

The legal environment and space of civil society organisations in supporting fundamental rights

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1 Five most significant civic space developments in 2020

1.1 Freedom of peaceful assembly – COVID-19 related emergency measures

The emergency measures adopted during the COVID-19 pandemic (starting from March 2020) restricted human rights repeatedly and fundamentally, and these restrictions concerned, among others, freedom of assembly. The government resolutions and extraordinary measures introduced by the Ministry of Health restricted the freedom of movement to an extent that de facto made it impossible to exercise the right of assembly¹ and thus made it difficult for civil society organisations to plan or organise any meetings or demonstrations (as the example described below shows). Although on 23 April 2020 the Municipal Court in Prague ruled that the Extraordinary Measures of the Ministry of Health restricting freedom of assembly were unlawful,² uncertainties regarding the exercise of this basic right persisted throughout 2020.

One example of this ambiguity surrounding freedom of assembly was an event that took place on 9 June 2020, when the NGO Milion chvilek pro demokracii (One Million Moments for Democracy) had planned to hold a demonstration against the Government. The state of emergency ended on 17 May 2020 and therefore the Government could not adopt any further emergency measures after that date. However, the Extraordinary Measure of the Ministry of Health No. MZDR 20588/2020-5/MIN/KAN from 2 June 2020³ stated that public meetings could be attended by a maximum of 500 people. It was not clear whether this restriction also applied to gatherings organised in conformity with Act No. 84/1990 Coll. on the right to assembly.⁴ According to an article published on 5 June 2020 on the news website Aktualne.cz,⁵ members of the Government were not united on this issue either. While the Minister of the Interior Jan Hamáček declared that the restrictions did not concern the freedom of assembly and demonstrations could be held without limitations, the Minister of Health Adam Vojtěch was of the opposite opinion and requested that the event be postponed. Mr Vojtěch's position on the subject changed a few hours before the demonstration was to take place, and he announced on his Twitter account that 'We never banned demonstrations'.⁶ The

¹ The list of Extraordinary Measures of the Ministry of Health is available on [the Ministry of Health's website \(last updated 22 February 2021\)](#); the list of Government Resolutions is available on the website [Zákony pro lidi \(last updated 17 February 2021\)](#).

² Municipal Court in Prague (2020), [Judgment No. 14 A 41/2020](#), 23 April 2020.

³ Ministry of Health (2020), Extraordinary Measure No. [MZDR 20588/2020-5/MIN/KAN](#), 2 June 2020.

⁴ Czech Republic, Act No. 84/1990 Coll. ([Zákon České republiky č. 84/1990 Sb., o právu shromažďovacím](#)), 29 March 1990.

⁵ Aktualne.cz (2020), No limit can be placed on the number of people at a demonstration, says Hamáček. According to Vojtěch, the maximum is 500 ([Počet lidí na demonstraci omezit nelze, tvrdí Hamáček. Podle Vojtěcha je 500 maximum](#)), 5 June 2020.

⁶ Irozhlas.cz (2020), Exemption from the ban. Minister Vojtěch announced that more than 500 people are allowed to demonstrate ([Výjimka ze zákazu. Ministr Vojtěch oznámil, že demonstrovat může i více než 500 lidí](#)), 9 June 2020.

event was held and attended by approximately 1,500–2,000 demonstrators on the Old Town Square in Prague.⁷

The situation regarding the right to exercise freedom of assembly was clarified in the autumn months when the special measures explicitly limited the right of assembly according to Act No. 84/1990 Coll. on the Right of Assembly.⁸

1.2 Financing of civil society work – the implications of the Coronavirus pandemic

The outbreak of the coronavirus pandemic had a serious impact on the financial situation of civil society organisations. According to a survey conducted by the Open Society Foundation in April 2020,⁹ more than 80% of NGOs believed that they would not be able to provide the necessary services for their clients in the upcoming months, 64% thought that they would need financial aid to survive the crisis, and 70% were afraid that they would not be able to pay the salaries of their employees in the upcoming six months. Because of the effects of the pandemic on their clients, 20% of NGOs claimed to have expanded their activities to provide continued assistance, but indicated that their income had decreased due to a decline in fundraising, the discontinuation of their own social entrepreneurship activities, or a decrease in membership activities. The survey was based on an online questionnaire and was completed by 346 organisations.

