

320/2001 Coll.

ACT

of 9th August 2001

on Financial Control in Public Administration and on the Amendment to some Acts (Act on Financial Control)

As amended by Act No. 320/2002 Coll.

As amended by Act No. 123/2003 Coll.

As amended by Act No. 421/2004 Coll.

As amended by Act No. 482/2004 Coll.

As amended by Act No. 426/2003 Coll., 626/2004 Coll.

As amended by Act No. 377/2005 Coll.

As amended by Act No. 377/2005 Coll. (part)

Parliament has adopted this Act of the Czech Republic:

PART ONE

GENERAL PROVISIONS

Section 1

Subject of the Amendment

- (1) This Act shall define the arrangement and scope of financial control executed between public administration bodies, public administration bodies and the applicants for and the recipients of public financial support and within public administration bodies. It shall determine the subject, main targets and principles of financial control exercised pursuant to this Act and pursuant to special legal regulations, if the regulations 1) so stipulate.
- (2) The provisions of this Act shall also relate to the control of state enterprise exercised by the Ministry fulfilling on behalf of the state the role of its founder pursuant to a special legal regulation, 2) and the control of the Land Fund of the Czech Republic pursuant to a special legal regulation. 1)
- (3) The provisions of this Act shall not relate to the control exercised by the Supreme Audit Office, to the control of the management of property of a special character 2a) and the examination of the management of the local self-governing units pursuant to special legal regulation 3) and the control of legal entities towards which the state or territorial self-governing units act as the founders pursuant to special legal regulations, 4) with the exception of the control of the provided public financial support pursuant to this Act and pursuant to a special legal regulation.

Section 2 Definitions

For the purposes of this Act

- a) a public administration body shall mean an organizational component of the state, which is an accounting component pursuant to a special legal regulation, 5) a state contributory organization, a state fund, a territorial self-governing unit, a municipal district of the Capital City of Prague, a contributory organization of a territorial self-governing unit or a municipal district of the Capital City of Prague and other legal entity founded for the purpose of fulfilling the tasks of public administration by a special legal regulation 6) or a legal entity founded on the basis of a special legal regulation, which manages public means, 7)
- b) a controlled person shall mean a public administration body mentioned in a) and a legal entity or a physical person who has requested public financial support or is its recipient; a controlled person is also a foreign legal entity or a physical person, if they pursue business in the territory of the Czech Republic and are recipients of public financial support,
- c) a control body shall mean a public administration body authorized under this Act or a special legal regulation to carry out financial control of the controlled person,
- d) the Chief Executive of a public administration body shall mean a person or a body authorized to act on behalf of the state, a territorial self-governing unit or a legal entity mentioned in a); in a region the Chief Executive of a public administration body shall mean the Director of a Regional Authority, in a municipality the mayor of a municipality, in statutory cities their mayor and in the Capital City of Prague the Director of the Metropolitan Authority of the Capital city of Prague,
- e) a person obligated to co-act during the exercise of the financial control shall mean a legal entity or a physical person sharing in the deliveries of goods or services covered from public expenditure or from public financial support,
- f) public finances shall mean public income and public expenditure,
- g) public means shall mean public finances, things, property rights and other property values which belong to the state or another legal entity mentioned in a),
- h) public income shall mean income of the state or a legal entity mentioned in a),
- i) public expenditure shall mean expenditure from the state budget, from the budgets of the territorial self-governing units, from other monetary funds of the state, a territorial self-governing unit or other legal entities mentioned in a), from means amassed in the National Fund 8) and from other means from abroad provided pursuant to international agreements or provided for the fulfillment of public administration tasks,
- j) a public financial support shall mean subsidies, contributions, returnable financial assistance and other means provided from the state budget, from the budget of the

territorial self-governing unit or the budget of other legal entities mentioned under a), a state fund, state financial assets, further on state guarantees, financial support provided in the form of a tax rebate, as well as non-payment of customs duty, means provided from the National Fund and other means from abroad provided pursuant to international agreements or for the fulfillment of public administration tasks, financial means from the proceeds of the sale of property in privatization provided by the National Property Fund or the Ministry of Finance,

- k) the provider of public financial support shall be a public administration body which is authorized to provide such support pursuant to special legal regulation,
- l) the correctness of financial and property operations (hereinafter „operation“) shall mean its harmonization with legal regulations and the achievement of optimum relationship between the financial management, effectiveness and efficiency,
- m) effective management shall mean such a use of public means for ensuring the given tasks with as little as possible provision of those means while maintaining the corresponding quality of the tasks fulfilled,
- n) effectiveness shall mean such a use of public means which shall achieve the best possible scope, quality and contribution of the tasks fulfilled in comparison with the volume of the means exerted for their fulfillment,
- o) usefulness shall mean such a use of public means, which shall ensure the optimum rate of achieving targets while fulfilling the set tasks,
- p) a managing body shall mean a public administration body appointed by the government responsible for the management, coordination and implementation of European Union financial means pursuant to the directly usable regulations of the European Community.

Section 3

Financial Control

- (1) The financial control exercised pursuant to this Act is a part of the system of financial management ensuring public means management. It shall be formed by
 - a) a financial control system carried out by the control bodies pursuant to Sections 7 through 11,
 - b) a financial control system carried out pursuant to international agreements pursuant to Section 24,
 - c) an internal control system in public administration bodies pursuant to Sections 25 through 31.
- (2) The system pursuant to subsection 1a) shall include financial control of facts essential for the management of public means especially during the spending of public finances including public financial support of the controlled persons, at the time of their

provision, in the course of their use and further on following their use (hereinafter „public administration control“).

- (3) The system pursuant to subsection 1 b) shall include financial control of foreign means exercised by international organizations under declared international agreements, by which the Czech Republic is bound. 9)
- (4) The system pursuant to subsection 1 c) shall include
 - a) financial control ensured by responsible managers as a part of the internal management of a public administration body during the preparation of operations prior to their approval, during the continuous following of the operations exercised until their final settlement and calculation and the ensuing check of the chosen operations within the evaluation of the results achieved and the correctness of management (hereinafter „managing control“);
 - b) an examination separated in an organizational manner and functionally independent and the assessment of the adequacy and efficiency of the managing control, including the examination of the correctness of chosen operations (hereinafter „internal audit“).

