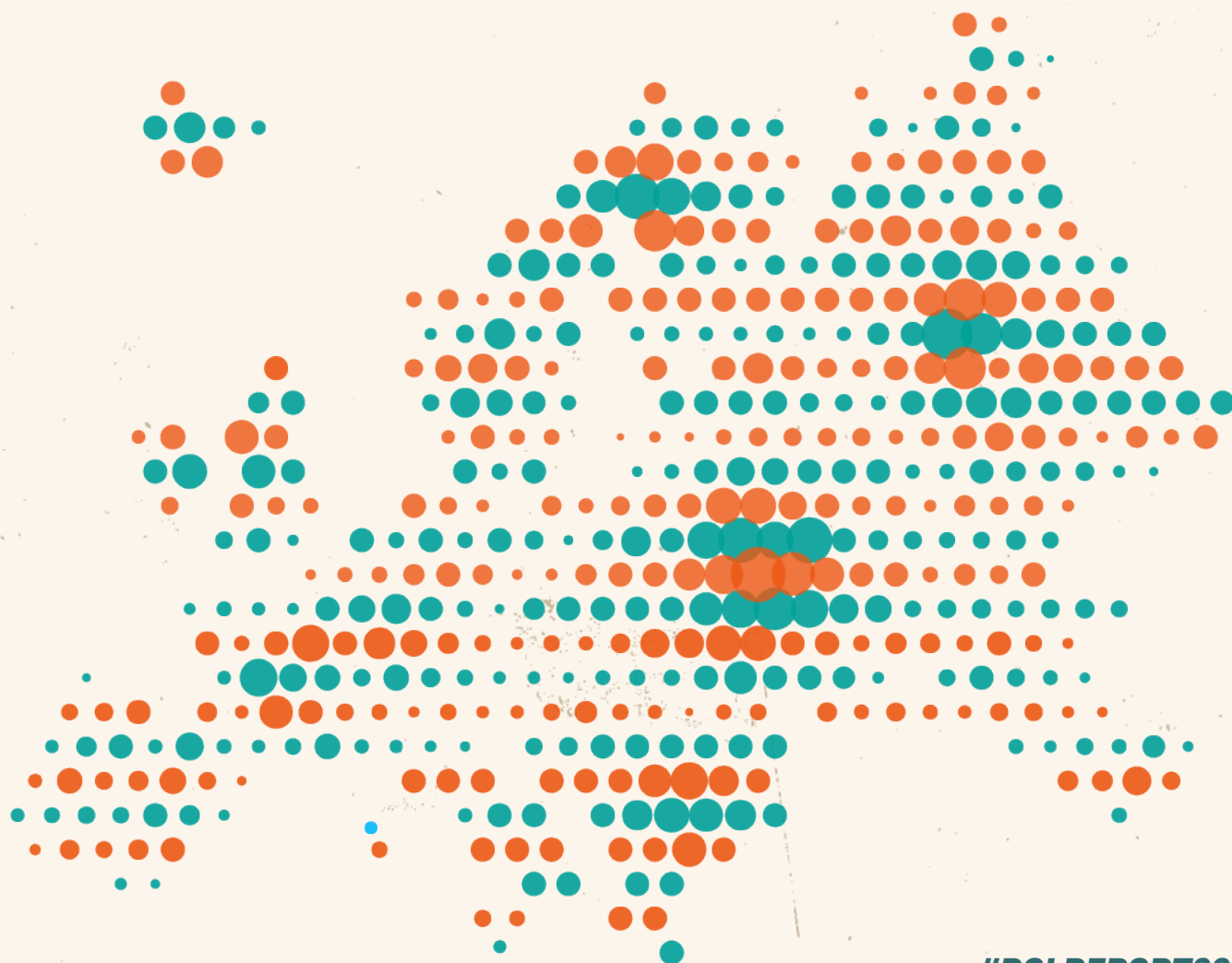


**LIBERTIES**

**RULE OF LAW REPORT**

**2023**

**CZECH REPUBLIC**



**#ROLREPORT2023**

## **FOREWORD**

This country report is part of the Liberties Rule of Law Report 2023, which is the fourth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2023 Report was drafted by Liberties and its member and partner organisations, it and covers the situation during 2022. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2023 Report includes 18 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Forty-five member and partner organisations across the EU contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2023 here](#)**

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# CZECH REPUBLIC

## About the authors



LIGA LIDSKÝCH PRÁV

**The League of Human Rights (LLP)** is a non-governmental non-profit human rights organization that monitors the state of respect for fundamental rights in the Czech Republic, and points out their violations. LLP has long advocated systemic changes in the area of violations of fundamental rights in the Czech Republic, through various instruments. At present, we focus on the protection of the rights of vulnerable people, including patients, mothers, people with psychosocial disabilities, children and involuntary sterilized women.



**Glopolis** is a hub that provides space and networking opportunities for civil society organisations, state administrations and businesses, so they can cooperate with each other on their advocacy activities. They created the networking tool NeoN (Network of Networks) which enables the coordination of 18 platforms, representing over 450 CSOs.

## Key concerns

There has been little progress in the situation of the justice system in the Czech Republic. The new appointment system for judges is impractical. Reforms to the Public Prosecutor's Office failed, and the amendment that is now being discussed does not contain the required guarantees of greater independence. On the positive side, the digitalization of the justice system has moved forward, but it must accelerate if the Czech Republic wants to keep the recovery funds of the European Commission.

There have been no improvements either in the fight against corruption. Due to contradictions with the European directive, the law on the Register of Beneficial Owners had to be redefined. President Zeman used legal services in a non-transparent manner. The conflicts of interests of the member of parliament Andrej Babiš still affect the public space. A new code of ethics for members of parliament was not adopted. An amendment to the Whistleblower Protection Act is being prepared.

Regarding checks and balances, the ombudsman Stanislav Křeček has been criticized for his unprofessional and prejudicial statements. Conflicts with his deputy resulted in her leaving office, and there is still no ombudsman for children. The National Human Rights Institution was not created and there has been no progress in this matter either, resulting in the failure to implement the recommendation

of the 2022 European Commission's Rule of Law Report.

The framework for civil society has seen a positive development with the adoption of a new strategy of cooperation between the public and civil sectors. However, the distribution of funds for the civil sector is not balanced. The Act on Registration of Beneficial Owners is not effective for some organizations.

### State of play

- Justice system
- Anti-corruption framework
- N/A Media environment and freedom of expression and of information
- Checks and balances
- ↑ Enabling framework for civil society
- Systemic human rights issues

### Legend (versus 2022)

- ↓ Regression
- No progress
- ↑ Progress

- Analyse the effectiveness of the new system for appointing judges
- Reform the Public Prosecutor's Office system to make it more independent

## Judicial independence

### Appointment and selection of judges, prosecutors and court presidents

In previous reports, LLP discussed the intended amendment to the Act on Public Prosecutor's Office. With the new government came a new proposal. Like the proposal of the previous Minister of Justice, the current minister's proposal has also been criticised. According to the project Reconstruction of the State (Rekonstrukce státu), it is even worse than the previous proposal. Compared to the original ambition - to increase the independence of the prosecutor's office - the risk is that the opposite effect will occur. The Prosecutor General will continue to be dependent on the government, with only a seven-year term. The most controversial point is the government's ability to dismiss the Prosecutor General at any time, which the proposed amendment still allows. The proposal thus goes against the criticism of the Council of the Government for the Coordination of the Fight Against Corruption and against the program statement of the government.<sup>1</sup>

## Justice system —

### Key recommendations

- Complete the tasks set out in the field of digitization of justice

1 See here: <https://www.rekonstrukcestatu.cz/archiv-novinek/ministr-spravedlnosti-blazek-chysta-vyssi-zavislost-statniho-zastupitelstvi-na-vlade>

A new legal regulation on the selection of judges is in effect. At the Convention of the Assembly of Delegates of the Judicial Union of the Czech Republic, the president of the České Budějovice Regional Court, Martina Flanderová, said that there are practical problems with the new selection of judges. As part of the selection procedure, applicants can, for example, register for several selection procedures at the same time and then choose which court they would prefer. Flanderová also mentioned that according to the new law, she, as president of the court, cannot be a member of the selection committee. The vice president of the Supreme Court, Petr Šuk, also agreed with her, saying that transparency won out over common sense. The president of the Judicial Union, Libor Vávra, also agreed. Judges believe that the method of selecting new judges should be changed to make it more efficient.<sup>2</sup>

