

# GOVERNMENT OF THE CZECH REPUBLIC

## DECREE OF THE GOVERNMENT OF THE CZECH REPUBLIC no. 1199 dated 25 October 2006

on the Government's Strategy of the Fight against Corruption for 2006 to 2011

The Government

- I. approves the Government's Strategy of the Fight against Corruption for 2006 to 2011 included in part III of the material ref. no. 1592/06 (the "Strategy");
- II. orders
  1. to the Minister of the Interior and Informatics to
    - a) present to the Government a motion to establish a special anticorruption line (tel. no. 1999) by 30 November 2006,
    - b) create conditions for personal and technical reinforcement of specialised units of the Police of the Czech Republic responsible for fight against corruption by 31 December 2006,
    - c) arrange preparation of obligatory training programmes focusing on fight against corruption by 31 December 2006,
      - ca) for policemen working in the section for fight against corruption,
      - cb) for public administration officials subject to the regime of the act on conflict of interests,
    - d) present to the Government by 31 December 2006
      - da) an analysis of effectiveness of the act on free access to information as to the scope of the applied public control of the activities of the bodies of state, regions or municipalities, their organisational units, allowance organisations and legal entities otherwise controlled by them pursuant to the relevant provisions of the Commercial Code and legal entities established under the law,
      - db) a draft legislation of electronisation of certain acts of public power including a draft concept of electronisation of other administrative agendas,
    - e) present to the Government a motion to amend the act on municipalities, regions and the City of Prague to include a specification of the condition for performance of legal acts connected with the disposal of property and funds of regions or municipalities, their organisational units, allowance organisations and legal entities otherwise controlled by them pursuant to the relevant provisions of the Commercial Code, by 31 December 2006,

- f) present to the Government by 30 June 2007
  - fa) a draft legislative intention aimed at simplification, higher transparency and unification of administrative proceedings,
  - fb) a draft legislation governing filing and more effective handling of complaints against procedures of public administration bodies,
  - g) arrange publication of this decree in the Government's Bulletin for regions and municipalities bodies,
- 2. to the Minister of Justice and Chairman of the Government's Legislative Council to
  - a) present to the Government by 31 March 2007
    - aa) a motion to create a specialised Senate with the High Court and a special unit working with the Office of the High Prosecuting Attorney the competence of which will include prosecution for corruption of public officers and corruption in public orders, public tenders and auctions and other important activities of general interest,
    - ab) a motion to toughen the sentences for corruption committed by a public officer, including a draft legislation of the obligatory imposition of the punishment banning activities of persons sentenced for corruption connected with public orders, public tenders and auctions and other important activities of general interest in particular in disposal of property and funds of regions or municipalities, their organisational units, allowance organisations and legal entities otherwise controlled by them pursuant to the relevant provisions of the Commercial Code,
    - ac) a draft legislation aimed at decrease and limitation of increase of excessive bureaucracy, including a specification of the right to personal protection against bureaucracy,
    - ad) a draft legislative intention governing the so-called legitimate lobbying,
  - b) present to the Government by 30 June 2007
    - ba) a draft change of the Government's Legislative Rules or a legal regulation of the legislative procedure with the aim to create conditions for introduction of the obligatory electronic public discussion on the prepared legal regulations, extension of the presented report on evaluation of the impact of regulation and possible risks of increased corruption in the wording of the specific draft legal regulations,
    - bb) a draft change of the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic and the Rules of Procedure of the Senate of the Parliament of the Czech Republic with the aim to modify the process of implementation of amendments,
- 3. to the Minister of the Interior and Informatics and the Minister of Justice and the Chairman of the Government's Legislative Council to prepare and present to the

Government by 31 March 2007 draft changes of the legal regulation enabling to use the institute of the so-called anticorruption agent,

