



**Implementation Assessment of the Czech Republic Action  
Plan „Open Government Partnership“ in 2012 and its  
Update**



## Implementation Assessment of the Czech Republic Action Plan “Open Government Partnership” and its Update

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### **I. Introduction**

By its Resolution No. 691 of 14 September 2011 the Government approved an accession of the Czech Republic to the international initiative Open Government Partnership (hereinafter also the “OGP”), in which 57 countries from the whole world are involved by 15 May 2013.<sup>1</sup>

By the same Resolution the Government authorized the Deputy Prime Minister and Chairwoman of the Government Committee for coordinating the fight against corruption to prepare an Action Plan to achieve open government and to meet the principles of the OGP (hereinafter only the “Action Plan”).

Drafting of the Action Plan was coordinated by the Department for Coordinating the Fight against Corruption of the Office of the Government of the Czech Republic (hereinafter only the “Department”), which prepared its final version in cooperation with both the central

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<sup>1</sup> <http://www.opengovpartnership.org/countries>, quoted on 15 May 2013.

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administrative authorities and the non-profit sector. The Department was also the main coordinator of the public debate that was held in January 2012. The propositions to the Action Plan were presented to the public with the aim to determine priorities of the presented propositions and to specify the most important issues on which the Action Plan will focus. On 16 January 2012 a public workshop took place, where the propositions were discussed. The workshop was attended by the representatives of the public administration, the academic sphere or the non-profit sector. Even the general public was informed of preparation of the Action Plan, namely through the national media and official website, on which an interactive discussion platform was opened.

**On the basis of the public debate three main areas were included into the Action Plan as a response to the challenge to increase efficiency of the state administration, to support engagement of the public in the decision-making process on the national level and to improve access to data, namely:**

- **adoption of an Act on Civil Servants to ensure depoliticisation, professionalisation and stabilisation of the public administration sector,**
- **streamlining the system allowing free access to information,**
- **improving access to data and information.**

The proposed obligations also reflected the priorities set out in the Government Anti-Corruption Strategy for the years 2011 and 2012. By their consecutive fulfillment the Czech Republic has strived to increase the transparency in the public administration processes significantly and to facilitate access to data and information handled by the public administration.

The Action Plan was approved by the Government Resolution No. 243 of 4 April 2012. Afterwards it was ceremonially presented on the occasion of the OGP Summit in Brazil on 17 April 2012.

In April 2013 the 12 months implementation period of the Action Plan was finished. This material brings information to what extent the Czech Republic has succeeded to meet the obligations set by the Action Plan.

The self-assessment report on the Action Plan implementation including its update will be sent to the OGP Steering Committee by 30 June 2013, after its approval by the Government.

## **II. Implementation assessment of the Czech Republic Action Plan in the year 2012**

### **II./1.1. Commitment – Adoption of an Act on Civil Servants, to ensure depoliticisation, professionalisation and stabilisation of the public administration**

*The Commitment was defined in the Action Plan as follows:*

Responsible party: Ministry of Interior, Ministry of Labor and Social Affairs (system solution of inner construction of wages, remuneration)

Rationale:

The starting point of this priority area was The Policy Statement of the Government (Chapter IV. Law, Justice, Public Administration, Bureaucracy and Corruption – Public Administration

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and eGovernment), which needs legislation, which would lead to depoliticisation, professionalisation and stabilisation of the public administration.

This priority was also set by the Strategy in Point 1.7.: “Increasing the efficiency of performance and stabilisation of public administration through the new Act on Civil Servants“, update of which has been approved by the Government Resolution No. 837 of 16 November 2011. This task is also included in the Plan of Legislative Tasks of the Government for 2012, which was approved by the Government Resolution No. 941 of 14 December 2011 (the Draft Act on Civil Servants was approved by the Government Resolution No. 647 of 31 August 2011, the draft theses of the Act on Civil Servants were approved by the Government Resolution No. 92 on 15 February 2012).

The need of an Act on Civil Servants is embedded in the Article 79 par. 2 of the Czech Constitution – „*The legal status of government employees in ministries and other administrative agencies shall be defined by law*“ and its existence is one of the accession obligation to the EU.

The aims of this legislation include: improved legal protection of public officials, more duties for public officials, increased liability for damages and breach of duty, increased permeability between state and local administration, stabilisation and professionalisation of the public administration, system measures leading to depoliticisation of the public administration, increased transparency of public administration and creation of a unified system of education for public officials.

The Ministry of Interior is the primary responsible body for the coordination of the performance of public administration.

### Manner of performance:

The Czech Republic undertakes to adopt the following measures as a part of its implementation of this priority:

- 1) to create a unified labour law based on private law principles;
- 2) to depoliticise public the administration, not institutionally, but by setting a maximum possible levels of legal protection for civil servants and by increasing legal protection for employees relative to the conditions laid down in the Labor Code;
- 3) to expand institutional (with the exception of the Czech National Bank and the Ministry of Foreign Affairs employees to be covered by a special Act on diplomatic services), which has not been yet adopted;
- 4) to define personal competence through a system to determine levels for civil servants and employees both in terms of their rights and obligations, their level of remuneration, compensation for additional duties and in terms of their level of legal protection, which will significantly reduce the number of members of the public administration with the status of civil servants;
- 5) to extend compensation, particularly of a non-financial nature;
- 6) to strengthen the state’s role in providing uniform training methods, testing the knowledge and skills of civil servants, coordinating the system and responding to the specific needs of individual public authorities arising from the nature of their missions.

### Milestones:

Preparation of the draft paragraph wording of the Act	February – May 2012
Departmental consultations	June 2012
Interdepartmental consultations	July – August 2012
Presentation at Government meeting	30 September 2012
Expected date of entering into force	1 January 2014

## II./1.2. Assessment of the commitment implementation

**The commitment has not been implemented by the fixed deadline, but it is being implemented.**

The deadline for preparation and elaboration of the draft paragraph wording of the new Act on Civil Servants was after adoption of the Government Strategy for the Fight against Corruption for the years 2011 and 2012 originally fixed for 31 December 2011. The deadline for the submission of the Draft Act on Civil Servants was subsequently newly fixed for 30 June 2012 (by the Government Resolution No. 865 of 23 October 2011) and within the updated Government Anti-Corruption Strategy for the years 2011 and 2012 of May 2012 it has been again put off to 30 September 2012.