Section 4

Main Aims of Financial Control

- (1) The main aim of financial control is to examine
 - a) the adherence to legal regulations and measures approved by public administration bodies within the limits of those regulations in the management of public means for the implementation of the tasks set by these bodies,
 - b) how the public means are protected against the risks, irregularities or other shortcomings taking place especially by the violation of legal regulations, inefficient, unreasonable as well as non-effective management of public means or by criminal activity,
 - c) timely and reliable information of public administration managing bodies on the handling of public means, on the operations executed, on their evidentiary account processing for the purpose of an efficient guidance of public administration bodies in accordance with the tasks set,
 - d) economic, effective and efficient exercise of public administration.
- (2) If the criteria for the evaluation of viewpoints mentioned in subsection 1 d) are not set by legal regulations, technical or other norms, they shall be defined beforehand by the Chief Executive of a public administration body, on the basis of objectively ascertained facts.

Section 5

Organizational Exercise of Financial Control

The responsibility for the organization, management and for securing the adequacy and efficiency of financial control lies with the Chief Executives of public administration bodies within their managing authority. When introducing and running financial control in public administration bodies, their Chief Executives draw on internationally acknowledged standards and they shall be obliged above all to

- a) organize financial control in such a manner so that reasonable certainty is ensured, that the control shall provide timely and reliable information on financial management, which shall be the basis for ensuring efficient management of public administration operation during the fulfillment of the approved intentions and targets,
- b) ensure that financial control shall be carried out by employees with a relevant qualification, who are at the same time blameless and where there is no fear of conflict of interests pursuant to special legal regulations; 10) a blameless employee is such a person who has not been finally and conclusively condemned for an intentional criminal act, for a negligent crime of a financial character or a crime connected with the implementation of public administration, unless the sentence has been erased or unless pursuant to a special legal regulation the offender is regarded as not to have been sentenced,
- c) ensure that undesirable measures aimed at influencing the employees carrying out financial control are eliminated; the employee shall not be issued an order which would endanger or make impossible an objective exercise of financial control; if such an order has been issued, the employee shall not abide by it,
- d) ascertain the concrete aims of the financial control according to the character of the tasks carried out by public administration and in accordance with its main aims pursuant to Section 4,
- e) follow and assess the results of financial control and when ascertaining shortcomings, immediately adopt concrete measures towards their improvement, as well as system measures which aim at the prevention and timely discovery of incorrect operations and their causes.

Section 6

Control Methods and Control Procedures

- (1) While exercising financial control especially the following control methods shall be used:
 - a) ascertaining the real state of public means management and its comparison with the pertinent documentation,
 - b) following the correctness of procedures during the management of public means,
 - c) investigating and checking of facts concerning operations,
 - d) control calculation,
 - e) the analysis of data in financial statements or other information systems and evaluation of their mutual relations.

- (2) When exercising financial control especially the following control procedures shall be applied:
 - a) the procedures of approval ensuring the checking of background documentation of operations under preparation, and which suspend these operations in case of shortcomings until they are removed,
 - b) operational procedures ensuring complete and accurate course of operations until their final settlement and calculation and which include also control techniques in examining their documentation and in preparing account and other financial and statistical statements, declarations and reports,
 - c) assessment procedures ensuring the evaluation of data about executed operations filed in the introduced information systems and included in the account, other financial and statistical statements, declarations and reports, further on their comparison with the approved budgets and the evaluation of their consequences for the overall economic management;
 - d) auditing procedures ensuring the checking of the correctness of chosen operations as well as the auditing procedures towards functionally and organizationally independent evaluation of the adequacy and efficiency of financial controls introduced within the management system.
- (3) The control methods and control procedures can be used only in accordance with the rules set for the execution of financial control by a special legal regulation 11) and this Act.
- (4) Further details on the control methods and control procedures shall be defined by an implementing legal regulation.

SECOND PART

PUBLIC ADMINISTRATION CONTROL

TITLE I

JURISDICTION OF CONTROL BODIES

Section 7

Finance Ministry Jurisdiction

- (1) The Finance Ministry as the central administration authority for financial control
 - a) methodically manages and coordinates the execution of financial control in public administration,
 - b) carries out the function of a central harmonization unit aimed at the harmonization and methodological management of the exercise of financial control in public administration,

- c) establishes a department subordinated directly to the minister, for the execution of the function of the central harmonization unit, which ensures its functional independence and organizational separation from the managing executive structures.
- (2) The Finance Ministry and the territorial financial bodies exercise public administration control, unless a special legal regulation 12) states otherwise, with the
 - a) organizational components of the state, state funds and other state organizations, 7) including the checking of documents on the adequacy and efficiency of the financial control systems introduced pursuant to Section 3, subsection 1 a) and c),
 - b) providers of public financial support, with the exception of territorial self-governing units,
 - c) applicants for public financial support and the recipients of that support.
- (3) Within the security forces, armed security corps and the intelligence services public administration control shall be carried out solely by the Finance Ministry; this public administration control does not, however, pertain to the management of the property of a special character. 2a)

Section 8

Jurisdiction of the Administrators of the State Budget Chapters

- (1) The Administrator of the State Budget Chapter 13) shall be obliged to create a system of financial control pursuant to this Act by which the financial control of his management shall be ensured as well as the management of the organizational components of the state and contributory organizations in his jurisdiction. At the same time he shall ensure the checks of the adequacy and efficiency of this system and regularly, at least once a year, its assessment.
- (2) The providers shall exercise public administration control with the applicants for public financial support or the recipients of the support with the exception of those, who were provided public financial support from the budget of the territorial self-governing unit.

Section 8a

Jurisdiction of the Managing Body

The managing body shall carry out public administration control of the controlled persons at all levels of the implementation of financial means from the European Union budget pursuant to this Act and in accordance with directly usable regulations of the European Communities.

Section 9

Jurisdiction of Territorial Self-Governing Units

- (1) The territorial self-governing units pursuant to this Act shall control the management of public means of the contributory organizations in their competence.