4. to the Minister of Finance to perform an analysis by 31 March 2007 of the effectiveness of the existing budget rules and other legal regulations specifying the management of public funds within public budgets, including the use of the EU funds on the basis of which a higher transparency, higher effectiveness and strengthening of the control thereof would be achieved,
5. to the Minister for Regional Development to
  - a) present to the Government by 31 March 2007 a draft method of disclosure of the information connected with public orders and auctions organised by the state, regions or municipalities, their organisational units, allowance organisations and legal entities otherwise controlled by them pursuant to the relevant provisions of the Commercial Code,
  - b) present to the Government by 30 June 2007 an in-depth analysis of the evaluation and control system of projects co-financed from the structural funds focusing on elimination of possible conflict of interests in connection with the programmed period of 2007 to 2013 and adopt anticorruption measures connected with the conclusions arising out of the analysis,
  - c) present to the Government by 30 June 2008 a draft legislative intention of the new act on public orders in compliance with the progress of legislative procedures of the European Commission relating to the prepared Directive of the European Parliament and the Council on licences and draft directive of the European Parliament and the Council changing the Directive of the Council 89/665/EEC and 92/13/EEC as regards an increase of effectiveness of the reviewing proceedings in placement of public orders with the aim to
    - ca) significantly simplify and make more transparent the system of placement of public orders and licences,
    - cb) extend the scope of persons who are prohibited to participate in public orders in the event they commit corruption and are punished for it (owners, members of company's bodies, managers, employees), including a possibility to create a special register of such persons,
    - cc) introduce an obligation for participants in public orders (suppliers) to make and publish a statement at a determined place on the fact that the participant in the proceedings was not punished for corruption and that such person is not an owner, member of the company's bodies, manager, employee or a silent partner or a person otherwise cooperating with a participant in the proceedings,
6. to the Deputy Prime Minister and Minister of Labour and Social Affairs to present to the Government by 31 May 2007 a draft legislative intention of a legal regulation governing an increase of material liability of employees and public officers,

7. to the Minister of Industry and Trade to perform an analysis of the regulations specifying the conditions of business with the aim to detect system errors enabling the occurrence of corruption environment,
8. to the Minister of Education, Youth and Physical Training to arrange an introduction of anticorruption education of children and youth within the system of pre-school and school education by 31 August 2007.
9. to the Minister of Health Care
  - a) to present to the Government by 30 June 2007
    - aa) a draft legislative intention of a legal regulation aimed at a clear specification of the demands of the public of health services paid from the general health insurance, including their geographical and time availability and thus comply with the relevant article of the Constitution of the Czech Republic and the Charter of Fundamental Rights and Liberties,
    - ab) a draft legislative intention of a legal regulation ensuring public availability of selected data relating to availability and quality of health care,
    - ac) a draft legal regulation ensuring a transparent and effective determination of maximum prices and payment of medication in compliance with the EU requirements,
  - b) to present to the Government by 31 December 2007 a draft legal regulation aimed at creation of a regulatory authority supervising financial health of health insurers and availability of health care,
10. to the members of the Government and heads of other central bodies of public administration within their offices and organisational units of the state, allowance organisations and legal entities otherwise controlled by them pursuant to the relevant provisions of the Commercial Code to
  - a) update the departmental and internal regulations with the aim to reflect anticorruption measures included in the Strategy by 30 June 2007,
  - b) ensure that the public is informed on the adopted anticorruption measures connected with the decision making of the bodies of state administration within their entrusted competence by 1 January 2007,
  - c) perform internal anticorruption audits within the entrusted competence and adopt the necessary measures to minimise the risk of corruption by 31 March 2007,
  - d) judge and analyse legal regulations within the entrusted competence and propose their modification in compliance with the Strategy by 31 December 2007,
  - e) ensure introduction of a permanent monitoring and control system of the process of placement of public orders and evaluate transparency of the placement proceedings as of 31 December of each calendar year and adopt the relevant measures to remove the discovered defects;

III. recommends

1. to the Governor of the Czech National Bank to adopt the respective measures in compliance with the Strategy,
2. to the President of the Supreme Audit Office (*Nejvyšší kontrolní úřad*) to reflect the Strategy in the activities of the Supreme Audit Office,
3. to presidents of the regions, mayors of chartered towns and mayors of municipalities to initiate through the bodies of autonomous units, organisations established by autonomous units and bodies of legal entities controlled in accordance with the relevant provisions of the Commercial Code by autonomous units to adopt the measures in compliance with the Strategy.

