

# **Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States Czech Republic 2017**

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## 1. Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
1. Amendment to the Act on Free Access to Information ( <i>novela zákona o svobodném přístupu k informacím</i> ), No. 222/2015 <sup>1</sup>	A – Freedom of Expression	This 'technical' amendment to the Act on Free Access to Information implemented directive 2013/37/EC, amending directive 2003/98/EC, on the re-use of public-sector information. Its positive practical impacts on civil society include the obligation of the public sector to publish information in an open, readable format, without the need (for the user) to have special technical equipment.
2. Amendment to the Act on the right to Assembly ( <i>novela zákona o právu shromažďovacím</i> ), No. 252/2016 <sup>2</sup>	B – Freedom of Assembly	The amendment of the Act on the Right to Assembly increases the powers of local authorities with regard to assemblies. The new powers include the right to impose conditions under which assembly will take place (e.g. a change of the time or location if there are two assemblies colliding at one time or in one place). The police now have the authority to dissolve an assembly.

<sup>1</sup> Czech Republic, Amendment to Act No. 106/1999, on Free Access to Information (*zákon, kterým se mění zákon č. 106/1999 Sb., o svobodném přístupu k informacím*), No. 222/2015, 10 September 2015, available at: <https://www.zakonyprolidi.cz/cs/2015-222>.

<sup>2</sup> Czech Republic, Amendment to the Act on the Right to Assembly (*novela zákona o právu shromažďovacím*), No. 252/2016), 3 August 2016, available at: <https://www.zakonyprolidi.cz/cs/2016-252>.

		The actual impact on non-governmental organisations (NGOs) cannot be judged in advance; it will depend on how the new powers of authorities will be enacted.
3. Principles of government funding of NGOs	C – Freedom of association	In August 2014, the government amended the Principles for providing subsidies from the state budget of the Czech Republic to NGOs by bodies of public administration. <sup>3</sup> These principles provide a summary of legislation on the provision of subsidies in the Czech Republic and eligible organisations, and they also provide a guidance on how to provide subsidies (procedure) and regulate that central public administration bodies are obliged to cooperate with each other. To secure continuous funding, a state authority may conclude a contract for long-term cooperation with an NGO and thus avoid the obstacles that NGOs face after the end of each budgetary year (and before they receive subsidies for the upcoming year). The impact on NGOs is positive, for reasons

<sup>3</sup> Czech Republic, Principles for providing subsidies from the state budget of the Czech Republic to non-governmental organisations by bodies of public administration (*Zásady vlády pro poskytování dotací ze státního rozpočtu České republiky nestátním neziskovým organizacím ústředními orgány státní správy*), Office of the Government of the Czech Republic. Available at: <https://www.vlada.cz/cz/ppov/rnno/dokumenty/uplne-zneni-zasad-vlady-pro-poskytovani-dotaci-108263/>.

		stated above.
<p>4. Laws in effect until the introduction of the Civil Code:</p> <ul style="list-style-type: none"> <li>- Act on the Association of Citizens (<i>zákon o sdružování občanů</i>), No. 83/1990<sup>4</sup></li> <li>- Act on Foundations and Endowment Funds (<i>zákon o nadacích a nadačních fondech</i>), No. 227/1997<sup>5</sup></li> <li>- Act on Public Beneficiary Corporations (<i>zákon o obecně prospěšných společnostech</i>), No. 248/1995<sup>6</sup></li> </ul>	D – Rules on the establishment and dissolution of associations	We include these laws for your reference in relation to new legislation – the Civil Code (No. 89/2012).
5. Civil Code ( <i>občanský zákoník</i> ), No. 89/2012 <sup>7</sup>	D – Rules on the establishment and dissolution of associations	<p>The new Civil Code abolished the laws in effect until the end of 2013 the establishment and dissolution of associations (see point 1 of this table). As of 2014, these rules are incorporated in the new Civil Code.</p> <p>Associations (<i>‘spolky’</i>) – the original name <i>‘občanská sdružení’</i> was changed to <i>‘spolky’</i>. Contrary to the original Act on the Association of Citizens, the new Civil Code makes it possible for associations to provide social services (the previous legislation was</p>

<sup>4</sup> Czech Republic, Act on Association of Citizens, (*zákon o sdružování občanů*), No. 83/1990, 27. 3. 1990, abolished on 1 January 2014, available at: <https://www.zakonyprolidi.cz/cs/1990-83>.

<sup>5</sup> Czech Republic, Act on Foundations and Endowment Funds (*zákon o nadacích a nadačních fondech*), No. 227/1997, 24 January 1997, available at: <https://www.zakonyprolidi.cz/cs/1997-227>.

