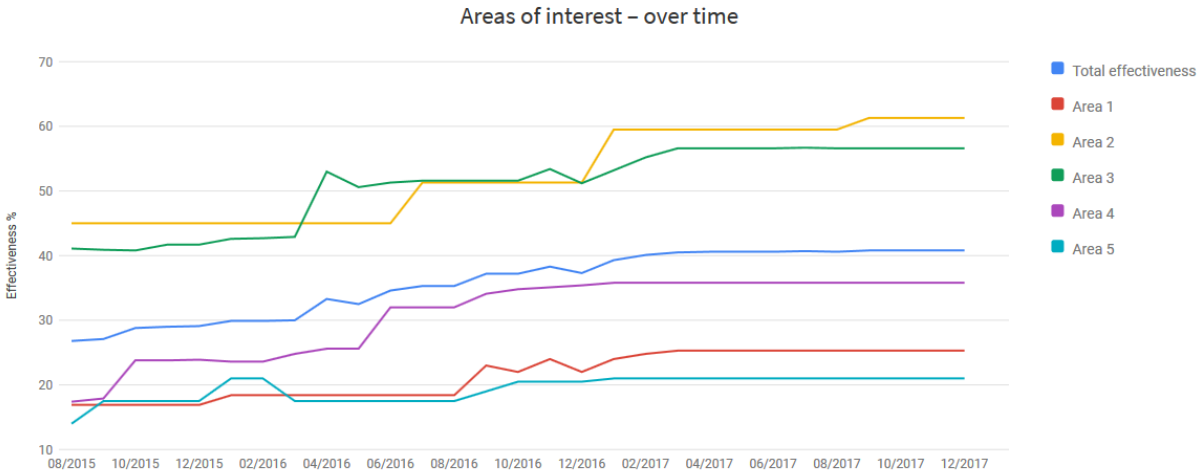
THE YEARBOOK OF ANTICORRUPTION BAROMETER 2017



2017	1. Control of politicians	2. Transparent financing of political parties	3.Non-corrupt and professional public administration	4. Transparent and effective public investment	5. Abolition of anonymous ownership	Total
January	24.0 %	59.5%	53.2%	35.8%	21.0%	39,3%
February	24.8%	59.5%	55.2%	35.8%	21.0%	40,1%
March	25.3%	59.5%	56.6%	35.8%	21.0%	40,5%
April	25.3%	59.5%	56.6%	35.8%	21.0%	40,6%
June	25.3%	59.5%	56.6%	35.8%	21.0%	40,6%
July	25.3%	59.5%	56.6%	35.8%	21.0%	40,6%
August	40.7%	25.3%	59.5%	56.7%	35.8%	40,7%
September	40.6%	25.3%	59.5%	56.6%	35.8%	40,6%
October	25.3%	61.3%	56.6%	35.8%	21.0%	40,8%
November	25.3%	61.3%	56.6%	35.8%	21.0%	40,8%
December	25.3%	61.3%	56.6%	35.8%	21.0%	40,8%
January	25.3%	61.3%	56.6%	35.8%	21.0%	40,8%
Final values of 2016	22,0%	51,3%	51,2%	35,4%	20,5%	37,3%

