordinates their activities when performing tasks beyond their territorial or material competencies. The Presidium is headed by the Police President.

158. The Police is subordinated to the Ministry of Interior, which creates the conditions for the performance of its tasks (section 5, Police Act). Among others, the Ministry of Interior analyses risk factors threatening internal order and state security, creates binding concepts in the area of internal order and security and supervises the fulfilment of these concepts, prepares proposals for systemic changes in police activities and participates in their implementation, issues expert opinions, requires information and explanations from police departments in the course of its activities in respect of the police, participates in ensuring

international police cooperation, and creates conditions for police cooperation with central administrative authorities and other state bodies.

159. A police authority cannot be given instructions of a political nature in the area of the detection and investigations of illegal acts. Although there is no specific written provision enshrining this prohibition, this follows, according to the authorities, from the very nature of the Criminal Code. For example, Section 1 of the Criminal Code states that criminal proceedings must work to, *inter alia*, strengthen legality; section 2 provides that the public prosecutor is obliged to prosecute all criminal offenses of which s/he learns, and the law enforcement authorities act *ex officio* and proceed in accordance with their rights and obligations stated in the Criminal Code. Only the public prosecutor is authorised to give binding instructions for the investigation of criminal offences and is tasked with supervising the legality of criminal proceedings (section 174). In this context, the authorities also refer to the duty of initiative set for police officers in section 10 of the Police Act, according to which they are obliged to deal with any illegal activity that they become aware of during the performance of their duties. Reference is also made to the prohibition on police officers being members of a political party or political movement or carrying out activities for their benefit (Section 47, ZSP), and to the obligation to refrain from actions that may lead to a conflict between the interests of the service and personal interests and endanger trust in the impartial performance of the service (section 45 par. 1 letter b), ZSP). Political interference in the activities of the Police was not flagged as a cause for concern during the interviews on-site.

160. As of 1 January 2023, the total number of police officers and employees throughout the country was 39,306, with a breakdown of 82% men and 18% women. Women make up 16% of the staff at managerial level. The breakdown by education and age is as follows:

Distribution by education:

| 1.1.2023 | Secondary education | Secondary education with matriculation | Higher professional education | Bachelor's Degree | Post-graduate Degree | Total  |
|----------|---------------------|--|-------------------------------|-------------------|----------------------|--------|
| Male     | 48                  | 17,570                                 | 1,111                         | 6,798             | 6,721                | 32,248 |
| Female   | 3                   | 2,672                                  | 242                           | 1,667             | 2,474                | 7,058  |
| Total    | 51                  | 20,242                                 | 1,353                         | 8,465             | 9,175                | 39,306 |

Distribution by age:

| 1.1.2023 | Up to 20 | 20-29 | 30-39  | 40-49  | 50-59 | Over 60 | Total  |
|----------|----------|-------|--------|--------|-------|---------|--------|
| Male     | 95       | 6,320 | 9,407  | 11,161 | 4,726 | 539     | 32,248 |
| Female   | 36       | 1,278 | 1,849  | 2,765  | 1,001 | 129     | 7,058  |
| Total    | 131      | 7,598 | 11,256 | 13,926 | 5,727 | 668     | 39,306 |

Distribution at managerial level:

| 01/01/2023 | 1st management level (i.e. Regional Police directors, their deputies and deputies of the Police President) | 2nd management level (directors, deputy and junior directors, heads of departments of the Presidium, municipal and district directors, their deputies and their juniors) | 3rd management level (heads of units, deputy heads of units) | 4th management level (Head of a group, team or working group) | Total |
|------------|--|--|--|---|-------|
| Men        | 82   | 625  | 2,253  | 668   | 3,628 |
| Women      | 2  | 82   | 276  | 48  | 408   |
| Total      | 84   | 707  | 2,529  | 716   | 4,036 |

161. As far as gender balance is concerned, the GET notes that the percentage of female staff in the Police is low at 18%. The authorities mentioned that there are ongoing efforts to increase the representation of women in the security forces, especially in the Police, by, among others, presenting the Police as a serious, stable and solid employer offering attractive work conditions to women. The GET takes the view that more determined measures should be taken to address this imbalance. Security forces should represent, as much as possible, society as a whole. Diversity, including at managerial level, can have positive effects on the profession – e.g. in contacts with the public, in creating a more heterogeneous environment in some parts of the Police which could counter a possible code of silence, reduce the risk of group-think, further develop multiple-eyes routines, etc. In light thereof, **GRECO recommends that measures be taken to increase the representation of women at all levels in the Police, particularly at managerial level.**

*Access to information*

162. Information on police activities can be obtained in accordance with Act No 106/1999 on free access to information (see part on PTEFs for details). The information provided following access requests has to be published on the relevant police websites<sup>36</sup>. As regards criminal proceedings, parties to a case can obtain information on it under certain conditions pursuant to Section 65 of the CCP. Furthermore, the Police, including the NCOZ, regularly issues press releases. Requests for access to information are handled by the Communication Department, which transmits them to the relevant authority, be it the Presidium or the regional directorates. The discussions on-site did not reveal any major concerns as regards the practice of public access to official documents related to the Police.

<sup>36</sup> According to data provided to the GET, the Presidium received 1,492 requests for information in 2021 and access was refused in 292 cases. The refusal decision was appealed in 92 cases out of which 30 appeals were successful.

### *Public trust in law enforcement authorities*

163. According to the results of a national independent survey<sup>37</sup> published on 8 June 2022, trust in the Police has increased by 9 percentage points to 79% compared to the previous survey in August 2021. It is the highest level since the beginning of the measurement in 1994. From a long-term perspective, with some fluctuations, trust in the Police has been rising continuously since September 2008. Since then, the increase has been 36 percentage points.

### *Trade unions and professional organisations*

164. The following recognised trade unions operate within the Police Presidium of the Czech Republic: Coordination Committee of basic trade unions of civil employees of the Police of the Czech Republic of the Trade Union of State Authorities and Organizations, Independent Trade Union of the Police of the Czech Republic, Union of Security Forces of the Ministry of Interior, Confederation of Trade Union Organizations of Security Forces, z.s. and the Pro Libertate trade union.

165. The Independent Union of the Police of the Czech Republic (hereinafter referred to as NOS PČR) was founded as the first union organisation of police officers and employees. It is the largest union organisation, uniting officers and employees of the security forces, and also of the Ministry of Interior, the Ministry of Justice and organizational units of the state established to fulfil their tasks, with a membership of more than 17,000 persons in service or employment. The NOS PČR consists of over 100 basic organisations, which are the basic organisational structure of the union and carry out union activities in their place of operation. The basic organisations of the Police are organised in departmental councils at regional headquarters and the Police Presidium, where they exercise their activities.