The Government adopted several subsidy schemes to support private entrepreneurs and businesses negatively affected by the pandemic, and NGOs were eligible to apply for financial aid under some of these schemes. For instance, the Antivirus Programme offers state compensation to cover employee wages for employers facing economic risks due to Covid-19 restrictions;¹⁰ the scheme 'Nájemné II' (Rent II) provides financial support to cover rent expenses to companies affected by Covid-19 restrictions.¹¹ Although these programmes are open to NGOs, no specific scheme was set up that would take into account the distinct challenges encountered by NGOs in 2020.

1.3 Academic freedom – emergency measures

The emergency measures also affected the right to education and academic freedom. The first Government Resolution prohibiting the presence of students at primary and high schools and

⁷ Aktualne.cz (2020), Over a thousand people protested against the government. A mask is not a muzzle, they shouted while maintaining a distance from each other ([Přes tisíc lidí protestovalo proti vládě. Rouška není náhubek, křičeli v rozestupech](#)), 9 June 2020.

⁸ Czech Republic (2020), [Resolution of the Government of the Czech Republic of 12 October 2020 No. Adopting an Emergency Measure](#).

⁹ Open Society Foundations (2020), Impacts of the COVID-19 pandemic on non-profit organisations ([Dopady pandemie COVID-19 na neziskové organizace](#)), 29 May 2020.

¹⁰ Ministry of Labour and Social Affairs (2020), Antivirus – employment support ([Antivirus – podpora zaměstnanosti](#)).

¹¹ Government of the Czech Republic (2020), COVID – Rent II ([COVID – Nájemné II](#)).

universities was adopted on 12 March 2020.¹² The situation changed several times, but the most controversial measure, which fundamentally restricted the right to education and academic freedom, was adopted by the City Health Station of Prague on 18 September 2020.¹³ The measure prohibited the presence of university students at the universities in Prague. However, the Health Station failed to explain why it considered it necessary to close the buildings of the universities when other institutions remained open. On 20 October 2020 the Municipal Court in Prague annulled this measure,¹⁴ but this decision did not have any practical consequences as on 12 October 2020 the Government adopted a resolution prohibiting the presence of students at schools throughout the country.¹⁵ However, students could not attend Prague universities in person for almost a month (between Sept. 18 and Oct. 12) due to the unlawful regulations announced by the City Health Station.

The Regional Health Station in Brno adopted a similar measure in September 2020 prohibiting the presence of students at universities in Brno. The rector of Masaryk University in Brno criticised the measure but decided not to file a complaint in court, as it would not have had any practical consequences.¹⁶

¹² Czech Republic (2020), [Resolution of the Government of the Czech Republic of 12 March 2020 No. 201 Adopting an Emergency Measure](#).

¹³ City Health Station of Prague (2020), Measure No. [HSHMP 59998/2020](#), 18 September 2020.

¹⁴ Municipal Court in Prague (2020), Judgment No. [5 A 103/2020](#), 20 October 2020.

¹⁵ Czech Republic (2020), [Resolution of the Government of the Czech Republic of 12 October 2020 No. 1022 Adopting an Emergency Measure](#).

¹⁶ Advokatnidenik.cz (2020), The Municipal Court in Prague has lifted the ban on full-time teaching at universities issued by hygienists ([Městský soud v Praze zrušil zákaz prezenční výuky na VŠ vydaný hygieniky](#)), 21 October 2020.

1.4 Negative statements from politicians about civil society organisations (CSOs)

In 2020 Czech courts issued several decisions on negative statements that had been made by Members of the Parliament about CSOs. The three most important decisions were the decision of the Regional Court in Prague from 21 February 2020,¹⁷ the decision of the Municipal Court in Prague from 9 September 2020,¹⁸ and the decision of the Regional Court in Prague from 16 September 2020.¹⁹ The politicians were sued for their statements about some NGOs and demonstrators, the plaintiffs requested an apology.

The first action was brought by Transparency International against Prime Minister Andrej Babiš, who in 2020 repeatedly called the organisation corrupt.²⁰ Transparency International argued that the Prime Minister's accusations were untrue and that he had violated their right to the protection of their reputation. The Regional Court in Prague as the court of first instance, dismissed the case, stating that in this situation freedom of speech overrode the right to protection of reputation. The court did not address the question whether the accusations were true. Transparency International announced that it would file an appeal against the decision; the case is pending.

