

**Replies of the Czech Republic to the questionnaire of the OHCHR concerning the role of the public service as an essential component of good governance in the promotion and protection of human rights (January 2013)**

---

***Questionnaire:***

***With regard to the role of the public service in promotion and protection of and respect for human rights, impartiality, accountability, transparency and the highest standards of efficiency, competence and integrity:***

***Please provide information on:***

***1) Good practices and your views regarding the organization, training and education of the public service;***

First of all, it is necessary to mention that the legal framework of public service, as apprehended by the Universal Declaration of Human Rights (article 21) and International Covenant on Civil and Political Rights (article 25c), is very fragmented in the Czech Republic and the civil service itself is thus not uniformly covered by a single legal code, as it is the case in many countries. The constitutional basis is given by article 79 para 2 of the Constitution that envisages necessity of a legislative arrangement for legal relations and activities of public administration employees.

Consequently, Act No. 312/2002 Coll., on Officials of the Territorial Self-governing Units, seems to be the most complex legal arrangement in this area; this Act comprehensively defines specific labour-law aspects for specific range of officials and the system of their training and education. The Labour Code (Act. No. 262/2006 Coll.) is applied only as a general supporting regulation in this field.

As regards officials of ministries and other central state administration authorities, there were long-lasting similar efforts to unify this area by a single legal regulation; and indeed, Act on Civil Service (No. 218/2002 Coll.) was adopted, but, unfortunately, never fully entered into force. As a result, labour-law relations of this group of employees are still governed by the general Labour Code. Their systematic education and training is not specifically arranged (in Labour Code there is only a general obligation for the state administration institutions to provide and ensure education for their employees), its extent and content is thus left in the discretion human resources departments of the offices, taking into account their possibilities and needs of their employees.

In addition, there are some specific or sectoral laws regulating legal status and working conditions of certain groups of other public sector employees, e. g. judges, state prosecutors, members of armed or security forces (the Army, the Police, the Fire Corps, prison service etc.).

*2) Activities developed to assist and support the public service at the national, regional and international levels, in particular where human rights aspects were taken into consideration and improved the public service;*

From the national point of view, the Government is entrusted with the issues of arrangement and support of the public service. As regards international level, it is worth mentioning that efforts and activities of several institutions of which is the Czech Republic member are very helpful and relevant in practice – e. g. Council of Europe's Recommendation (2000)6 on status of public administration officials in Europe, a number of monothematic, sectoral or comparative materials and studies elaborated by the OECD or a relatively strong pressure of the European Union focused on legal arrangement of a strong, independent, professional, stable, effective and responsible public service in its member states.

*3) Which categories of services you consider as public services and the rationale for providing human rights relevant services directly or indirectly through delegation to non-State actors or in mixed systems, in particular where human rights considerations were taken into account;*

Particular categories of public service were already mentioned in reply to question No. 1. In a stricter sense, public administration officials (i. e. those working for local and regional self-governing authorities and those working for central state authorities) are involved. In a wider sense, certain other professional groups of the public sector are comprised, e. g. teachers, doctors, judges, state prosecutors, members of armed or security forces (the Army, the Police, the Fire Corps, prison service etc.).

The issues of human rights at national level are dealt with mainly by the Office of the Government (Section for Human Rights, Government Council for Human Rights). Notwithstanding, a number of government policies in the field of human rights are implemented also at regional and local levels (national minorities, integration of Roma population, equality of men and women, rights of the child, political and social rights etc.).

*4) Any recent privatization in sectors where there is an obligation to ensure access to human rights relevant services, and concomitant regulatory or other measures which helped to ensure human rights compliant service delivery;*

Generally, it is possible to point out that privatization or liberalization of services can be seen principally in sectors connected to the area of human rights only marginally or not at all – e. g. transport, energetics, water supplies, postal and telecommunication services, waste management, informational services. In some cases, however, the field of human rights can be touched – e. g. in case of social or health services whose legal regulation has been recently modernised (Act No. 372/2011 Coll., on Health Services, amendment of Act No. 108/2006 Coll., on Social Services). Privatisation and liberalisation of such a type of services can of course bring certain positive effects, on the other hand there can be found some cases when

the level of their delivery is in fact getting worse (lower territorial accessibility, lower accessibility due to higher price, lower quality). Taking into consideration the importance of these services, the State should guarantee the control of the quality of their delivery.

**5) *Good practices in the area of liberalization of trade in services which ensured improved delivery of human rights relevant services;***

Please see above the reply to question No. 4.

**6) *Good practices of public service reform in a post-conflict context or after major transitions which ensured improved delivery of human rights relevant services;***

The Czech Republic has not experienced any serious armed conflict since World War II. The change of the political system in 1989 can be thus considered to be the most significant social change in the sense of the question. Legal regulation of the public service however did not change immediately but step by step, mainly in political and social sense rather than in the legal one (the Labour Code adopted in 1965 continued to be in force). Later on, by the end of the nineties, considerations on a complex legal regulation of public service were launched. These efforts intensified during the negotiations on the Czech Republic's accession to the European Union, since the EU considers a complex regulation of public service as an essential prerequisite for public administration of a member state to be able to implement and enforce *acquis communautaire*. As a result, Act on Public Service and Act on Officials of Territorial Self-governing Units were adopted in 2002.

**7) *Good practices supporting equal access to public service positions, including conditions for access to public service positions, any restrictions which apply and the process for appointment, promotion, suspension and dismissal or removal from office as well as the judicial or other review mechanism which apply to these processes;***

Equal access to public service positions is ensured by a variety of laws – it is incorporated in general regulation (e. g. the Labour Code), in sectoral laws (e. g. Act on Officials of Territorial Self-governing Units, Act on Service of Security Corps) or in specialised legislation (e. g. Act No. 198/2009 Coll., so-called Anti-discrimination Act). General conditions for access to the public service include personal integrity (clear criminal record), legal capacity and (in some cases) state citizenship; special conditions comprise education, experience or special abilities, knowledge or skills for certain types of positions. These special conditions differ, depending on sectoral legal regulations.

Issues of appointment, promotion, dismissal or removal from office are again regulated differently in particular sectors of the public service. For example, Act on Officials of

Territorial Self-governing Units or Act on Civil Service deal with these questions in a detailed way, while legal regulation covering these questions for judges, state prosecutors or members of armed and security forces is very distinctive, taking into consideration specificities of these professions.

Decisions in labour-law matters concerning the public service can be subject to judicial review if the addressee of such decision claims an infringement of his/her rights (typically, these reviews concern e. g. unfair dismissal, unlawful treatment, biased working reference etc.).

8) *Any other issues relevant to the scope of this study.*

-----