

# Office of the Government of the Czech Republic

Anticorruption Unit



## **Action Plan of the Czech Republic Open Government Partnership for the years 2014 to 2016**

Submitter: Minister for Human Rights, Equal Opportunities and Legislation  
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## I. Introduction

Open Government Partnership, OGP is a voluntary international initiative of the U.S. administration supporting openness, transparency and fight against corruption. OGP is aimed at achieving concrete commitments of governments to support budget transparency, improve civic engagement, fight against corruption and transform oneself into more opened, efficient and responsible institutions.

Czech Republic has joined OGP in September 2011 (Government Resolution No 691 of 14 November 2011). On the basis of a debate among the representatives of public administration, academic sphere and non-governmental non-profit sector three concrete commitments for the period of two years were accepted, which were included into the **Action Plan of the Czech Republic for Open Government Partnership** (hereinafter only „Action Plan“). The said commitments involve (1) adoption of an Act on Civil Servants ensuring depoliticisation, professionalisation and stabilisation of the public administration, (2) streamlining the system of free access to information, (3) improving access to data and information. The Action Plan for the Czech Republic was approved by the Government by its Resolution No 243 of 4 April 2012. Afterwards it was presented at the OGP Summit in Brazil on 17 April 2012.

The Government of the Czech Republic fully supports the efforts for elimination of legislative and technical obstacles in access to information and sets itself the aim of enabling the general public to freely share, combine and make use of the open data. By fulfilling the commitments the Czech Republic will considerably increase transparency of processes in public administration and simplify access to information and data handled by public administration.

The first consistent description of how the Czech Republic succeeds in fulfilling its commitments is involved in the material „Implementation Assessment of the Czech Republic Action Plan „Open Government Partnership“ in 2012 and its Update“<sup>1</sup> (hereinafter only „Assessment 2012“). During the monitored period (April 2012–April 2013) the stipulated commitments were not completely fulfilled. The Assessment 2012 was approved by the Government by its Resolution No 477 of 19 June 2013. Simultaneously all three commitments were updated and included into the Chapter III under the title **Update of the Czech Republic Action Plan „Open Government Partnership“** (hereinafter only „Updated Action Plan“). The Assessment 2012 including the Updated Action Plan was sent to the OGP Steering Committee on 28 June 2013.

In connection with termination of the twelve months implementation course of the Action Plan the OGP **Independent Reporting Mechanism, IRM** was also evaluating execution of the Czech Republic commitments in April 2013. In its report „Czech Republic: Progress Report 2012-2013“ (see Annex) IRM states that each of the three commitments has been so far executed only partially. The Czech authorities were acquainted with the IRM conclusions and in compliance herewith the Czech Republic has adopted its Action Plan for the years 2014 to 2016, being the subject of this material.

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<sup>1</sup> Available at: <http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/Zhodnoceni-AP-OGP-2012.pdf>, visited on 22 January 2014.

## II. Action Plan of the Czech Republic „Open Government Partnership“ for the years 2014 to 2016

Since the commitment has not been yet accomplished in its entirety, the Czech Republic will continue, upon recommendation of the Independent Reporting Mechanism, to carry out the individual tasks of the commitment during the oncoming period (2014-2016), however in an updated version reflecting the current state of works and assignments involved in the Government Anti-Corruption Strategy for the years 2015 to 2017 and in the Government Policy Statement. Although this is in fact an update of the existing commitments, according to OGP standards this should constitute a second subsequent national action plan.

### ***II./1. Adoption of the new Act on Civil Servants ensuring depoliticisation, professionalisation and stabilisation of public administration and its implementation into practice***

Responsible party: Ministry of Interior

#### Rationale:

The new coalition government has adopted the Policy Statement of the Government of the Czech Republic (February 2014), in which *adoption of well-functioning and high-quality act on civil service, including its implementation* has been set as one of the priorities. This Act must guarantee full depoliticisation and well-functioning of public administration, give a clear definition of criteria for appointment and remuneration of public employees, lay down conditions for career advancement and guarantee a high level of education of the officials. In the sphere of public administration this task continue to be crucial, as adoption of the act on public-law basis should ensure a clear definition of basic rights and duties of a civil servant, set principles of personal and managerial running of state administration and reduce a corruption risk of its employees.