At the end of October, when appointing new district court judges, President Zeman refused to appoint two candidates. Both are prosecutors. Addressing one, he said that he was involved in the well-known trial of former Defence Minister Vlasta Parkanová, and the other should be reprimanded by the Supreme Court. In reality, the case with the former minister was overseen by a different prosecutor

than the candidate who Zeman refused to appoint as a judge. This candidate supposedly rejected Zeman's initiative to investigate possible sabotage during his hospitalization last year. The Union of Public Prosecutors criticised the president's decision and said that such personally motivated and purposeful actions cannot be tolerated.<sup>3</sup> According to the case law of the Supreme Administrative Court, the president's decision not to appoint a given candidate must be properly justified. However, the president did not issue any written justification.<sup>4</sup>

Before the end of 2022, President Zeman proposed to appoint the former dean of the Faculty of Law of Masaryk University (Brno) Jan Svatoň as the new constitutional judge, to fill the now vacant seat of Kateřina Šimáčková who became a judge of the European Court of Human Rights. However, Zeman also made it known that he could appoint a new president of the Constitutional Court six months in advance before the end of his mandate (March 2023). The mandate of the current president of the Constitutional Court ends in the summer of 2023, when Zeman will no longer be president. The Constitution explicitly says only that the president appoints a member of the Constitutional Court as president. However, according to constitutional law experts,

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2 See here: <https://www.ceska-justice.cz/2022/10/vyber-novych-soudcu-slovo-transparentnost-zvitezilo-nad-zdravym-rozumem-mini-flanderova/>

3 See here: <https://www.ceskenoviny.cz/zpravy/zeman-jmenoval-necelou-padesatku-novych-soudcu-dva-jmenovat-odmitl/2274220>

4 See here: [https://www.irozhlas.cz/zpravy-domov/hrad-prezident-milos-zeman-jmenovani-soudcu-marek-bodlak\\_2210190500\\_vtk](https://www.irozhlas.cz/zpravy-domov/hrad-prezident-milos-zeman-jmenovani-soudcu-marek-bodlak_2210190500_vtk)

Zeman's intended course of action could be unconstitutional.<sup>5</sup>

The Minister of Justice did not appoint Aleš Novotný to the post of vice-president of the criminal division of the Regional Court in Brno, because he was repeatedly involved in causing damages to the state in the amount of more than 3.5 million CZK. The Judicial Union of the Czech Republic issued a press statement<sup>6</sup> against the decision of the Minister of Justice, and its President, Libor Vávra, called the minister's decision unacceptable and dangerous. He pointed out that, among other things, the decisions the minister was talking about were made by the entire senate, not by judge Novotný himself. Since the voting of judges in the senate is secret, the minister cannot know how judge Novotný voted.<sup>7</sup>

### **Remuneration for judges and prosecutors**

In January 2022, the salaries of politicians, judges and state prosecutors rose by 6%, but since February 2022, an amendment of the current government reduced the salaries to save up to 600 million CZK. This has been criticised by some, with reference to the need to protect the judges' material security to ensure their independence. In 2023, the salaries of these officials, in particular of constitutional judges, are to increase again. The Minister of

Justice and the President of the Judicial Union of the Czech Republic agree that the salaries of professional employees and administrative staff of the courts must also be valued, as they may have a salary lower by 10,000 CZK than similar positions in the state administration.<sup>8</sup>

### **Accountability of judges and prosecutors, including disciplinary regimes and bodies, ethical rules, judicial immunity and criminal liability of judges**

In 2022, the European Court of Human Rights (ECHR) dealt with the case of Grosam, who was working as an enforcement officer and at that time faced a disciplinary punishment. He subsequently appealed to the Constitutional Court, however was unsuccessful. According to Grosman, the Court did not deal with a number of arguments, did not respect the presumption of innocence and incorrectly assessed the situation. The ECHR found him to be right and declared that the criminal justice system comprised of judges, state representatives and bailiffs of the Czech Republic suffers from significant defects, such as a lack of impartiality and judicial independence. The ECHR also pointed out that there is no possibility to appeal the decision of the disciplinary board, or to use another remedy (the only option left is to turn to the Constitutional Court) and that the selection of judges is

5 See here: [https://www.irozhlas.cz/zpravy-domov/ustavni-soud-pavel-rychetsky\\_2301021304\\_nov](https://www.irozhlas.cz/zpravy-domov/ustavni-soud-pavel-rychetsky_2301021304_nov)

6 See here: <http://www.soudci.cz/zpravy-a-stanoviska/pohledy-a-nazory/4306-tiskove-prohlaseni-su-cr.html>

7 See here: [https://www.idnes.cz/zpravy/domaci/krajsky-soud-brno-ales-novotny-ministr-spravedlnosti-blazek\\_A220822\\_110852\\_domaci\\_hovo](https://www.idnes.cz/zpravy/domaci/krajsky-soud-brno-ales-novotny-ministr-spravedlnosti-blazek_A220822_110852_domaci_hovo)

8 See here: <https://advokatnidenik.cz/2022/07/28/ministr-spravedlnosti-se-shodl-se-soudci-platy-pristi-rok-po-rostou-dle-zakona/>



not transparent. The Ministry of Justice has already announced its preparation on possible remedies, but it still does not exist. The group of states against corruption (GRECO) has the same attitude. The case will currently be heard before the Grand Senate.<sup>9</sup>

The new president of the Supreme Administrative Court, Karel Šimka, also commented on the situation regarding the disciplinary board. He noted that the disciplinary panels are primarily trying to resolve the situation with the possibility of correcting a specific judge and using a salary reduction as a punishment, rather than dismissal from office. He also mentioned that subjective relationships and opinions tend to seep into disciplinary proceedings, which exacerbates the situation. In his commentary, he encouraged its members to maintain a high level of objectivity and professionalism. According to Šimka, the function of a judge is a privilege with great responsibility, therefore higher standards must be placed on judges. He also acknowledged that the members of the disciplinary board are not only judges, but also representatives of other professions such as lawyers and academics.<sup>10</sup>

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## Quality of justice

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### Digitalisation

Digitization of the judiciary was found to be slow by the European Commission last year, and it remains slow. From July 2022, district, regional and high courts are obliged to publish final judgements in a database. The details are to be determined by a decree of the Ministry of Justice, however this is still in the legislative process. Decisions should be pseudonymized, i.e. without names and other identifying marks, in adherence with the GDPR. However, the Ministry of Justice also wants to anonymize the identification data of companies and authorities. The scope of the database is limited, as it is not intended to publish non-jurisdictional and non-meritorious decisions. However, it is possible to access the database through a request for information under the Freedom of Information Act.<sup>11</sup>

The Ministry of Justice plans to draw 416.5 million CZK from the National Recovery Plan for projects related to the digitization of justice. By September, 88.2 million CZK had been used for audio recordings from court proceedings and their subsequent transcriptions into text. So far, no funds have gone to other projects (video conferences, the justice portal

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9 See here: <https://www.ceska-justice.cz/2022/11/pripad-grosam-v-cr-jde-jako-jediny-k-velkemu-senatu-eslp-znovu-projedna-cesky-system-karnych-rizeni-se-soudci-statnimi-zastupci-a-exekutory/>

10 See here: <https://www.ceska-justice.cz/2022/02/v-karnych-rizenich-prevazuji-prutahy-nekdy-ukazou-spatne-vztahy-u-soudu/>

11 See here: [https://www.irozhlas.cz/zpravy-domov/rozsudky-zverejnovani-spravedlnost-soudy\\_2208040500\\_cib](https://www.irozhlas.cz/zpravy-domov/rozsudky-zverejnovani-spravedlnost-soudy_2208040500_cib)



and strengthening the infrastructure for the digital workplace).<sup>12</sup> According to the National Audit Office, the digitization process is progressing slowly, and information systems are often incompatible and financially demanding. In addition, the electronic file service system is still missing.<sup>13</sup>