With regard to the course of negotiations on the draft general principle, as well as the propositions of the new law, a Platform for preparation of the Act on Civil Servants has been created under the auspices of the Deputy Prime Minister and Chairwoman of the Government Committee for Coordinating the Fight against Corruption, in the frame of which an agreement on discussed aspects of the new legislation was to be reached and a political consensus found. The first meeting of the mentioned Platform was held on 11 April 2012 in the presence of the representatives of the relevant ministries, non-profit organizations, Office of the Public Defender of Rights and the representatives of political parties. The Platform has met five times up to now, for the last time on 22 April 2013. After discussion of all comments and its due completion the draft paragraph wording of the Act was submitted to an interdepartmental comment procedure, which was held from 23 August to 20 September 2012.

In view of a considerable number of comments and critical objections to the submitted draft, which were in some cases even aimed at the task itself, i.e. against the approved draft general principle of the law and the approved propositions hereto, the final settlement of the comment procedure has taken a longer time than expected. For the mentioned reason the Minister of Interior has asked to put off the deadline till 30 November 2012, which was approved by the Government Resolution No. 782 of 24 October 2012.

Instead of settlement of the presented comments the author of the draft Act has submitted a new draft paragraph wording of the Act along with the explanation that this new draft reflects a maximum of the presented comments, which were not at variance with the task. Due to the lasting contradictions concerning the concept of the draft Act on Civil Servants resulting from the interdepartmental comment procedure and due to connection of the chosen concept with the possibility to obtain resources from the structural funds in the program

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period of 2014-2020 the settlement of comments was, however, replaced by a material describing the course of preparation of the draft Act and the possibilities of next steps.

This material passed an interdepartmental comment procedure in the period from 15 November to 23 November 2012. However, the mentioned information was not submitted to the Government, as the Minister of Interior withdrew it from the interdepartmental comment procedure one day before its termination.

As it has not succeeded to fulfill the task from the preceding Government Strategy for the Fight against Corruption for the years 2011 and 2012, the submission of a draft legislative proposal dealing employment and training of the public administration officers and employees was approved by the Government as one of the tasks of the new Government Anti-Corruption Strategy for the years 2013 and 2014, with the deadline 28 February 2013, namely with the assignment adapted to the following task, reflecting the updated requirements placed on this Act: *to submit to the Government a draft legislative solution of the employment and training of officers and employees of the public administration, involving above all the following standards:*

- *unambiguous definition of a boundary between the positions controlled by the political parties and the apolitical bureaucratic positions, which will be occupied on the basis of an open competition,*
- *setting rules for depoliticisation, professionalisation and stabilisation of the public administration,*
- *setting a transparent and fair system of remuneration,*
- *ensuring a special protection of whistleblowers of unlawful conduct of employers,*
- *a system of obligatory training involving beside others the area of combating corruption.*

On 25 January 2013 another draft paragraph wording was submitted to the interdepartmental comment procedure, which was held until 22 February 2013. A great number of fundamental comments was raised to this draft again, which were diverging to a great extent even with the conception stipulated by the assignment (by the draft general principle and the propositions of law), and the settlement thus lasted during March and April 2013. In its consequence and upon request from the Minister of Interior a new delay of the deadline for submission of the material to the Government was accepted. The prolongation of the deadline till 31 March 2013 was approved by the Government Resolution No. 221 of 27 March 2013.

Upon settlement of the comments the draft Act was submitted to the Government with contradictions on 16 April 2013. On 16 May 2013 it was discussed by the Government Legislative Council provided the Ministry of Interior makes a final version and submits it for discussion to this advisory body of the Government. The revised material was negotiated again by the Government on 29 May 2013, the negotiation was, however, interrupted for the period of two weeks. On 4 June 2013 a joint negotiation of the coalition parties at the ministerial level in the presence of the Ministry of Interior took place, during which a consensus was reached on introduction of the institute of a state secretary and on some other changes in the draft. The revised draft Act on Civil Servants was approved by the Government Resolution No. 434 of 12 June 2013.

The draft Act regulates the position of civil servants [prerequisites for holding a position, open competition, commencement and termination of employment (including transfer to another position, exhaustive reasons for removal of a senior executive or the reasons for dismissal and the reasons for an immediate termination of employment)] and a system of their training. It also regulates the raised duties of a civil servant beyond the provisions of the Labor Act including the obligation to undergo an assessment at least one a year. The raised duties of a civil servant (including raised requirement for training) will be compensated through prolongation of a holiday entitlement to 6 weeks and introducing an additional payoff. The draft Act also stipulates the boundary between appointment of bureaucratic and political positions in the state administration and stipulates the basic rules for systemization of job positions of officials and for organization of a state administration office. Effectivity of the new Act is proposed for 1 January 2014.

## **II./2.1. Commitment – Streamlining the system allowing free access to information**

*The commitment was defined in the Action Plan as follows:*

Responsible party: Ministry of Interior, Ministry of Environment, Ministry of Justice

Rationale:

The base point for this priority area is the Strategy – its point 1.15 tasks the Interior Minister to present to the government a material which includes identification of problems related to free access to information, including draft legislative solutions. The Interior Minister’s task to prepare a draft Act, which will change Act No 106/1999 Coll., is also included in the Plan of Legislative Tasks of the Government for 2012.

At present time the Ministry of Interior is preparing the paragraph wording of the amendment to the Act No. 106/1999 Coll., on Free Access to Information (hereinafter only as „InfA“), in which the below mentioned legislative theses, approved by the Government, will be tangibly reflected.

Manner of performance:

The Czech Republic undertakes to adopt the following measures as a part of its implementation of these priorities:

- 1) to repeal the Act on the Right to Information on the Environment and to include this area in the Act on Free Access to Information;
- 2) to specify the range of mandatory disclosures by individual „types“ of obligated entities (amendment to Section 5 of InfA);
- 3) to introduce a so-called „information ban“ when decisions are being made on appeal and on complaints brought by the governing body of the obligated entity (by use of a similarly outlined mandate of the administrative court in the sense of Section 16, para. 4 of InfA);
- 4) to introduce an authorisation enabling the obligated entity, under specific conditions, to require that an applicant specify in more detail (or limit) the range of information requested (amendment to Section 14 of InfA);
- 5) to introduce a public interest test (amendment to Section 12 of InfA).