OVERVIEW OF THE (ANTI)CORRUPTION SITUATION IN 2017 IN THE CZECH REPUBLIC

JANUARY 2017

The pre-election stew begins to boil slowly and it seems it will be very hot. The basic ingredients have been provided by the special parliamentary comittee charged with the investigation of the summer hotch-potch reorganisation of the anti-mafia police department. At the end of January, the committee terminated its work and in the beginning of February it delivered its report. The main conclusion of the report was that the committee had not discovered anything irregular in the process of this reorganisation. This is not surprising since a parliamentary committee is not a law enforcement body with the necessary technical investigative tools and powers. However, certain commentators noticed that the report had confirmed the most important fact – which was however known even before the establishment of the parliamentary committee: the summer police reorganisation was not preceded by elaboration of any strategical or planning materials nor was it consulted with the affected stakeholders, such as the relevant police, state prosecution or judicial departments. And this is the core of the problem with this reorganisation. What the parliamentary committee could have had investigated had been whether the botched police reorganisation was a result of "incompetence" or whether it was performed with an intention to destroy an effectively functioning institution and have it replaced by a system which would be more positively biased towards politicians allowing them to stop concrete investigations on political grounds. Elimination of mechanisms of supervision and prosecution in the countries suffering from systemic and political corruption, like the Czech Republic, represents the basic approach aimed at maintaining the space for draining of state resources. However, the parliamentary committee did not anyhow focused on this aspect. By contrast, it has in certain way further contributed to the likely goals of the summer police reorganisation: first, it filed a suspicion of commitment of a criminal act against those who were opposing the police reorganisation, and second, it submitted proposals for modification of the operational status of state prosecutors which would bring state prosecutors under a direct control of politicians. Nevertheless, glimmers of hope in the fight of the judiciary with corruption could be seen in the appointment of a new judge to the Nečasová-Nagyová corruption case as well as by filing of a complaint by the High State Prosecutor against the appeal court decision in the Rath case. Corruption is by its nature a very specific kind of a criminal activity. It is very informal with a minimum of evidence and a maximum of cover up. Bribes are never described in contractual documents as bribes, but as loans, commissions, consultancy fees etc.; moreover, it is rarely possible to get evidence of corruption by other means than by the use of wiretapping as the actors are trying to leave as little traces as possible. If the courts adopt a too formalistice approach to the assessment of evidence of corruption behaviour, which indeed took place, they will never be able to convict anyone of a corruption act. The lack of capability to condemn actors of any slightly more sophisticated corruption act already starts to impact on the citizens' perception of corruption. In 2016 the Czech Republic fell by ten places to the 47th place in the regular annual ranking of countries under the corruption perception index established each year by the international NGO Transparency International. Another reason which may explain this worsened people's perception of corruption can bet he fact that a large number of anticorrutpion laws adopted in 2016 have not yet entered into force or that for those anticorruption laws which have entered into force amendments are already being prepared to make them as ineffective as was the aforementioned report of the parliamentary committee on the police reorganisation reform.

FEBRUARY 2017

February can be called "a black month" in the fight against corruption without any hesitation. After the judiciary which is undergoing its internal battle against corruption, it is now the legislative power who has to go through the same battle. Despite a strong reaction of the public to the outburst of arrogance of power from shown by the MPS during adoption of the amendment to the Act on register of public-private contracts by the Lower Chamber of the Parliament – which exempts state-owned entreprises from the obligation to publish their contracts in the problic-private contract register –the legislative passage of this amendment through the Parliament has to be meticulously checked. Indeed, politicians are more and more tempted to control transactions between private individuals, but at the same time keep a privileged non-transparent access to public resources. A trip to the national parks of South Africa by a manager of a company owned by the municipality of Pardubice is exactly the type of a public matter about which one could discover from the register of public-private contracts - if such state and municipality owned enterprises were not about to be exempted from the obligation to publish their contracts in this register. The affair of the finance minister, Mr Andrej Babiš, with the bonds which he bought from his company for alleged tax avoidance purposes showed that if an institution, such as the ministry of finance, is supposed to prosecute the activities of a company owned by the boss of such institution, the conflict of interest is necessarily present and endangers the basic trust in impartiality of such an institution. Maybe it is not a coincidence that MPs did not find any inspiration in the international best practice when adopting the recent amendment to the Act on conflict of interest: the prohibition contained in this amendment covered only the cases of ownership of companies receiving public contracts and subsidies owned by ministers, but did not cover situations of effective control of such a company via other means than ownership. Thus, even after the entry in force of this amendment, ministers can continue to control companies which receive public contracts and subsidies provided that they do by other means than share ownership, for example through trust-funds. On a positive note, the report of the GRECO group of the Council of Europe appreciated the recently adopted reform of financing of political parties which should apply to the upcoming parliamentary elections in Autumn and which as everyone hopes will be enforced and respected. In February, also the Country Reports of the European Commission on Member States, including the Czech Republic was published: regarding the assessment of functioning of public institutions this report highlighted that despite certain improvements in the last year corruption still represented a key problem, in particular in the area of public procurement – as documented by the start of proceedings by the European Commission for the non-transparent grant of the public contract for the high-way toll collection.

