

# **The legal environment and space of civil society organisations in supporting fundamental rights and the rule of law**

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# 1 Civic space developments in 2021

<b>1.1 Impact of the COVID pandemic on the non-profit sector</b>	
Area	<b>Financing framework</b>
Topic	Funding landscape
Impact	Major

Like in 2020, Nadace OSF (the OSF Foundation; the Czech office of the Open Society Foundation network) together with Behavio Labs conducted an online quantitative survey on the impact of the coronavirus crisis on the non-profit sector in the past year, and its needs and expectations for 2021.<sup>1</sup> The questionnaire was completed by 483 organisations across the Czech Republic between 14 and 26 January 2021. The research showed that the COVID-19 pandemic continuously had a major impact on the functioning of non-profit organisations and their services.

A total of 30% of respondents stated that COVID-19 related governmental measures prevented them from pursuing their projects and activities and a quarter of them had to return the funding that they had received. Czech NGOs stated that they had received most of their support from individual donors during the pandemic (47% of funding was from individual donors, 36% from company donors, 35% from public budgets).<sup>2</sup> A total of 42% of the organisations stated that it is crucial for them that the state loosen grant conditions during the implementation of projects (and another 43% stated that it would help them a little bit).<sup>3</sup> Moreover, 40% of the organizations were expecting to face major fundraising issues and 39% were expecting grant and endowment terminations to happen in 2021. A total of 22% of the organizations were expecting a significant restriction of their activities and services in 2021.

At the same time, the pandemic had a certain positive impact on the functioning of the participating NGOs. A total of 66% of the organisations streamlined and

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<sup>1</sup> Nadace OSF (2021), The Impact of the COVID-19 Pandemic on Non-profit Organisations. Evaluation of the impacts so far and expectations for 2021 ([Dopady pandemie COVID-19 na neziskové organizace. Hodnocení dosavadních dopadů a očekávání od roku 2021](#)),

<sup>2</sup> Nadace OSF (2021), The Impact of the COVID-19 Pandemic on Non-profit Organisations. Evaluation of the impacts so far and expectations for 2021 ([Dopady pandemie COVID-19 na neziskové organizace. Hodnocení dosavadních dopadů a očekávání od roku 2021](#)), p. 17.

<sup>3</sup> Nadace OSF (2021), The Impact of the COVID-19 Pandemic on Non-profit Organisations. Evaluation of the impacts so far and expectations for 2021 ([Dopady pandemie COVID-19 na neziskové organizace. Hodnocení dosavadních dopadů a očekávání od roku 2021](#)), p. 24.

expanded the working methods for their employees. A similar percentage streamlined communication within their organisation, and 48% of the organisations discovered new issues and areas of activity due to the pandemic, while 37% started engaging in new activities or services, and 36% made new connections for cooperation.

The Association of Social Services Providers (Asociace poskytovatelů sociálních služeb) stated in their report on the impact of the pandemic on social services in the Czech Republic that subsidies paid out under the various aid programmes to social services amounted to CZK 5,163, 517,499 (approximately EUR 206 million).<sup>4</sup> The Ministry of Labour and Social Affairs has adopted various aid programmes to support social services, such as those aimed at covering expenses which incurred by registered social service providers as a result of mandatory testing.<sup>5</sup>

<b>1.2 Temporary change in income tax - relief for contributions to charity</b>	
Area	<b>Financing framework</b>
Topic	Accounting and auditing
Impact	Major

Act No. 586/1992 Coll. on income tax was amended, effective on 4 February 2021,<sup>6</sup> in order to increase the amount of money taxpayers (including legal persons) can deduct from their income tax if they make donations for charitable purposes (and to mitigate the consequences of natural disasters). The aim of the measure is to motivate people and legal entities to continue making donations despite the pandemic.<sup>7</sup>

The amended act increases the percentage that donors can deduct from the tax base from 10% (for physical persons) or 15% (for legal persons) to 30% for both

<sup>4</sup> Horecký, J. and Švehlová, A. (2021), Covid-19 Pandemic and Social Services 2020-2021. What was the impact of COVID-19 on social services in the Czech Republic? ([Pandemie covidu-19 a sociální služby 2020-2021. Jaký byl dopad covidu-19 na sociální služby v České republice?](#)).