The process of digitization of justice consists of five projects with a total cost of 416.5 million CZK. These are: the justice portal, audio recordings of court proceedings and their text transcription, strengthening of the infrastructure for the digital workplace, digital transformation and video conferencing.<sup>14</sup> The National Audit Office's audit focused on three justice digitization projects funded by the Ministry of Justice in 2016-2021, none of which were operational by the end of the year. The Ministry claims that the problems and delays are of an objective nature. It refers to the technical and administrative complexity of the technical assignment of the information system and the

subsequent public tender. At the same time, if the Ministry does not manage to implement the projects by the end of 2023, there is a risk of an obligation to return almost 178 million CZK from European funds.<sup>15</sup>

There are also problems with digitization in the use of house arrests. The monitoring of convicts through electronic bracelets is unused after a failed test (due to the unreliable original supplier of the bracelets and the lengthy selection of a replacement), and the convicts continue to be checked by the probation and mediation service, which is challenging in all respects.<sup>16</sup>

President Zeman supported the creation of the so-called Digital and Information Agency, which has been discussed for some time.<sup>17,18</sup> This agency will be in charge of managing individual public administration registers. The goal is to simplify public administration services to people.<sup>19</sup> To support the digital

12 See here: <https://www.ceska-justice.cz/2022/11/na-digitalizaci-justice-vycerpala-spravedlnost-z-planu-obnovy-882-milionu-kc/>

13 See here: <https://www.ceska-justice.cz/2022/11/elektronizace-justice-pokrocila-jen-minimalne-zjistil-nku-chybi-spisova-sluzba/>

14 See here: <https://justice.cz/web/msp//digitalizace-justice-npo>

15 See here: <https://ct24.ceskatelevize.cz/domaci/3541749-digitalizace-justice-stala-podle-kontroloru-uz-stovky-milionu-soudy-jsou-ale-dal-plne>

16 See here: <https://ct24.ceskatelevize.cz/domaci/3541749-digitalizace-justice-stala-podle-kontroloru-uz-stovky-milionu-soudy-jsou-ale-dal-plne>

17 See here: <https://www.rekonstrukcestatu.cz/archiv-novinek/spolecne-digitalne-vznik-digitalni-a-informacni-agentury-je-velkou-prilezitosti-pro-digitalni-transformaci-ceska>

18 See here: [https://www.irozhlas.cz/zpravy-domov/digitalni-a-informacni-agentura-zeman-senat-ano-spd-bartos\\_2212231246\\_pj?\\_ga=2.135549233.1838246627.1672929219-844232784.1672239103](https://www.irozhlas.cz/zpravy-domov/digitalni-a-informacni-agentura-zeman-senat-ano-spd-bartos_2212231246_pj?_ga=2.135549233.1838246627.1672929219-844232784.1672239103)

19 See here: [https://www.irozhlas.cz/zpravy-domov/digitalni-a-informacni-agentura-zeman-senat-ano-spd-bartos\\_2212231246\\_pj?\\_ga=2.135549233.1838246627.1672929219-844232784.1672239103](https://www.irozhlas.cz/zpravy-domov/digitalni-a-informacni-agentura-zeman-senat-ano-spd-bartos_2212231246_pj?_ga=2.135549233.1838246627.1672929219-844232784.1672239103)

transformation of the state, a platform of non-profit organizations called Together Digitally (Společně Digitálně) was created, which develops joint advocacy activities to ensure a faster shift of the digital transformation in the right direction.<sup>20</sup>

## ***Fairness and efficiency of the justice system***

### ***Length of proceedings***

A long-standing problem is the length of court proceedings, especially in courts of higher instance. The most recent information available on average proceeding length is for 2021<sup>21</sup> (2022 assessment will be available in 2023). Due to the calculation mechanism where only decided cases are used, the data may not reliably show the reality (if the court is overloaded and the case is not decided in the calendar year, it may still show a reasonable length of management).

In 2022, delays in court proceedings were addressed again. One of those punished was the judge of the District Court in Třebíč, Jaroslav Krátký. He caused delays in 111 cases, while these were matters where the law stipulates a period of a few days to weeks (whereas in extreme cases the procedures were extended for up to a year). Jaroslav Krátký admitted to

the delays, but argued it was justified due to his poor health, which inhibited his ability to perform his work properly, and prevented him from working entirely in 2021. The poor state of health was proven, but only at a point when delays were already occurring on a regular basis (throughout 2020). The disciplinary board of the Supreme Administrative Court subsequently dismissed him from his position, which Krátký considered an inappropriate punishment.<sup>22</sup>

### ***Corruption of the judiciary***

Prosecutor Zdeněk Štěpánek indicted former Prague High Court judge Zdeněk Sovák and four other people on suspicion of corruption. The judge is accused of asking litigants for a significant sum of money in exchange for a judgment in their favour. In the case of the Metrostav company, it is estimated that the amount of money was around 50 million CZK. In addition, the judge is also being prosecuted for accepting a bribe in the amount of 100,000 CZK and for unauthorized handling of information from non-public information systems.<sup>23</sup>

20 See here: <https://spolecneadigitalne.cz/>

21 See here: [https://justice.cz/documents/12681/719244/Ceske\\_soudnictvi\\_2021.pdf/37d8da17-4fee-4001-a473-fdb840f78936](https://justice.cz/documents/12681/719244/Ceske_soudnictvi_2021.pdf/37d8da17-4fee-4001-a473-fdb840f78936)

22 <https://vysocina.rozhlas.cz/karny-senat-rozhodl-o-odvolani-soudce-jaroslava-kratkeho-z-trebice-kvuli-8662362>

23 See here: [https://www.irozhlas.cz/zpravy-domov/zdenek-sovak-soud-korupce-korupcni-kauza\\_2211241605\\_sto](https://www.irozhlas.cz/zpravy-domov/zdenek-sovak-soud-korupce-korupcni-kauza_2211241605_sto)

## Anti-corruption framework –

### Key recommendations

- Ensure more transparent management of public authorities
- Enact the Whistleblower Protection Act
- Ensure proper and effective investigation of corruption cases

### Framework to prevent corruption

#### **General transparency of public decision-making**

The Act on the Registration of Beneficial Owners had to undergo a fundamental amendment, because the European Commission found that the existing law was in conflict with the European Directive. The discrepancy was primarily in the definition of the real owner and the scope of exceptions to whom the law does not apply. The new regulation is effective from October 1, 2022. However, for many companies, the change can be a

significant burden, as they will spend a lot of time re-entering the mandatory data into the system. Newly, in addition to redefining the real owner, real owners are divided into final beneficiaries and persons with final influence.<sup>24</sup> The law thus affects a larger number of entities.<sup>25</sup>

Currently, the draft law on lobbying, which was prepared by the Ministry of Justice, is under review. As part of it, a lobbyist register is to be created, and MPs will have to report their meetings with lobbyists. The proposal moderately follows the proposal prepared by the previous government.<sup>26</sup>

As for transparency, the Prague Castle – the official office of the President of the Czech Republic – and President Zeman pay the law firm of Marko Nespala millions of crowns annually for legal services based on a more generally written contract from 2013. It is not clear when, how often and in what way the legal services are used. Contracts for specific cases for which the law firm provides legal services to the Office of the President of the Republic are concluded verbally, which is certainly not desirable for such an institution.<sup>27</sup>

The European Commission imposed a fine of 3.3 million euros on the Czech Republic for

24 See here: <https://advokatnidenik.cz/2022/09/30/novela-zakona-o-evidenci-skutecných-majitelů-je-ucinná-od-října-pozor-na-změny/>

25 See here: <https://www.dreport.cz/blog/co-prinasi-novela-zakona-o-evidenci-skutecných-majitelů/>

26 See here: <https://echo24.cz/a/JRd7z/zpravy-domaci-zakon-o-lobbingu-vliv-politika-lobbisticke-skupiny-registr-databaze-ministr-blazek-pirati-michalek>