MARCH 2017

March can be undoubtedly called the mouth of conflicts of interests. The issue of the minister of finance arising from the ambiguities surrounding the acquisition of the company Agrofert and the nuclear purpose of the whole transaction has further grown in importance. The apparent reluctances of tax authorities to investigate their boss – the minister finance – have also exacerbated this affair. The problems whit the conflict of interested was underscored by the case of MP Faltýnek who had been the member of the supervisory body of the State Agricultural intervention Fund deciding about the distribution of EU agricultural subsidies and at the same time had been the member of the

management board of the aforementioned large agricultural enterprise Agrofert. These cases point to serious gaps in the recently amended Act on conflict of interest. The first gap consists in the lack of solution to situations where politicians actually get into the state of conflict of interest. Whereas the EU rules require in such a situation the removal of the politician or officer with the conflict of interest, Czech rules resolve such situation without requiring removal of the politician or officer with conflict of interest from his or her office. Unfortunately the same shortcoming appears in the proposal of the Act on internal management and financial control which should set the rules whit the management and spending of state finances. The second gap resides in the non-existing obligation of politicians to evidence the declarations on assets and income which they are obliged to make. In such a situation the risk of discrepancies between the declared income and assets and the income and assets actually acquired or received is high and materialises quite often. The third gap then lies in the illogical set up of the sanctions regime supposed to enforce the rules on conflict of interest: under this ineffective regime a high level politician should be subject to the jurisdiction of a local administration in the place of his/her habitual residence. Can someone reasonably imagine that the mayor of a small town would be able to fine the minister or the prime minister for the violation of the rules on conflict of interest? The most frustrating from the citizen's point of view is not that these deficiencies exist but that politicians were aware about these shortcomings in the process of the adoption of the amended Act on conflict interest – the European Commission warned about the ineffective set up of the sanctions system – but these problems were intentionally left unresolved. Instead of the discussion about these systemic issues the public was watching a sequence of verbal insults between the politicians of the government coalition. The important things thus got aside. As shown by the Anticorruption barometer one can observe a long-term trend of intentional limitation of the effectiveness of the adopted anticorruption measures and the efforts to keep the exclusive access to public sources. Unfortunately, all parties on the political scene participate in these efforts.

APRIL 2017

Corruption and lack of transparency in the management of public and private property has again generated political instability. First, the revelations of payments of extraordinarily high sums from the budget of South Bohemian region to the pocket of closely related „manager" knocked-down the governor of this region, Mr. Zimola. Then the political conflict resulting from of the alleged misuse of EU funds in the Stork Nest Farm case and potential tax evasion in cases of issuance of „one-crown" bonds – none of which appear to be adequately prosecuted – escalated into a serious crisis in the government. The „one-crown" bonds were issued also by the conglomerate which today is „not-owned" by the minister of finance to whom the tax authorities are subordinated and whose personal financial situation has become an issue of awidespread debates. The government crises resulted in a surprise announcement of abdication of the prime minister in the first days of May [which has however been recalled the next day]. In parallel, the initiation of prosecution of the bosses of the Czech football association and persons linked to the financing of Czech sport on the grounds of the alleged corruption – close to the circle around the prime minister – shows that the adopted anticorruption legislation is often written in a way that makes it look good in the newspapers, but still reserves a sufficient large space for favouritism of politicians, their friends and illegitimate, but not illegal corruption activities. How many regional governors were forced to resign for suspicion of corruption? Is it better for citizens, entrepreneurs and finally also politicians to live with the rules