The second action concerned statements made by the head of the Communist Party of Bohemia and Moravia (KSČM), Vojtěch Filip, who stated that the NGO Milion chviliek pro demokracii was responsible for the cyber-attacks against a hospital in Benešov in 2019.²¹ In this case the court of first instance upheld the action and obliged the politician to apologize. Mr Filip announced that he would file an appeal against the decision; the case is still in process.

In the third case, Jana Filipová, a woman who had participated in the demonstrations organised by Milion chviliek pro demokracii, sued Prime Minister Andrej Babiš for his claims that the demonstrators were paid for their participation (Mr Babiš made these claims about the demonstration attended by Ms Filipová on 11 July 2018).²² Ms Filipová won in the first instance, but the Regional Court in Prague annulled the first-instance judgment, stating that Mr Babiš's statements about the demonstrators were not directed at her personally and that Ms Filipová

¹⁷ Czech Television (2020), Babiš does not have to apologise to Transparency International for his words about corruption, a court has ruled. The organisation is preparing an appeal ([Babiš se Transparency International za slova o korupci omlouvat nemusí, rozhodl soud. Organizace chystá odvolání](#)), 21 February 2020.

¹⁸ Aktualne.cz (2020), Filip has to apologise to Million Moments for connecting it with a cyber-attack on a hospital ([Filip se musí omluvit spolku Milion chviliek, že ho spojil s kyberútokem na nemocnici](#)).

¹⁹ Czech Television (2020), Babiš does not have to apologise for his statement about paid demonstrators ([Babiš se nemusí omlouvat za výrok o placených demonstrantech](#)), 16 September 2020.

²⁰ Czech Television (2020), Babiš does not have to apologise to Transparency International for his words about corruption, a court has ruled. The organisation is preparing an appeal ([Babiš se Transparency International za slova o korupci omlouvat nemusí, rozhodl soud. Organizace chystá odvolání](#)), 21 February 2020.

²¹ Aktualne.cz (2020), Filip has to apologise to Million Moments for connecting it to a cyber-attack on a hospital ([Filip se musí omluvit spolku Milion chviliek, že ho spojil s kyberútokem na nemocnici](#)).

²² Czech Television (2020), Babiš does not have to apologise for his statement about paid demonstrators ([Babiš se nemusí omlouvat za výrok o placených demonstrantech](#)), 16 September 2020.

had already 'obtained sufficient satisfaction' (i.e. her recognition) through her numerous media appearances. This case is also pending and Ms Filipová filed an appeal with the Supreme Court.

The cases cited above indicate that the defamation of civil society organisations is a continuing trend in the Czech Republic and that courts have to address this issue repeatedly.

1.5 Draft law of the Communist Party of Bohemia and Moravia

On 24 March 2020 members of the Communist Party of Bohemia and Moravia (KSČM) submitted a draft of the Act on the Provision of Subsidies to Non-governmental Non-profit Organisations from the State Budget of the Czech Republic to the Chamber of Deputies.²³ The draft law proposed creating a new system of state subsidies for NGOs and contained several controversial provisions. Sect. 3 of the draft law stated that NGOs that 'carry out political activity' cannot receive any funds from the state budget, and religious organisations providing social services are not entitled to receive funds either. Only NGOs that help to implement public policies would be eligible to receive state subsidies. The draft law provoked strong reactions, especially among CSOs. The organisation Asociace veřejně prospěšných organizací ČR (Association of Public-Benefit Organisations in the Czech Republic) published a statement in which it pointed out the ambiguities and the unsystematic and unconstitutional character of the proposed act.²⁴ Transparency International also criticised the proposed legislation, stating that its main aim is to increase state control over NGOs.²⁵

In this case the Government shared the position of NGOs and it issued a dissenting opinion. The Government opinion noted that the draft law does not employ a systematic approach, lacks exact definitions, and applies arbitrary criteria. It also pointed out that the proposed legislation is discriminatory and could be inconsistent with EU law.²⁶ The Government recommended rejecting the draft law. The Chamber of Deputies is to discuss the document later in 2021. In view of the Government's dissenting opinion as well as reactions from the general public the law is unlikely to pass.

