



SIGMA

**Support for Improvement in Governance and Management
in Central and Eastern European Countries**

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CZECH REPUBLIC PUBLIC SERVICE AND THE ADMINISTRATIVE FRAMEWORK ASSESSMENT 2002 SUMMARY

The successive Governments since 1989, and while still within the Czechoslovak Federal Republic, have given priority to territorial reform. Internal modernisation of the civil service, in particular improving the professionalism of public servants and adapting administrative laws and procedures to common EU standards, was not particularly high on the Government agenda.

A reform programme, mainly geared to EU accession, is being pursued; however, its implementation is rather slow. Its main components are: reform of territorial administration; modernisation of central administration; and, strengthening international co-operation. The continuation of the reforms that have been started depends to a large extent on the commitment of the incoming government. However, the implementation period for the new Civil Service Act will coincide with possible accession to the EU. This may not only seriously hamper the assumption of membership responsibilities, but also the civil service reform and other reforms under way.

Public Service

The preparation of a civil service law came on the Government policy agenda as early as 1993. A law was finally adopted in May 2002, but will only be fully implemented in 2007. The General Directorate of Civil Service was established within the Government Office on 15 June 2002. However, until at least 2004 it will not have any direct influence¹ on the management of the civil service. Until then, managers will enjoy wide discretion in all personnel decisions, including awarding bonuses. Common standards across the administration are not implemented. While appointment on political grounds is only permitted for senior positions, the discretion allowed in recruitment and promotion encourages non-professional sources of allegiance. Corruption in the Czech Republic Civil service is still considered a major problem. The ongoing decentralisation may well create additional problems in this respect. A central horizontal training capacity has been set up in 2001, but is not yet fully operational.

Administrative Legal Framework

The Constitution requires that administrative actions and decisions are based on law, but the current legal administrative framework, in particular the current administrative procedures law, does not yet ensure this principle. Citizens rights in administrative decision-taking are not always respected. A Freedom of Information Act is in place, however it seems not to be fully implemented by the administration. The existing accountability mechanisms are insufficient and those existing are not always efficient. In view of the envisaged further decentralisation, the weak accountability mechanisms may easily lead to disparities in service delivery. Redress of administrative acts through administrative courts is possible, though not in all cases. In addition, there seems to be little trust in the judiciary and it is said that judicial decisions are of low quality. The Ombudsman institution is in its second year of existence, but seems, until now, to have focused on defining its mandate.

Legal Quality

The legal tradition of the Czech republic results in very lengthy and detailed legislation. This leads easily to loopholes and contradictions in the body of legislation; in addition, it makes legislation rather inaccessible for the public. There are elaborate rules on law drafting, which call for an explanatory note and a substantiation (i.e. justification) report, providing the rationale for the law and detailed motivation for each article. Impact assessment,

1. According to the available English version of the text (dated 01.03.01).

up to now, is basically limited to direct short-term budget impact. A complete impact assessment, including also impact on the economy and the society at large, is not carried out, though the drafting regulation could be interpreted in that way.

Recommendations

The recommendation proposed in the report are as follows:

1. To direct and manage the reform programme a central capacity, with the authority to exercise an overall leadership, co-ordination and monitoring role, should be put in place as a matter of priority.
2. The new Civil Service Act, and related secondary legislation, should be implemented as quickly as possible; in this regard, the enforcement and the transition period should be shortened. The Director General for Public Service, to be nominated by the incoming Government, should be fully supported by Government and adequately resourced to ensure that the Directorate can prepare the enforcement of the Civil Service Act quickly and in an adequate manner.
3. Adequate and uniform legal safeguards for civil servants, and others employed in state and local administration, disputing unlawful orders and dubious practices, should be put in place as a matter of urgency.
4. Preparations for the introduction of the new salary system for the civil service should be initiated at an early date, with a focus on the rules and procedures, particularly those applying to supplementary payments. Care and attention should be paid to ensure transparency, to minimise the potential for interpretational and operational ambiguities, and to eliminate the problems associated with the current system.
5. A high priority should continue to be attached to the National Programme to Combat Corruption, and a coherent anti-corruption legal system should be put in place and enforced as soon as possible.
6. The legal framework governing administrative actions and decisions should be brought into line with the Constitution, and adapted to EU standards through the early enforcement of the needed legislation, especially in relation to administrative procedures and courts.
7. The legislation governing budgetary and other resource transfers, required to enable effective territorial self-government, should be enacted without delay. Adequate accountability mechanisms will have to be developed in parallel, There is a need to ensure that resources are allocated in a manner that takes cognisance of regional economic and social disparities.