- (2) The territorial self-governing units shall carry out public administration control of the applicants for public financial support or of the recipients of public financial support , which they provide.
- (3) The territorial self-governing units shall be obliged to create a financial control system pursuant to this Act, by which they shall ensure financial control of both their management as well as the management of their organizational components and contributory organizations in their jurisdiction. At the same time they shall ensure the checking of adequacy and efficiency of the system and regularly, at least once a year, its evaluation.

Section 9a

Jurisdiction of the Region

- (1) The regions shall prepare annual reports on the results of financial controls of municipalities in their territory, the Capital City of Prague shall prepare annual reports on the results of financial controls of municipal districts.
- (2) The jurisdiction imposed on the regions and the Capital City of Prague pursuant to subsection 1 is the execution of delegated jurisdiction.

Section 10

The Heading has been Left Out

During the exercise of public administration control of municipalities and the organizations they have established, the regional authorities shall check solely

- a) facts decisive for the provision of means from the state budget or other financial means of the state, the state fund or the National Fund,
- b) harmony with the legal regulations, economy, efficiency and effectiveness during the handling of state budget means, other financial means of the state or means provided from the state budget, the state fund, state financial assets or the National Fund,
- c) facts decisive for the provision of a state guarantee.

Section 11

Common Provisions on the Jurisdiction of Control Bodies

- (1) During public administration control preceding decisions on the approval of the use of public means, control bodies check materials submitted by the persons controlled for the operations under preparation prior to their implementation. This control focuses especially on the period prior to the adoption of the decision or the conclusion of an agreement which binds public administration bodies to public expenditures or other obligations of a property character and is focused especially on the verification of facts, which are decisive for spending of these finances or for other obligations.
- (2) Control bodies during preliminary public administration control consider whether the operations planned and under preparation correspond to the tasks set for public administration and are in harmony with the legal regulations, approved budgets,

programmes, projects, concluded agreements or other decisions on the handling of public means.

- (3) During continuous public administration control of the management of public means by the controlled persons the control bodies check especially, whether these persons
 - a) adhere to the conditions and procedures set during the implementation, settlement and accounting of the operations approved,
 - b) adjust the implementation of the operations to the changes in economic, legal, organizational and other conditions to new risks,
 - c) file on time and accurately the minutes on the operations carried out in the records that have been introduced and in automated information systems and whether they ensure timely preparation of the defined financial, account and other statements, notifications and reports.
- (4) During the public administration control carried out after the completion of the accounting calculation of the operations, the control bodies shall verify, check and assess in a chosen sample of the operations above all, whether
 - a) the data on the management of public means truly reflect the sources, state and movement of public means and whether these data reflect facts decisive for the realization of public income, expenditures and handling of public means,
 - b) the operations under control are in accordance with the legal regulations, approved budgets, programmes, projects, concluded agreements or other decisions approved within the management and meet the criteria of economic management, efficiency and effectiveness,
 - c) the measures approved by the competent public administration bodies including the measures for the removal, mitigation or prevention of risks are being fulfilled by the persons controlled.
- (5) The results of verification and evaluation of operations under subsection 4 shall serve as a back-ground material for the checking of adequacy and efficiency of financial control systems introduced in public administration bodies pursuant to Section 3, subsection 1 a) and c).

CHAPTER II

RULES OF PROCEDURE

Section 12

Elimination of the Conflict of Interests

Due to the elimination of the conflict of public interest with personal interests the heads of the executive control bodies are obliged to ensure that the employees carrying out public administration control or persons in close relation to them¹⁴) shall not be in a legal or other relationship to the persons controlled or the subject of the control, which would give rise to justified doubts on the objectivity of their performance.

Section 13

Rules for the Performance of Public Administration Control on Site

- (1) Mutual relations between the control bodies and the persons controlled during the performance of a public administration control on site shall be managed by Part Three of the Act on State Control, 11) unless this Act states otherwise.
- (2) The employees of the control body may during the public administration control carried out on site within legal entity or a physical person, who is an applicant for a public financial support or its recipient, use the control authorization pursuant to this Act and pursuant to Part Three of the Act on State Control 11) only in the scope necessary for the fulfillment of this control.
- (3) If the control body finds discrepancies in the documents of the person controlled on the delivery of goods or services paid from public funds or public financial support, it shall use during the control of the person who is obliged to cooperate in the performance of the control the procedure under subsection 1, accordingly.
- (4) If the person obliged to cooperate during the control under subsection 3 did not promise so in advance in the agreement on the deliveries of goods or services, the control body shall be authorized to request the documents necessary for the verification of the pertinent operation.

Section 14

The Commencement of the Public Administration Control Performed on Site

- (1) The public administration control performed on site shall start by submitting a written authorization of the control body to the person controlled.
- (2) The person controlled shall be obliged, on the request of the control body, to submit the results of the preceding controls, which have a relation to the subject of control under subsection 1.

Section 15

The Completion of the Public Administration Control Performed on Site

- The public administration control performed on site shall be completed by
- a) the ineffective lapse of time for raising objections under a special legal regulation, 15)
 - b) the day of the delivery of decision of the control body against which no further appeal can be lodged pursuant to a special legal regulation. 16)

Section 16

Persons Engaged

- (1) In the interest of an expert opinion of the matter during public administration control performed on site further persons may be engaged, for example, experts and interpreters 17) or specialized experts. In a similar way the provisions of this Act as

well as Part Three of the Act on State Control 11) shall apply to the persons engaged, accordingly.

- (2) When selecting the person engaged the control body is obliged to consider the rights and the legally protected interests of the person controlled.
- (3) The head of the control body is responsible for the choice of the person engaged and he/she shall provide an authorization to the person engaged in the extent necessary and for the necessary period. At the same time he/she shall ensure that the person engaged shall be notified of his/her rights and obligations during the participation in the control under subsection 1.

Section 17

Fines for Obstructing Public Administration Control on Site

- (1) If the controlled persons did not ensure even in an additionally set period the fulfillment of obligations under a special legal regulation 18) and this has not been achieved by repeated law and order fines to physical persons under a special legal regulation 19) either, the control bodies may impose on the controlled persons a fine for obstructing the public administration control performed on site to the tune of up to 1.000,000 CZK. When imposing the fine for obstructing the control, the seriousness, duration and consequences of the illegal behaviour are above all taken into consideration.
- (2) The fine pursuant to subsection 1 may be imposed within 6 months from the day of non-fulfillment of obligations by the person controlled in an additional period.