27 See here: [https://www.irozhlás.cz/zpravy-domov/prazsky-hrad-milos-zeman-advokat-nespala-smlouva-pe-nize-zastupovani-kauzy-soud\\_2210250500\\_pik](https://www.irozhlás.cz/zpravy-domov/prazsky-hrad-milos-zeman-advokat-nespala-smlouva-pe-nize-zastupovani-kauzy-soud_2210250500_pik)

errors in agricultural subsidies. The fine is the result of an audit carried out by the Commission in 2019 relating to the conflicts of interests of MP and former Prime Minister Andrej Babiš (at the time of writing this report, a presidential candidate).<sup>28</sup> However, it was not just conflicts of interests for Babiš. The Commission also criticised the Czech Republic for the lack of innovation in the projects or the bias of the evaluators and the involvement of Agrofert's subsidiaries (whose final beneficiary is Andrej Babiš) in the projects of other companies that belong to the Agrofert group.<sup>29</sup>

### ***Measures in place to ensure whistleblower protection and encourage reporting of corruption***

The Whistleblower Protection Act has still not been adopted, as the previous government did not have time to deal with it during its term. The new government has prepared its own draft law, which is currently in its inter-departmental comment procedure phase.<sup>30</sup> The main differences are that employers will have to implement an internal reporting system, as well as a narrower definition of crimes and misdemeanours covered by the law. Reconstruction of the State (Rekonstrukce

státu), Transparency International and Oživení criticize the proposal, saying that it does not sufficiently protect whistleblowers and goes against the reduction of corruption.<sup>31</sup>

## ***Media environment and freedom of expression and of information*** N/A

### ***Pluralism and concentration***

Currently, the Czech Republic ranks 20th out of 180 evaluated countries in the ranking of Reporters Without Borders.<sup>32</sup> This is an improvement of 20 places compared to last year, but the Czech Republic continues to be criticised for the private ownership of the media in the hands of state representatives.

### ***Safety and protection of journalists and other media activists***

### ***Frequency of verbal and physical attacks***

28 See here: [https://www.irozhlas.cz/zpravy-domov/stret-zajmu-andrej-babis-zemedelske-dotace-audit-pokuta\\_2206131451\\_tec](https://www.irozhlas.cz/zpravy-domov/stret-zajmu-andrej-babis-zemedelske-dotace-audit-pokuta_2206131451_tec)

29 [https://www.irozhlas.cz/zpravy-domov/stat-zajmu-andrej-babis-zemedelske-dotace-zsif-pokuta-82-milionu\\_2207010500\\_tec](https://www.irozhlas.cz/zpravy-domov/stat-zajmu-andrej-babis-zemedelske-dotace-zsif-pokuta-82-milionu_2207010500_tec)

30 See here: <https://korupce.cz/ministerstvo-spravedlnosti-predklada-do-meziresortniho-pripominkoveho-rizeni-navrh-regulace-lobbovani/>

31 See here: <https://www.rekonstrukcestatu.cz/archiv-novinek/vlada-petra-fialy-ods-schvalila-navrh-zakona-o-ochrane-oznamovatelu-ktery-jde-naproti-korupci>

32 See here: <https://rsf.org/en/index>

In the past year, there were several incidents of verbal and physical attacks at anti-government demonstrations (demonstrators demanded an end to support for Ukraine, resignation of the government, more help for citizens to deal with the energy crisis, etc.).<sup>33</sup> One of the attacked journalists was Rachard Samek, an editor for Czech Television and a co-worker of ROMEA TV. Samek was racially insulted during a demonstration against Czech Television and the government. The case is being investigated by the police.<sup>34</sup>

## Checks and balances –

### Key recommendations

- To establish the National Human Rights Institution
- To establish the Office of Ombudsman for Children

- To amend the law on the public defender of rights to prevent that the ombudsman can arbitrarily remove the agenda from its own representative

### Independent authorities

Disputes between ombudsman Stanislav Křeček and his (now former) deputy Monika Šimůnková culminated in Křeček taking away the entire agenda from his deputy,<sup>35</sup> due to various differences of opinion, and her subsequent resignation.<sup>36</sup> Disputes were both professional and personal in nature. Šimůnková confirmed the same. Over time, Křeček did not allow her to exercise her mandate given by the Chamber of Deputies. Šimůnková is considering resolving the dispute through the courts.<sup>37</sup>

Křeček himself has been criticised for a long time for the way he performs the function of ombudsman and his professional opinions. In 2022, for example, the Senate criticised him

33 See here: <https://www.novinky.cz/clanek/krimi-tamhle-ten-parchant-cikanskej-napadl-demonstrant-reportera-ceske-televize-40414927> or here: <https://zpravy.aktualne.cz/domaci/fyzicky-utok-na-redaktora-aktualne-media-jsou-prostrednici-n/r-b01eaa0673711edb1f50cc47ab5f122/>

34 See here: <https://romea.cz/cz/domaci/policie-zacala-setrit-rasisticky-utok-na-novinare-richarda-samka-romea-cz-zna-identitu-agresora>

35 See here: [https://www.irozhlas.cz/zpravy-domov/ombudsman-spor-krecek-monika-simunkova-zastupkyne\\_2207221715\\_mst](https://www.irozhlas.cz/zpravy-domov/ombudsman-spor-krecek-monika-simunkova-zastupkyne_2207221715_mst)

36 See here: [https://www.irozhlas.cz/zpravy-domov/monika-simunkova-rezignace-ombudsman-krecek-verejny-ochrance-konflikt\\_2208171556\\_jip](https://www.irozhlas.cz/zpravy-domov/monika-simunkova-rezignace-ombudsman-krecek-verejny-ochrance-konflikt_2208171556_jip)

37 See here: <https://ct24.ceskatelevize.cz/domaci/3523517-krecek-neni-ombudsman-na-svem-miste-rika-simunkova-zvazuje-zalobu>

for statements against minorities. The Senate described the ombudsman's statements as prejudicial and xenophobic.<sup>38</sup> Křeček saw in the criticism an effort to limit the right to freedom of speech.<sup>39</sup> The ombudsman is also criticised by his own employees. One of his former employees drew attention to the fact that Křeček does not respect the applicable legal regulations, such as the anti-discrimination law, and distorts the conclusions of the Office's lawyers in cases where discrimination is suspected.<sup>40</sup> It was the victims of discrimination who, in connection with the departure of Monika Šimůnková, lost faith in the fact that the ombudsman, as a national body for equal treatment and protection against discrimination,<sup>41</sup> can help them in these matters.<sup>42</sup>

At the end of the year, a new representative of the public defender of rights, Vít Alexandr Schorm, was elected, who until then had worked as a government representative for the representation of the Czech Republic before

the European Court of Human Rights, the UN Human Rights Committee and other international control bodies in the field of human rights. The deputies voted for him over the candidates proposed by President Zeman.<sup>43</sup>

Last but not least, it is necessary to point out that the Czech Republic still does not have a national human rights institution. It was the new representative of the Public Defender of Rights who reminded the public before the end of the year why its establishment is important.<sup>44</sup>

The long-discussed establishment of a children's ombudsman failed to move forward. However, at the end of the year, the working group established by the Minister for Legislation, Michal Šalomoun, agreed that they would start working on its establishment.<sup>45</sup>

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38 See here: [https://www.irozhlas.cz/zpravy-domov/senat-ombudsman-krecek\\_2206241358\\_jca](https://www.irozhlas.cz/zpravy-domov/senat-ombudsman-krecek_2206241358_jca)

39 See here: <https://denikn.cz/minuta/907871/>

40 See here: [https://www.irozhlas.cz/zpravy-domov/urad-ombudsmana-verejny-ochrance-prav-stanislav-krecek\\_2207120500\\_ank](https://www.irozhlas.cz/zpravy-domov/urad-ombudsmana-verejny-ochrance-prav-stanislav-krecek_2207120500_ank)

41 See here: <https://www.ochrance.cz/pusobnost/rovne-zachazeni-a-diskriminace/>

42 See here: <https://www.novinky.cz/clanek/domaci-krecek-diskriminovany-nepomuze-boji-se-lidskopravni-organizace-40406219>

43 See here: [https://www.irozhlas.cz/zpravy-domov/novy-zastupce-ombudsmana-vit-alexander-schorm\\_2210261456\\_ara](https://www.irozhlas.cz/zpravy-domov/novy-zastupce-ombudsmana-vit-alexander-schorm_2210261456_ara)