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- 6) to implement measures to prevent abuse of the law by applicants (rejection of clearly obstructive request, advance deposits against costs and the explicit combination and distribution of requests submitted by an individual applicant), on condition that a legislative solution can be found that will minimise the possibility of abuse of such measures on the part of the obligated entities;
- 7) simplified response to anonymous requests for information contained in documents provided elsewhere (without always having to issue a formal administrative decision rejecting the request for information);
- 8) to repeal the obligation to publish information provided (Section 5, para. 3 of InfA);
- 9) to specify clearly the methods by which information is provided, including the methods of its publication (Section 4 of InfA);
- 10) to redefine the term “disclosed information” so that it relates only to information disclosed in a way allowing a remote access (Section 3, para. 5 of the Act on Free Access to Information).
- 11) to amend the provision of information concerning criminal proceedings by amending the Criminal Code so that this regulation meets the conditions for special treatment within the meaning of Section 2 para. 3 of the Act No 106/1999 Coll., on Free Access to Information (information would be provided fully within the Criminal Code without application of InfA).
- 12) to amend the provision of information on pay and remuneration of employees of obligated entities to reflect the spirit of the joint recommendations of the Ministry of Interior and the Office for Personal Data Protection on the provision of information on public sector salaries (through an amendment to Section 8b of InfA);
- 13) to amend the provision of information on the activities of the Armed Forces and the Military Police (amendment to Section 11, para. 4);
- 14) to fully apply the Administrative Procedure Code, setting out justified exceptions and deviations (Section 20, para. 4 of InfA), or establishing an exhaustive definition of these provisions of the Administrative Procedure Code, which will be applied to procedures falling under Act No. 106/1999 Coll., on Free Access to Information (with the proviso that the chosen solution may not lead to a substantial increase in the administrative load placed on applicants);
- 15) to amend Section 11, para. 1, letter a) of InfA, to complete Section 14 para. 5, letter c) of InfA with an obligatory reference from the requesting subject to the “responsible” obligated entity, to apply a reservation to Section 7 para. 2 of the Convention (or possible abolition of the compensation for an extraordinary lengthy information search as of Section 17 para. 1 of InfA) and amendments to the Act on the Right to Information on Environment (if not abolished in the meantime).

### Milestones:

Preparation of the draft paragraph wording of the Act and its publishing on the website <a href="http://www.mvcr.cz/odk">www.mvcr.cz/odk</a>	30 April 2012
Interdepartmental consultations	30 June 2012



Presentation at Government meeting	31 October 2012
Expected date of entering into force of the Amendment to the Act on a Free Access to Information	1 January 2014

## II./2.2. Assessment of the commitment implementation

**The commitment was not implemented by the fixed deadline, but it is being implemented.**

For the purpose of fulfilling this task the Ministry of Interior as a responsible authority has established a consultative working group composed of the representatives of some administrative bodies and the representatives of the non-profit sector. The task of this working group is to identify the existing problems in application of the existing act and to review the possibilities of their removal.

On the basis of the background documents prepared by the working group the Ministry of Interior has prepared an “Analysis of Effectivity of the Act on Free Access to Information”, which was taken into account by the Government Resolution No. 3 of 4 January 2012. At the same the Government has approved “Summary of the legislative changes, the performance of which has been proposed in order to strengthen the the effeciency of the Act on Free Access to Information and to eliminate the imperfections in its application” and authorized the Minister of Interior to prepare and submit to the Government by 31 October 2012 a draft legislative amendments in accordance with the options recommended in the summary in question. There was assigned an implementation of fifteen above mentioned legislative modifications and amendments, which did not, however, followed from the mentioned “Analysis” more, but proposed a set of modifications which would as a whole, in opinion of some experts on the issue of free access to information, lead to a deteriorated access to information (e.g. restricted access to information on a criminal proceeding, on salaries and remunerations from public budgets, on military forces and corps activities, or a wide possibility to refuse a request due to its obstructive nature, implementation of a complicated system of costs reimbursement and advance payments, abolition of some active information duties, procedural complications of the whole access to information).

Draft Act on a Free Access to Information was prepared and passed the interdepartmental comment procedure during 27 September to 26 October 2012. In view to a number of comments of conceptional nature it was not possible to settle them properly to submit the draft to the Government by the fixed deadline. In great part of the comments many ministries, state authorities and self-government entities submitted proposals requesting a considerable restriction of the existing level of the access to information. Ministry of Finance, for instance, demanded not to provide information which could serve to business activities, Ministry of Health demanded to exclude providing information on salaries and remunerations, Ministry of Finance demanded to exclude providing information relating to administration of taxes, namely forgiving a tax and its components, the Southmoravian Region required prolongation of some time limits for a request settlement, in fact all regions required to exclude the self-government authorities from performance of the information order in the area of self-governing scope of authority. The summary of comments proved an extensive opposition of the authorities participating in the comment procedure to the access to information. For this

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reason the Ministry of Interior asked for a prolongation of the deadline till 31 January 2013. In the meantime the Ministry of Interior was considering and discussing the principle comments with the competent central administrative authorities.

Since the task was not fulfilled by the fixed deadline, it has been involved among the tasks of the new Government Anti-Corruption Strategy for the years period 2013 and 2014, namely as the task 1.3., indicating the deadline for submission to the Government by 31 March 2013, but in an already revised wording in accordance with the new assignment of the Government. The Minister of Interior has been thus assigned *to prepare an amendment to the Act, which should involve especially:*

- *draft solution of an efficient mechanism to prevent obstructions from the side of the obliged entities (e.g. information order, or another sanctional mechanism, if need be);*
- *a more instructive formulation for providing information in cases of a conflict of two fundamental rights, following from judicial practice of the administrative courts, e.g. about salaries and remunerations of the public administration officers and employees, on an offence proceeding;*
- *improving the repeated use of information and use of open data, reformulation of obligatory disclosure of information.*

In connection with the newly assigned task the Draft Act on Free Access to Information was revised at the turn of January/February 2013 or rather adjusted to the new assignment. This revised version was submitted to the bodies involved in the comment procedure for opinion and possible new comments or an adjustment of the comments already made.