### **Anti-corruption and integrity policy**

#### *Anti-corruption and integrity policy, risk management measures for corruption prone areas*

166. An internal anti-corruption programme of the Police of the Czech Republic was adopted by the Police President on 22 June 2020 (Order No 140/2020 and its annex). The programme contains five pillars, in line with the Ministry of Interior's internal anti-corruption programme: 1. Creating and strengthening the anti-corruption climate through the promotion of anti-corruption measures, actively enforcing and monitoring compliance with ethical rules, providing education and training, reporting suspected corruption and protecting whistleblowers; 2. Ensuring transparency by updating publicly disclosed information on public funds, the decision-making system and basic information on the fight against corruption on the police website; 3. Continuously monitoring corruption risks and taking specific measures to mitigate them; 4. Taking appropriate and effective corrective action in case of suspected corruption; and 5. Evaluating and updating the programme every two years.

167. Risk areas identified in this programme include *inter alia*: the procurement of property or services for police departments, the use of external contractors for activities that should be carried out within the police service, the receipt and management of assets by police

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<sup>37</sup> Survey conducted by the Centre for Public Opinion Research at the Institute of Sociology of the Academy of Sciences of the Czech Republic: [Důvěra k vybraným institucím veřejného života a mezilidská důvěra – jaro 2022 - Centrum pro výzkum veřejného mínění \(cas.cz\)](https://www.cas.cz/centrum-pro-vyzkum-verejneho-mineni)

departments, the conduct of criminal proceedings and the handling of related information, the investigation of offences and traffic accidents, the use of factual authorisations, the handling of information obtained from information systems, proceedings in matters of service, in particular proceedings concerning disciplinary offences and proceedings concerning acts constituting an offence, the handling of complaints, petitions and notices, as well as supervision and surveillance in the field of weapons, ammunition, explosives and security material. These risk areas are updated every two years by the Presidium on the basis of information sent by each Police unit to the internal control department of the Police and the Ministry of Interior.

168. Among the risk management measures cited to mitigate these risks are the justification of all major decisions in writing and the fact that they are co-signed by several persons; a large number of police officers are equipped with personal cameras which must be turned on when they exercise police authority; cameras are also placed in service vehicles and are switched on automatically; police patrols are always made up of at least two members, with regular rotation of patrol partners; police officers must document every exercise of authority in the form of an official record, which is then checked by a direct superior; all accesses to police databases are logged and must be justified for an official purpose; regular inspections are carried out by the internal control authorities, for example, inspections of the handling of money collected for fines or special financial resources for operational activities.

169. Another risk management measure worth mentioning is the reliability test which the General Inspection of the Security Forces (GIBS) may carry out for members of the security forces under Section 41 of Act No 341/2011 Coll. on the General Inspection of the Security Forces. Reliability tests are a form of integrity test by which the resistance of the tested person to unlawful conduct is assessed. They have been carried out in the Czech Republic since 2009.

170. For these tests, a real-life situation is created which the person being tested is obliged to solve, in order to prevent or detect possible illegal behaviour. Reliability tests are subject to strict internal rules and procedures. The reliability test is performed at the request of the GIBS Executive Department and must be approved by both Deputy Directors. The scenario for the test must also be approved. Any form of provocation during the performance of the test is prohibited and the test cannot put anyone's life at risk or damage property. The results of the test can be used as evidence in criminal proceedings; they may also trigger the initiation of disciplinary proceedings. GIBS also communicates to the relevant security forces the names of persons tested who did not commit any infringements during the reliability test. Sixty-six integrity tests were carried out in 2021. As a result, two members of the Police and one member of the Prison Service were found to have committed unlawful acts.

171. The authorities are of the view that the introduction of reliability tests has significantly reduced corruption and conversely increased the number of cases in which a staff member reports a bribe offer. According to surveys carried out among staff members, more than half of the respondents felt such tests had a preventative effect.

#### *Handling undercover operations and contacts with informants and witnesses*

172. Undercover operations and contacts with third parties and witnesses are regulated by the CCP (Section 2) and by the Police Act (Section 73), as well as by the following internal management acts: Instruction of the Chief of Police No. 15/2016 on operational search

activities and the establishment of work teams and work groups; Instruction of the Chief of Police No. 140/2019 on the use of informants; Binding instruction of the Chief of Police No. 197/2008 which regulates the procedure for requesting and carrying out a pretend transfer; and Binding instruction of the Chief of Police No. 194/2008 which regulates the procedure for the use of an agent.

### *Ethical principles*

173. Title III of the Police Act sets out the police officers' basic duties with respect to the principles of courtesy, initiative, reasonableness of procedures and duty to instruct. According to section 45-46 of the ZSP, a police officer is obliged to observe service discipline, which consists in the impartial, proper and conscientious performance of the official duties, which result from legal regulations, service regulations and orders.

174. Ethical rules are then specified at the level of internal administrative acts. The most important ones are the binding instruction of the Chief of Police No 181/2006, which lays down the basic rules of conduct, official conduct and official courtesy in the Police of the Czech Republic, and the order of the Chief of Police No 154/2011 on the professional ethics of the Police of the Czech Republic (hereafter the Code of Ethics). The former has a declaratory value, while the latter is more prescriptive. Both documents were issued in the form of an internal act of management. This is a formalised legislative process according to which a draft is drawn up, sent to all organisational units of the Police for comments, updated in view thereof, and finally published in the Police information system. The Code of Ethics is also posted at individual police stations. An Ethics Committee, composed of at least nine members appointed by the Police President, is in charge of promoting professional ethics within the Police and of submitting proposals to the President for updating the Code.

175. The Code of Ethics contains five articles setting out the aims, fundamental values and commitment of the Police to society, obligations towards colleagues and personal and professional attitude. The binding instruction on rules of conduct, does not contain integrity rules, except a prohibition on accepting gifts and other benefits. The Code of Ethics and rules of conduct are part of the police officers' basic professional training and of courses related to anti-corruption issues. Violation of their provisions amounts to a violation of official discipline and is a ground for the initiation of disciplinary proceedings.

176. The GET welcomes that the Code of Ethics and rules of conduct are updated on a regular basis to reflect current trends and challenges. It also notes that the authorities have stated their intention to update the composition and functioning of the Ethics Committee to make it less formal and include more staff from below the upper managerial ranks. Furthermore, it is positive that these documents are directly enforceable.

177. The GET notes that both the Code of Ethics and the binding instruction on rules of conduct contain some provisions dealing with the integrity of the Police. However, they lack detail in this area and give little practical guidance or examples of ethical dilemmas. According to the authorities, this is by design, in order for these documents to be non-ambiguous. Nevertheless, the GET takes the view that further guidance must be developed, especially in areas such as gifts and conflicts of interest where only general principles are stated. Consequently, **GRECO recommends that the Code of Ethics and the binding instruction on**

**rules of conduct be complemented by practical guidance containing concrete examples illustrating integrity issues and risk areas.**

#### *Advice, training and awareness*

178. Training is organised by the Department of Police Education and Service Training. Corruption issues are taught in basic vocational training. The course is compulsory, lasts one working day and covers the terms related to corruption situation, describes such situations, how to deal with them and to document them.