To be performed by:

Members of the Government  
Heads of other central bodies of state administration

For the attention of:

presidents of the regions  
mayor of the City of Prague  
mayors of chartered towns

Prime minister:

Ing. Mirek Topolánek, v.r.

## **The Government's Strategy of the Fight against Corruption**

The Government's strategy of the fight against corruption is based on three principles: **prevention, transparency and recourse**. The following aims and measures have been determined to accompany the above mentioned three principles to achieve their accomplishment and create an environment eliminating the occurrence of corruption.

### **First principle of the fight against corruption - prevention**

To reduce corruption it is necessary to eliminate the opportunities giving rise to corruption. As such, it is necessary to:

- a) minimise state regulation,
- b) clarify legislation, increase transparency of the legislative process,
- c) reduce the funds redistributed by the state and make more effective the control of drawdown of funds from public budgets and clarify and speed up the work of all authorities and institutions with the use of modern information technologies,
- d) cut the number of special procedural rules of the general bounds of the administrative code,
- e) prevent excessive bureaucracy for the citizens and local governments,
- f) make equal the electronic and paper form of communication between citizens and authorities and between each of the authorities,
- g) cooperate with professional and other organisations in the support of ethical behaviour in the individual sectors of the society and creation of anticorruption atmosphere in the society;
- h) strengthen the resistance of the bodies of public administration against corruption for instance in the form of training how to act in corruption situations or a univocal determination of liability for the adopted solution.

It is imperative that media inform of the proved corruption and that it is publicly condemned. Public awareness of the right process of gathering of information and dealing with suspicion of corruption must be systematically increased and the conviction of the meaningfulness of fight against corruption must be strengthened.

In relation to the above the following is proposed:

- a) to introduce the obligation of a public comment procedure (through the Internet) to the prepared legal regulations,
- b) perform audit of all valid legal regulations every two years to avoid excessive bureaucracy and propose removal of excessive bureaucracy, including possible cancellation of some legal regulations,
- c) prepare an evaluation of the impact of regulation (IRA) to each draft legal regulation,
- d) modify the Rules of Procedure of the Chamber of Deputies of the Parliament of the Czech Republic for implementation of amendments,
- e) use uniform and comprehensible forms in electronic or written form and enable transformation of documents upon filing to electronic form in which they will be subsequently used by the other relevant authorities,
- f) perform anticorruption audits at all levels of state administration,
- g) support adoption of professional codes of conduct and creation of anticorruption atmosphere in the society.

The Government wants to perform an evaluation of all legal regulations from the view of possible occurrence of open or covered corruption, clientelism or protectionism. Each presenter of a new legal regulation or amendment of the existing legal regulation, i.e. both an act, government's decree or notice, must arrange the so-called special anticorruption audit that will evaluate all risks connected with possible corruption following adoption of the proposed legal regulation. The information on the results of anticorruption audit must be included in the presentation report including a statement whether there is a risk of corruption in connection with the adoption of the legal regulation. In the event that there is such a risk, it must be stated what means will be used for its elimination or limitation. At the same time, the accidental and unpredictable entry in the legislation process must be significantly limited through amendments presented by the Deputies which should be bound not only to obtaining of a higher number of Deputies for presentation of the amendment but also to compliance with the procedure applied for the presenters in a way that an obligatory special anticorruption audit will have to be prepared to the amendment.

### **Second principle of fight against corruption – transparency**

The Government considers utmost and unlimited public control over functioning of public institutions and disposal of public funds a basic element of the system of anticorruption measures. The system of dealing with the specific complaints and suspicions must offer the public the most available and credible alternatives. The following are the principal duties:

- a) make the system of drawdown of funds from public budgets more transparent,
- b) make the system of placement of public orders more transparent, make the decision making process of the bodies of public administration, institutions established thereby as well as other institutions to which public institutions enforce the right of a founder or owner with a majority interest more transparent and arrange for accessibility of all information on placement and selection of a public order;
- c) simplify administrative proceedings and strengthen its transparency and uniformity,
- d) transform the agendas operated within the state administration to electronic form,
- e) create conditions for public control over the activities of public officers and their property relationships during the practice of their office,
- f) specify the rules of legitimate lobbying,
- g) introduce practice under which a citizen will be entitled to check the consideration of his matter with the authority or on Internet,
- h) create a centralised complaint point independent on the state that will operate an anticorruption line and other forms of contact. The point will accept complaints and suspicions of the public relating to the whole state administration and will participate in their solution through legal evaluation and selection of a suitable legal procedure in relation to the relevant bodies of public administration;
- i) treat preferentially applicants in the proceedings through which they claim disclosure of information from the obliged entity with an administrative court,
- j) extend the possibilities of public control over disposal of property of municipalities and autonomous units (e.g. extension of the obligation to inform, introduction of a periodical evaluation of the profit from contractual relationships).