<sup>5</sup> Ministry of Labour and Social Affairs (2021), The announcement of a grant procedure of the Ministry of Labour and Social Affairs for the year 2021 for the reimbursement of expenses incurred by registered providers of social services as a result of mandatory COVID-19 testing ([Vyhlášení dotačního řízení MPSV pro rok 2021 na úhradu výdajů, které registrovaným poskytovatelům sociálních služeb vznikly v důsledku povinného testování](#)), 26 March 2021.

<sup>6</sup> Czech Republic (2020), [Bill no. 918](#) amending the Act on Income Tax, 8th session of the Chamber of Deputies, 29 June 2020.

<sup>7</sup> Czech Republic (2020), [Explanatory memorandum](#) to the [Bill no. 918](#) amending the Act on Income Tax, 8th session of the Chamber of Deputies, 29 June 2020.

physical and legal persons. The increased deduction will only be applicable for tax years 2020 and 2021. The authors of the bill, a group of members of the Parliament, including the then prime minister Andrej Babiš, claim that the bill will encourage donors to continue to support public benefit activities and will exclusively benefit active organisations that do not solely rely on government subsidies but are able to attract and retain private donors.<sup>8</sup>

## 2 Examples of civil society contributions to the rule of law

### 2.1 The role of the civic sector in the legalisation of same-sex marriage

Topic	Supporting public authorities in countering discrimination, hate crime, and hate speech
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Civil society organisations had been active in the process of working towards the potential legalisation of same-sex marriage. On 29 April 2021 the Chamber of Deputies, at its 100th session, discussed and voted on two proposals regarding marriage: an amendment to the Civil Code to legalise same-sex marriage<sup>9</sup> and an amendment of the Bill of Rights in for it to include a constitutional-level definition of marriage as a union between a man and a woman.<sup>10</sup> While both acts were proposed by a group of MPs, they had been heavily lobbied for by the civic sector.

The authors of the bill to legalise same-sex marriage point to the currently existing legal differences between spouses and same-sex partners who have entered into a civil union. The opposing bill amending the bill of rights claims that it is protecting the status quo by including a heteronormative definition of marriage in a constitutional act.

Both bills were passed on to further stages of the legislative procedure, with the bill legalising same-sex marriage supported by 41 votes, and the opposing bill by 36 votes.

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<sup>8</sup> Czech Republic (2020), [Explanatory memorandum](#) to the [Bill no. 918](#) amending the Act on Income Tax, 8th session of the Chamber of Deputies, 29 June 2020.

<sup>9</sup> Czech Republic (2018), [Bill no. 201](#) amending the Civil Code, 8th session of the Chamber of Deputies, 12 June 2018.

<sup>10</sup> Czech Republic (2018), [Bill no. 211](#) amending the Civil Code, 8th session of the Chamber of Deputies, 14 June 2018.

A public initiative Jsme fér (We Are Fair) has been lobbying for the adoption of the legalisation bill. The initiative has been backed by the following organisations: Amnesty International, Logos Czech Republic, Mezipatra (Mezzanines), Prague Pride, PROUD (Platforma pro rovnoprávnost, uznání a diverzitu – Platform for Equality, Recognition and Diversity), and Queer Geography. Jsme fér engages in various activities devoted to this issue. For example, in relation to the parliamentary elections in 2021, the initiative conducted a survey among candidates in order to inform the public about candidates’ views on same-sex marriage.

The opposing bill is mainly promoted by the Czech Conference of Bishops and church-affiliated NGOs such as the Národní centrum pro rodinu (National Centre for the Family).

## **2.2 The role of civil society in the explicit mention of the right to self-defence with a gun in the Bill of Rights**

Topic	Contributing to law and policy making (including involvement in public consultations)
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On 1 October 2021, an amendment of the Bill of Rights (the part of the Czech constitution that provides safeguards for human rights) entered into force that extends Article 6 on the right to life with subparagraph 4 stating that: ‘The right to defend one’s own life or the life of another person, even with a weapon, is guaranteed under the conditions laid down by law.’<sup>11</sup> The amendment is only the second amendment to the Bill of Rights since it was adopted in 1991 and it is the result of years-long efforts by pro-gun organisations, notably the Liga Libe (Libe League, a gun rights advocacy NGO), to get constitutional guaranties relating to self-defence with a gun and gun ownership included in the Czech constitution.