The draft act (amendment to the Act on Free Access to Information) was submitted to the Government on 16 April 2013, providing the following fundamental measures:

- incorporating the right to access to information on environment in accordance with the special Act No. 123/1998 Coll., On the Right to Information on the Environment, into the general Act on Free Access to Information,
- introducing the so-called information order, namely a possibility for a supervisory body to order the obligated entity a direct provision of information, if there is no legal reason for its refusal (this should avoid a procedural “ping-pong” consisting in repeated groundless refusing the requests for information),
- introducing the so-called test of public interest: in case of a refused request for information it will be necessary to consider not only the fact whether there already exists an explicit legal ground for its non-providing (*formal condition*) and newly the fact whether in a particular case it is desirable to breach the legal protection in public interest (*material condition*),
- obligatory publication of internal rules regulating activities of the obligated entities outwards,
- removing some technical imperfections of the legislation and maintaining the existing (minimum) application of the administrative procedure relating to settlement of requests for information,

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- specification of some reasons for refusing information: e.g. information on criminal proceeding, protection of bank secrecy and protection (international) of arbitrary proceedings,
- legal regulation on providing information on salaries and remunerations of employees of the obligated entities (considering the current judicial decisions of the Supreme Administrative Court).

The part of Act No. 123/1998 Coll., On the Right Free to Information on the Environment, which regulates providing information upon request, will be abolished. Thus the existing procedural dichotomy, when a claimant receives general information pursuant to the InfA and information on the environment pursuant to the Act No. 123/1998 Coll. Alongside some rather technical modifications relating to the area of providing spatial data (Section 11a and others of the Act No. 123/1998 Coll.). These changes were initiated by the requirement of the European Commission applied in the frame of the so-called pilot project of the European Union.

The draft has been in some regards submitted in some options indicated in the text of the amendment, namely:

- in case of the information order the respective option proposes its non-application for information relating to the independent competence of the self-governing communities, with regard to comments of the regions,
- in case of information on salaries and remunerations an option has been even proposed which does not involve a provision on access to information on salaries and remunerations,
- in connection with the obligation to publish the list of litigations against administrative decisions issued by the obligated entity, which was subject to an amendment of the acts on self governing entities, taking into consideration the task No. 1.1 of the preceding Government Anti-Corruption Strategy for the years 2011 and 2012, while upon a recommendation of the Government Legislative Council this part was removed in order to involve it into the amendment of the Act on Free Access to Information. Apart from the introduction of this legislation there is another option – the so-called zero option.

The Draft Act was submitted to the Government for discussion on 16 April 2013. The discussion in the Government Legislative Council was interrupted on 16 May 2013 provided the draft will be finished by the Ministry of Interior and submitted for a new discussion to this government advisory body.

### II./3.1. Improving access to data and information

*The commitment was defined in the Action Plan as follows:*

Responsible party: Ministry of Interior, Ministry of Finance, Ministry of Justice, Ministry for Local Development, Ministry of Transport and the Czech Statistical Office

Rationale:

To actively provide public access to information and data, which the public administration bodies have at their disposal, becomes a standard of communication between public administration and the citizens. All over the world there is an increasing number of governments, which automatically publish data without evaluating whether these are beneficial for the citizens. Experience from such countries (USA, UK, Slovakia, Kenya etc.) confirm that the available data encourage the activity of companies, NGOs or individual citizens who create application and innovative services for others.

The concrete examples are:

- Benefits for the public administration
  - resource savings – the public administration gains an overview where the data are created or gathered and creates a strategy for the creation of important information systems,
  - more efficient work with data – systemisation of the data gathering and publishing, it is easier to uncover sources of duplicate data,
  - data will be a comprehensive source for analyses and subsequent qualified decisions.
- Benefits for the public and commercial and academic spheres
  - background data for free commercial, scientific and research activity,
  - more efficient supervision of the public administration’s functioning,
  - support of the data journalism phenomenon, which is able to interpret the data and thus make them accessible to the citizens,
  - background data for creation of software application.

The aim of the Action Plan is to transform the below listed public administration data files to an open data standard and create a base for their application by citizens and the state administration.

Description of the current state: Most of the data needed is currently provided by the public administration through websites, or can be requested on the basis of the Act on Free Access to Information. However, this method of publication, which does not meet the definition of open data, means that its further use is time consuming and technically demanding, sometimes even impossible.

A number of important data files will be transferred to systems that comply with open data standards, to ensure that anyone can freely incorporate this data in their work and publish it, particularly through automated computer processing.

Open data or the manner of their publishing must fulfill the following conditions:

- technical openness, i.e. their publishing in a standard machine-readable format,
- legal openness, i.e. data published under an open license,

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- availability and originality, i.e. individual data storages are published as a whole and unchanged (e.g. not statistics, but data, based on which the statistics can be calculated – with the exception of data where this is prohibited by the law),
- well arranged, i.e. the cataloguing of data sets in a data catalogue to facilitate searching.

Outcomes, standards and processes resulting out of this plan must be set in such way, that in the long-term could be published any public data [of course with the exception of those whose publication is prohibited by law, e.g. strategic data on the distribution or personal information of individuals as defined in Act No. 101/2000 Coll. on Protection of Personal Data].

### Manner of performance:

Improved access to data and information will be achieved over four consecutive stages:

#### **1. Identification and removal of obstacles**

##### **a. Legal openness, i.e. publication of data under an open licence**

The majority of data files produced by the public administration don't have a specified license or generally any conditions of use, i.e. not even those given by the Copyright Act (i.e. it isn't clear whether the work is fully protected or free, whether there are any restrictions concerning its further use etc.). Currently there is no license used in the Czech Republic, which would be suitable for open data.

The translation of a suitable license and its harmonization with the Czech law would probably require changes in legislation. Therefore there will be taken the following two steps within the Action Plan:

- Open data made available within the execution of the Action Plan will be subject to the valid Czech Copyright Law, within the „most open“ license Creative Commons; this condition will be included in the methodological instruction or notice on the publication of the public administration data.
- At the same time a license tested abroad will be selected and a legal analysis of its harmonization with Czech law will be prepared. According to the analysis by the Faculty of Law of the Masaryk University in Brno the most suitable license is PDDL (Public Domain Dedication and License), which is de facto a combination of the Creative Commons Zero license and a deed of gift. The license is already usable, within this activity it will be necessary to translate the license and fully harmonize it with the Czech law.