requiring transparency in the distribution of public funds and disclosure of the property of politicians or to live, do business and work in the environment of political instability caused by corruption? Do the politician prefer the sword of Damocles above them – in the form of a criminal prosecution which can be triggered agains them at any time – resulting in their political death or a life under the transparency rules obliging them to publish contract, avoid situation of conflict of interest and abide by the prohibition of undeu enrichment inpublic office. Indeed, the latter life with the latter may cause them some administrative burden, but it saves them from the omnipresent menace of criminal prosecutions. For the moment, it seems that politicians prefer the more dangerous way of living without transparency and accountability to the public with the risk of sudden death which leads to the political instability at the regional as well as national level. Their opinion may be reinforced by the unexpected release from jail of Mr. Dalík, convicted for corruption related fraud. This release, along with other similar cases, shows that the judiciary is losing its battle with corruption and that a final legally enforceable judicial conviction of corruption of a high-profile politician does not appear to be possible in the Czech Republic. The only positive anti-corruption message of April is the return of the Act providing for large scale exemptions from the obligation of public bodies to publish contracts concluded with private companies by the Senate to the Lower Chamber of Deputies restricting the scope of exemptions solely to a single body, the state-owned brewery Budweiser.

MAY 2017

The government crisis which we witnessed in May and which turned almost to a constitutional crisis not only intensified the disillusion of citizens of the current political situation but also managed to hide some other events – events which may not have been so attractive for the media, but which nevertheless are not of smaller importance. The European Commission published in May its regular recommendation on the economic convergence of the EU Member States, including the recommendations on the functioning of public institutions. As far as the Czech public institutions are concerned, the European Commission advises to concentrate on increasing the effectiveness and efficiency of public expenses by fighting corruption therein and preventing irregularities in granting of public contracts. What can be considered as good news, on the other hand, is non-adoption of the proposed Act on exemptions from the obligation to publish public-private contracts in the public register of such contracts. On the other hand, it is a pity than neither the Senate version of this Act did not succeed because it contained a reasonably designed regime of exemptions for the publication obligation in the aforementioned register. To top the debate on this issue, the government - taking probably the inspiration probably from the South American TV soap operas - has started to prepare a new version of the proposal of Act on exemptions from the obligation to publish public-private contracts in the public register which would againt extend the range of exemptions for all contracts concluded in common course of business for all companies controlled by the state, regions and municipalities. In May the time bomb of corruption in granting subsidies to sport organisations exploded. It caused an earthquake in the football association as well as at the Ministry of education, youth and sports and forced the minister to announce her abdication which has however so far not been accepted so it has not yet entered into force. This earthquake also resulted in taking into custody her already former deputy. The deputy commissioned eleven audits on the process of granting subsidies to sport organisations none of which revealed any irregularity. This clearly shows a systemic shortcoming and the need to rebuild the mechanisms of granting and control of attribution

of subsidies for sport activities. Will (the old or new) management of the ministry have the courage to make a proposal to reconstruct the way of granting subsidies for sport?