179. Reference is also made to a course on “problems of corruption”, which lasts one day and varies according to the police officer’s position. It is mandatory for senior officers. It is divided into three parts, the first dealing with selected areas of criminal and administrative law, the second with corruption situations and risks, and the third with communication skills and how to respond to corruption situations. Furthermore, all managers participate in an e-learning course focused on recognising corrupt practices among subordinates. Emphasis is also placed on the selection of new employees and on the transparent assessment of positive and negative events during work performance. Finally, the internal control office of the Presidium prepared a newsletter highlighting specific cases raising integrity issues, which was sent to all units and is accessible online on the internal Police Portal.

180. As regards advice on integrity issues, every police officer or employee may contact a member of their respective internal control department or of the analytical-legal department. Questions may also be posted on a new police communication and feedback portal and are to be answered within five days. Answers to frequently asked questions are published on the portal.

181. The GET notes that there is no dedicated mechanism responsible for providing advice on integrity issues within the Police. The internal control department was quoted as an available channel. However, the GET wishes to stress that staff members may be reluctant to address colleagues in charge of supervision and enforcement with ethical dilemmas, conflicts of interest, etc. Therefore, it is preferable for such a mechanism to be placed outside the chain of command and of supervision. Consequently, **GRECO recommends that a mechanism be introduced for providing confidential counselling on ethical and integrity matters for Police staff.**

#### **Recruitment and career**

182. The recruitment and career of police officers are regulated by the ZSP, while employees are subject to the provisions of the Labour Code (Act No 262/2006 Coll.). Police officers are appointed for an indefinite term after passing a service exam and completing a three-year probation period. Employees may be hired for a fixed or indefinite term.

#### *Recruitment, appointment and promotion*

183. The ZSP sets out the conditions for admission into the Police and other security forces (Sections 13 to 18). These conditions are the same for both genders and include conditions of age, physical fitness, integrity, education and competence, non-membership in political parties and the absence of other paid activities.

184. The recruitment process is carried out under the responsibility of the Personnel Department of the relevant Regional Police Directorate. All vacancies are published on the internet<sup>38</sup>. The selection of candidates is carried out by selection committees appointed by the official of the Police who is authorised to appoint officers to service positions. Selection committees verify that the candidates fulfil the conditions of the vacancy notice, conduct interviews and evaluate the candidates' manual and specific skills according to a standardised procedure they establish. They rank the candidates according to their suitability for the position. The final decision on the admission of a candidate is taken by the officer with appointing powers, who may not deviate from the result of the selection procedure (Section 19-24 ZSP) and has to appoint the first ranked candidate, or the next one if the first candidate cannot be appointed.

185. Career progression is governed by Sections 22 and 23 of the ZSP and the binding instruction of the President of the Police No 31/2009 regulating the procedure of officials in announcing selection procedures for vacant service posts and in appointing to vacant service posts. It follows the same process as initial recruitment, with the candidates having to apply to a vacant position and being ranked by a selection committee. Additional conditions of length of service may apply, as well as a very good service record. As is the case with initial recruitment, the appointing officer may not deviate from the ranking of candidates established by the selection committee. All decisions on recruitment and career are subject to appeal.

186. The Police President is appointed by the Minister of Interior for a term of five years. S/he may not perform this function for more than two consecutive terms (Sections 2 and 8 ZSP). S/he is selected according to the same rules and in the same manner as other policemen, following a public call for candidates and a selection process by a committee.

187. During the initial recruitment process, a verification of integrity is performed by checking the candidates' criminal record and record of offences, with no account being taken of the possible expungement of a criminal conviction by a special regulation or a decision of the President of the Republic. Beside convictions for criminal offences or misdemeanours, addiction to alcohol or other psychotropic substances also disqualifies from recruitment in the Police. Furthermore, in accordance with the ZSP, the Police carries out an investigation at the candidate's place of residence and requires extracts from the records kept by the Ministry of Interior and other public administration bodies.

188. The GET notes that there is no dedicated integrity control throughout police officers' career. According to the authorities, this is offset by a stringent system of internal control (see below), with a focus on the handling of financial resources and property, the use of alcohol and other addictive substances, the treatment of persons deprived of their liberty, the handling of items secured in criminal proceedings, as well as the handling of assigned weapons and ammunition.

189. The GET takes the view that these internal control measures are valuable, but they focus on the handling of persons, resources and items by police officers in the course of their activities. As such, they do not cover all integrity risks that may appear over the course of staff

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<sup>38</sup> <https://nabor.policie.cz/#informace>

members' career. For instance, they do not comprise financial background checks or security checks in relation to close relatives or associates. There is a need to take full account of the fact that the environment or personal situation of individual staff members can change throughout their working life and expose them to new risks. In this context, GRECO has consistently underlined that vetting at regular intervals is indeed an indispensable tool to prevent corrupt activities by staff members in service. Consequently, **GRECO recommends that security checks relating to the integrity of police officers be carried out at regular intervals throughout their career.**

#### *Performance evaluation, rotation*

190. According to Section 203 of the ZSP, a performance evaluation of officers on indefinite term contracts must take place at least once every three years. In practice, it takes place annually. An evaluation may also take place at an officer's request, but no sooner than six months after the latest one.

191. The evaluation is carried out by the officer's direct supervisor and approved by the chief evaluator, who is the supervisor's immediate superior. It consists in the assessment of the officer's service performance from the point of view of the evaluation of individual areas and the possible record of significant events (see below), and in the comparison of this performance with the standard level. It includes an assessment of the officer's competence, quality of performance of duties and the level of theoretical knowledge. It also includes elements for the further professional development of the officer. The evaluation conclusion is discussed with the appraisee, who has the right to comment on the content and conclusion of the evaluation. A grade is given to the appraisee between A (outstanding performance) and E (unsatisfactory results). Grades A and B may result in the granting of a salary bonus by discretionary decision of the officer's manager, which has a budgetary envelope to this end, and open the possibility of applying for promotion selection procedures. A grade of E may lead to the officer's dismissal.

192. If the appraisee disagrees with the content or the conclusion of the evaluation, s/he may submit written objections to the chief evaluator, who may modify the evaluation accordingly or reject the objections and confirm the service evaluation. This decision is subject to appeal.