##### **b. Technical openness, i.e. the publication of data in a standard machine-readable format**

To remain open, the data must be machine readable and structured. That is often not the case (a number of documents is in the format of the scanned PDF files). The access to data is in some cases limited e.g. by the number of accesses from one IP address.

Therefore it is necessary to set standards of data publishing for all public administration bodies and further change the restrictions of the number of database accesses from one IP address (the new legislation should include, after the agreement between data managers and users, both the machine access and a reasonable load on the provider side – „fair use concept“).

It will also be necessary for individual data managers to identify their possibilities in demands for publishing machine-readable data.

## 2. Creation of an open data infrastructure in the Czech Republic and the establishment of rules for the public procurement sector

The data infrastructure is a uniform structure of databases, which will enable to combine and share the data. A good data infrastructure will lead to linked data. For the purposes of the Action Plan the execution is proposed *only in the area of public procurement*, because in the current projects of academic institutions and NGOs there has been done most of the work in this area. This point is not relevant to other data sources.

The first step should be the upholding of the current law. The Act on Public Administration Information Systems stipulates that the data producers should create and use an integrated system of data elements. Data elements are not always used consistently and in such cases the databases are hard to use by any other subject apart from the author.

It will be necessary to stress the recommendation to use an integrated system of data elements and set enforceable penalties for not using it.

Experience from the public procurement data can be used for eventual application on other data.

## 3. Opening up the most important sources of data

In the first phase the following sources will be opened:

Database/dataset	Data manager
The Commercial Register	Ministry of Justice
The Insolvency Register	Ministry of Justice
Public tenders information system	Ministry for Local Development
Election results	Czech Statistical Office
Register of Active Legislative Tasks – RALP (departmental tools supporting transparency of the state administration and participation of the public)	Ministry of Transport
Financial statistics – government debt	Ministry of Finance
Financial statistics – government financial statistics	Ministry of Finance
ÚFIS – accounting records and financial data from CSÚIS <sup>2</sup>	Ministry of Finance
Online access to data regarding the funding of political parties	Ministry of Interior
Central register of grants	Ministry of Finance

<sup>2</sup> Central System of State Accounting Information

#### 4. Creation of a catalogue of the public administration data

Open data are meaningful if they are accessible and traceable. This is usually ensured by a catalogue (not central data storage but a link directory providing search services). The data will be located on the servers of the data managers, who will only place links into the catalogue and will be responsible for the accuracy of the information in the catalogue.

An adequate research will be performed in order to select a suitable software package to create and manage this system; it is also possible to find inspiration abroad where several governments and international institutions (UK government, UN, World Bank etc.) have chosen the open-source product CKAN to address their needs. It will also be taken into account the fact that in the public service already exist or are created metadata systems.

Currently most of the listed areas are already being worked on by representatives of the academic sector, namely from the Faculty of Informatics and Statistics of the University of Economics in Prague (FIS UE) and Faculty of Mathematics and Physics of the Charles University (FMP CU), associated under the initiative [opendata.cz](http://opendata.cz). The FIS UE team focuses on the definition of technological processes for the publishing and linking of public data, methodology of work and roles of individual participants of open public administration in the Czech Republic and abroad, the FMP CU team focuses on software tools for work with open data and creation of technological standards for individual areas of the open data infrastructure (in the first phase the area of public tenders). All these already existing activities will be included in the official creation process of the open data infrastructure in the Czech Republic.

##### Milestones:

1. Identification and removal of obstacles	30 September 2012
2. Creation of the open data infrastructure and their rules in the area of public tenders	31 December 2012
3. Opening of the most important data sources	31 December 2012
4. Creation of the public administration data catalogue, continuous filling and cleansing	31 March 2013

#### II./3.2. Assessment of the Commitment Implementation

**The commitment has not been implemented by the fixed deadline, but it is being implemented.**

The whole process of access to data and information was to pass in four subsequent steps. First of all the Czech Republic undertook to identify and remove obstacles for providing open data, i.e. to determine an open licence, under which the data will be published, and also to define technical standards for publication of open data. A detailed infrastructure of open data in the field of public procurement was intended to be an individual point. None of these steps has been accomplished by the fixed deadline.

As regards the individual commitment to open ten most important data resources, the following can be noted:

### **Commercial Register (Ministry of Justice)**

Ministry of Justice has not opened the *Commercial Register* for a machine processing so far. As explained in an information on the state and manner of fulfillment the mentioned obligation, at present it is not clear, how this activity will be coordinated. In case the Ministry of Justice proceeds to open data and this way, especially licence conditions and the data structure are in contradiction to the later requirements defined by the Deputy Prime Minister, it will be necessary for the Ministry to make other modifications and spend thus additional financial resources uselessly.

### **Insolvency Register (Ministry of Justice)**

For the above mentioned reason the Ministry of Justice has not yet opened also the *Insolvency Register* for a machine processing. However, the Ministry of Justice has been providing data from Insolvency Register also through a data service, i.e. in a machine readable form since 2010. The structure of the provided data was discussed especially with the representatives of the top clients (bank associations, financial authorities and others). Also in this case the above information is applicable, i.e. that the change in the way of providing data from the database of the Insolvency Register will be made after solving the issue of providing the licence and structure of data to provided information.

Ministry of Justice has also informed that after publication of obligatory rules from the side of the coordinator of the action, especially after settlement of the licence policy and data structure, the activities connected with opening the data of the Commercial Register and Insolvency Register for machine processing could be completed.

Ministry has also brought into focus an equally important area, namely the protection of personal data, contained in the mentioned registers. Along with providing data in a machine readable form the risk of its abuse is increasing. The ministry is therefore awaiting a due opinion from the Office for Protection of Personal Data. This opinion should be taken into consideration in the approved licence policy for providing the machine readable data from the public administration.

In March 2013 the Ministry has calculated the expected financial costs connected with implementation of this task in the amount about CZK 2 500 000.