Section 18

Corrective Measures

- (1) The person controlled shall be obliged to take measures for correcting the shortcomings uncovered during the public administration control without undue postponement in a period set by the control body.
- (2) The control bodies shall impose on the persons controlled corrective measures if so determined by a special legal regulation, 20) or they shall hand their findings to public administration bodies authorized to impose on the controlled persons corrective measures. In such a case the public administration bodies and their employees shall have the duty of non-disclosure pursuant to this Act or a special legal regulation. 21)

Section 19

Information on the Imposition of Corrective Measures

- (1) The public administration bodies which are authorized to impose corrective measures on the person controlled, shall be obliged to inform the control body in a written form of the imposition and its fulfillment within a period of 3 months since their imposition and fulfillment.

- (2) The persons controlled shall be obliged to inform the control body in a written form on the adoption of corrective measures towards the removal of shortcomings and on their fulfillment within a period set by the body.
- (3) The control bodies shall be authorized to verify with the persons controlled, who are obliged to take corrective measures towards the removal of shortcomings, the fulfillment of the measures. They shall act pursuant to section 13, subsection 1.

Section 20

Fines for the Non-Adoption or Non-Fulfillment of Corrective Measures towards the Removal of Shortcomings

- (1) In case the persons controlled, who are obliged to take corrective measures towards the removal of shortcomings, did not adopt the measures or did not comply with them in the set periods, the control bodies may impose a fine for not taking or not meeting the corrective measures towards the removal of shortcomings of up to 1.000,000 CZK.
- (2) The fine pursuant to subsection 1 may be imposed within 6 months from the day when the control bodies found out that the persons controlled did not adopt or meet the corrective measures towards the removal of shortcomings, however, at the latest within 3 years following the completion of the public administration control carried out on site.

Section 21

Common Provisions on Fines

- (1) The fines imposed pursuant to a special legal regulation 19) and pursuant to Sections 17 and 20 of this Act shall be collected and enforced by control bodies, which have imposed them. Proceedings on the imposition of those fines shall take place pursuant to the Code of Administrative Procedure 22) and during their payment and enforcement pursuant to a special legal regulation. 23)
- (2) The fines pursuant to subsection 1 shall be the income of the budget of the body, which have imposed them. If they are imposed by the control body financed from the state budget, these fines shall be the income of the state budget.

Section 22

Reporting on the Results of Financial Control

- (1) The Finance Ministry shall submit to the government an annual report on the results of financial control together with a draft final state account. At the same time it shall hand over the report to the Supreme Audit Office.
- (2) The administrators of the budgetary chapters executing financial control pursuant to this Act, the regions and the Capital City of Prague shall submit to the Finance Ministry annual reports on the results of financial controls.
- (3) The organizational components of the state and legal entities which manage public means, submit annual reports on the results of financial controls to the competent administrators of budgetary chapters. Municipalities submit the reports to the regions,

municipal districts to the Capital City of Prague. Reports of statutory cities shall include the results of financial controls of the self-governing bodies of the municipal administrative districts or metropolitan districts. 24)

- (4) Part of the reports pursuant to subsections 1 to 3 shall also be formed by the evaluation of the adequacy and efficiency of the introduced system of financial control including the review of control findings submitted for further proceedings pursuant to special legal regulations. 25) Where this Act points to the obligation of public administration body to introduce the system of financial control in other public administration bodies, the annual reports are presented by a body obliged to introduce the system also on behalf of these bodies.
- (5) The structure and extent of reports on the results of financial controls, the procedure and periods of their submission shall be determined by an implementing legal regulation.
- (6) The control bodies shall inform the Finance Ministry of serious findings by the financial controls within 1 month from the completion of the financial control, at the latest. A serious finding shall be
 - a) a finding on the basis of which the control body has announced pursuant to a special legal regulation 26) to the public prosecutor or the police facts confirming that a crime has been committed,
 - b) a finding of an unauthorized use, detention, loss or damage of public means in the value of over 300,000 CZK.
- (7) By meeting the obligation pursuant to subsection 6 b) the obligation of the control body to state to the competent tax administrator the finding on the violation of budgetary or tax order shall not be without prejudice pursuant to a special legal regulation. 23)

Section 23

Cooperation in the Field of Financial Control

- (1) Public administration bodies cooperate in ensuring an adequate and efficient system of financial control in public administration.
- (2) In the framework of cooperation public administration bodies, upon request, inform each other about the programmes and intentions of their financial controls, their execution and results, if this is not at loggerheads with a special legal regulation. 21)
- (3) Public administration bodies shall cooperate in ensuring an adequate and efficient system of financial control with the Supreme Audit Office, to which they, upon request, provide information pursuant to subsection 2 for working out the plan of the control activity of the Supreme Audit Office.

PART THREE

FINANCIAL CONTROL PURSUANT TO INTERNATIONAL AGREEMENTS

Section 24

Rules for the Exercise of Financial Control Pursuant to International Agreements

- (1) If a declared international agreement by which the Czech Republic is bound, 9) so stipulates, international organizations may carry out financial control through their control bodies or authorized representatives pursuant to this Act in the scope and under the conditions stipulated by this agreement.
- (2) If so stipulated by an agreement mentioned in subsection 1, international organizations shall be authorized in the scope and under the conditions stipulated by the agreement to request cooperation of the Czech Republic public administration bodies during financial control or to ensure its exercise. The requested public administration body shall be obliged to comply with the request. Within cooperation, the pertinent bodies shall inform each other on the subject, purpose and result of financial control, coordinate its execution and proceed in joint coordination during the financial control.
- (3) The persons controlled and persons obliged to cooperate during the exercise of financial control shall be obliged in cases mentioned in subsections 1 and 2 to make possible the exercise of the financial control.
- (4) If the agreement mentioned in subsection 1 makes it possible, the competent bodies of the Czech Republic public administration shall request of the international organizations reports on the financial controls that they have carried out.
- (5) Public administration bodies shall be obliged to provide to the Finance Ministry information on financial controls and their results, which they provided to the international organizations upon their request.