193. The ZSP provides for the rotation of police officers, but this system is not mandatory.

#### *Dismissal from office*

194. According to Section 42 of the ZSP, dismissal occurs inter alia in case of: being finally convicted of an offence committed intentionally or recklessly in case the conduct is contrary to the requirement of the profession; breaking the oath of office by committing an infraction which has the characteristics of a criminal offence and is likely to damage the reputation of the Police; being subject to the disciplinary sanction of removal from rank; no longer fulfilling the requirements for admission (see paragraph 183). An unsatisfactory performance evaluation may also lead to dismissal in the framework of disciplinary proceedings. As other decisions on career, dismissal is subject to appeal.

## Salaries and benefits

195. The rules on salaries and benefits are set out in the ZSP and in Government Decree No. 419/2022 Coll. establishing the scale of basic tariffs for members of the security forces. The service income of an officer consists of the basic tariff, a special supplement (CZK 5,000 to 10,000 - € 200-400), a shift allowance (+ 10% of the basic tariff), a personal supplement, bonuses, and a monthly stabilisation supplement (CZK 1,500 to 3,000 - € 61 to 122). Additionally, a recruitment allowance which ranges from CZK 75,000 to 150,000 (€ 3,200 to 6,400) is paid within one year of recruitment. The following table sets out the average salary of police officers according to their length of service:

| <b>Average income including basic salary and supplements in CZK/€</b> |               |
|---|---------------|
| Beginning of career officers  | 33,700/1,437  |
| Middle managers   | 72,000/3,070  |
| Senior managers   | 102,000/4,349 |

| Officers average service income | Up to 1 year | Up to 3 years | Up to 5 years | After 5 years |
|---------------------------------|--------------|---------------|---------------|---------------|
| In 2021 in CZK/€                | 27,675/1,128 | 3,822/1,338   | 40,197/1,638  | 42,404/1,728  |

196. The GET heard during the on-site visit of difficulties on the part of the Police in recruiting officers and especially in retaining them due to low salaries at the start of career. Over 10% of positions were said to be vacant. Moreover, officers having served for 15 years are entitled to a lifelong bonus, which causes many to leave the Police after this period. To address these difficulties, Decree No. 419/2022 increased the basic tariff by 17% for the first and second salary grades, and by 10% across the board. These increases are meant to make the Police a more financially attractive employer and to prevent officers from leaving the Police after some years of service. A benefit programme is also offered to provide a better work-life balance, including flexible hours, psychological advice and offers for weekends and holidays at a preferential rate.

### **Conflicts of interest**

197. Provisions on the prevention and management of conflicts of interest are contained in various instruments: the Act on Conflicts of Interest (ACI), the ZSP and the Code of Ethics. A duty of notification of conflicts of interest and exclusion from proceedings is also foreseen in specific regulations, such as Police President Instruction No. 44/2018, on Internal Control, Data Acquisition, Reference Research and Handling of Submissions (Internal Inspection Regulations) and Police President Instruction No. 75/2013 on the procedure in matters of seniority, as well as the Criminal Code and the Administrative Code.

198. As explained in the part of this report on PTEFs, the ACI defines conflicts of interest as every conduct in which a public official's personal interest can influence their practice in office. In this context, personal interest is understood as any interest securing any private benefit or preventing the possible reduction of any material or other benefit to the public official, a person close to a public official, a legal person controlled by a public official or by a person close to a public official. This does not apply to the cases in which it is a generally obvious benefit or interest in relation to an unlimited number of addressees. If such a conflict occurs, the public official must refrain from favouring his/her personal interests over those s/he is

bound to enforce and defend as a public official. The GET refers to its concerns expressed above as to the absence of a definition of the notion of “generally obvious benefits or interests” and to the recommendation contained in paragraph 111.

199. The ACI also establishes an obligation for some senior police officers to submit declarations of activities, assets and obligations, as a conflicts of interest preventive mechanism (see below). Finally, it contains a duty of ad hoc notification of conflicts of interest (Section 8). However, it only applies to senior police officers who are considered as public officials according to section 2 of the ACI.

200. According to Section 45 of the ZSP, a police officer is obliged *inter alia* to:

- refrain from actions that may lead to a conflict between the interests of the service and personal interests and endanger trust in the impartial performance of the service, in particular not to misuse information acquired in connection with the performance of the service for one's own benefit or for the benefit of other persons and not to accept gifts or other advantages in connection with the performance of the service,
- perform the service in such a way that it is not influenced by his/her political, religious or other beliefs,
- behave and act even when off duty in such a way that his/her actions do not endanger the good reputation of the security corps.

201. The Code of Ethics of the Police contains a provision requiring the avoidance of any conduct that could constitute a conflict of interest (Section 3.i). The annex to the Code contains more detailed explanations of what constitutes a conflict of interest, as well as examples of such conflicts, which include among others a prohibition to use one's position to obtain an undue advantage or to invoke it in matters relating to personal relationships. The GET welcomes these provisions.

202. The Internal Inspection Regulations (Section 40) provide for the exclusion of the inspection officer from internal control, data acquisition and reference research if there are facts indicating his/her lack of impartiality. The head of the inspection department is to be notified of these facts by the inspected person or the inspection officer without delay.

203. Section 14b of the Police President's Instruction on the procedure in matters of seniority provides for the exclusion of an officer from hearing and deciding on a case on the grounds of partiality. This is to be decided by the immediate superior of the officer concerned.

204. Finally, the Criminal Code (Sections 30 and 31) and the Administrative Code (Section 14) also provide for a duty of notification and exclusion from proceedings in case of a conflict of interest.

### **Prohibition or restriction of certain activities**

#### *Gifts and hospitality*

205. The prohibition on officers receiving gifts and other benefits in connection with the performance of their duties is set out in Article 14 of the binding instruction on rules of conduct. This prohibition does not apply to:

a) small souvenirs, advertising or promotional items, items for preventive purposes and refreshments or hospitality which are reasonable in terms of their value and the occasion on which they are provided are customary in official dealings with entities or authorities, are not they performed as a mere social service, and if it is clear from the behaviour of the parties that they do not want to be contractually bound,

b) tickets for cultural, social or sporting events to which a police officer is sent on behalf of the Czech Republic, the Ministry of Interior or the police,

c) reasonable items or values donated by a natural or legal person or body as an award for saving life, health or property or for showing personal bravery, if this does not conflict with the interest in the proper and impartial performance of police tasks.

206. According to the Code of Ethics, the acceptance of a gift or benefit which would compromise or call into question the proper performance of duties constitutes a conflict of interest (Annex 2, Section 1.g). The acceptance of gifts and hospitality is also generally prohibited under Section 45 of the ZSP (see above, paragraph 200). The GET finds the rules on the prohibition to accept gifts and hospitality satisfactory overall.