JUNE 2017

The game of evidence in corruption cases was continuing in its own way also throughout June. The never ending investigation of the Stork Nest case shows that obtaining relevant pieces of evidence is a difficult exercise, may be also because the recent opinions of courts on the admissibility of evidence in corruption cases is extremely convoluted and ambiguous. On the one hand, the Supreme Court annulled the decision of lower courts on the inadmissibility of certain evidence in the Rath case, on the other hand the Regional Court in Brno rejected the evidence of the Antitrust Office of the alleged cartel of construction companies which were accused of coordinating bids in a number of public procurement tenders. In this latter case, the Antitrust Office issued the highest overall fine in its history in the amount of CZK 1,66 billion (approx. EUR 63 million). Rigging public tenders by bid coordination is a well-known practice, but to prove it beyond reasonable doubt is nothing easy. Participants to such practice usually do not publicly announce the conclusion of an illegal bid coordination agreement. Similarly to the Rath case, one will have to wait for the decision of higher judicial instances on how evidence in such cases should be correctly assessed. Nevertheless, both cases show that the process of "immunization of corruption" is well managed by its actors: they managed to delay, obstruct, question and prevent the due course of corruption investigation. This is further reinforced by the aforementioned unclear decision practice by the courts. Irrespective of the outcome in both abovementioned cases, these cases give at least one positive message: state prosecution authorities have the courage to investigate politically sensitive corruption cases and cases involving big business players. In this respect, it is however no coincidence that the Czech Republic has in the long-term the lowest participation of small and medium enterprises in public procurement contracts. The most probable explanation of this fact is, as suggested by the Antitrust Office and several anticorruption experts, that public procurement in the Czech Republic is reserved only for companies, usually the big ones, which have a privileged relationship with local and regional politicians and have enough resources to bear the initial "corruption costs" in order to win later lucrative public contracts. This situation is also partly a result of the effort of a large number of politicians to prevent financial transparency in public spending and its control by the general public at all costs. The political farce around the adoption of the Act on register of public-private contracts and the reverse efforts to exempt as many public institutions and public enterprises from its scope is a perfect illustration of the fear of transparency on the part of politicians. Only within a year since its adoption the Lower Chamber was at the end of June discussing already the second proposal for granting exemptions from the obligation to publish public-private contracts. Although this second proposal is better than the previous one – which was finally not adopted – the way in which the legislative process in this domain has been handled provokes embarrassing questions: almost in parallel we can see strong political declarations on the need for transparency in spending of public budgets while at the same time the same politicians refrain from voting laws which implement effective anticorruption measures. Other illustrative examples of this schizophrenic approach are the proposal of laws on the nomination of persons to the boards of enterprises owned by public administration, on lobbyist regulation, on whistleblowing etc. No wonder that in such an

environment obtaining evidence of corruption through legal means is an extremely tough nut to crack.

JULY 2017

The key story of the month of July is the almost 100 % certainty that the Act extending the powers of the Supreme Audit Authority will not be adopted. This has an internal Czech dimension and external European dimension. As far as the Czech dimension is concerned, one can only repeat what has been said earlier: the extension of the competence of the Supreme Audit Authority aims at creating the possibility for this Authority to check how money originating from public sources are spent by the municipalities and companeis owned by the state, regions and communes. Currently, nobody can check in which way this overal sum of about one trillion of Czech crowns is spent, that is whether the public monies are not used for projects which do not serve public interests, but private interests of politically privileged individuals, or in the worst case scenario whether these public funds do not finance organised crime activities. The lack of control of public spending clearly contrasts with a strong willingness of the state to control whether citizens and companies are reporting all their revenues correctly and whether they are not committing VAT fraud. Regarding the European dimension, the Czech Republic does not live up to the requirement of an independent audit which would be able to evaluate the expenses of parts of the public administration. An independent audit generates credibility which is an important asset. Czech Republic has always reassured Brussels that the extension of the independent audit to the budgets of regional and local public administrations is in the pipeline. As indicated above, this assurance to citizens and Brussels no longer holds true. The non-adoption of the Act extending the powers of the Supreme Audit Authority is closely linked to the discussions about the adoption of the new Act on internal management and financial control. Despite an acute need to replace the current Act on financial control, the version of the Act on internal management and financial control which is in the Parliament does not appear to be in line either with the European nor international standards on audits in the public sector. The key purpose of any audit is to tell whether the performed activities fulfil the mission of the public institution. However, if there is no obligation for public administrations to set specific goals which should fulfil its missions, what is the place of an audit in such a system where no goals which could be audited are set? Unfortunately, this basic discrepancy between the general purpose of an audit and what is called by an audit in the proposed draft Act on internal management and financial control is not a coincidence, error or an oversight, but a long-term problem with the lack of effectiveness in spending of public funds which nobody wants to remedy. The amendment of the constitutional Act extending the powers of the Supreme Audit Authority has been discussed several times in the Parliament since 2011. This year and the last year when after several failures it appeared that the draft amendment must make its way into an adopted law, certain ministers of the government and the MPs of the key coalition party, the Social Democrats, succeeded in their efforts to torpedo the proposals of their government colleagues from their own party. The analysis of the civic organisation Reconstruction of the State shows that the lowest support for this Act was among the Social Democrat party, which however guaranteed the adoption in the Government, and the right-wing ODS party. Apparently, the bonds from the opposition agreement form the last decade are still alive when it comes to surveillance of public spending.