On 17 May 2017 the EU Firearms directive<sup>12</sup> was adopted. With a view to maintaining limited freedom of movement of firearms, address some persistent issues in this area, and specifically address the misuse of firearms by criminals and terrorists, the Firearms Directive established a harmonised minimum framework for the possession and acquisition of firearms across the whole EEA, which, among other things, imposed restrictions on the ownership of automatic

<sup>11</sup> Czech Republic (2021), [Draft Bill no. 895](#) amending the Bill of Rights; 8th session of the Chamber of Deputies.

<sup>12</sup> Council [Directive 91/477/EEC](#) of 18 June 1991 on the control of the acquisition and possession of weapons, consolidated version as of 13 June 2017.

weapons and high-capacity magazines. The measure drew criticism, which pointed out that terrorists mostly use illegally obtained weapons and that the existing Czech law is sufficient. Soon after its adoption, the Czech Republic contested the Directive before the CJEU. In the meantime, on civic level, Liga Libe in cooperation with the Českomoravská myslivecká jednota (the Czech-Moravian Hunters' Union, an NGO that unites around 55,000 hunters in the Czech Republic) initiated a petition to include the right to own a firearm in the Bill of Rights.

By 2018, Liga Libe had collected signatures from 110,000 people on their petition, including the signatures of Prime Minister Andrej Babiš, the President of the Chamber of Deputies Radek Vondráček, and the Senate President Miloš Vystrčil (who was a member of the then opposition party).<sup>13</sup> The authors of the petition stated that it is the response of hunters and other gun owners to the EU's efforts to restrict gun ownership, including ownership of legally owned guns.

On 24 September 2019, a group of senators proposed an amendment of the Bill of Rights that did not include a right to own firearms (as the petitioners had wanted) but offered a constitutional guarantee the defence of oneself or others with a weapon (which, by Czech law, may or may not be a firearm). On 3 December 2019, the CJEU dismissed the Czech Republic's action to get the Firearms Directive wholly or partially annulled.<sup>14</sup> Eventually, after a lengthy legislative process and despite criticism by experts on constitutional law,<sup>15</sup> the proposed amendment was adopted in July 2021.

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<sup>13</sup> Idnes (2020), The largest petition in the Czech Republic. Liga Libe handed over 110,000 signatures for guns ([Největší petice v Česku. Liga Libe předala 110 tisíc podpisů za zbraně](#)), 8 July 2020.

<sup>14</sup> Court of Justice of the European Union (CJEU), C-482/17 [Czech Republic v Parliament and Council](#), 3 December 2019.

<sup>15</sup> iRozhlas (2021), Nonsensical, dangerous, a risk of excess – constitutional expert Wintr warns against the right to self-defence in the Bill of Rights ([Nesmyslné, nebezpečné, hrozí excesy, varuje ústavní expert Wintr před právem na obranu v listině svobod](#)), 15 July 2021.

## 3 Other relevant developments

### 3.1 NGOs unite to promote digitalisation

The Czech NGOs Rekonstrukce státu (Reconstruction of the State), Česko.Digital (Czechia.Digital), Nadace OSF (OSF Foundation; the Czech branch of the Open Society Foundation network), and other organisations have created a civic platform called Společně a digitálně (Together and Digitally) that brings together non-profit organisations, experts, officials, politicians, entrepreneurs, and citizens with the aim of jointly pushing for the digital transformation of the state.<sup>16</sup> According to Nadace OSF, the goal is to create a relevant partner for the state for dialogue and cooperation between the state and civil society in order to modernise state administration. The platform is already offering concrete steps and recommendations.

Rekonstrukce státu believes that the current political situation offers relatively good prospects for the digital transformation of the country, as parties with a strong interest in the topic succeeded in the October parliamentary elections, and many new and existing MPs want to actively participate in the change. The topic is also one of the priorities of the coalition agreement of the newly formed Government.<sup>17</sup>

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<sup>16</sup> Společně a digitálně (2021), It is about Time to Modernise the Administration ([Je nejvyšší čas modernizovat státní správu](#)).

<sup>17</sup> Rekonstrukce státu (2021), Together and Digitally. We Launched a Platform to Digitalise the State ([Společně a digitálně. Nastartovali jsme platformu pro digitalizaci státu](#)), 29 November 2021.