Working conditions of all employees are at present primarily subject to Act No 262/2006 Coll., Labour Code, as amended. Working conditions of the officials of self-governing units are subject to a special Act No 312/2002 Coll., on the Officials of Self-Governing Units and on Amendments to some Acts, as amended. On the contrary, there does not exist a specific fully applicable law for employees of the state administration, as the Act No 218/2002 Coll., On Service of Public Servants in Administrative Authorities and on Remuneration of such Servants and other Employees in Administrative Authorities (the Service Act), as amended, has not yet come into full force (which is expected by 1. 1. 2015). This insufficient legislation for public officials is undesirable. A separate legislation on the status of employees in the state administration is one of accession commitments towards the European Union and its compliance is envisaged even by Article 79, Subsection 2 of the Constitution of the Czech Republic. Czech Republic has been for years criticised for absence of this law both by the European Union and also by the Group of States against corruption by the Council of Europe (GRECO) and a number of non-profit organizations. Though adoption of the Service Act is not an explicitly defined preliminary condition pursuant to Annex XI of the Directive No 1303/2013, on general provisions for ESI funds, which are obligatory for the Czech Republic in order to make a problem-free use of financial resources from European structural and investment funds in the new programme period 2014–2020, in the European Commission’s opinion its adoption is a necessary prerequisite for meeting some criteria of the preliminary condition No 11 – Efficient public administration.

Depoliticisation of state administration shall be achieved through transparent selection procedures both for low-rank posts and for posts of leading employees (superiors), objective rules for awarding non-entitled components of wages (extra pay for leadership and bonuses) and professionalisation shall be guaranteed by effective human resources processes – system education, examinations of officers and personal work with employees. By a clear definition of employees rights and

obligations, their development and simultaneously by professional stability even the efficiency of state administration execution will be increased.

The requirement to fill the vacancies („hiring state employees and officials of municipal and regional offices“) on the basis of a selection procedure (open competition), particularly on all levels of public administration, follows beside others from GRECO Recommendation from the 2nd Evaluation Round of 2006, which has not been fulfilled up to now. Czech Republic is going to implement into the law and implementing rules the principles of protection in case of whistleblowing an unlawful conduct and protection against political pressures, as following from the European Principles for Administration, Recommendations of OECD and GRECO.

A key role during transformation of state administration into state service will have a methodical and coordination body, which will be preparing service instructions and regulate their implementation. This body – Section for State Administration – will be established in the Ministry of Interior.

#### Manner of performance:

The idea of an Act on Civil Servants as a pillar of the OGP Action Plan has been presently realized by an amendment to the Act on Civil Service or the new Draft Act on Civil Service. The Act was amended by the Chamber of Deputies through a deputy initiative and thus it had not been passed through the standard interdepartmental comment procedure, however, during its preparation the representatives of social partners and non-state non-profit organizations were consulted. The Draft Act on Civil Service was approved by the Senate on 1 October 2014 and approved on 24 October 2014 by the Chamber of Deputies, when the presidential veto was outvoted.

During implementation of this priority the Czech Republic undertakes to realize in particular the following measures:

- to adopt an implementing instruction for selection procedure and appointment of a deputy of the Section for public service and of state secretaries,
- to amend the Government Decree No 85/2003 Coll., defining areas of the state service, and Government Decree No 328/2013 Coll., on setting the extent and manner of providing data into the Informational System on Wages,
- to prepare a government decree on a catalogue of administrative activities and a government decree on wage conditions of state employees,
- to create necessary implementing regulations to ensure implementation of the Act, particularly in the area of personal and managerial administration of the administrative authorities,

in order that the following requirements are met:

- unambiguous definition of a boundary between the positions controlled by political parties and the apolitical bureaucratic positions, which will be occupied on the basis of open selection procedures,
- setting rules for depoliticisation, professionalisation and stabilisation of the state administration,
- setting a transparent and fair system of remuneration,
- securing a special protection of whistleblowers of unlawful conduct of employer,
- a system of obligatory training involving beside others the issue of combatting corruption.