AUGUST 2017

The low season in politics lasted in August hardly two weeks. The Storknest Affair of the former minister of finance and the leader of the party ANO came to surface again. The affair re-erupted two months before the elections to the Lower Chamber of the Parliament and showed an absence of a civilised political culture in the Czech Republic. The MPs, ministers, existing or former ones, and finally also the president very inadequately and unprofessionally attacked the work of the police and state prosecution in this Storknest case. Such behaviour is not acceptable in a democratic country based on the rule of law. In fact, some of the politicians expressly wanted that police prosecution bows to the political calendar. Should the police stop its work on politically exposed cases because these are two months before the elections and its ruling can impact the election campaign? And should the police, under that logic, restart prosecutions only after the elections have taken the place? Would such a restart of prosecutions – still following that logic – not influence the after election negotiations on government composition? Would it not negate the election results? Or should the police wait with prosecution until the moment when the government is formed and then by restarting procedural prosecution steps "shoot the government down" and "destabilise" the political situation in the Czech Republic, as certain journalist would undoubtedly describe it? The conclusion of this flawed logic is clear. Politicians should not be prosecuted at all, or if so, prosecutions should concern only the opposition politicians, that is those who lost the elections. The whole affair further undermined the trust of citizens in public institutions and the administration of justice. The president and the minister of justice have substantially contributed to this deplorable situation. If one asks the question when such kinds of affairs like the Storknest case will cease to happen, the answer is clear: it will not be in any near future. The mechanisms which would prevent corruption from taking place upfront, at the time when it is possible to reveal it and save taxpayers' money from being wasted, have still not been put in place. For example, when subsidies destined for SMEs are granted, nobody verifies in advance the SME status of the applicant. The problem is however deeper. Also in this election term, which slowly ends, politicians have managed to block transparency in administration of public funds and thorough checks thereof in a way that the latter could be easily circumvented. Hence, one cannot exclude that a new corruption case, such as the Stork nest case, is already underway. A symbolic full stop to this election term was added by the Senate which rejected the hotch-patch drafted Act on internal management of public funds and financial control which defines the ways in which public administration should use the money from public budgets and how this use should be supervised.

SEPTEMBER 2017

The election campaign went on full speed. The leaving MPs of the Chamber of Deputies got for the last time in the current election term into the media spotlight when they were lifting the immunity of the MPs Babiš and Faltýnek (the leaders of the ANO party) and rendered them to the hands of police for prosecution in the Storknest (Čapí hnízdo) affair in which those two MPs allegedly committed a fraud of EU funds. The pre-election debates show that the Czech political representation is not able to come up with any constructive proposals of solutions of problems which stretch beyond the Czech borders. Instead, candidates are trying to create an atmosphere of real fear by depicting of imaginary menaces and weeping over the alleged threats on national sovereignty coming from the EU or