44 See here: [https://www.ochrance.cz/aktualne/proc\\_v\\_cesku\\_potrebuje\\_narodni\\_lidskopravni\\_instituci/](https://www.ochrance.cz/aktualne/proc_v_cesku_potrebuje_narodni_lidskopravni_instituci/)

45 See here: [https://www.vlada.cz/cz/clenove-vlady/pri-uradu-vlady/michal\\_salomoun/aktualne/tz-pripravujeme-zakon-k-detskemu-ombudsmanovi-na-zakladnich-principech-se-shodla-pracovni-skupina-svolana-ministrem-michalem-salomounem-201217](https://www.vlada.cz/cz/clenove-vlady/pri-uradu-vlady/michal_salomoun/aktualne/tz-pripravujeme-zakon-k-detskemu-ombudsmanovi-na-zakladnich-principech-se-shodla-pracovni-skupina-svolana-ministrem-michalem-salomounem-201217)



## Enabling framework for civil society

### Key recommendations

- Modify the regulation on the registration of beneficial owners so that it is functional for the civil sector
- Provide more funding opportunities for civil society actors working on human rights issues, specifically the protection of vulnerable people

### Regulatory framework

#### **Registration of associations, including those with a cross-border nature**

As of October 1, 2022, the amendment to the Act on the Registration of Beneficial Owners is effective. It contains a new definition of “real owner” according to the European directive and limits some exemptions from the registration obligation (e.g. for churches, associations of unit owners, etc.).<sup>46</sup>

Regardless of this amendment, however, there is a problem with the registration of the real owners of NGOs, when, for example,

foundations can be the real owner of another legal entity. This is also the case with the Partnership Foundation (Nadace Partnerství), which was founded 30 years ago by the George Marshall Fund. The Partnership Foundation cannot register the beneficial owners because the founding members of the organization are prominent American public figures. The same problem exists with the People in Need (Člověk v Tísni) organization, where Czech Television is one of the owners. Similar founding entities may no longer exist in these organizations and/or have no rights, therefore, according to some experts, it cannot be said that these NGOs have real owners. However, the obligation to register these entities is based on the European AML Directive. Several other more technical issues are also connected with the registration of real owners.<sup>47</sup>

#### **Financing framework, including tax regulations**

In the summer, an expert group was established within the Committee for Legislation and Financing of the Government Council for Non-State Non-Profit Organizations (the Council). The creation of this group stems from the Strategy for Cooperation between Public Administration and NGOs for the period from 2021 to 2030. The task of this group will be to evaluate the possibilities of

<sup>46</sup> See here: <https://www.justice.cz/?clanek=novela-zakona-o-evidenci-skutecných-majitelů>

<sup>47</sup> See here: [https://www.vlada.cz/assets/ppov/rnno/legislativa-a-financovani/2008/Zapis\\_Vybor\\_pro\\_legislativu\\_financovani\\_06\\_09\\_2021.pdf](https://www.vlada.cz/assets/ppov/rnno/legislativa-a-financovani/2008/Zapis_Vybor_pro_legislativu_financovani_06_09_2021.pdf)



efficient and simple financing of public services and activities from the state budget.<sup>4849</sup>

In the middle of the year, the government approved the main areas of state subsidy policy towards non-state non-profit organizations to support public benefit activities for the year 2023. It is planned to provide the most funds for activities in the field of physical education and sports (almost 3 billion CZK). In second place will be activities in the area of social services (1.4 billion CZK). The least funds will be allocated to activities related to the fight against corruption (4.8 million CZK) and equal opportunities for women and men (7 million CZK).<sup>50</sup>

In Spring, the Working Group on Public Collections of the Committee on Legislation and Financing of the Government Council for Non-Profit Organizations adopted recommendations addressed to the Ministry of the Interior. The recommendation concerned public collections. The working group outlined two possible options for how the anchoring of public collections could be modified. Either the conditions under which public collections

are made could be changed (e.g. regulating only the collection of cash from persons who cannot be identified). Or the current law could be amended only slightly and the application practice, including the emphasis on education, could be standardised<sup>51</sup>

Non-governmental non-profit organizations have various tax advantages, however, there have been no significant changes in this regard.

### ***Rules on lobbying***

As mentioned above, the draft law on lobbying prepared by the Ministry of Justice is currently under review. One part focuses on the creation of a register in which MPs will have to report their meetings with lobbyists. The proposal moderately follows the proposal prepared by the previous government.<sup>52</sup>

There is a strategy for the cooperation of public administration with NGOs for the years 2021 to 2030.<sup>53</sup> It is a document that helps the involvement of the civil sector in the adoption of public policy measures and other activities. However, the true level of involvement remains

48 See here: [https://www.vlada.cz/assets/ppov/rnno/legislativa-a-financovani/2008/Zapis\\_VLF\\_09\\_20\\_2022.pdf](https://www.vlada.cz/assets/ppov/rnno/legislativa-a-financovani/2008/Zapis_VLF_09_20_2022.pdf)

49 See here: [https://www.vlada.cz/assets/ppov/rnno/ex\\_skup\\_fin/Zapis\\_Expertni\\_skupina\\_11\\_22\\_2022\\_FIN.pdf](https://www.vlada.cz/assets/ppov/rnno/ex_skup_fin/Zapis_Expertni_skupina_11_22_2022_FIN.pdf)

50 See here: <https://www.vlada.cz/cz/ppov/rnno/aktuality/hlavni-oblasti-statni-dotacni-politiky-vuci-nestatnim-neziskovym-organizacim-na-podporu-verejne-prospernych-cinnosti-pro-rok-2023-197441/>

51 See here: [https://www.vlada.cz/assets/ppov/rnno/pskvs/Doporuceni\\_pro\\_pracovni\\_skupinu\\_MV\\_01-03-2022\\_pro\\_VLF.pdf](https://www.vlada.cz/assets/ppov/rnno/pskvs/Doporuceni_pro_pracovni_skupinu_MV_01-03-2022_pro_VLF.pdf)

52 See here: <https://echo24.cz/a/JRd7z/zpravy-domaci-zakon-o-lobbingu-vliv-politika-lobbisticke-skupiny-registr-databaze-ministr-blazek-pirati-michalek>

53 See here: <https://www.vlada.cz/cz/ppov/rnno/dokumenty/strategie-spoluprace-verejne-spravy-s-nestatnimi-neziskovymi-organizacemi-na-leta-2021-az-2030-189753/>

to be seen, and will depend on the capacity and willingness of the individuals in relevant departments, committees, groups and other actors. The strategy was followed by research on the cooperation of the state administration with umbrella organizations and NGO networks<sup>54</sup> and a subsequent analysis.<sup>55</sup>

We also very much appreciate the opportunity to participate in the meetings of the committees of the Government Council for Human Rights, as they often result in important resolutions that get into the hands of relevant actors (typically ministers and the Prime Minister).<sup>56</sup> There are more government advisory bodies,<sup>57</sup> but our organization is only a member of the Committee for the Rights of the Child and the Committee against Torture and Inhumane Treatment.

The current government recognizes the importance of NGOs and their help, especially in connection with helping Ukrainian refugees. In 2022, a new government commissioner for human rights was elected, who fights very intensively for the effective promotion of positive changes in the field of fundamental rights protection and connects individual actors from

both the public administration and the civil sector.<sup>58</sup>

In addition to the aforementioned committees, there is also the Government Council for non-governmental non-profit organizations, which aims to help ensure a better environment for non-governmental non-profit organizations to carry out their activities.<sup>59</sup> This year, the number of council members increased by more than 30, and around half are composed of representatives from the civil society sector.<sup>60</sup>

## **Disregard of human rights obligations and other systemic issues affecting the rule of law framework** 🟡

### **Key recommendations**

- Handle compensation requests for victims of involuntary sterilizations efficiently and in accordance with the law

54 See here: <https://www.vlada.cz/cz/ppov/rnno/aktuality/vyzkum-spoluprace-statni-spravy-se-stresnimi-organizacemi-a-sitemi-nno-194786/>

55 See here: <https://www.vlada.cz/cz/ppov/rnno/aktuality/analiza-spoluprace-statni-spravy-se-stresnimi-organizacemi-a-sitemi-nestatnich-neziskovych-organizaci-198808/>

56 See here: <https://www.vlada.cz/cz/ppov/rnp/rnp-uvod-17537/>

57 See here: <https://www.vlada.cz/cz/pracovni-a-poradni-organy-vlady/#urad>

58 See here: <https://glopolis.org/konference-strategicka-partnerstvi/>

59 See here: <https://www.vlada.cz/cz/ppov/rnno/zakladni-informace-767/>

60 See here: <https://www.vlada.cz/cz/ppov/rnno/aktuality/vlada-jmenovala-cleny-rady-vlady-pro-nestatni-neziskove-organizace-198463/>

- Increase the protection of persons who are involuntarily in psychiatric hospitals
- Enable midwives to fully exercise their profession
- Take measures to ensure a truly inclusive education, including for those with special educational needs

-Less invasive alternatives for averting the immediate serious threat for which the person is hospitalized are not used or do not exist.