207. The GET notes that private donations and sponsoring of the Police are allowed in the Czech Republic. This matter is regulated by internal guidelines, requiring strict documentation and a centralised approval process. However, details of the donations are not published online or subject to any other form of public scrutiny. The GET takes the view that police forces should preferably be financed solely on the basis of democratically decided and transparent public budgets. It is concerned that donations and sponsorships may taint the reputation of the Police or compromise the perception of its neutrality. Full transparency must always be required in respect of all funding to public bodies, including law enforcement services. Consequently, **GRECO recommends that the system of donations and sponsorships to the Police be reviewed in order to (i) put in place safeguards against potential, actual or perceived conflicts of interest; and (ii) publish donations and sponsorships online on a regular basis, indicating the value, the identity of the donor and how the assets donated were spent or used.**

#### *Incompatibilities, outside activities, financial interests and post-employment restrictions*

208. Sections 45(1)c, 47 and 48 of the ZSP provide rules on incompatibilities and the possibility to engage in outside activities. Accordingly, police officers may not be members of the management or supervisory bodies of legal persons engaged in business, except in cases where the officer is sent to such bodies by a service official, and except for membership of the management or control bodies of legal persons founded by the State. This prohibition does not apply to associations, including those that run a business, as the profits made from such activities are earmarked.

209. A police officer may engage in outside remunerated activities only with the consent of his/her superior. Authorisation shall be granted provided that the activities cannot lead to a

conflict of interest with the interests of the service, to a threat to the reputation of the security forces or to a threat to an important interest of the service. Authorisation is not required for the activities listed in Section 48(4) (expert and interpreting activities carried out for a court or administrative authority, scientific, pedagogical, journalistic, literary or artistic activities, activities within trade unions, etc.).

210. The possibility of engaging in outside activities is described in detail in a methodological manual for granting consent to the performance of other remunerated activities drafted by the Internal Control Department and the Human Resources Department of the Police Presidium to guide the decision process. This manual was prepared in response to discrepancies detected between different Police departments in the scope and conditions for granting consent to remunerated outside activities. It also takes account of GRECO recommendations in this area. The manual explains and illustrates the applicable legal provisions and gives examples of activities that may or may not cause a conflict of interest or the perception of it. The difficulties of carrying out outside activities in parallel to official functions is also addressed by way of examples, as are possible activities that could be damaging to the reputation of the Police. It also covers the holding of financial interests, the procedure for granting consent and requires immediate superiors to follow up on the granting of authorisations and to assess whether the normal duties are carried out satisfactorily. According to information provided to the GET, the Police received 1,972 requests for engaging in outside activities between July 2019 and February 2023. Consent was granted in 1,849 cases, refused in 110 cases and withdrawn in 13 cases. During the on-site visit, the GET was informed that the Internal Control Department intends to focus on this area in 2023 and that one reference survey already took place in this connection. The GET welcomes the methodological manual for granting consent to the performance of other remunerated activities as a good practice; it also welcomes that the Internal Control Department will focus on the practice of granting consent in 2023.

211. Post-employment restrictions that would apply to police officers or employees leaving the Police Force are not in place. The GET underlines that the possibility of employment outside the Police may entail risks (offers of jobs as rewards, use of communication channels with former colleagues or specialised knowledge on police procedures for the benefit of new or future employers, etc.). It points out that Council of Europe Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials includes special guidelines on leaving the public service (Article 26). Drawing from the information gathered during the on-site visit, it was unclear how much of an issue this is in the Czech Republic. Consequently, **GRECO recommends that a study be conducted concerning the activities of Police staff after they leave the force and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and mitigate the risks of potential conflicts of interest in this respect.**

#### *Third party contacts, misuse of confidential information*

212. Section 45(1) of the ZSP, mentioned above, provides for a duty of confidentiality regarding the facts learned while police officers perform their duties. Similarly, Section 115 of the Police Act stipulates that a police officer or employee is obliged to maintain confidentiality about facts that they become aware of during the performance of police tasks or in connection with them, and which, in the interest of securing the tasks of the police or in the interests of other persons, require them to remain secret from unauthorised persons. This obligation

continues even after the end of the service or employment relationship. The duty of confidentiality is also covered by Section 3.g of the Code of Ethics.

213. In order to prevent the misuse of confidential information, the main information system of the Police (the so-called ETR system), where all file materials are processed, records all the log-in details and all the activities in the system for possible tracing of the recipients' access to the data, to the file and its digital documents (who viewed what and when) and a record of the history of changes in the file, including changes to data related to registered documents (who added or changed what and when). For digital documents created using standard forms of the ETR system, all processed versions of the digital document, changes made, including author and time, and all accesses to preview the digital document or print it, are stored in the local database.

214. While acknowledging what is in place, the GET nonetheless deems it desirable that proper guidance be given on both the handling of confidential information, which goes hand in hand with adequate vetting (see paragraph 188) and contact with third parties, as a way of reinforcing the prevention of leaks or misuse. This should also take into account new means of communication, including social media. The GET is of the view that this should be ensured by including this matter in the future guidance illustrating integrity standards (see recommendation in paragraph 177).

#### *Misuse of public resources*

215. It follows from Section 39 of Act No. 218/2000 Coll. on budgetary rules that police officers and employees must use public resources economically, efficiently and effectively. Obligations in relation to individual types of resources are then determined by internal management acts. For example, the Police Chief's Instruction No. 229/2011 on official vehicles stipulates that official vehicles are used by police officers and police employees for the purpose of performing official and work tasks based on prior written or electronic approval.

216. Purchases from public sources are regulated in detail by Act No. 134/2016 Coll. on public procurement.

217. Misuse of public resources may constitute one of the elements of the criminal offenses listed in the Criminal Code: breach of duty in the management of another's property (section 220), breach of duty in the management of another's property due to negligence (section 221), abuse of the authority of an official (section 329) or fraud (section 209).

#### **Declaration of assets, income, liabilities and interests**

218. Leading members of the Police at the 1st and 2nd management level – the Police President and his/her deputies, directors of departments and their deputies at central and regional level, i.e. around 500 persons – are obliged to declare their personal interests, other activities, property, income, gifts and liabilities in accordance with the ACI. Declarations are due at the start of the functions and annually thereafter. The details of this system and the GET's related concerns are described in the part on PTEFs (see paragraphs 133-144). One difference compared this system as described above is that the declarations of managers of the Police, like those of judges and prosecutors, are not accessible to the public.

## **Oversight**

### *Internal oversight and control*

219. The internal control system of the Police is composed of the internal control departments of the regional police directorates and of the internal control office of the Police Presidium. The former are directly subordinated to the directors of the respective regional police headquarters, while the latter is subordinated to the Police President.

220. The regional internal control departments exercise first level internal control over the officers and employees assigned to their regional headquarters. The internal control departments also have selected units with nationwide scope - the Directorate of the Foreign Police Service, the Protection Service, the National Central Office against Organised Crime and the National Anti-Drug Office, which are directly subordinate to the director of these units. Based on the internal control plans, these departments and units control the individual organisational units of the Police in various areas. The emphasis is mainly on the handling of financial resources and property, the use of alcohol and other addictive substances, the treatment of persons deprived of their liberty, the handling of items secured in criminal proceedings, as well as the handling of assigned weapons and ammunition.