multinational corporations. The eternal topic of corruption came in the pre-election debates to the fore as well. Similarly, candidates failed to advance any systemic proposals to solve the corruption, and preferred to speak about corruption affairs of their rivals. However interesting such a debate may for someone be, it one fuels the frustration of the electorate. The ending election term has shown that effective anticorruption measures can be adopted. At the same time, it has shown how big the resistance of all parties across the political spectrum is to such anticorruption measures. The Government as well as the Chamber of Deputies successfully used a dilatory strategy to prevent anticorruption laws from being adopted. A number of so-called “legislative intentions” were announced instead of real law proposals for example, the legislative intention to adopt law a regulation of lobbyists or the legislative intention to regulate the nomination of political representatives to enterprises providing public services. The publication of those “legislative intentions” managed to allay the press and the general public and created an impression that something is in the pipeline. In reality, however, no law proposals have been prepared despite those legislative intentions. The expectation of the public was at the end cut short by announcements that it was too late for having such laws adopted under the current term. Another effective strategy for avoiding the adoption of anticorruption laws proved to be the “fig leave” strategy. A proposed law received an attractive anticorruption title, but in the contents there was nothing which would resemble to anticorruption measures or it was actually worsening the situation. This was the case of the Act on protection of whistleblowers or the proposal of Act on the internal management and control of spending public administration funds which the Chamber of Deputies rejected at the end. The last approach to counter the adoption of anticorruption laws was to propose “amendment laws” to the laws which were hardly adopted or were still in the legislative procedures. Luckily, the Act on register of contracts between public administration and private sector survived several of these "amendment laws".

OCTOBER 2017

In October, the elections to Chamber of Deputies, the Lower Chamber of the Czech Parliament, took place. One can discuss their results, one can be happy or sad about them, but that is more or less all what one can do with them. The elections showed that the topic of corruption still reverberates with the voters and that lot of them were attracted by the promises to combat corruption. However, the experience with such promises from the last election term taught us that they could be of very short duration. What's more once elections are over the elected politicians put their efforts in a reverse direction preventing anticorruption laws from being adopted. Yet, there is good news that most of the MPs who in the past election terms were blocking anticorruption laws and who wanted to be re-elected did not manage to defend their seats in the Chamber. At the same time, bad results of certain parties can be explained by the fact that their top leaders in the regions had a very “non-transparent” history in the way they were exercising the public offices in the past. Also in the new election term, it will definitely be interesting to follow the corruption cases and anticorruption measures also in future. Already on the first day of the month of November a group of senators, members of the Upper Chamber of the parliament, filed a constitutional complain against the Act on obligatory publication of contracts between public administration and private sector due to its alleged unconstitutionality. One cannot but hope that the supreme constitutional institution will reject this complaint. The Czech intelligence services published certain conclusions about the market

of public contracts. These conclusions show a very dim picture how public contracts and public funds are distributed. If the general public wants to find out who receives public grants or contracts, it is now possible to get such information online in an easy and user-friendly way thanks to the project of NGO Good Governance called "Subsidy Parasite" which was launched in the beginning of October. To finish October (anti)corruption news one cannot ignore a very bizarre judgement of the Regional Court in Brno which ruled that business activities of enterprises owned by the state, regions or municipalities do not fall under public procurement rules and that they do not have to follow the transparency requirements when attributing contacts to companies from the private sector.

NOVEMBER 2017

In the last days of its existence the outgoing government put on the table the proposal for ex-post evaluation of adopted laws. These efforts which, at the first glance, look like a bureaucratic measure only represent, however, an important systemic issue for at least two reasons. First, they allow the existing adopted laws to be assessed in order to find out whether these laws fulfill their purpose or add red-tape or whether they do not have secondary negative effects, put differently, whether they did not do more harm than good. Second, the ex-post evaluation of existing laws is an important first step towards making the process of lawmaking more civilised. Instead of the usual rush adoption of amendments of all sorts sometimes even before the original Act enters into force, which makes life of citizens and entrepreneur more difficult, the adoption of amendments could be linked to a perfoemd ex-post evaluation. However, this second step has not yet been proposed. In the shadows of negotiation of the composition of the new government the election campaign for presidential elections went on full speed. It was stained by the continuing practice of the existing president, who wishes to be re-elected, to circumvent the new rules on transparency of electoral campaign financing. Moreover, “a hole in the legislation” consisting in the absence of prohibition of foreign financing of election campaigns of presidential candidates came to surface. This hole - before which the Antiocorruption Barometer warned several times - puts into doubt the origin of monies which fund the campaign of certain candidates and gives rise to speculations about interference of certain foreign intelligence services with the presidential elections. Judicial proceedings in the media attractive corruption cases – such as the case of Nagyová-Nečasová about the misuse of its public function as director of cabinet of the former prime minister Nečas - advanced slowly forward, but the end of none them can yet be seen. What we saw instead was a déjà vu in cases which have not so far reached the stage of the court proceedings. The police asked in November again the Lower Chamber of the Parliament for lifting the immunity of MPs Babiš and Faltýnek in the Storknest case in order to be able to close the criminal investigation in these affairs and let the judiciary decide.