PART FOUR

INTERNAL CONTROL SYSTEM

CHAPTER I

INTRODUCING, KEEPING AND CHECKING THE EFFICIENCY OF THE INTERNAL CONTROL SYSTEM

Section 25

Obligations of a Public Administration Body Chief Executive and Senior Employees

- (1) The Chief Executive of a public administration body shall be obliged within his/her authority to introduce and maintain internal control system, which shall

- a) create conditions for an economic, effective and useful exercise of public administration,
 - b) be competent to uncover, evaluate and minimize on time the operational, financial, legal and other risks occurring in connection with the meeting of the approved intentions and targets of a public administration body,
 - c) include procedures for the timely providing of information to the relevant levels of management on the occurrence of grave shortcomings and on the corrective measures adopted and met.
- (2) To meet the obligations pursuant to subsection 1, the Chief Executive of a public administration body shall establish pursuant to Section 5 the position and competence of the organizational components of the state, which are not account units pursuant to a special legal regulation, organizational components of territorial self-governing units, organizational departments, senior and other employees in such a way, as to ensure the functioning of the managing control and the internal audit. Towards this end he/she shall
- a) establish the scope of the corresponding powers and responsibilities of senior and other employees during the handling of public means, including the complete and precise defining of duties in relation to the tasks they fulfill,
 - b) ensure the separation of powers and responsibilities during the preparation, approval, execution and control of operations, especially in relation towards public tenders, conclusion of agreements, creation of obligations, payments and the support of claims,
 - c) ensure that a report is prepared about all the operations and controls and relevant documentation filed,
 - d) adopt all the measures necessary towards the protection of public means,
 - e) ensure economic, effective and efficient use of public means in accordance with the bases of reliable management mentioned in subsection 1,
 - f) follow and ensure the meeting of decisive tasks by the public administration body towards the achievement of approved intentions and targets.
- (3) In cases of serious findings the Chief Executive of the public administration body shall proceed pursuant to Section 22, subsection 6, accordingly.
- (4) All senior employees of a public administration body shall be obliged within their specified duties, powers and responsibilities to ensure the functioning of the internal control system. At the same time they shall be obliged to provide to the Chief Executive of a public administration body timely and reliable information on the results achieved during the meeting of designated tasks, on the rise of serious risks, on grave shortcomings in the activity of public administration body and on the approved and fulfilled corrective measures towards the removal of shortcomings.
- (5) Rules of procedure pursuant to Sections 12 through 21 shall not apply to the exercise of financial control within the internal control system of a public administration body.

- (6) Financial control shall be carried out within the internal control system of the Security Intelligence Service; this control shall not apply to the economic management of a special character property. 2a)

CHAPTER II

MANAGING CONTROL

Section 26

Preliminary Control

- (1) Inside a public administration body the preliminary control of operations being planned and prepared shall be ensured by
- a) the Chief Executive of this body and the senior employees who shall be entrusted by him with the handling of public means of the public administration body as the principals of operations,
 - b) the senior employee of the organization unit responsible for the management of the budget of a public administration body or another employee entrusted by the Chief Executive of the body to be the administrator of the budget,
 - c) the senior employee of the organizational unit responsible for accounting of the public administration body or another employee entrusted by the Chief Executive of the body to be the chief accountant.
- (2) To combine functions pursuant to subsection 1 shall be inadmissible, unless stated otherwise.
- (3) To combine functions pursuant to subsection 1 b) and c) shall be possible in cases where it is explained by a minimum possibility of the occurrence of unreasonable risks for the management of public means, especially in relation to the character of the activity of the public administration body, the tasks set, the degree of complexity of financial management, its structure and number of employees.
- (4) A similar provision Section 11, subsection 1 shall apply for directing preliminary control and for its exercise control procedures pursuant to Section 6, subsection 2 a) shall apply.
- (5) If the persons mentioned in subsection 1 b) and c) find out that the operation has been executed without preliminary control, they shall make known their finding in a written form to the Chief Executive of the public administration body. He/she shall be obliged to adopt measures towards the verification of the operation, which has not been controlled, and measures towards ensuring the proper exercise of preliminary control.

Section 27

Continuous and Subsequent Control

- (1) Inside a public administration body the continuous and subsequent control shall be ensured by its Chief Executive through the senior employees of organizational units or employees who have the authorization to ensure the direct implementation of operations during the management of public means.
- (2) For the continuous and subsequent control provision of Section 11, subsections 3 and 4 shall be used accordingly and for its implementation mainly control procedures pursuant to Section 6, subsection 2 b) to d).
- (3) If persons mentioned in subsection 1 find out during the exercise of continuous and subsequent control, that public means are managed in a non-economic manner, ineffectively or at loggerheads with legal regulations, they shall impart their finding in a written form to the Chief Executive of the public administration body, who shall be obliged to adopt measures towards the removal of shortcomings and measures for ensuring the proper execution of this control.

CHAPTER III

INTERNAL AUDIT

Section 28

Functional Independence of Internal Audit

- (1) Inside the public administration body the internal audit is ensured by a functionally independent unit, or an employee especially authorized for that purpose, organizationally separated from the managing executive structures (hereinafter „internal audit unit“).
- (2) Internal audit is an independent and objective review and evaluation of operations and the internal control system of the public administration unit, which finds out, whether
 - a) the legal regulations, the measures adopted and the procedures defined are adhered to within the activities of the public administration body,
 - b) the risks relating to the activity of a public administration body are recognized on time and whether corresponding measures for their elimination or mitigation are adopted,
 - c) the managing controls provide to the Chief Executive of a public administration body reliable and timely organizational, financial and other information,
 - d) operational and financial criteria pursuant to Section 4 are being met,
 - e) the introduced internal control system is sufficiently efficient, reacts to the changes in economic, legal, operational and other conditions,
 - f) the results achieved during the fulfillment of decisive tasks of the public administration body sufficiently ensure that the approved intentions and targets of the body shall be met.