221. Another tool from the point of view of the prevention of corruption and illegal behaviour is the continuous on-call service performed by the inspection staff and the subsequent investigation of every extraordinary event that happens in the Police. An extraordinary event is defined as, for example, a more serious injury to a person in contact with the Police, the use of a weapon, the death of a police officer or employee or serious injury, notification of accepting a bribe, or other serious illegal act. Police officers are obliged to inform the police operations centre immediately about these extraordinary events. The operations centre is then tasked with notifying the control worker within range. S/he is then sent to the scene of the emergency, which s/he documents and evaluates. This enables control units and superiors to learn about any possible illegal actions by police officers.

222. The internal control office of the Presidium is competent for the control of all police officers and employees. It exercises second level control, except as regards extraordinary events, where it has direct competence. It also plays a preventive and methodological role and looks for systemic deficiencies in the Police processes. The Police President's Instruction No. 44/2018 on internal control, data collection, reference research and handling of submissions determines the respective roles of the control units in the handling of complaints. In case the internal control office exercises control in the first instance, the Ministry of Interior is the competent review authority.

223. Inspection staff of the regional police directorates and units with national jurisdiction are subject to inspection by the internal control office of the Police Presidium of the Czech Republic. Staff of the internal control office of the Presidium are controlled by their superiors. All control personnel are then subject to the authority of the General Inspectorate of Security Forces in the field of criminal activity.

224. The staffing situation of the internal control system, including the internal control departments and the internal control office of the Police Presidium, is as follows.

| Status as of 1.1.2022 | Civil employees | Police officers | Total |
|-----------------------|-----------------|-----------------|-------|
| Male                  | 13              | 109             | 122   |
| Female                | 20              | 50              | 70    |
| Total                 | 33              | 159             | 192   |

225. Police officers of internal control units must have a university degree. Other specialised knowledge and experience are not mandatory. However, it is desirable that they have experience with patrol activities and activities of police authorities in criminal proceedings. They are obliged to attend a controllers' course organised annually for newly arrived inspectors by the internal control office of the Police Presidium. It lasts 10 working days, covering mainly legal regulations and internal management acts which the control workers encounter most often. Furthermore, the course includes the process of carrying out internal controls, the process of documentation and investigation of extraordinary events in the police, as well as the handling of complaints from persons. It ends with a written and oral exam.

226. If members of the control departments and units establish over the course of their activities that a specific police officer has committed an illegal act, the case is referred to the disciplinary authority for disciplinary proceedings. If elements of a criminal offence are detected, the case is referred to the GIBS (see below).

227. The Police also has an internal Ombudsman, appointed by the Police President and subordinated to him/her, who operates based on an internal resolution of the President. The internal Ombudsman is competent to receive information from police officers and employees about breaches of their rights. S/he may request from the managers any documents to establish the facts of a case and s/he drafts an opinion with suggested remedial measures in case a breach of a staff member's rights is found. The opinion and recommendations are sent to the manager of the staff member concerned, who generally accepts them. In case of disagreement, the Ombudsman may transmit the case to the Police President, which has happened in a handful of cases. The Ombudsman dealt with 80 cases in 2018 and about 60 in 2021. Most cases concern salaries and allowances and some concern the authorisation of outside activities or the results of performance evaluations, but not integrity issues.

#### *External oversight and control*

228. The General Inspectorate of Security Forces (GIBS) is an armed security force which is competent to detect and investigate crimes committed by officers and employees of the Police and other security forces. GIBS is also competent to monitor and evaluate information on illegal activities of the Police and other security forces, and to propose measures and issue recommendations to prevent such activities. It operates on the basis of Act No. 341/2011 Coll. on the general inspection of security forces (GIBS Act). It is independent from the Police budgetarily and organisationally. The Director of GIBS is appointed and dismissed by the Prime Minister at the proposal of the Government after consulting the Permanent Commission of the Chamber of Deputies for the Control of the Activities of the General Inspection of the Security Forces, and it is only accountable to the Prime Minister. Other tasks of the GIBS include the organisation of reliability tests (see paragraphs 169-171), the evaluation of information on the illegal activities of police officers and members of the other security services, and the issuing of methodological recommendations on the activities of the individual security forces.

229. GIBS has 333 staff members, of whom 279 are former members of the Police. They are all subject to a thorough vetting that is repeated every 10 years as part of the security clearance process. GIBS mainly acts on the basis of reports by the internal control bodies or by the public, which may also submit reports anonymously.

230. The activities of the GIBS, including as regards the use of special investigative techniques and the surveillance of persons and objects under the CCP are controlled by the Permanent Commission of the Chamber of Deputies for the Control of the Activities of the General Inspection of the Security Forces (the Commission). The Director of GIBS submits to the Commission at least twice per year a report on the use of interception and recording of telecommunications and the monitoring of persons and objects. The Director also submits once per year to the Government and to the Commission a report on the activities of the GIBS and an analysis of the use of the operations specified above. The Commission may carry out inspections of the GIBS.

231. Other bodies exercising external supervision over the activity of the Police include: the Public Defender of Rights in the area of the protection of persons against the actions of public authorities, including the Police; the public prosecutor as regards criminal investigations; the Ministry of Interior; courts when they take decisions on administrative actions against illegal police interventions; the National Audit Office which exercises control of the management of funds; the Office for the Protection of Economic Competition regarding the control of the awarding of public contracts, and the Office for the Protection of Personal Data concerning the control of the handling of personal data.

#### *Complaints system*

232. Complaints about the behaviour of police officers and employees are received, investigated and handled by the internal control department of the relevant regional police headquarters or by the internal control office of the Presidium if the complaint concerns a staff member of the Presidium. Complaints about the conduct of police officers may also be addressed to GIBS directly. The handling of complaints is governed by Section 97 of the Police Act and by the Internal Inspection Regulations. Complaints concerning conduct that may be qualified as a criminal offence are handled by the GIBS. Other complaints are investigated internally by the relevant internal control department or office.

233. The procedure for filing a complaint is described on the Police's main website, in a section of the internal control department. Anonymous complaints are possible but will only be processed to the extent that their content allows. If it is necessary to process the complaint, an employee will ask the applicant to complete the necessary data. Telephone complaints are accepted only in case of danger to life and health. The complainant is informed of the follow-up given to the complaint if s/he so requests. The Police keeps statistics on complaints submitted against police officers and employees of the force and these show that dozens of notifications against police staff are received each year. This information is made available on the internal website of the Police but not on the public facing website.