<sup>6</sup> Czech Republic, Act on Public Beneficiary Corporations (*zákon o obecně prospěšných společnostech*), No. 248/1995, 28 September 1995, abolished on 1 January 2014, available at: <https://www.zakonyprolidi.cz/cs/1995-248>.

<sup>7</sup> Czech Republic, Civil Code (*občanský zákoník*), No. 89/2012, 22 March 2012, available at: <https://www.zakonyprolidi.cz/cs/2012-89>.

		<p>unclear in this regard and the interpretation by the Ministry of the Interior leaned towards refusing to register associations that wanted to provide social services).<sup>8</sup></p> <p>Associations may engage in activities for a profit if they do so as a 'secondary economic activity' (§ 218/2 of the Civil Code). Thus, the impact on NGOs is positive – they can take advantage of the new possibilities in legislation, but they are not forced to do so.</p> <p>Foundations ('<i>nadace</i>') – the new Civil Code introduced two types of purposes that foundations may serve: either a public benefit purpose or a charitable purpose. Broadening of the purposes can be seen as positive for NGOs and foundations. Only a court can change a foundation's function from a public benefit purpose to a charitable purpose as long as there is serious grounds to do so (§ 324 of the Civil Code).</p>
6. Act on Public Registries of Legal and Natural Persons ( <i>zákon o veřejných rejstřících právnických a fyzických</i> )	D – Rules on the establishment and dissolution of associations	As of 2014, all NGOs must be registered in a public registry administered by the courts. For associations, this marks

<sup>8</sup> Czech Republic, Deverová, L. (2014), *Studie pro Koncepti politiky vlády vůči nestátním neziskovým organizacím do roku 2020, týkající se vývoje legislativy*. Prague, Office of the Government of the Czech Republic, p. 6. Available at: <https://www.vlada.cz/assets/ppov/rno/dokumenty/studie-deverova-legislativa-pro-web.pdf>.

<p>osob), No. 304/2013<sup>9</sup></p>		<p>a change, as until that date the registry of associations was administered by the Ministry of the Interior. The impact on civil society is in the area of increased administration, which must be seen as rather negative development. Application for registration must be submitted on a specific form, which is available on the internet. For about two years since the adoption of the Act on Public Registries, civil society organisations had to pay a court fee to be able to submit a petition to the court. This obligation was lifted in 2016, which is positive.<sup>10</sup> Also, civil society organisations are obliged to submit any legal documents to the Court Ledgers (Collection of documents) administered by the Registry court; this must be done without undue delay. The new legislation was criticised for being unpredictable (court decision making varies) and demanding (especially for small civil society</p>
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<sup>9</sup> Czech Republic, Act on Public Registries of Legal and Natural Persons (*zákon o veřejných rejstřících právnických a fyzických osob*), No. 304/2013, 30 September 2013, available at: <https://www.zakonyprolidi.cz/cs/2013-304>.

<sup>10</sup> Czech Republic, Amendment to Act No. 549/1991, on Court Fees, and other laws (*zákon, kterým se mění zákon č. 549/1991, o soudních poplatcích, a další zákony*), No. 161/2016, 23 May 2016, available at: <https://www.zakonyprolidi.cz/cs/2016-161>.

		organisations). <sup>11</sup>
7. Government decision No. 123 of 15 February 2017 – Draft provisions to strengthen the transparency of the legislative and decision-making processes in relation to lobbying activity <sup>12</sup>	F - transparency in the legislative process, in particular concerning lobbying (regarding the duties imposed on civil society organisations proportionate to the aim of the legislation and to the capacity of organisations	The government assigned the Minister for Human Rights the task of submitting a draft law on lobbying by 30 September 2017. Once adopted, all stakeholders, including NGOs who engage in the legislative process, will have to abide by the new obligations. The increased administrative requirements may constitute a negative impact.

## 2. EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

### 2.1. Overall amount of government funding

The Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), a permanent consultative, initiative and coordination body of the government of the Czech Republic, submits the analytical 'Breakdown of Financial Support to Non-governmental Organisations from Public Budgets' (*Rozbor financování nestátních neziskových organizací z veřejných rozpočtů*) to the government. While this document summarises the distribution of all state, regional and local funding for NGOs, it is impossible to obtain a clear picture of funding for NGOs working on human rights from this source. It is possible, however, to get a picture of the overall governmental funding provided to NGOs from this document (NGOs here include charitable organisations, foundations, clubs, societies, church-based organisations, etc.) and the overall amount of financial support has almost doubled between 2011 and 2015. In 2015, the overall governmental funding was € 360,894, in 2014 the amount was € 344,524, in 2013 the support

<sup>11</sup> Czech Republic, Deverová, L. (2014), *Studie pro Konceptci politiky vlády vůči nestátním neziskovým organizacím do roku 2020, týkající se vývoje legislativy*. Prague, Office of the Government of the Czech Republic, p. 22. Available at: [https://www.vlada.cz/assets/ppov/rnno/dokumenty/studie\\_deverova\\_legislativa\\_pro\\_web.pdf](https://www.vlada.cz/assets/ppov/rnno/dokumenty/studie_deverova_legislativa_pro_web.pdf).