- (3) On the basis of its findings the internal audit unit shall submit to the Chief Executive of a public administration body recommendations towards the improvement of the quality of the internal control system, prevention or mitigation of risks and adoption of corrective measures for the elimination of shortcomings. At the same time this unit shall carry out within the public administration body consultative activity.
- (4) The internal audit shall include above all
 - a) financial audits, which verify whether the data shown in financial, accounting and other statements reflect truly the property, the sources of its financing and its management,
 - b) the audits of systems, which verify and evaluate the systems of income provision of the public administration body, including collection of debts, financing of its operation and ensuring the proper management of public means,
 - c) the execution audits which examine in a selective manner the economic management, effectiveness and usefulness of operations, as well as the reasonability and efficiency of the internal control system.

Section 29

The Position of the Internal Audit Unit

- (1) The Internal audit unit shall be directly subordinated to the Chief Executive of a public administration body, who shall ensure its functional independence and organizational separation from the managing executive structures.
- (2) The head of the internal audit unit shall be appointed and recalled by
 - a) the Finance Minister following a debate in the Government, if this concerns an internal audit unit within the Finance Ministry,
 - b) the Chief Executive of the public administration central body or another organizational component of the state, which is the administrator of the state budget chapter, 13) following discussion with the Finance Minister, if this concerns an internal audit unit of this body,
 - c) President of the Supreme Audit Office following discussion with the Chairman of the Budgetary Committee of the Chamber of the Deputies of the Parliament, if this concerns an internal audit unit of the Supreme Audit Office,
 - d) statutory body of a legal entity established for the purpose of meeting the public administration tasks by a special legal regulation or on the basis of a special legal regulation, following discussion with the Chief Executive of a public administration body who is entrusted by a special legal entity with the control of the person's activity, if this concerns his/her internal audit unit,
 - e) the Chief Executive of the organizational component of the state, which is an accounting unit of a state contributory organization and the state fund following discussion with the Chief Executive of the body mentioned under b), if this concerns the internal audit unit of the organizational component of the state, a state contributory organization or a state fund in the competence of this authority,

- f) the council of the region on the proposal of the Director of the Regional Authority, if this concerns an internal audit unit of the region,
 - g) the municipal council on the proposal of the mayor of a municipality, if this concerns an internal audit unit of a municipality,
 - h) the Council of the Capital City of Prague on the proposal of the Director of the Metropolitan Authority of the Capital City of Prague, if this concerns the internal audit unit of the Capital City of Prague,
 - i) the council of the municipal district of the Capital City of Prague on the proposal of the mayor of the municipal district, if this concerns an internal audit unit of a municipal district of the Capital City of Prague,
 - j) a statutory body of a contributory organization of a territorial self-governing unit following discussion with the director of the regional authority if this concerns an internal audit unit of a budgetary organization of the region, with a mayor of a municipality if this concerns an internal audit unit of a budgetary organization of a municipality, with the Director of the Metropolitan Authority of the Capital City of Prague, if this concerns an internal audit unit of a contributory organization of the Capital City of Prague.
- (3) In case of entrusting an employee mentioned in Section 28, subsection 1 with the implementation of an internal audit and his/her recalling, the Chief Executive of the public administration body shall proceed pursuant to subsection 2 accordingly.
- (4) The internal audit unit cannot be entrusted with tasks, which are in conflict with the independent fulfillment of the entrusted tasks. It shall not be at variance with the independent fulfillment of tasks of the internal audit unit, if the unit has been entrusted with the exercise of the subsequent public administration control pursuant to Section 11, subsections 4 and 5.
- (5) In cases with a small probability of the occurrence of unreasonable risks in the management of public means, especially in relation to the character of tasks ensured, the structure and the degree of complexity of the internal management, the public administration bodies may pursuant to Section 8, subsection 1 with the organizational units of the state and contributory organizations in their competence, territorial self-governing units pursuant to Section 9, subsection 3 with their organizational components and contributory organizations in their competence substitute the function of the internal audit unit with the exercise of the public administration control pursuant to Part Two of this Act.
- (6) The municipalities and municipal districts of the Capital City of Prague which have less than 15,000 inhabitants, may substitute the function of the internal audit unit with the adoption of other adequate measures. In such a case they shall ensure continual following and evaluation of the efficiency of these measures and at the same time consider the introduction of an internal audit unit. If in relation to this evaluation they find out that the measures adopted are not adequately efficient, the municipalities and

municipal districts of the Capital City of Prague shall be obliged without further delay to establish an internal audit unit.

Section 30

Planning of Internal Audit

- (1) The internal audit shall be carried out within a public administration body in accordance with a medium-term plan and the annual plans of the individual audits.
- (2) The medium-term plans shall establish the priorities and shall reflect the needs of a public administration body from the point of view of the current results of its activities and envisaged intentions and targets for a several years period.
- (3) The annual plan shall specify on the basis of the medium-term plan the extent, subject-matter and the type of audits, their aims, time schedule and personnel. Furthermore, it shall include mainly specialized preparation of the internal auditors, tasks in the methodological and consultative activities.
- (4) The internal audit plans shall be worked out by the internal audit unit on the basis of the objective evaluation of risks ensuing from the set tasks of the public administration body with a consideration for the results of public administration and other control exercised within this body and the findings of the internal control system.
- (5) The head of the internal audit unit shall discuss the preparation of plans with the Chief Executive of the public administration body, who approves the plans. He/she takes into considerations the other's recommendations.
- (6) In especially justified cases the internal audit unit may on the request of the Chief Executive of a public administration body operationally include the execution of a concrete audit outside the approved annual plan.
- (7) The Chief Executive of public administration body shall ensure at least once a year the verification of the efficiency of the internal control system, which incorporates all control activity within the internal operational and financial management of the body. Where the function of internal audit has not been introduced yet the need for its introduction within the body shall be examined.

Section 31

Submission of Reports

- (1) The internal audit unit shall hand over the reports on its findings from the audits implemented without undue delay to the Chief Executive of the public administration body with a recommendation for the adoption of measures pursuant to Section 28, subsection 3.
- (2) If the internal audit unit finds out that on the basis of declaration of the managing control or on the basis of its own proposal relevant measures have not been adopted, it

shall be obliged to notify in a written form the Chief Executive of the public administration body.