-There are patients who are formally hospitalized with their consent, but in fact were forced.<sup>62</sup>

-Involuntarily hospitalized patients are not sufficiently educated about their rights and status.

-Involuntarily hospitalized persons are often not effectively legally represented in detention proceedings, even though they have that right by law.

## ***Systemic human rights violations***

### ***Widespread human rights violations and/or persistent protection failures***

There are many issues in connection with the involuntary or forced hospitalization of persons in the Czech Republic.<sup>61</sup> Here are five important findings:

-Their autonomy of will and wishes are not reflected.

The topic of protection of involuntarily or forcibly hospitalized persons was brought up several times this year. Two round tables were organized for experts and people with personal experience.<sup>63</sup> Thanks to the Office of the Public Defender of Rights and the Academy of Justice, there was also a discussion about

- 61 DURAJOVÁ, Z. a KAŠTYL, M. *Analýza dostupnosti a účinnosti existujících nástrojů ochrany práv pacientů při nedobrovolné léčbě*. Reforma péče o duševní zdraví. s. 8 Dostupné zde: <https://www.reformapsychiatrie.cz/sites/default/files/2022-02/Anal%C3%BDza%20ochrany%20pr%C3%A1v%20p%C5%99i%20nedobrovoln%C3%A9%20l%C3%A9%C4%8Db%C4%9B.pdf>. Na související problémy poukazuje také advokát Vítězslav Dohnal, vizte zde: [https://denikn.cz/1007568/tisice-lidi-konci-na-psychiatrii-nedobrovolne-soudy-vetsin-ou-nezkoumají-jestli-opravnene/?ref=pop&rtm\\_source=web&rtm\\_medium=article&rtm\\_campaign=share\\_button&rtm\\_variant=copy\\_url&rtm\\_content=db157012-6ee4-4b43-ac77-89f105123b85](https://denikn.cz/1007568/tisice-lidi-konci-na-psychiatrii-nedobrovolne-soudy-vetsin-ou-nezkoumají-jestli-opravnene/?ref=pop&rtm_source=web&rtm_medium=article&rtm_campaign=share_button&rtm_variant=copy_url&rtm_content=db157012-6ee4-4b43-ac77-89f105123b85)
- 62 Zpráva pro vládu České republiky o návštěvě Evropského výboru pro zabránění mučení a nelidskému či ponižujícímu zacházení ze dne 4. 7. 2019, sp. zn. CPT/Inf (2019) 23, odst. 110. Dostupné zde: <https://rm.coe.int/168095aeb2>
- 63 See here: <https://advokatnidenik.cz/2022/07/29/u-kulateho-stolu-o-nedobrovolne-hospitalizaci-se-sesli-advokati-soudci-i-psychologove/>

what a court procedure accessible to people with disabilities should look like.<sup>64</sup> An informal group of lawyers has been formed, who are actively interested in and advocate for greater protection of involuntarily hospitalized persons in detention proceedings.

The public also learned from the media about non-consensual hospitalizations and the connected practices. The most striking was the story of a woman who was held in mechanical restraint for over 12 years in a psychiatric hospital. The inspection team of the Ministry of Health learned about her already in 2018, but did not report it to authorities for almost four years (it was an internal document). The ministry made the results of the investigation available only after a long-term effort by a human rights activist.<sup>65</sup> Additionally, an employee of the National Institute of Mental Health filed

a criminal complaint. Criminal proceedings are now underway.<sup>66</sup> Reports from individual investigations document systemic violations of patients hospitalized in psychiatric hospitals.<sup>67</sup>

In child psychiatric care, the accommodation conditions are completely unsatisfactory, reminiscent of a nightmare. Hospitals are understaffed and underfunded, and children are mistreated.<sup>68</sup> This was also confirmed by the public defender of rights in his investigation, who emphasized the deficiency in ensuring the exercise of children's participation rights.<sup>69</sup> Ukrainian minors are also at risk.

Despite the aforementioned shortcomings, the current Minister of Health, Vlastimil Válek, plans to abolish the entire department for the reform of mental health care and dismiss several dozen people who work for it.<sup>70</sup> This can

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64 See here: <https://advokatnidenik.cz/2022/10/27/odbornici-resili-jak-by-melo-vypadat-soudni-rizeni-pris-tupne-lidem-s-postizenim/>

65 See here: <https://neklid.net/hodnoceni-kvality-lidskych-prav-v-psihiatrickych-nemocnicich/>.

66 See p.38 here: [https://www.centrumlidskaprava.cz/sites/default/files/attachement/bulletin/Bulletin%20listopad\\_2022\\_0.pdf](https://www.centrumlidskaprava.cz/sites/default/files/attachement/bulletin/Bulletin%20listopad_2022_0.pdf)

67 See here: [https://www.irozhlas.cz/zpravy-domov/ministerstvo-zdravotnictvi-izolace-lidska-prava-kvalita-psihiatrie-opava\\_2209300500\\_ank](https://www.irozhlas.cz/zpravy-domov/ministerstvo-zdravotnictvi-izolace-lidska-prava-kvalita-psihiatrie-opava_2209300500_ank), [https://www.irozhlas.cz/zpravy-domov/opava-dobrany-psihiatrie-ministerstvo-zdravotnictvi-zpravy-lidska-prava\\_2210030500\\_ace](https://www.irozhlas.cz/zpravy-domov/opava-dobrany-psihiatrie-ministerstvo-zdravotnictvi-zpravy-lidska-prava_2210030500_ace), [https://www.irozhlas.cz/zpravy-domov/psihiatrie-opava-kurtovani-ministerstvo-zdravotnictvi-zpravy-zdravi\\_2209270500\\_vtk](https://www.irozhlas.cz/zpravy-domov/psihiatrie-opava-kurtovani-ministerstvo-zdravotnictvi-zpravy-zdravi_2209270500_vtk)

68 See here: [https://www.irozhlas.cz/zpravy-domov/louny-detska-psihiatrie-pribilova-nemocnice-deti-mrize-dorst-terapie\\_2212070500\\_ank](https://www.irozhlas.cz/zpravy-domov/louny-detska-psihiatrie-pribilova-nemocnice-deti-mrize-dorst-terapie_2212070500_ank)

69 See here: <https://eso.ochrance.cz/Nalezene/Edit/10968> and here: [https://www.ochrance.cz/aktualne/v\\_komunikaci\\_s\\_detskymi\\_pacienty\\_na\\_psihiatriich\\_je\\_co\\_zlepsovat\\_jejich\\_primerene\\_zapojeni\\_do\\_rozhodovani\\_zvladaji\\_jen\\_nektere\\_nemocnice/?fbclid=IwAR3LFyzZz0WUVdQFa7VcJDA8H0xeRr6ZKZb7t-tInvzYteb-XG5rYDPmFTrl](https://www.ochrance.cz/aktualne/v_komunikaci_s_detskymi_pacienty_na_psihiatriich_je_co_zlepsovat_jejich_primerene_zapojeni_do_rozhodovani_zvladaji_jen_nektere_nemocnice/?fbclid=IwAR3LFyzZz0WUVdQFa7VcJDA8H0xeRr6ZKZb7t-tInvzYteb-XG5rYDPmFTrl)

70 See here: [https://www.seznamzpravy.cz/clanek/domaci-politika-vlada-se-chysta-skrtnout-mista-590-uredniku-nejvic-u-stanjury-220362#dop\\_ab\\_variant=0&dop\\_source\\_zone\\_name=zpravy.szhnp](https://www.seznamzpravy.cz/clanek/domaci-politika-vlada-se-chysta-skrtnout-mista-590-uredniku-nejvic-u-stanjury-220362#dop_ab_variant=0&dop_source_zone_name=zpravy.szhnp).

seriously jeopardize the positive change of the psychiatric care system.