<sup>12</sup> Czech Republic, Government decision No. 123 of 15 February 2017 – Draft provisions to strengthen the transparency of legislative and decision-making process in relation to lobbying activity (*usnesení vlády č. 123 z 15. února 2017, k Návrhu opatření na posílení transparentnosti legislativního a rozhodovacího procesu ve vztahu k lobbistické činnosti*). Office of the Government of the Czech Republic (2017). Available at: <https://apps.odok.cz/attachment/-/down/IHOAAJREKKR4>.

provided by the government was € 259,109, in 2012 it was € 246,880 and in 2011 it amounted to € 212,163.<sup>13</sup> The figures for 2016 are not yet available.

The Government Council for Non-Governmental Non-Profit Organisations was unable to estimate the trend in governmental funding regarding human rights NGOs. Amongst other things, the council explained that projects usually contain several components and it would require a deep analysis to break down the various components and determine the amount of funding that is channelled into advocacy and campaigning (as opposed to service provision, for instance).<sup>14</sup>

## **2.2. Distribution of government funding**

Governmental funding is not provided for litigation activities and there is no specific grant title that would directly support human rights-related activities.<sup>15</sup> Service provision is increasingly considered to be the preferred field of funding and there have been fewer options for obtaining funds for other types of activities (advocacy, litigation, campaigning and public education) in the reference period.<sup>16</sup> At the same time, in 2014 a new grant title, 'Support for Public Benefit Activities of NGOs Dealing with the Equality of Women and Men' (*Podpora veřejně účelných aktivit NNO zabývajících se rovností žen a mužů*), was created and included in the policy document Main Areas of State Funding with Regard to NGOs (*Hlavní oblasti státní dotační politiky vůči NNO*), which is prepared annually by the Government Council for Non-Governmental Non-Profit Organisations after negotiations with ministries. This grant programme is highly relevant for NGOs working on human rights-related issues.<sup>17</sup> Another relevant state-supported grant area is the Support for the Public Activities of Disabled Persons (*Podpora veřejně účelných aktivit spolků zdravotně postižených*), which also provides financial support for participation in policy making.<sup>18</sup>

## **2.3. Restrictions (or other changes) on NGO funding from other sources**

Funding from other sources for NGOs working on human rights has decreased in recent years.<sup>19</sup> A number of international organisations and foundations which had previously provided substantial financial support for

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<sup>13</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*) (2016), Breakdown of Financial Support to Non-governmental Organisations from Public Budgets (*Rozbor financování nestátních neziskových organizací z veřejných rozpočtů*), p. 6.

<sup>14</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

<sup>15</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

<sup>16</sup> Department of Civil Society Studies, Faculty of Humanities, Charles University Prague, phone conversation on 22 February 2017.

<sup>17</sup> Alternativa 50+, conversation by phone 14 February 2017.

<sup>18</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

<sup>19</sup> Department of Civil Society Studies, Faculty of Humanities, Charles University Prague, phone conversation on 22 February 2017. Also confirmed by a representative from Alternativa 50+, conversation by phone 14 February 2017.

human rights-based initiatives have either decreased their funding (such as the Open Society Fund) or withdrawn completely from the Czech Republic (for example the Global Fund for Women or the Ford Foundation).<sup>20</sup>

Czech advocacy NGOs are largely dependent on EU funding, which, paradoxically, increases mutual cooperation between such organisations.<sup>21</sup> Since many human rights NGOs are dependent on finances from EU sources, the recent closure of a programme period has for a number of human rights NGOs resulted in temporary problems with funding.<sup>22</sup>

### 3. Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
<p>Government Policy on NGOs for the Years 2015–2020</p> <p><i>(Státní politika vůči NNO na léta 2015 – 2020)</i></p> <p>The document was prepared by the Government Council for Non-Governmental Non-Profit Organisations (<i>Rada vlády pro nestátní neziskové organizace</i>), a permanent consultative, initiative and coordination body of the Government.</p>	<p>Approved by the government on 29 July 2015 (Resolution No. 608)</p> <p>Available in Czech: <a href="http://www.vlada.cz/assets/ppov/rnno/dokumenty/statni_politika.pdf">www.vlada.cz/assets/ppov/rnno/dokumenty/statni_politika.pdf</a></p>	<p>Under Principle No. 1 (The government supports the sustainable development of strong, diverse and independent NGOs), Point No. 2 states that the Czech government shall not only give strong support to service-oriented and philanthropic NGOs but shall also acknowledge the role of NGOs that seek to make systemic changes in the field of public life and advocacy.</p> <p>Under Principle No. 2 (The government shall support the effective and transparent design of state policies on NGOs, including</p>

<sup>20</sup> Alternativa 50+, conversation by phone 14 February 2017.