DECEMBER 2017

The early Christmas time of hope and expectations of the arrival of the Saviour was linked – at the political level – with the appointment of the new prime minister in charge and his government. However, in the biblical sense no Saviour of the Czech politics arrived. Instead, the new government in charge, although so far without receiving the vote of confidence of the Lower Chamber of the Parliament, has already started to act. Nevertheless, the very first steps show the lack of

professionalism and understanding of the functioning of the state following the adoption of the Civil Service Act during the previous election term. The key purpose of the Civil Service Act was to separate the political governance reflecting the election results from the administrative governance which should not be influenced by political whims. The discussion finally turned to the role of the so-called political advisors of ministers and got further obscured by the intervention of president Zeman. It was interesting to see him as well as representatives of other parties speaking almost in unison against this still relatively new Act and its main principle of separation of elected politicians and civil service servants. To recall the essential of this principle: political advisors, chosen freely by the elected ministers, should help their ministers to put forward their policies at the political level by communicating with MPs, party representatives and possibly important business or civic stakeholders; by contrast, top civil servants and their staff are there to ensure that policy proposals are well designed in substance, correctly evaluated and interlinked with corresponding policy areas. Political advisors come and go with their political masters whereas civil servants stay to ensure professionalism and continuity of the functioning of the state. Thus, on the one hand, the departure of political advisors after the elections as a result of those elections is natural and should not be described as „cleansing" of the civil service, as it appeared in certain media. On the other hand, the refusal of some of the new ministers to have their own political advisors undermines the separation of political and administrative level in the state administration from the other direction. These ministers send a message that they do not distinguish between political and managerial functions. However, the roles of ministers are political by their very nature and they cannot be exercised in a purely executive way. It is not the fault of the new government that the full implementation of the Civil Service Act has not yet been accomplished, but it is suspicious how quickly the new government started to exploit its gaps to regain political control over the state administration to the lowest possible ranks. In this context, the proposals in the government programme to change the Civil Service Act as well as the Public Prosecution Act and the idea of single public investment office. Whether those proposals will lead to less or more corruption opportunities remains to be seen, close monitoring of those proposals by the public will however be necessary. Taken from the other perspective, the government programme declaration promises a number of policies which look at the first sight positive: transparent electronic auctions of state assets, digitalisation of public services, tendering smaller individual public contracts instead of big and more complex ones, a bill on lobbying, better whistleblower protection and, once again, the extension of competence of the Supreme Audit Authority. The Constitutional Court issued in December a highly commented decision on compliance of the electronic registration of transactions subject to VAT in which he set out in detail its views on how legislation with wide social and economic impacts should (not) be prepared and enforced. The very end of the year was tainted again by the Storknest affair. The European Antifraud Office (OLAF) issued its long awaited report on whether the EU funding of the construction of this farm allegedly controlled by the current prime minister in charge Mr. Babiš was fraudulent. Although the contents and the conclusions of OLAF's report in this case were not disclosed by the end of the year, the fact that it was sent to the state prosecution office and that the Ministry of Finance refrains from its publications suggest that it may bring further troubles to Mr. Babiš.