234. The GET takes the view that statistics on complaints against police staff and the follow-up given ought to be available publicly (without disclosing the identity of the individuals concerned). Consequently, **GRECO recommends that centralised statistics on complaints**

**against Police staff and measures taken in this respect be published online, while respecting the anonymity of the persons concerned.**

### **Reporting obligations and whistleblower protection**

#### *Reporting obligations*

235. Police officers and employees are subject to an obligation to report corruption and irregularities which is contained in several legal texts. Section 10 of the Police Act stipulates that, in the event of detecting an illegal act, every police officer is obliged to notify the authority responsible for resolving it. According to Section 2(4) of the Criminal Procedure Code, police officers are obliged to fulfil their official duty and to contribute to the detection and investigation of criminal activity. Furthermore, according to Section 45(1) of the ZSP, police officers are obliged to report to their superior about any defects and deficiencies that threaten the service or make its performance difficult. This obligation covers misconduct by colleagues. The duty to report also appears in the Code of Ethics (Section 4.c).

236. Police officers and employees can report suspected irregularities to the internal control office of the Police Presidium or to the internal control departments of the regional police directorates. These bodies may be notified in writing, by e-mail, telephone or in person.

237. Violation of the reporting duties set out in the Police Act, the Criminal Code and the ZSP can, depending on its severity, constitute a disciplinary offence or the criminal offence of abuse of official authority, obstructing the tasks of an official due to negligence or failure to report a crime (Sections 329, 330 and 368 Criminal Code, respectively).

#### *Whistleblower protection*

238. The protection of whistleblowers forms part of the first pillar of the Police internal anti-corruption programme (item 1.5). Accordingly, whistleblowers must not be penalised, disadvantaged or subjected to pressure in connection with notifications. Their anonymity must be protected unless strictly necessary for the proper investigation of the notification or for the performance of other tasks. The anti-corruption programme also refers to the ZSP as offering general protection, by setting strict formal and procedural requirements for all major staff decisions, notably as regards disciplinary sanctions and dismissal, which are all reviewable by ordinary and extraordinary remedies, as well as by judicial review.

239. At the time of the on-site visit, work was in progress to transpose Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, with a deadline for transposing this text into Czech law having expired on 17 December 2021. The bill was approved by the Chamber of Deputies on 21 April 2023, debated by the Senate on 1 June 2023 and signed by the President of the Republic on 7 June 2023<sup>39</sup>. After its publication, it will enter into force on 1 August 2023. The bill signed by the President, as regards its material scope, includes all crimes, misdemeanours carrying a maximum penalty of at least CZK 100,000/€ 4,226, breaches of the bill on protection of whistleblowers and breaches of national and EU laws and regulations in specific areas. The bill does not impose an obligation to follow up on anonymous

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<sup>39</sup> <https://www.psp.cz/sqw/historie.sqw?o=9&t=352>

reports but states that once the identity of an anonymous whistleblower is revealed, s/he is entitled to the same protection as whistleblowers who have not been anonymous. Interlocutors from civil society criticised the bill put forward by the current Government as being less protective and efficient for combating corruption than the bill proposed by the former Government. The external channel for reporting is the Ministry of Justice.

240. The GET has not been in a position to assess the bill transposing the EU Directive on the protection of whistleblowers. It notes that, under the current whistleblower system within the Police, as described in the Internal Inspection Regulations (see above), there is a clear internal reporting channel and procedures for investigation of reports, which is welcome. The external reporting channel is the Ministry of Justice and the law reportedly foresees the prohibition of reprisals against whistleblowers. The GET stresses that while staff is regularly reminded of their reporting obligations, there will be a need for any changes in the whistleblower protection system under the new law to be brought to their knowledge. It takes the view that it is crucial to promote the awareness of police officers and employees in this domain at all levels, to counter the “code of silence” that could informally rule in hierarchical organisations. In view of the foregoing, **GRECO recommends conducting dedicated training and awareness-raising activities on a regular basis about whistleblower protection measures for all levels of hierarchy and chains of command.**

### **Enforcement procedure and sanctions**

#### *Disciplinary liability*

241. Disciplinary proceedings are conducted within the organisational unit of the Police in which the officer works, by his/her N+2 superior officer. The proceedings are oral, with the main procedural acts and the decision being recorded in writing. The staff member or police officer may be represented, has access to the case file, has the right to be heard and to present evidence (Sections 172, 174 and 186 ZSP). The decision must be reasoned and is subject to appeal before a superior officer. The superior officer’s decision may be appealed before an administrative court (Section 190 and 196 ZSP).

242. Disciplinary sanctions are: a) written reprimand, b) reduction of the basic salary by up to 25% for a maximum period of 3 months, c) withdrawal of service medal, d) withdrawal of service rank (followed by dismissal), e) fine, f) forfeiture of property, or g) prohibition of activity (Section 50 ZSP). The Human Resources Department of the Presidium monitors the sanctions pronounced to ensure consistency. The statute of limitation for disciplinary offences is one year from the date on which the offence was committed, that period being suspended in case criminal, administrative or misdemeanour proceedings are pending for the same facts (Section 186 ZSP).

243. Information on disciplinary sanctions is not public but the internal control office of the Presidium issues a booklet every quarter about disciplinary cases for educational purposes, with statistics and a description of the facts of the cases. The authorities also referred to the newsletter on cases raising integrity issues mentioned above (see paragraph 178).

#### *Immunities and criminal proceedings*

244. Police officers and police staff do not enjoy any immunity. They are subject to the same criminal proceedings as other citizens, with the exception that these proceedings are conducted by the GIBS.

*Statistics*

245. GIBS indicated that in 2021, it documented eight criminal files related to corruption. Criminal prosecutions were initiated against 26 natural persons and two legal persons connected to crimes committed by members of the security forces. Of these 26 natural persons, nine were police officers. In 2020, GIBS documented 11 corruption-related criminal files, initiated criminal prosecutions against 17 natural persons, including 5 police officers, and 0 legal persons.