### **Public Tender Information System (Ministry for Local Development)**

Ministry for Local Development has not yet fully opened the *Public Tender Information System* for the machine processing. As regards the concrete steps within the outlines of the task fulfillment, according to information received by the Deputy Prime Minister, in 2012 the ministry has published in its Information System on Procurement a detailed description of XML and XSD schemes in order to lay down a unified structure of information available from the profile of the contracting authority, and on the same websites a testing environment for the contracting authorities is available, where they can verify that the XML they have generated complies with the XSD scheme and that the structured data on public procurements are in conformity with the technical specification. It should be also noted that the Ministry for Local Development is the administrator of the Public Tender Information System, its component being the Bulletin of Public Tenders. The Bulletin publishes information on above-limit and under-limit public contracts. Basic data on published tenders are available



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through the standard RSS channel and in addition an export border, enabling access to the data in the XML format (see above), has been created. It follows from the above that the Bulletin of Public Tenders comply with the commitments of the Czech Republic Action Plan for Open Partnership in the field of providing information for a machine processing and the commitment has been this implemented in this part.

Any contracting party is responsible for its client profile and the Ministry for Local Development administers this area of publishing information on public tenders at the legislative and methodologic level. The Ministry is monitoring the readiness of the profiles to provide data in a structured form and at the beginning of April 2013 it has made a supervision of the contracting authority’s profiles in relation to the required functionality. The contractors, whose profiles did not meet the requirements, were notified of this fact and they have been supported in solving the problems. In addition it should be mentioned that in relation to the electronic markets of the public administration and to providing data in the structured form a new pilot testing project has been launched in the framework of which it is already possible to get detailed information on public tenders opened through electronic markets in the framework of the Information System on Public Contracts, and through which it will be also possible to obtain the structured data.

### **Election results (Czech Statistical Office)**

The Czech Statistical Office publishes the available data from election results in open formats, along with a text description of the published data contents.

### **Register of Active Legislative Tasks – RALP (departmental tools supporting transparency of the state administration and participation of the public) (Ministry of Transport)**

Ministry of Transport has not opened a *Register of Active Legislative Tasks* for a machine processing so far. Although the Register of Active Legislative Tasks is already available to the public according to information on the state and implementation of the commitment received by the Deputy Prime Minister, the data are not made available in the required format. Thus the task has not been fulfilled.

### **Financial Statistics – government debt (Ministry of Finance)**

The data resource is a part of the ministry websites. Its publication in the format of open data is connected with activation of a new web portal of the Ministry of Finance and will be put into practice during the second half of 2013.

### **Financial Statistics – government financial statistics (Ministry of Finance)**

The above data resource is a part of the ministry websites. Its publication in the format of open data is connected with activation of a new web portal of the Ministry of Finance and will be put into practice during the second half of 2013.

### **ÚFIS – accounting records and financial data from the Central System of State Accounting Information (CSÚIS) (Ministry of Finance)**

It is a component of the data from the Treasury Integrated Information System (IISSP). At present the ministry is preparing activation of a public portal containing the data from IISSP, which will also involve a publication of accounting records and financial data from CSÚIS in the form of open data. The portal has been activated by the end of 2013 and data availability in the format of open data is planned by the ministry by the end of the first half

of 2013. On the basis of the experience with disclosure of this data resource next activities in the area of open data will follow during the year 2013.

### **Online access to data regarding funding of political parties (Ministry of Interior)**

Ministry of Interior has not yet opened an on-line access to data on funding of political parties for a machine processing. The ministry has not sent an information on the state and manner of implementation of this commitment to the Deputy Prime Minister so far, it is thus not possible to make the respective assessment.

### **Central register of grants (Ministry of Finance)**

Practical steps for opening this data resource in the format of open data have not been yet commenced. Further steps will depend on experience with preparation of public portal with IISSP data.

### **Creation of the Public Administration Data Catalogue**

As the last step the Czech Republic undertook to create a Public Administration Data Catalogue. Within performance of this step a document „Conception of a Catalogue of the Public Administration Data“ (hereinafter only „Conception“) has been created in cooperation of the Deputy Prime Minister and representatives of the academic sector, Ministry of Interior and Ministry for Local Development. The purpose of the Conception in question is to define a strategic approach of the Czech Republic to creation of the catalogue of the public administration data and to process of catalogizing these data. The document consists of three parts. The first part, Analysis of the Current State and Options for Solution, involves a description of the present situation regarding publication of the public administration data and summarizes the practice of open data catalogizing applied in the world. This part also involves a summary of tools for a data catalogization and presents possible approaches to filling the data catalogue and its administration and operation. The second part of the document contains the Conception itself, presenting responses to basic questions connected with open data catalogization. The Conception determines, inter alia, the dates to be catalogized, the body authorized to perform the catalogization and the manner to conduct it. The procedures of using the data catalogue are also described in this part. The last part involves a plan of putting this conception into practice. This outline determines the basic steps in creating the open data catalogue and their subject continuity. It contains also a schedule of the proposed steps implementation and an estimated frame budget of implementation of the Conception. The Conception also deals with the above mentioned question of necessary legislative changes connected with catalogization.

It needs to be noted that it is a complete material which can be used immediately and whose implementation may accelerate the whole process of data catalogue creation. However, the crucial problem of the data catalogue creation itself lies in missing financial resources.

Besides the Conception the representatives of the academic sphere have also created a first version of the Methodology of Open Data Publication (hereinafter only the „Methodology“), which presents a comprehensive set of methodological recommendations for open data publication.

Both the Conception and the Methodology were presented in a seminar organized under the auspices of the Deputy Prime Minister in cooperation with the expert team from the University of Economics in Prague, the Charles University in Prague, the Ministry of Interior

and the Czech Statistical Office. The aim of this seminar was to acquaint the representatives of the public administration authorities with the issue of open data and information, namely with respect to implementation of the Action Plan.

### “Open Data“ as a part of the new Anti-corruption Strategy

The issue of disclosure of data and information is also involved in the updated Government Anti-Corruption Strategy for the years 2013 and 2014. One of the tasks for combating corruption defined by the Government of the Czech Republic is the task No. 2.2.1. “Open Data”. As evident from the following table, it is a task matching in its contents to a great part with the obligation III./3 Improving Access to Data and Information of the Action Plan.

Responsible party: Ministry of Interior
Participating parties: all ministries
Deadlines – performance indicators: 31 August 2013 – prepare a methodology for disclosure of open data of the Czech Republic’s public administration.
31 December 2013 – create a catalogue of the Czech Republic’s public administration open data.
31 July 2014 – prepare legal conditions for the open licensing of the open data use.
Anticorruption effect: Making available the data created in public administration.