The following measures have to be introduced to reach the above goals:

- a) propose a transparent and uniform system of drawdown of funds from public budgets,
- b) adopt a new law on public orders including the issues of a licensing act and make available all information on disposal of public property in public orders and eliminate the possibility to plead business secrets in this context,

- c) perform an analysis of administrative regulations with the aim to concentrate on modification of administrative proceedings in one code (universal administrative proceedings) and subsequently prepare a draft legislative intention of a uniform administrative proceedings eliminating the maximum number of special procedural regulations,
- d) adopt measures aimed at disclosure of all information on placement and selection of the so-called “small orders” on the Internet or their placement through the electronic market,
- e) propose creation of a centralised anticorruption contact point financed from the state budget and operated by an independent non-state organisation;
- f) propose extension of the period for disclosure of the municipalities’ intention to dispose of immovable assets, in particular in case of assets of a significant value;
- g) expressly determine the obligation of the regional councils to periodically evaluate the profit arising out of the executed agreements and publish such evaluations,
- h) enable all citizens of a municipality who are eligible to elect members of the regional council to claim declaration of invalidity of an agreement to which the municipality is a party.

### **Third principle of fight against corruption – recourse**

Permanent attention and continuous evaluation of the procedures in relation to which creation of anticorruption conditions may be expected must form a part of the system of inner control of all public institutions.

The Police and other institutions must examine the information and incentives obtained from the citizens in relation to corruption much more actively and consistently. The examination of the information must be based on an individual cooperation with the witnesses and the harmed persons. The aim of all procedures and measures is to make the activity of the Police more effective and the investigation of corruption faster. The Government guarantees in this field an uncompromising, non-political and professional investigation of suspicions of corruption and accusations. Specialised bodies of justice have to be established to increase the effectiveness of criminal proceedings in the events of serious corruption. Each breach of the law must be followed by a punishment. Preventive effect of the Penal Code must be reinforced by increased sanctions for corrupted public officers and sanctions for corruption committed in connection with public orders, tenders and auctions.

The anticorruption effect of the law on free access to information has to be supported by introduction of sanctions for its breach. Higher resistance of public administration against corruption connected with public orders, tenders or auctions requires demanding conditions for participation in such activities.

The following measures have to be adopted to reach the above goals:

- a) creation of a special anticorruption court and office of the state prosecutor specialising on corruption of public officers and corruption in public orders and other important activities of public interest,
- b) personal and technical reinforcement of a specialised unit of the Police of the Czech Republic specialising on fight against corruption,
- c) introduction of the so-called “anticorruption agent” specialising on detection and identification of corruption,
- d) higher penalties for proved corruption on the basis of an amendment to the Penal Code (for corruption committed by public officers for 12 or 15 years of imprisonment),
- e) legal regulation on the basis of which the persons sentenced for corruption in connection with public orders, tenders and auctions (plots or bribery) will be banned



to perform their activities (practice certain jobs and functions) apart from the imprisonment or pecuniary punishment. In serious cases forfeiture of property may be ordered,

- f) legal regulation on the basis of which the persons sentenced for corruption in connection with public orders, tenders and auctions will not be allowed to participate in other public orders (the same applies to companies in which these people act as owners, managing directors or members of the company's bodies or managers) for a period stipulated by the court,
- g) creation of statutory conditions for increase of liability of public officers during administration of property based on the principle of extended liability of public officers for compensation of damage that they caused,
- h) new specification of the facts of the offence consisting in breach of the obligations stipulated by the act on free access to information by the representatives of bodies of public administration and other obliged entities.