Milestones:

Task	Responsible (performing body)	Deadline
Adoption of the complex draft amendment by the Chamber of Deputies.	Chamber of Deputies	September 2014
Submitting for information of the Government members a detailed timetable for preparation of implementing legal regulations and other measures to perform the new Act on Civil Service.	MI (cooperation with MLSA, MF, MFA and OG)	September 2014
Establishing an organizational body for public service and incorporating it into the organizational structure of the Ministry of Interior.	MI	01.10.2014
Adoption of the amendment by the Senate.	Senate	October 2014
„Revision“, analysis and proposal for further use (for legislation or for preparation of acts of administrative bodies) of the present (in preparation) implementation measures and drafts of service regulations in continuity with the approved version of the act.	MI (cooperation with MLSA, MF, MFA and OG), with MEYS Degree on language examination requirements	01.11.2014
Preparing selection procedure for the position of a deputy for state service and a personal director of the Section for State Service (SSS) a propose their appointment by the Government (immediately upon declaration of the Act, not later than 30.06.2015).	MI (SSS), Government	IV. Q 2014 (after declaration of the Act)
Preparing selection procedure for the positions of state secretaries in ministries and the Office of the Government of the Czech Republic and ensure their appointment (immediately upon appointment of a secretary for the state service, not later than 30.06.2015).	MI (deputy for state service), Government, Director of OG	IV. Q 2014 (after declaration of the Act)
Preparing, discuss and publish relevant implementing legislation. Laying down rules for methodical and coordination role/cooperation between SSS and service bodies (in fact particularly with personal departments of the service bodies). Completion of the legislation process of implementing legislation to the Act.	MI (MLSA, MF, MFA and OG)	IV. Q 2014 to 01.07.2015
Submitting a draft of methodical instruction for preparation of the first systemization of the service positions and the first systemization of work positions, to be in force from 01.07.2015.	MI (SSS)	I. Q 2015
Establishing a Section for State Service and incorporating it into the organizational structure of the Ministry of Interior.	MI	01.01.2015
Full effectiveness of the Act on State Service		01.01.2015
Preparation and drafting the first systemization of the service positions and the first systemization of work positions to be in force from 01.07.2015.	administrative bodies, MI (SSS)	I. Q 2015



Submitting to the Government a proposal for systemization of the service authorities in accordance with the Act on Civil Service for the year 2016.	MI (SSS), MF	II. Q 2015
Preparing selection procedures for the positions of heads of the service authorities and deputies for managing sections and ensure their appointment by 30.06. 2016.	MI (SSS), administrative authorities	IV. Q 2015
Prepare selection procedures for the positions of directors of departments and heads of units and ensure their realization by 30.06.2017.	MI (SSS), administrative authorities	II. Q 2016
Submitting to the Government the draft of service authorities systemization in accordance with the Service Act for the year 2017.	MI (SSS), MF	II. Q 2016
<i>Appointing heads of administrative bodies and deputies for managing a section.</i>	<i>administrative authorities</i>	<i>01.07.2016</i>
<i>Appointing directors of departments and heads of units</i>	<i>administrative authorities</i>	<i>01.07.2016 to 30.06.2017</i>

## ***II./2. Streamlining the system of free access to information***

Responsible party: Ministry of Interior

### Rationale:

Though the starting point for this priority area was the Government Anti-Corruption Strategy for the years 2013 and 2014 (task 1.3), the amendment to the Act No 106/1999 Coll., on Free Access to Information, as amended, is to be made thanks to the obligation to perform a transposition of the European Parliament and Council Directive No 2013/37/EU of 26 June 2013, amending the Directive 2003/98/ES on repeated use of public sector information. This Directive stipulates a minimum package of the rules for repeated use of documents kept by the public sector subjects, and at the same sets down the rules for facilitating access to such documents.