Ministry of Interior was appointed a responsible authority for this task. Its activities will be decisive for performance of the component tasks from the Action Plan, above others the choice of a suitable license and its harmonization with the Czech law, determination of technical standards for disclosure of open data and creation of a catalogue of open data itself. Ministry of Interior has been already operating an Information System on Data Elements and an Information System on the Public Administration Information Systems, and also namely for this reason it is quite appropriate that the creation and administration of the open data catalogue is handled by the mentioned ministry.

According to information found (Ministry of Interior itself has not yet sent an information on the state and manner way of fulfilling the commitments indicated in the Action Plan to the Deputy Prime Minister) the responsible employees of the Department for Public Administration and eGovernment of the Ministry of Interior have, in accordance with the Deputy Prime Minister’s recommendation, acquainted both with the Conception and the Methodology, but in spite of the Deputy Prime Minister’s recommendation they have not completed it and have not submitted it into the interdepartmental comment procedure.

### **III. Update of the Action Plan of the Czech Republic “Open Government Partnership”**

In view of the fact that the commitment has not been implemented as a whole, the Czech Republic will continue to fulfill the individual tasks of the commitment in the following period in a manner defined in advance, or more precisely in an updated version reflecting current state of activities relating to the individual tasks and taking into consideration the assignment formulated in the Government Anti-Corruption Strategy for the years 2013 and 2014.

#### **III./1. Adoption of the Act on Civil Servants ensuring depoliticisation, professionalisation and stabilisation of public administration**

Responsible party: Ministry of Interior

Rationale:

The starting point for this priority area was the The Policy Statement of the Government (Chapter IV. Law, Justice, Public Administration, Bureaucracy and Corruption – Public Administration and eGovernment), which needs a legislation aimed at depoliticisation, professionalisation and stabilisation of the public administration. The existence of legislation as a condition necessary for creation of an independent, professional and stabilized state administration is also one of the obligations formulated during the process of the Czech Republic accession to the European Union, which has not been effectively accomplished until today.

This priority was also formulated by the Government Anti-Corruption Strategy for the years 2013 and 2014 under the point 1.1: “Act on Civil Servants”.

The aims of this legislation includes particularly: setting out the requirements for occupying a job position, selection procedure, commencement, modification and termination of employment (including transfer to other position, exhaustive reasons for removal of a head official or reasons for a dismissal of an officer and reasons for an immediate termination of employment) and a system for their training. It is also necessary to define increased duties for officials beyond the scope of the Labour Code provisions, including the duty to submit to an assessment procedure at least once a year. The increased duties of an officer (including increased requirements for education) are compensated by a prolongation of holidays for the period of 6 weeks and by introducing an additional redundancy payment. The draft act also defines a border between professional and politically occupied job positions in the state administration and stipulates basic rules for systemization of job positions for officials and organization of a state administration body.

Manner of performance:

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

- 1) to create a unified legislation based on the private law principles;
- 2) to depoliticise the public administration not institutionally, but through introducing a maximum legal protection of the officials and an increased legal protection of the employees, compared to the conditions contained in the Labor Code;

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- 3) to extend the institutional scope of activity (except for the Czech National Bank and the employees of the Ministry of Foreign Affairs covered by a special Act on Diplomatic Service, which has not been yet adopted);
- 4) to define a personal scope of activity with systemically adjusted differences between officials and employees both in the extent of duties and obligations, remuneration, compensations for the increased requirements and in terms of their the level of legal protection, which will result in a considerable reduction of a number of the public administration employees with the status of civil servants;
- 5) to extend compensations, especially in the sphere of non-financial nature;
- 6) to strenghten the role of the state in providing uniform training methods, testing the knowledge and skills of civil servants, coordinating the system and responding to the specific needs of individual public authorities arising from the nature of the performed duties,

in order to meet the following standards defined in the Government Anti-Corruption Strategy for the years 2013 and 2014:

- unambiguous definition of a boundary setting between the job positions controlled by political parties and the apolitical bureaucratic job positions occupied on the basis of an open selection procedure,
- setting rules for depoliticisation, professionalisation and stabilisation of the public administration,
- setting a transparent and fair system of remuneration,
- ensuring a special protection of whistleblowers of unlawful conduct of employers,
- establishing a system of obligatory training also involving the area of combatting corruption.

### Milestones:

Presentation at Governmental meeting	16 April 2013
Discussion at the Government Legislative Council	31 May 2013
Approval of the draft act by the Government	15 June 2013
Submission of the act to the Chamber of Deputies	30 June 2013
Expected entering into force of the new Act on Civil Servant	1 January 2014

### III./2. Streamlining the system allowing a free access to information

Responsible party: Ministry of Interior, Ministry of the Environment

Rationale:

The starting point for this priority area is the Government Anti-Corruption Strategy for the years 2013 and 2014, which has defined under point 1.3. a task to submit to the Government an amendment to the Act No. 106/1999 Coll. on Free Access to Information, as amended, involving above others the legislative solutions of the following areas:

- a proposal to the solution of an efficient mechanism preventing obstructions from the obligated entities (e.g. information order or other sanction mechanism, if need),
- a more instructing formulation of providing information in cases of a conflict of two fundamental rights following the judicial practice of administrative courts, e.g. about salaries and remunerations to public officials and employees of the state administration, on offence proceedings,
- improving a repeated use of information and use of open data, reformulation of obligatory disclosed information.

Manner of performance:

The Czech Republic undertakes to accept the following measures by implementation of this priority:

- incorporation of a right to free access to information on the environment pursuant to a special Act No. 123/1998 Coll., on the Right to Information on the Environment, into a common act on free access to information,
- introduction of the so-called information order, which means a possibility of a superior body to order the obligated entity a direct providing of information, if there exists no legal reason for a refusal (this should prevent the procedural “ping-pong”, consisting in a repeated groundless refusal of requests for information),
- introducing the so-called test of public interest: in case of a refusal of a request for information it will be necessary to consider not only the fact, if there exists an explicit legal reason for its non-providing (*formal condition*), but newly also the fact, whether in a particular case it is not appropriate to breach the legal protection in the public interest (*material condition*),
- obligatory publication of internal regulations setting activities of the obligated entities outwards,
- removing some technical defects in legislation and maintaining the existing extent (minimum) of application of the Administrative Procedure Code for settlement of information requests,
- specification of some reasons for refusing information: e.g. information on a criminal proceeding, protection of bank secrecy and protection of (international) arbitrary proceedings,

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- system of providing information on salaries and remuneration of the obligated entities employees (considering the current judicial practice of the Supreme Administrative Court).