<sup>21</sup> Císař, O. and J. Navrátil (2015), 'Promoting Competition or Cooperation? The Impact of EU Funding on Czech Advocacy Organizations.' *Democratization*, Vol. 22, No. 3, p. 551.

<sup>22</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

		legislative measures, financing and institutional support) Point No. 5 states that the government shall pay special attention to taking into consideration suggestions made by NGOs in the field of support for equal rights and non-discrimination. Such suggestions shall be made available and used by authorities in the revision of state policies. This point is subject to a measure whereby the government is to ensure that NGOs are represented in state structures in order to comply with the principle of good governance.
No other relevant measure, policy or guideline was identified.		

#### 4. Further information

There seems to be a general consensus among experts and participants in the NGO sector that the current Czech government (in power since 2014) has endorsed the work of NGOs conducting advocacy work.<sup>23</sup> In practice, however, NGOs' ability to actively participate in decision making and policy creation largely depends on the specific minister under whose agenda the policy in question falls.<sup>24</sup>

<sup>23</sup> Frič, P (2015). 'A Study for the Conception on the Government Policy on NGOs for the Years 2015-2020 on the topic "Civil Society and the Definition of NGOs, Developments, Standing and Trends"' (*Dílčí studie pro Konceptci politiky vlády vůči nestátním neziskovým organizacím do roku 2020 na téma: "Občanská společnost a definice NNO, vývoj, stav a trendy"*). Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), p. 7.

<sup>24</sup> Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

Compared to the previous government, NGOs have in the past three years more often found themselves in a consultancy position with regard to policy making,<sup>25</sup> especially in the case of social housing, migrant rights, sustainable development<sup>26</sup> and humanitarian and development cooperation.<sup>27</sup> The current government has also provided more space to public consultations.<sup>28</sup>

A typical example of this trend is the Platform for Human Rights (*Platforma pro lidská práva*), which was established by 51 NGOs working mainly on human rights, women's rights and migrants' rights. By way of open letters to the government as well as other forms of lobbying, in 2014, the Platform (which is no longer active)<sup>29</sup> voiced its support for the work of the Minister for Human Rights and Equal Opportunities in the years 2014–2016. In the same year, the Platform also successfully endorsed a candidate as the most suitable person for the position of Ombudsperson.<sup>30</sup>

On the other hand, a sociologist and expert on the Czech NGO sector<sup>31</sup>, pointed out that various members of the political elite (regardless of party membership) have since 2015, the year when migration became a loaded topic in the country, painted human rights NGOs in a rather negative light. This has resonated with the negative view of such organisations among a section of the Czech public that strongly voiced anti-migration sentiments and many employees of organisations working on migrants' rights have received personal threats on a level that has not been experienced before.<sup>32</sup> A number of new, informal initiatives relevant to human rights and advocacy work have been established since 2015. These focus on migrants' rights and social housing and exclusion.<sup>33</sup>

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<sup>25</sup> Department of Civil Society Studies, Faculty of Humanities, Charles University Prague, phone conversation on 22 February 2017.

<sup>26</sup> Alternativa 50+, conversation by phone 14 February 2017.

<sup>27</sup> Head of Department of Humanitarian and Development Cooperation, personal interview 11 February 2017.

<sup>28</sup> Alternativa 50+, conversation by phone 14 February 2017. Also confirmed by a representative at the Government Council for Non-Governmental Non-Profit Organisations (*Rada vlády pro nestátní neziskové organizace*), communication via email 24 February 2017.

<sup>29</sup> Former employee of La Strada Czech Republic, phone conversation on 22 February 2017.

<sup>30</sup> Alternativa 50+, conversation by phone 14 February 2017.

<sup>31</sup> Department of Civil Society Studies, Faculty of Humanities, Charles University Prague, phone conversation on 22 February 2017.

<sup>32</sup> Head of Department of Humanitarian and Development Cooperation, personal interview 11 February 2017.

<sup>33</sup> Institute of Sociological Studies, Faculty of Social Sciences, Charles University Prague. Communication via email 14 February 2017.