- (3) The results of the internal audit shall be jointly specified in the annual report submitted to the Chief Executive of the public administration body, which shall especially
 - a) evaluate the general quality of the internal control system,
 - b) analyze the occurrence of serious shortcomings, which have adversely influenced the activity of the public administration body including shortcomings in the functioning of the internal control system and which were the reason for decreasing the financial effectiveness in the activity of the public administration body,
 - c) submit recommendation for the improvement of the management of operational and financial activity of the public administration body and its internal control system.
- (4) On the basis of recommendations of the internal audit unit specified in the report pursuant to subsection 3, the Chief Executive of the public administration body shall take corresponding measures.
- (5) The report pursuant to subsection 3 and the measures adopted pursuant to subsection 4 shall form the background for working out the annual report of the public administration body pursuant to Section 22, which includes the data and information on the results of financial control in that body.

PART FIVE

TRANSITIONAL AND AUTHORIZING PROVISIONS

Section 32

Transitional Provisions

- (1) Financial controls and controls which have the character of financial controls within the intention of this Act and were initiated before the day of its effectiveness shall be completed under the current legal regulations.
- (2) Considered as controls under subsection 1, onwards from the day of this Act coming into effect shall also be financial revisions and controls of subsidies for a certain purpose, returnable financial assistance, loans and contributions provided from the state budget of the Czech Republic and from the state funds of the Czech Republic pursuant to a special legal regulation 27) and shall continue to be guided by this Act.
- (3) The Chief Executive of the public administration body shall ensure the introduction of the system of financial control pursuant to this Act within 6 months from its effectiveness.
- (4) From the day of coming into full effect of the Civil Service Act the appointment and discharge pursuant to Section 29, subsection 2 a) and b) and Section 29, subsection 3 shall be governed by the Civil Service Act. 28)

Section 32a

Provisions of Section 26 on preliminary control shall not be used during the fulfillment of tasks of the integrated rescue system and the fulfillment of other tasks of the Police of the Czech Republic, the Fire Rescue Brigade of the Czech Republic, Army of the Czech Republic, Customs Administration of the Czech Republic, Prison Service of the Czech Republic and the intelligence services, if there is to be no delay in their implementation. 28a)

Section 33

Authorizing provisions

An implementing regulation for Section 6, subsection 4 and Section 22, subsection 5 shall be issued by the Finance Ministry.

PART SIX

Amendment of the Act on Budgetary Rules

Section 34

Act No. 218/2000 Coll., on Budgetary Rules as amended (Budgetary Rules), as amended by Act No. 493/2000 Coll., Act No. 141/2001 Coll., and Act No. 187/2001 Coll., shall be amended as follows:

1. Section 39 including footnote no. 22) shall read:

„Section 39

- (1) The administrator of the chapter shall be responsible for the management of state budget means and other financial means of the state in his/her chapter.
- (2) The Finance Ministry, territorial financial bodies, the administrators of the chapters and the district authorities shall ensure the control of the management of state budget means, other financial means of the state and the means of the National Fund (hereinafter „financial control“) pursuant to a special legal regulation.

22) Act No. 320/2001 Coll., on Financial Control in Public Administration as amended (Act on Financial Control)“.

2. Sections 40, 41 and 42 shall be repealed.

3. Section 43 shall read:

„Section 43

If the means from abroad are provided through the state budget, their financial control shall be implemented pursuant to a special legal regulation. 22)

4. In Section 44, subsection 6 the words „ upon the exhaustion of due remedial means pursuant to a special legal regulation 22) shall be repealed.“

PART SEVEN

Amendment of the Act on Budgetary Rules of Territorial Budgets

Section 35

In Act No. 250/2000 Coll., on the Budgetary Rules of Territorial Budgets, in Section 15 the current text shall be specified as subsection 1 and subsection 2 shall be supplemented, which shall read including footnote no.10a):

„(2) Territorial self-governing units shall ensure the exercise of financial control pursuant to a special legal regulation. 10a)

10a) Act No. 320/2001 Coll., on Financial Control in Public Administration as amended (Act on Financial Control).“

PART EIGHT

Amendment of the Act on the Capital City of Prague

Section 36

Act No. 131/200 Coll., on the Capital City of Prague as amended by Act No. 145/2001 Coll., and Act No. 273/2001 Coll., shall be amended as follows:

1. in Section 2 subsection 4 shall be supplemented, which including footnote no. 1a) shall read:

„(4) The Capital City of Prague shall ensure the implementation of financial control pursuant to a special legal regulation. 1a)

1a) Act No. 320/2001 Coll., on Financial Control in Public Administration and the amendment of some acts (Act on Financial Control).“

2. In Section 3 subsection 4 shall be supplemented, which reads:

„(4) The municipal districts shall ensure financial control exercise pursuant to a special legal regulation. 1a)“.

PART NINE

Amendment of the Act on Municipalities (establishment of municipalities)

Section 37

In Act No. 128/2000 Coll., on Municipalities (establishment of municipalities), as amended by Act No. 273/2001 Coll., new Section 9a shall be inserted after Section 9, which including footnote no. 2a) shall read:

„Section 9a Municipalities shall ensure the implementation of financial control pursuant to a special legal regulation. 2a)

2a) Act No. 320/2001 Coll., on Financial Control in Public Administration and the amendment to some acts (Act on Financial Control).“

PART TEN

Amendment of the Act on Regions (establishment of regions)

Section 38

In Act No. 129/2000 Coll., on Regions (establishment of regions), as amended by Act No. 273/2001 Coll., in Section 2 subsection 3 is supplemented, which including footnote no. 1a) shall read:

„(3) The regions shall ensure the implementation of financial control pursuant to budgetary rules of the territorial budgets and pursuant to a special legal regulation. 1a)

1a) Act No. 320/2001 Coll., on Financial Control in Public Administration and the amendment to some acts (Act on Financial Control).“

PART ELEVEN

The Amendment of the Act on District Authorities

Section 39

In Act No. 147/2000 Coll., on District Authorities, in Section 9 the current text is marked as subsection 1 and subsection 2 shall be supplemented, which including footnote no. 7a shall read:

„(2) The district authority shall ensure the implementation of financial control with its organizational components and contributory organizations and with the municipalities and organizations which they established pursuant to a special legal regulation. 7a)

7a) Act No. 320/2001 Coll., on Financial Control in Public Administration and on the amendment to some acts (Act on Financial Control).“