### Milestones:

Presentation at Government meeting	16 April 2013
Discussion at the Government Legislative Council	31 May 2013
Approval of the Draft Act by the Government	15 June 2013
Submission of the Draft Act to the Chamber of Deputies	30 June 2013
Expected entering into force of the new Act on Free Access to Information	1 January 2014

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

Responsible party: Ministry of Interior, Ministry of Finance, Ministry of Justice, Ministry of Local Development, Ministry of Transport

#### Rationale:

Remains without change, in the version defined and approved by the Government Resolution No. 243 of 2012.

#### Manner of performance:

Remains without change, in the version defined and approved by the Government Resolution No. 243 of 2012.

#### Milestones:

Deadlines for performance of individual tasks “Identification and removal of obstacles” and “Creation of a catalogue of the public administration data, its continuous filling and erasing“ will be fixed in a manner corresponding to information mentioned in the assignment of the respective tasks defined in the Government Anti-Corruption Strategy for the Years 2013 and 2014. The tasks “Disclosure of the most important data resources” and “Creation of an infrastructure of open data in the Czech Republic and its rules relating to public procurement” will be carried out by the end of 2013.

<b>Stage of the commitment performance</b>	<b>Deadline</b>	<b>Responsible authority</b>
Disclosure of the most important data resources	31 December 2013	Ministry of Justice, Ministry for Local Development, Ministry of Interior, Ministry of Finance,

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		Ministry of Transport
Creation of an infrastructure of open data in the Czech Republic and its rules relating to public procurement	31 December 2013	Ministry for Local Development
Creation of a catalogue of the public administration data, its continuous filling and erasing	31 December 2013	Ministry of Interior
Identification and removal of obstacles	31 July 2014	Ministry of Interior

For the purpose of a better coordination of performance of the above obligations the Deputy Prime Minister will establish a working group consisting of the representatives of the individual responsible ministries and the representatives of academic sphere and non-profit sector, who are actively engaged in the issue of open data and who have been already involved in an intensive and effective cooperation.



#### IV. Other activities of the Czech Republic supporting Open Government

By its Resolution No 39 of 16 January 2013 the Government of the Czech Republic has approved the document “*From Corruption to Integrity – The Government Anti-Corruption Strategy for the Years 2013 and 2014*“ following from the Government Anti-Corruption Strategy for the Years 2011 and 2012. The Strategy involves beside others also the commitments which are to be implemented by the Czech Republic in order to increase a transparency in its public administration.

Further to a general definition of the corruption issue in the Czech Republic the Strategy has defined 10 particular priority tasks, namely:

- 1) **Act on Civil Servants** – clear definition of the basic duties of a civil servant, depoliticisation of the public administration, reduction of corruption risk of civil servants and public administration employees,
- 2) **Act on Conflict of Interests** – increased transparency of the property situation of the public officials,
- 3) **Act on Free Access to Information** – faster and easier access of the public to information, improvement of public control over decision-making of the public authorities, facilitation of indentifying cases rising a suspicion of corruption, where property backgrounds of officials and employees of the public administration are in obvious disproportion to their salaries,
- 4) **revealing end owners** – transparency of legal relations involving a public authority on one side and a private entity tendering for a public contract on the other side,
- 5) **protection of whistleblowers** – increased protection of persons announcing criminal activities,
- 6) **financial control and audit** – increased law enforcement during performance of the Act on Financial Control in Public Administration, improved control of financial management, improvement of the steering control, improvement of the internal audit and ensuring a complete functional independence of the internal audit,
- 7) **proprietary policy of the state** – preventing realization of contracts, projects and intentions connected with corruption conduct and activity and excessively high corruption risks from the side of state enterprises and state-owned companies,
- 8) **strategy and methodology of public procurement** – transparency of treating public funds, including their allocation,
- 9) **Act on Public Prosecution** – increased independence and responsibility of public prosecutors in criminal matters,
- 10) **anti-corruption program** – systematic analyzing the situation of corruption in the Czech Republic.

These priority tasks are followed by 39 other tasks sorted to issues of public administration, public procurement, the prosecuting authorities, training and others:

- Personal policy in the state administration

- Open data
- Publication of contracts and tenders
- Transparent state budget
- Disclosure of advisors and advisory bodies
- eCollection and eLegislation
- Disclosure of individual stages of the Government’s legislative process
- Supervision Enforcement of the Supreme Audit Office
- Register of offences
- Publication of offers for sale and lease of the state property
- Efficiency improvement of the measures for prevention of corruption and inessential bureaucracy in immigration (visa) practice
- Analysis of a possibility to establish an Office for Public Investments
- Strengthening electronisation of assignment proceedings
- Methodology for assignment of public contracts of a small scale
- Assignment of public tenders co-financed from the EU resources
- Amendment to the Criminal Code
- Providing information on property structures of legal persons to the prosecuting authorities
- Reliability tests
- Bank secrecy
- Tax confidentiality
- Administration of seized property
- Exploitation of assets
- Education of children and pupils at schools and school establishments
- Rules for training employees of administrative bodies
- Training through eLearning
- Common training of the prosecuting authorities
- Training of police officers
- Training of staff members and employees of the Customs Administration of the Czech Republic
- Training of correctional officers and employees of the Prison Service of the Czech Republic
- Analysis of the possibility to establish an Anti-Corruption Agency
- Analysis of the possibility to establish a position of an Information Commissioner
- Departmental internal anti-corruption programs
- Construction Strategy of the traffic infrastructure
- Availability of information on combating corruption
- Preventing manipulation in assignment of attorneys
- Supervision of the executors’ activities
- Preventing manipulation with notarial records
- Supervision of the judiciary activity
- Strengthening protection of the public interest in administrative judiciary

### V. Conclusion

In spite of the fact that none of the commitments made by the Czech Republic in the Action Plan has been implemented in time, the Government of the Czech Republic will continue in their fulfillment in order to achieve their completion as soon as possible.

The Government of the Czech Republic will carry out further self-assessment of the Action Plan, which will be submitted for its approval by 28 February 2014 supposing that this self-assessment is sent to the Steering Committee of the Open Government Partnership by 31 March 2014 together with the updated Action Plan.