246. The most frequent forms of corruption identified by GIBS in the security forces were the acceptance of bribes in connection with criminal proceedings or traffic offences and unauthorised searches in the information systems.

| Type of disciplinary punishment | 2015        | 2016        | 2017        | 2018        | 2019        | 2020        | 2021        | 2022        |
|---------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Written warning                 | 678         | 696         | 640         | 589         | 558         | 462         | 453         | 457         |
| reduction of the basic tariff   | 1154        | 1165        | 1405        | 1303        | 1078        | 858         | 899         | 948         |
| revocation of service medal     | 0           | 0           | 0           | 0           | 0           | 0           | 0           | 0           |
| withdrawal of service rank      | 8           | 4           | 2           | 3           | 5           | 2           | 3           | 0           |
| Fine                            | 488         | 432         | 439         | 735         | 787         | 800         | 965         | 1170        |
| forfeiture of the thing         | 0           | 1           | 0           | 1           | 0           | 0           | 1           | 2           |
| prohibition of activity         | 18          | 28          | 32          | 43          | 23          | 25          | 29          | 24          |
| <b>Total</b>                    | <b>2346</b> | <b>2326</b> | <b>2518</b> | <b>2674</b> | <b>2451</b> | <b>2147</b> | <b>2350</b> | <b>2601</b> |

## VI. RECOMMENDATIONS AND FOLLOW-UP

247. In view of the findings of the present report, GRECO addresses the following recommendations to the Czech Republic:

*Regarding central governments (top executive functions)*

- i. **that the recruitment process and obligations of ministers' individual advisers be regulated, ensuring that appropriate rules on conflicts of interest and use of confidential information apply to them (paragraph 41);**
- ii. **laying down rules requiring that adequate integrity checks take place prior to the appointment of ministers, deputy ministers and individual advisers in order to identify and manage possible risks of conflicts of interest before these persons take up office (paragraph 46);**
- iii. **that a risk analysis specifically covering persons with top executive functions' specific integrity risks be carried out on a regular basis and that remedial measures be included in a dedicated anti-corruption programme at the level of the Government (paragraph 67);**
- iv. **(i) that a code of conduct for persons with top executive functions be adopted, published and complemented with clear guidance regarding conflicts of interest and other integrity related matters (such as gifts, contacts with third parties, outside activities, contracts with state authorities, the handling of confidential information and post-employment restrictions); and (ii) that such a code be coupled with a credible and effective mechanism of supervision and sanctions (paragraph 76);**
- v. **developing efficient internal mechanisms to promote and raise awareness of integrity matters in the Government, including confidential counselling and training at regular intervals of persons with top executive functions (paragraph 78);**
- vi. **(i) rules be introduced on how persons with top executive functions engage in contacts with lobbyists and other third parties who seek to influence the government's legislative and other activities; and (ii) sufficient information about the purpose of these contacts be disclosed, such as the identity of the person(s) with whom (or on whose behalf) the meeting(s) took place and the specific subject matter(s) of the discussion (paragraph 93);**
- vii. **that the duty to declare *ad hoc* conflicts of interest be strengthened: (i) by making it applicable to all persons with top executive functions and all situations or activities connected with their functions; (ii) by making such declarations public and introducing a requirement of exclusion of the person concerned from decision-making; (iii) by providing guidance on the notion of generally obvious benefits or interests (paragraph 111);**
- viii. **strengthening the system of incompatible and outside activities applicable to all persons with top executive functions by: (i) summarising the applicable rules on**

**incompatibilities in one single text; (ii) ensuring that the retention or acceptance of paid and unpaid outside positions, occupations, board positions, or other paid assignments are prohibited unless the person has received a written authorisation based on a considered determination that the position/activity will not impede ordinary work or raise an issue of conflicts of interest, and (iii) making such authorisations available to the public (paragraph 121);**

- ix. ensuring that a full set of rules on gifts and other benefits be applicable to all persons with top executive functions, in the form of appropriate practical guidance, the obligation of reporting gifts and other benefits, and making this information available in a timely manner to the public (paragraph 126);**
- x. that (i) the rules on post-employment restrictions be broadened to cover all persons with top executive functions and avoid potential conflicts of interest when the employment concerns a field of activity subject to authorisation or scrutiny by the body the person is leaving and (ii) an effective enforcement mechanism regarding these rules be implemented (paragraph 132);**
- xi. (i) that ministers' individual advisers be subject to the same disclosure requirements as ministers and deputy ministers; (ii) that declarations by persons with top executive functions be made accessible in an easy and timely manner to the public at large; and (iii) considering requiring information in such declarations on partners and dependent family members (it being understood that such information would not necessarily need to be made public) (paragraph 141);**
- xii. establishing an independent review mechanism for the declarations of assets, income, liabilities and interests of persons with top executive functions, provided with adequate legal and technical conditions to ensure access to necessary information, as well as sufficient human and financial resources, to carry out substantive verifications in an effective and timely manner and to impose effective, proportionate and dissuasive sanctions (paragraph 144);**

*Regarding law enforcement agencies*

- xiii. that measures be taken to increase the representation of women at all levels in the Police, particularly at managerial level (paragraph 161);**
- xiv. that the Code of Ethics and the binding instruction on rules of conduct be complemented by practical guidance containing concrete examples illustrating integrity issues and risk areas (paragraph 177);**
- xv. that a mechanism be introduced for providing confidential counselling on ethical and integrity matters for Police staff (paragraph 181);**
- xvi. that security checks relating to the integrity of police officers be carried out at regular intervals throughout their career (paragraph 189);**
- xvii. that the system of donations and sponsorships to the Police be reviewed in order to (i) put in place safeguards against potential, actual or perceived conflicts of**

interest; and (ii) publish donations and sponsorships online on a regular basis, indicating the value, the identity of the donor and how the assets donated were spent or used (paragraph 207);

- xviii. that a study be conducted concerning the activities of Police staff after they leave the force and that, if necessary, in the light of the findings of this study, rules be established to ensure transparency and mitigate the risks of potential conflicts of interest in this respect (paragraph 211);
- xix. that centralised statistics on complaints against Police staff and measures taken in this respect be published online, while respecting the anonymity of the persons concerned (paragraph 234);
- xx. conducting dedicated training and awareness-raising activities on a regular basis about whistleblower protection measures for all levels of hierarchy and chains of command (paragraph 240).

248. Pursuant to Rule 30.2 of the Rules of Procedure, GRECO invites the authorities of the Czech Republic to submit a report on the measures taken to implement the above-mentioned recommendations by 31 December 2024. The measures will be assessed by GRECO through its specific compliance procedure.

249. GRECO also invites the Czech authorities to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.

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## About GRECO

The Group of States against Corruption (GRECO) monitors the compliance of its member states with the Council of Europe's anti-corruption instruments. GRECO's monitoring comprises an "evaluation procedure" which is based on country specific responses to a questionnaire and on-site visits, and which is followed up by an impact assessment ("compliance procedure") which examines the measures taken to implement the recommendations emanating from the country evaluations. A dynamic process of mutual evaluation and peer pressure is applied, combining the expertise of practitioners acting as evaluators and state representatives sitting in plenary.

The work carried out by GRECO has led to the adoption of a considerable number of reports that contain a wealth of factual information on European anti-corruption policies and practices. The reports identify achievements and shortcomings in national legislation, regulations, policies and institutional set-ups, and include recommendations intended to improve the capacity of states to fight corruption and to promote integrity.

Membership in GRECO is open, on an equal footing, to Council of Europe member states and non-member states. The evaluation and compliance reports adopted by GRECO, as well as other information on GRECO, are available at: [www.coe.int/greco](http://www.coe.int/greco).

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