Current requests made in this area prove that as the key and strategic direction of transparency development in public administration the principle RE-USE, i.e. a repeated use of information and „open data“ has been perceived. In this conception the amended law should involve a specification of repeated use of information (RE-USE principle), the provider's obligation to accommodate the recipients of information technologically and organizationally (as usually applied abroad), or confirm the same importance of a form request and an information request, providing certain defined databases in a form of open data and setting powers of a supervisory body to formulate the data structures, data catalogue and arrangement of information disclosure through the open data and the related process.

Setting and application of such principles should result in further integration of the related data or removing multiplication. The principle of publication and availability should be leading, the aspect of affiliation or connection with factual subject agenda (public procurement, property treatment) should be secondary. The aim is to enable working with such data compoundly and in continuity, without necessity to combine incompatible data from various departmental systems.

Transposition performance of the Directive should support an increased efficiency of the public administration as to its openness towards citizens and strengthening transparency and ensure a quicker and more efficient access of the public to information.

### Manner of performance:

Czech Republic undertakes to take the following measures during implementation of this priority:

Amendment to the Act No 106/1999 Coll., on Free Access to Information, as amended. The submitted draft deals the following principal issues:

1. Introducing an obligation to publish information in an open form or machine readable form, if possible and suitable; published information and information provided on the basis of a request are in principle provided also along with the metadata related.
2. Libraries providing public librarian and informative services pursuant to the Library Act, museums and galleries providing standardized public services lose the right to refuse providing information which are subject to the copyright law, the rights connected with copyright law or databases, if the rights in question are held by these institutions.
3. Introduction of a demonstrative enumeration of ways to provide information, where except for standard ways of providing information, which will enable an efficient repeated use of information, such as data sharing through interface of information system or enabling remote access to information, which are subject to changes in the course of time.



The proposed modifications should encourage a more efficient publication of information from the public sector and their repeated use, namely in particular thanks to the obligation to publish information in open or machine readable formats, it possible and suitable, and to an explicit anchoring of some particular ways of providing information, which will result in a qualitative shift as regards the possibility for use of the obtained information.

Milestones:

Submission of the Draft Act to the Government	31.10.2014
Creating of methodical material on modifications of the Act on free access to information made by the amendment	30.06.2015
Coming into force of the amendment	01.07.2015

### ***II./3. Improving access to data and information***

Responsible party: Ministry of Interior

Rationale:

The aim of open data in public administration is to make available the data created and collected by the public administration to professional and general public in a manner that will enable repeated use of these data for various purposes and in a number of various software applications. The application has been created by the public (typically professional) itself, by which even a reduction of the costs of the public administration connected with data presentation to the public may be achieved.

Open data of public administration are commonly published in the world (for instance in Great Britain or U.S.). Public administration of the Czech Republic also publishes data, does not, however, meet a number of requirements for open data, such as open and machine readable form, completeness or clear specification of conditions for their use. Public administration publishes its data in many places. A number of interesting data is thus hard to be found by the public and their capacity remain unused.

Manner of performance:

Ministry of Interior has submitted a project request into the Challenge D9 of the Operational Programme Human Resources and Employment. In the framework of this project particularly the issue of creating methodology for publication of public administration open data will be dealt, putting into operation the catalogue of public administration open data in the framework of the Portal of Public Administration and, last but not least, providing the necessary methodological support for other relevant institutions for publication of their data.

Institute for Public Administration Prague also prepares a training course focused on publication and work with open data, training should be commenced by the end of 2014.

The catalogue of open data should not constitute a central data repository, but only a guidepost providing seeking services. The data will be placed on the servers of data administrators, who will be able to place links into the catalogue and will be responsible for correctness of the catalogue data. Public administration bodies will thus gain a possibility to create in the catalogue records on

their data describing the data and indicating their availability for downloading. The public will gain a possibility to seek in the catalogized records in a unified manner with the help of various criteria in a friendly user interface. The public (but even the public administration itself) will gain a survey of open data published by the public administration of the Czech Republic in one place.