In childbirth, health services are often provided without free and informed consent (using pre-printed forms instead of partner dialogue) or without indication.<sup>71</sup> These are, for example, episiotomies, C-sections or separation of mothers from newborns. These interventions constitute obstetric violence. Current standards based on scientific evidence are lacking in the Czech Republic. The patient is thus perceived as an object, not a subject.

Midwives tend to be limited in the full performance of their work, for which they have a professional university education. In practice, they cannot perform physiological births without the supervision of a doctor.<sup>72</sup> Separate births outside the hospital with only midwives are still non-existent.

### ***Impunity and/or lack of accountability for human rights violations***

In last year's report on the state of the rule of law, we reported that a law on compensation

for victims of involuntary sterilization is effective in the Czech Republic from 1 January 2022. It responds to past bad practice where healthcare providers performed sterilization on a patient in violation of the law, most often without the patient's free and informed consent. They were often women of Roma origin. This problem was first pointed out by the then public defender of rights in his final opinion from 2005.<sup>73</sup> According to him, women from socially weaker families were pressured to undergo sterilization. They were even provided with a social benefit for undergoing sterilization. The Ombudsman called it the state's systematic anti-Roma policy.

The law grants victims a one-off sum of 300,000 CZK. The request for compensation is handled by the Ministry of Health. However, considering the assessment of the effectiveness of the new statutory provision, we have serious concerns about partial failures in its implementation on the part of the Ministry of Health. By the end of September 2022, 421 applications were submitted. Of those, 231 were processed and only 129 of the

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[box&source=hp&seq\\_no=3&utm\\_campaign=abtest207\\_zavirani\\_clanku\\_varB&utm\\_medium=z-boxiku&utm\\_source=www.seznam.cz](https://www.seznam.cz/box&source=hp&seq_no=3&utm_campaign=abtest207_zavirani_clanku_varB&utm_medium=z-boxiku&utm_source=www.seznam.cz)

71 See here: [https://www.upr-info.org/sites/default/files/country-document/2022-11/LeagueOfHumanRights\\_Statement\\_Presession42\\_Czechia.pdf](https://www.upr-info.org/sites/default/files/country-document/2022-11/LeagueOfHumanRights_Statement_Presession42_Czechia.pdf)

72 <https://lfp.cz/blog/ministerstvo-ulozilo-pokutu-porodni-asistentce-ona-ted-zada-odskodneni-za-nezakonny-postup/>

73 Final opinion of the public defender of rights in the matter of sterilizations carried out in violation of the law and proposals for remedial measures dated 23 December 2005, file no. stamp 3099/2004/VOP. Available here: <https://eso.ochrance.cz/Nalezene/Edit/2596>.

applications were successful.<sup>74</sup> Furthermore, there were no successful appeals.

There are several issues relating to the compensatory proceedings:<sup>75</sup>

- The Ministry does not comply with the deadline for issuing a decision (instead of 2 months, sometimes up to 10).

- The Ministry does not process applications in the order in which they arrive. Some women have to wait for a very long time.

- The law allows for the submission of evidence other than medical records, but we know of only one case where the Ministry accepted other evidence. It was a proof of social benefit for undergoing sterilization. The ministry does not accept family affidavits or police records, either. So far, undocumented victims have not been compensated, even though medical records were destroyed in violation of the law. Many hospitals have long been shredding medical

documentation related to childbirth and sterilization after 10 years, instead of 40. The compensatory law allows for compensation for illegal sterilizations since 1966, and the shredding period is 40 years from the end of hospitalization.

- The Ministry does not deal with asserted legal arguments, i.e. with ECHR jurisprudence, contested discrimination, lack of informed free consent, legal sterilization process or good morals. It also rejected an application where the reason for sterilization clearly indicated the Roma origin.

### ***Follow-up to recommendations of international and regional human rights monitoring bodies***

The Committee on the Rights of the Child, as an advisory body of the Government Council for Human Rights, discusses individual recommendations of the UN Committee on the Rights of the Child at its regular meetings, with representatives of ministries and civil society. The result will be a resolution of the

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74 The League of Human Rights has assisted several dozen women with filing claims for compensation and subsequent remedies. It has also written a guide for victims on how to apply for compensation, available here: <https://llp.cz/blog/jak-si-pozadat-o-odskodneni-za-nedobrovolnou-sterilizaci/>

75 We drew attention to some of the problems already in the middle of the year in an open letter to the Prime Minister and the Minister of Health, available here: <https://llp.cz/blog/otevreny-dopis-vyhodnoceni-efektivit-y-zakona-o-odskodneni-za-protipravni-sterilizace/>. Other points of concern were raised by the League of Human Rights as part of the universal UPR review this autumn: <https://www.upr-info.org/en/review/czechia>. The victims of illegal sterilization themselves point out shortcomings: [https://www.irozhlas.cz/zpravy-domov/psychiatrie-opava-kurtovani-ministerstvo-zdravotnictvi-zpravy-zdravi\\_2209270500\\_vtk](https://www.irozhlas.cz/zpravy-domov/psychiatrie-opava-kurtovani-ministerstvo-zdravotnictvi-zpravy-zdravi_2209270500_vtk).



Committee addressed to the government.<sup>76</sup> For example, the abolition of so-called infant institutions for children under three years of age (effective from January 2022), forms of substitute family care and an amendment to the Civil Code enshrining the explicit prohibition of physical punishments were addressed.

In November, the so-called pre-sessions No. 42 of the UN Universal Periodic Review took place with representatives from civil society. They pointed out the following problems:<sup>77</sup>

- The League of Human Rights pointed out the (in)efficiency of compensation proceedings for victims of illegal sterilizations and obstetric violence (see above).<sup>78</sup>
- The OPU pointed to the need for the protection of stateless persons, specifically statelessness determination and access to rights and arbitrary detention of stateless persons.<sup>79</sup>
- Amnesty International pointed out the need to establish a national human rights institute according to the Paris Principles,

the issue of violence against women and the fact that the Czech Republic has not yet adopted the Council of Europe Convention on preventing and combating violence against women and domestic violence. Last, but not least, it pointed out the shortcomings of legal protection and support of the rights and interests of LGBTQ+ people.<sup>80</sup>

### ***Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights***

The Office of the Government Plenipotentiary for the Representation of the Czech Republic before the ECHR and UN committees is an advisory body - i.e. The College of Experts for the Execution of ECHR Judgments, which meets regularly.<sup>81</sup> It is composed of representatives of public authorities and civil society. Interestingly, the current government representative Vít Alexander Schorm was elected this year as the representative of the public defender of rights Stanislav Křeček. The position of government representative has not

76 See here: <https://www.vlada.cz/cz/ppov/rlp/vybory/pro-prava-ditete/ze-zasedani-vyboru/zasedani-vyboru-dne-21--prosince-2021-193688/>

77 See here: <https://www.upr-info.org/en/review/czechia>

78 See here: [https://www.upr-info.org/sites/default/files/country-document/2022-11/LeagueOfHumanRights\\_Statement\\_Presession42\\_Czechia.pdf](https://www.upr-info.org/sites/default/files/country-document/2022-11/LeagueOfHumanRights_Statement_Presession42_Czechia.pdf)

79 See here: [https://www.upr-info.org/sites/default/files/country-document/2022-11/OPU\\_ENS\\_ISI\\_Statement\\_Presession42\\_Czechia.pdf](https://www.upr-info.org/sites/default/files/country-document/2022-11/OPU_ENS_ISI_Statement_Presession42_Czechia.pdf)

80 See here: [https://www.upr-info.org/sites/default/files/country-document/2022-11/AmnestyInternational\\_Statement\\_Presession42\\_Czechia.pdf](https://www.upr-info.org/sites/default/files/country-document/2022-11/AmnestyInternational_Statement_Presession42_Czechia.pdf)

81 See here: <https://justice.cz/web/msp/kolegium-expertu-pro-vykon-rozsudku-eslp>



yet been filled. This year, the ECHR ruled on more than a dozen complaints against the Czech Republic.<sup>82</sup> Below, for brevity, we will point out the implementations of only three selected decisions.