²³ Chamber of Deputies (2020), Draft Law on the Provision of Subsidies to Non-governmental Non-profit Organizations from the State Budget of the Czech Republic ([Návrh zákona o poskytování dotací neziskovým org. ze st.rozpočtu](#)), 24 March 2020.

²⁴ Association of Public Benefit Organisations in the Czech Republic (2020), Statement of the AVPO CR on the draft law of KSČM on the provision of subsidies to non-profit organisations ([Stanovisko AVPO ČR k návrhu zákona KSČM o poskytování dotací neziskovým organizacím](#)), 2 April 2020.

²⁵ Hospodářské noviny (2020), The Office of the Government has dismantled the Communist Party's law, which sought to ban public-budget funding of 'political' non-profits ([Úřad vlády rozcupoval zákon KSČM, který měl zakázat financování "politických" neziskovek z veřejných peněz](#)), 20 April 2020.

²⁶ Government of the Czech Republic (2020), Government opinion on the press 792/0 ([Stanovisko vlády k tisku 790/0](#)), 21 April 2020.

2 Examples of promising practice

2.1 Recognition of the work of CSOs during the pandemic

In the initial phase of the COVID-19 pandemic the Prime Minister Andrej Babiš criticised NGOs for not providing sufficient support in the given difficult situation. After Greenpeace drew his attention to the support NGOs have been providing in reaction to the pandemic, Mr Babiš issued an apology.²⁷ On 26 March 2020, the Government Commissioner for Human Rights for Non-governmental Non-profit Organisations Helena Válková addressed an open letter to NGOs thanking them for their contribution and promising (financial) help from the state.²⁸

2.2 NGOs fighting corruption

In 2020 several Czech NGOs continued to examine activities by politicians and political parties that could undermine the independence of state institutions and could involve corruption. On 11 March 2020, a day before the declaration of the state of emergency, the Government made a sudden change in the agenda of its regular meeting and included discussion of the Draft Law on the Registration of Beneficial Owners²⁹ (originally scheduled for discussion on 16 March). NGOs considered this draft law very important in the fight against corruption,³⁰ as the proposed draft included several provisions that would allow some beneficial owners (including Prime Minister Andrej Babiš) to avoid the requirement to register. Several NGOs, such as Milion chviliek pro demokracii,³¹ Transparency International, and Rekonstrukce státu (Reconstruction of the State)³² drew attention to this change in the meeting's agenda and pointing out the potential risks, as the laws adopted during a state of emergency do not go through the regular, detailed consultation procedure. In reaction to the criticism the

²⁷ Demagog.cz (2020), Factcheck of political discussions ([Factcheck politických diskusí](#)).

²⁸ Government of the Czech Republic (2020), COVID-19: Letter from the Government Commissioner for Human Rights to non-governmental non-profit organisations ([COVID-19: Dopis zmocněnkyně vlády pro lidská práva nestátním neziskovým organizacím](#)), 26 March 2020.

²⁹ Government of the Czech Republic (2020), Appendix No. 1 to the agenda of the meeting of the Government of the Czech Republic ([Dodatek č. 1 programu schůze Vlády České republiky](#)), 11 March 2020.

³⁰ Rekonstrukce státu (2020), The government has withdrawn the law on the registration of beneficial owners from the agenda. Will it delete the suspicious exception from the legislation? ([Vláda stáhla z programu jednání zákon o evidenci skutečných majitelů. Vypustí z návrhu podezřelou výjimku?](#)), 16 March 2020.

³¹ Milion chviliek pro demokracii (2020), News: Under the guise of the coronavirus: The Act on the registration of beneficial owners extraordinarily included on the government meeting's agenda! ([Aktualita: Pod rouškou koronaviru: Zákon o evidenci skutečných majitelů mimořádně na jednání vlády!](#)), 14 March 2020.

³² Rekonstrukce státu (2020), The government has removed discussion of the act on the registration of beneficial owners from the agenda. Will it delete the suspicious exception from the legislation? ([Vláda stáhla z programu jednání zákon o evidenci skutečných majitelů. Vypustí z návrhu podezřelou výjimku?](#)), 16 March 2020.

Government postponed the discussion of the draft law, and it was adopted later in November 2020 in a standard legislative process.³³

³³ Government of the Czech Republic (2020), Draft Law on the Registration of Beneficial Owners ([Návrh zákona o evidenci skutečných majitelů](#)), 8 June 2020.