PART TWELVE

Amendment of the Act on the Administration of Taxes and Fees

Section 40

In Act No. 337/1992 Coll., on the Administration of Taxes and Fees, as amended by Act No. 255/1994 Coll., Act No. 59/1995 Coll., Act No. 118/1995 Coll., Act No. 242/1997 Coll., Act No. 91/1998 Coll., Act No. 168/1998 Coll., and Act No. 271/2001 Coll., in Section 24, subsection 6 at the end of i) the full-stop shall be substituted by a comma and j) shall be supplemented, which including footnote no. 12a) shall read:

„j) to the Finance Ministry the data on the amount of the set revenues of irregularly used or detained means from the state budget or state funds on the basis of a special legal regulation. 12a)

12a) Section 18 of Act No. 320/2001 Coll., on Financial Control in Public Administration and the amendment to some acts (Act on Financial Control).“

PART THIRTEEN

Amendment of the Act on the Property of the Czech Republic and its Presentation in Legal Relations

Section 41

Act No. 219/2000 Coll., on the Property of the Czech Republic and its Presentation in Legal Relations, as amended by Act No. 492/2000 Coll., and Act No. 229/2001 Coll., shall be amended in the following way:

1. In Section 48, subsection 1 the word „Internal“ and words (hereinafter „control“) shall be cancelled.
2. In Section 49, subsection 1 including footnote no. 65a) shall read:

„ (1) Control methods, control procedures and mutual relations of the control bodies and the controlled organizational components during the implementation of control shall be governed by special legal regulations, 65a) which amend the financial control and its exercise and rules contained in internal regulations issued by control bodies.

65a) For example, Act No. 320/2001 Coll., on Financial Control in Public Administration and the Amendment to some acts (Act on Financial Control).“

PART FOURTEEN

EFFECTIVNESS

Section 42

This act shall come into effect on January 1st, 2002.

Signed by Klaus

Signed by Havel

Signed by Zeman

- 1) For example, Act No. 219/2000 Coll., on the Property of the Czech Republic and its Presentation in Legal Relations, as amended.

- 2) Act No. 77/1997 Coll., on State Enterprise, as amended.

2a) Section 36 of the Act No. 563/1991 Coll., on Accounting, as amended by Act No. 353/2001 Coll.

- 3) Act No. 166/1993 Coll., on the Supreme Auditing Office, as amended. Act No. 128/2000 Coll., on Municipalities (establishment of municipalities), as amended by Act No. 273/2001 Coll.

Act No. 129/2000 Coll., on the Regions (establishment of regions), as amended by Act No. 273/2001 Coll.

Act No. 131/2000 Coll., on the Capital City of Prague, as amended.

Act No. 147/2000 Coll., on District Authorities.

- 4) For example, Act No. 219/2000 Coll., as amended, and Act No. 250/2000 Coll., on Budgetary Rules of Territorial Budgets.

- 5) Section 1, subsection 2 of the Act No. 563/1991 Coll., on Accounting, as amended by the Act No. 492/2000 Coll.,

- 6) For example, Act No. 551/1991 Coll., On the General Health Insurance Company of the Czech Republic, as amended, Act No. 111/1998 Coll., On Universities, as amended and the supplement to other acts, as amended.

- 7) Section 51 and the foll. of the Act No. 219/2000 Coll., as amended by Act No. 492/2000 Coll.

- 8) Act No. 218/2000 Coll., on Budgetary Rules and the amendment to some related acts (budgetary rules), as amended.

- 9) For example, Notification No. 7/1995 Coll., on the Conclusion of a Europe Agreement Establishing an Association between the Czech Republic on the one side and the European Communities and their Member States on the other, as amended by Notification No.67/1997 Coll., Notification No. 251/1997 Coll., as amended by Notification No. 265/1998 Coll., as amended by Notification 75/1999 Coll., and Notification No. 16/2000 Coll. of International Agreements.
- 10) For example, Act No. 65/1965 Coll., the Labour Code, as amended.
- 11) Part Three of Act No. 552/1991 Coll., on State Control, as amended by Act no. 148/1998 Coll.
- 12)For example, Section 33 of Act No. 166/1993 Coll., as amended by Act No. 220/2000 Coll.
- 13) Section 3 g) of Act No. 218/2000 Coll.
- 14) Section 116 of the Civil Code.
- 15) Sections 17 and 18 of Act No. 552/1991 Coll.
- 16) Section 18 of Act No. 552/1991 Coll.
- 17) Act No. 36/1967 Coll., on Experts and Interpreters.
- 18) Section 14 Act No. 552/1991 Coll.
- 19) Section 19 of Act No. 552/1991 Coll.
- 20) For example, Act No. 129/2000 Coll., as amended by Act No. 273/201 Coll.
- 21) For example, Act No. 148/1998 Coll., on the Protection of Classified Data, as amended by some acts, as amended.
- 22) Act No. 71/1967 Coll. on Administrative Proceedings (administrative procedure), as amended
- 23) For example Act No. 337/1992 Coll., on the Administration of Taxes and Fees, as amended.
- 24) Section 4 of Act No. 128/2000 Coll.
- 25) For example, Act No. 337/1992 Coll., as amended, and the Code of Criminal Procedure.
- 26) Section 24 of Act No. 552/1991 Coll.
Section 8 of the Code of Criminal Procedure
- 27) Act No. 531/1990 Coll., on Territorial Financial Bodies, as amended.

28) Section 53, subsection 5 of Act No. 218/2002 Coll., on the Service of Civil Servants in Administrative Authorities and the Remuneration of these Employees and other Employees in Administrative Authorities (Civil Service Act).

28a) For example Act No. 239/2000 Coll., on the Integrated Rescue System and on the amendment to some acts, as amended by Act No. 320/2000 Coll., Act No. 283/1991 Coll., on the Police of the Czech Republic, as amended, Act No. 238/2000 Coll., on the Fire Rescue Brigade of the Czech Republic, as amended, as amended by Act No. 309/2002 Coll., Act No. 219/1999 Coll., on the Armed Forces of the Czech Republic, as amended, Act No. 13/1993 Coll., Customs Act, as amended, Act No. 555/1992 Coll., on the Prison Service and the Judicial Guard of the Czech Republic, as amended.