The decision of the European Committee for Social Rights in case No. 96/2013 - Approach against the Czech Republic concerns the physical punishment of children. The Government of the Czech Republic issued a report on this already at the end of 2021 through the Office of the Public Commissioner.<sup>83</sup> This year, the prohibition of physical punishments was explicitly enshrined in the Civil Code.<sup>84</sup>

The decision of the European Committee for Social Rights in Case No. 117/2015 - Transgender Europe and ILGA-Europe against the Czech Republic refers to sterilization as a condition for legal recognition of gender change, which is contrary to the European Social Charter and Article 8 of the Convention. The Government of the Czech Republic issued a report on this as well at the end of 2021 through the Office of the Public Commissioner.<sup>85</sup> The Czech Republic is one

of the last European countries with such conditions. The Czech Constitutional Court rejected the proposal to cancel this condition, but did not comment on the merits. A dialogue is currently underway at the Ministry of Justice with representatives of the Transparent association about the submission of a new legislative amendment.<sup>86</sup>

The verdict of the European Court of Human Rights in the case of *D.H. and others v. the Czech Republic* is an important decision regarding the discrimination of Roma pupils, which, despite the fact that the ECHR issued it in 2007, has not yet been fully implemented. Roma pupils are still often educated according to educational programs for pupils with mild mental disabilities and moved to special schools. So they continue to be segregated. An expert forum is established for implementation of the decision, which issues concrete recommendations for implementation. In September 2022, the Committee of Ministers issued a decision expressing concern that this systemic discrimination still persists. A strong problem is, among other things, the manner of diagnosing disabilities in Roma pupils. There

82 See here: [https://justice.cz/documents/12681/768738/Z%C3%A1pis\\_8.+zased%C3%A1n%C3%AD+Kolegia+expert%C5%AF.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c](https://justice.cz/documents/12681/768738/Z%C3%A1pis_8.+zased%C3%A1n%C3%AD+Kolegia+expert%C5%AF.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c)

83 See here: [https://justice.cz/documents/12681/1843046/Approach+proti+České+republice\\_implemen-tačn%C3%AD+zpráva.pdf/83d406a3-3ce9-4e39-95b6-b9e196a8660e](https://justice.cz/documents/12681/1843046/Approach+proti+České+republice_implemen-tačn%C3%AD+zpráva.pdf/83d406a3-3ce9-4e39-95b6-b9e196a8660e)

84 [https://justice.cz/documents/12681/768738/Zápis\\_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c](https://justice.cz/documents/12681/768738/Zápis_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c)

85 See here: [https://justice.cz/documents/12681/1843046/Transgender+Europe+a+ILGA-Europe+proti+České+republice\\_implemen-tačn%C3%AD+zpráva.pdf/e8ef7890-a266-4531-bd70-577195098c26](https://justice.cz/documents/12681/1843046/Transgender+Europe+a+ILGA-Europe+proti+České+republice_implemen-tačn%C3%AD+zpráva.pdf/e8ef7890-a266-4531-bd70-577195098c26)

86 See here: [https://justice.cz/documents/12681/768738/Zápis\\_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c](https://justice.cz/documents/12681/768738/Zápis_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c)

is also a need to distinguish between mild mental disabilities and social disadvantage, and to ensure appropriate personnel capacities for specific schools.<sup>87</sup>

### **Other systemic issues**

This year, the Ombudsman held two meetings with representatives of special schools, special pedagogic centres and non-profit organizations. They discussed the interim results of the investigation of the ombudsman's office, which looked into the impact of the amendment to the decree of the Ministry of Education on the education of children with special educational needs. He started the investigation, among other things, based on the initiative of non-profit organizations. The decree broadly denies children with combined disabilities access to certain support measures (e.g. teacher's assistant, special teaching and compensatory aids).<sup>88</sup> A round table was also organized on this topic.<sup>89</sup> In autumn, a proposal by the Ministry of

Education to amend the Education Act and the Act on Pedagogical Workers was also presented, thanks to which many children will once again lose access to the support measure of a teaching assistant. Non-profit organizations also drew attention to the risks of the amendment.<sup>90</sup> The amendment is now in the interdepartmental comment procedure.

Hospitals still violate a child's right to continuous contact with their legal representatives in connection with the child's hospitalization.<sup>91</sup> This problem was particularly pronounced at the beginning of the COVID-19 pandemic, but it persists to this day. It is possible to file a complaint against the hospital's procedure, but the complaint mechanism is not effective and does not protect patients and their loved ones who have come to harm.<sup>92</sup>

The Ombudsman dealt with a case where the father was not allowed so-called bonding after the birth of the child (caesarean section). The

87 See here: [https://justice.cz/documents/12681/768738/Zápis\\_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c](https://justice.cz/documents/12681/768738/Zápis_8.+zasedán%C3%AD+Kolegia+expertů.pdf/18641b0a-8d71-4c80-a911-fb004c76c14c)

88 [https://www.ochrance.cz/dokument/zpravy\\_pro\\_poslaneckou\\_snemovnu\\_2022/2022-ii-q.pdf](https://www.ochrance.cz/dokument/zpravy_pro_poslaneckou_snemovnu_2022/2022-ii-q.pdf)

89 See here: [http://www.spoluskola.cz/aktuality/odbornici-v-senatu-je-treba-predchazet-vyclenovani-deti-se-specialnimi-vzdelavacimi-potrebami-ze-skol?fbclid=IwAR1KImB5wMPWc8ZtBxrLU\\_Ei9chesh-axDegUgZh\\_1KUoxNl8iElwzAgbW8](http://www.spoluskola.cz/aktuality/odbornici-v-senatu-je-treba-predchazet-vyclenovani-deti-se-specialnimi-vzdelavacimi-potrebami-ze-skol?fbclid=IwAR1KImB5wMPWc8ZtBxrLU_Ei9chesh-axDegUgZh_1KUoxNl8iElwzAgbW8)

90 See comments of League of Human Rights here: <https://llp.cz/blog/vyjadreni-ligy-lidskych-prav-ke-zmene-koncepcce-tzv-asistenta-pedagoga/> or the Czech Professional Society for Inclusive Education (České odborné společnosti pro inkluzivní vzdělávání) here: <https://cosiv.cz/cs/2022/11/27/pripominky-k-navrhu-novely-skolskeho-zakona/>

91 See here: <https://ct24.ceska televize.cz/domaci/3533627-168-hodin-bezte-domu-tady-nepomuzete-pritomnost-rodicu-u-deti-v-nemocnici-nemusi-byt>

92 See also the Czech Professional Society for Inclusive Education here: [https://www.ochrance.cz/dokument/zpravy\\_pro\\_poslaneckou\\_snemovnu\\_2022/2022-i-q-sankce.pdf](https://www.ochrance.cz/dokument/zpravy_pro_poslaneckou_snemovnu_2022/2022-i-q-sankce.pdf) and here: [https://www.ochrance.cz/dokument/zpravy\\_pro\\_poslaneckou\\_snemovnu\\_2022/2022-ii-q-sankce.pdf](https://www.ochrance.cz/dokument/zpravy_pro_poslaneckou_snemovnu_2022/2022-ii-q-sankce.pdf)

baby was only briefly shown to him in the changing room in the hallway. The regional office did not deal with the father's complaints, neither properly nor timely. At the same time, the Ombudsman pointed out the importance and benefit of bonding of fathers, especially for caesarean births.<sup>93</sup>

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93 <https://eso.ochrance.cz/Nalezene/Edit/10602>

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## Contacts

### ***Liga lidských práv (LIGA)***

*Society for Civil Rights League of Human Rights*

The League of Human Rights (LIGA) is a Czech human rights non-governmental organisation that advances the rights and freedoms of all people of the Czech Republic.

In our work, we mainly focus on the rights of especially vulnerable persons or those facing social exclusion, such as children, people with disabilities, or victims of police violence.

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### ***The Civil Liberties Union for Europe***

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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