Creation of rules for publishing information on data sets of open data is currently envisaged on the one hand within the catalogue of open data so that the subjects, publishing information in the form of open data, have at disposal an instructive methodology, and on the other hand a creation of legal environment for open licensing of using open data, which will in particular consist in involvement into the Act on Free Access to Information and preparing sample license agreements. This constitutes preparation of a solution that will ensure data openness, but at the same time must be convenient (non-discrimination, non-favouring, investment protection etc.) for all groups concerned (creators, commercial users, non-commercial users etc.) and refrain from any conflict with the Czech law (Act on Free Access to Information and Copyright Act), nor with EU regulations (Directive 2013, Directive INSPIRE etc.).

Open data of public administration must be:<sup>2</sup>

- a) complete – data are disclosed in a maximum possible extent,
- b) easily available – data are available and possible to find through common ICT tools and means,
- c) machine readable or published in other structured text format – the data are in a format structured in such a way that by means of a programme application the required (chosen) data may be obtained from the data,
- d) apply standards with freely available specification (open standard),
- e) made available under clearly defined conditions of data use (license) with a minimum of restrictions,
- f) available to users with expending a minimum possible costs for its obtaining.

Open data of public administration should be also:<sup>3</sup>

- a) primary (original) – data disclosed by the data provider in the form in which it has been created by the provider as a primary (original),
- b) published without undue delay,
- c) non-limiting the access – data available in a way not discriminating an individual or a group of persons,
- d) currently available – data are available on-line during the period indicated by their provider.

#### Milestones:

Commencement of the project	30.11.2014
Training course of the Institute for Public Administration – opening	31.12.2014
Creating a methodology for publication of open data of the public administration	31.03.2015
Putting into operation the catalogue of the public administration open data	30.06.2015

<sup>2</sup> Definition of attributes of public administration open data is available in the Conception of Cataloging open data of the Czech Republic public administration <http://www.korupce.cz/cz/protikorupcni-strategie-vlady/na-leta-2013-2014/2-2-1--otevrena-data-108979/>.

<sup>3</sup> Further information is available in Methodology of publishing open data of the Czech Republic public administration [http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/otevrena-data/Metodika\\_Publ\\_OpenData\\_verze\\_1\\_0.pdf](http://www.korupce.cz/assets/partnerstvi-pro-otevrene-vladnuti/otevrena-data/Metodika_Publ_OpenData_verze_1_0.pdf).



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Creating a legal milieu for open licensing of using open data	30.09.2015
Providing methodical support to the respective institutions for publication of their data	continuously

### III. Conclusion

Although the Czech Republic has not succeeded to perform any of the commitments accepted in the Action Plan in time, not even by the updated deadlines, the Government of the Czech Republic will continue in their performance, in order to realize them as soon as possible, as the performance of all three obligations is fully in compliance with the Policy Statement of the Government and The Government Anti-Corruption Strategy for the Years 2015 to 2017.

The Government of the Czech Republic will carry out the first self-assessment of the Action Plan performance in September 2015 and the second one in August 2016, submitting it to the OGP Steering Committee always immediately upon its approval.

### IV. List of the used abbreviations

CR	Czech Republic
EU	Evropean Union
ESI Funds	European Structural and Investment Funds
GRECO	Group of States against Corruption
ICT	Information and communication technology
IRM	Independent Reporting Mechanism
MF	Ministry of Finance
MLSA	Ministry of Labour and Social Affairs
MEYS	Ministry of Education, Youth and Sports
MI	Ministry of Interior
MFA	Ministry of Foreign Affairs
OECD	Organisation for Economic Co-operation and Development
OGP	Open Government Partnership
Q	Qarter
SSS	Section for State Service (at the Ministry of Interior)
OG	Office of the Government of the Czech Republic