

# Czech Republic: Corruption and the Civil Society Organizations

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# Objectives of Presentation

- Overview of the structure of civil society in the Czech Republic
- Historical, economical and political background of corruption
- Sources of corruption involving civil organizations
- Legal tools to combat corruption and conflicts of interest
- Ethics in civil organizations
- Examples of creating corruptive environment
- Czech civil organizations combating corruption
- What may be recommended?

# Overview of the Structure of Civil Society in the Czech Republic

- Associations – membership based civil organizations
  - Targeted to public benefit
    - Youth oriented (YMCA, scouts, pioneer)
    - Sports oriented (amateur athletics)
    - Educational
    - Charitable
    - Environmental (society for sustainable life, ...)
    - Advocacy groups
  - Closed for mutual services or interests
  - Mixing individual and corporate partnership

# Overview of the Structure of Civil Society in the Czech Republic

- Public Benefit Corporations – non-membership based common benefit services providing centers
  - Social care (House for Aged in Pisek, protected workshops, assistance to handicapped, ...)
  - Health care (Oliva Children Sanatorium, ...)
  - Educational (Roma Assistance in Schools, Training, of Skills,
  - Communal Utilities (swimming pools, care for parks and green,...)
  - Cultural (Czech Committee for ECF, Dance of Prague, ...)
  - Consultancy and Resource Support (CDFE, First Consulting, ICN, ...)

# Overview of the Structure of Civil Society in the Czech Republic

- Charitable and Social Care Establishments of Churches
  - Charita of the Catholic Church
  - Diaconie of the Evangelic Church
  - Silezian Diaconie
    - Houses for Handicapped
    - Houses for Aged
    - Shelters for Homeless
    - Social Services to Neighbors

# Overview of the Structure of Civil Society in the Czech Republic

- Foundations (with an endowment and able to invest for income generating)
- Funds (without any endowment – just funneling donations to a target group of beneficiaries)
  - Exclusively granting assets for public benefit
  - Governed by a collective board of directors
  - Regulated in administrative expenses
  - Limited in the rights to participate in commercial activities

# Historical, Economical and Political Background of Corruption

- Austro-Hungarian Bureaucracy and „Envelopes“
- First Republic and Corruption Affairs
- Communist Regime and Pragmatic Clientelism
- Regulated Labor Cost in a Market Economy
- Sponsorship of Political Parties in Government until 1997
- „I do not know dirty money“
- Limited effect of the campaign „Clean Hands“

# Sources of Corruption Involving Civil Organizations

- Tenders of public procurement
  - Rabat in goods, provisions for information leading to victory
  - Passive exclusion of civil organizations from competition
- Subsidies to civil organizations and project financed from foreign sources
  - Special or fixed relations of some COs to ministries
  - Since 2000 mostly through open tenders
- Tenders for Grants of Foundations
  - Sometimes in a tandem with a limited liability company, a p.b.c. or an association



# Sources of Corruption Involving Civil Organizations

- Registration (Incorporation) Procedure
  - Bribes taken for registering of incorporation or transfer of titles to real estates made in short time
- Tax Revenue Office and Social Insurance Offices
  - Still sometimes bribed to „close eyes“ by „small presents“ (an envelope preferable to a „green“ gift)

# Legal Tools to Combat Corruption and Conflicts of Interest

- The Act of September 1996 on Public Benefit Corporations
- Restrictions on membership in the Board of Directors for employees and related persons
- Principle of non-distribution of profit to individuals
- Annual reporting on activities, incomes and expenditures
- Use of assets for the original purpose in case of liquidation

# Legal Tools to Combat Corruption and Conflicts of Interest

- The Act of September 1997 on Endowed Foundations and Funds without Endowment
- Restrictions on membership in the Board of Directors for employees and related persons
- Restrictions on any dealings with related individuals
- Prohibition of granting related individuals and legal entities where related individuals have statutory powers
- Restriction on administrative expenditures
- Restrictions on scope of investments with a risk
- Annual reporting on activities, donations and grants
- Use of assets for the original purpose in case of liquidation

# Legal Tools to Combat Corruption and Conflicts of Interest

- The Bill of 2000 on Incorporated Associations and its fate
- Impossibility to dissolve without settlement of liabilities including tax and other payments
- If subsidized from public budgets, annual reporting on activities, incomes and expenditures related to the subsidy
- In Parliament attacked for „imposing unnecessary restrictions on associations“

# Non-judicial Tools to Support Ethics in the Civil Sector

- A failed attempt to introduce a code of ethics to non-governmental organizations from the fall of 1994
- Special Rules for Tenders to Grants of Foundations (see NIF rules)
- The Code of Ethics for Foundations and Donors (Donors Forum 2000)

# Code of Donors' Ethics

- Use transparent and open tenders for grants
- Make decisions on grants in an transparent and objective manner
- Do not allow for any conflicts of interests of persons involved in decisions about grants provision
- Provide grants upon written agreement which guarantee a proper use of the grant

# Code of Donors' Ethics

- Minimize administrative costs
- Trustees may not receive dividends or other benefits for management of property and should be respectable personalities
- Keep record of donations obtained and grants provided and report on their activities regularly to the general public and donors
- Respect the confidentiality of personal data and the will of donors

# Examples of Creating Corruptive Environment

Artificially prolonged incorporation and registration procedure at regional courts

- Judge X. decides personally on simplest things to slow down the procedure (indications of acceleration after being bribed)
- Several other judges interpreted laws in a way that have made the re-registration of foundations in 1998 a tool for their liquidation (indications of a possibility to save the foundation by a bribe)
- Indications of a transfer of bribes between interested parties by legal representatives



# Examples of Creating Corruptive Environment

**Lobbying of Members of Parliament at Government for subsidies to „their“ associations and foundations**

**Untimely distribution of significant assets from privatization to the endowments of foundations during the time of their re-registration according to the new Act on Foundations and Funds in 1998**

**Open use of political influence and economic strength of some foundations to obtain privileged positions in the distribution of endowment assets and other benefits**

# Czech Civil Organizations Combating Corruption

- Transparency International in the Czech Republic
  - Political importance and visibility on the scene of Czech NGOs
- Open Society Fund
  - training organized for civil organizations on participation in decision making of public administration

# Czech Civil Organizations Combating Corruption

- Center for Democracy and Free Enterprise
  - Organized training of judges on the ethics in judiciary
  - Experimented with student internships to courts
- The First Consulting, p.b.c.,
  - Dealing with courts regarding incorporation procedures of civil organizations
  - Advising civil organizations how to apply for incorporation and avoid corruption traps

# What May Be Recommended?

- Introduce legal infallibility and to those who have given a bribe, but reported that to the police authorities afterwards together with providing evidence or served as witness against those who accepted the bribe
- Introduce secrecy and protection of witnesses of corrupt behavior

# What May Be Recommended?

- Introduce default incorporation after a limited time of no action of the incorporation organ
- Promote use of a protest against improper procedural steps at public procedures
- Reorganize the incorporation a registering procedure at regional courts

Allow for higher court clerks to decide on completeness of documentation, access of legitimate legal representatives to the case files and similar acts, which do not require juridical scrutiny

# What May Be Recommended?

- Implement transparent rules for public procurement

Allow full use of the right for information about all details of decision making related to the public procurement accept those proclaimed secret due to national security

- Introduce the practice of public reporting about public administration officials finally sentences for corruption
- Be brave, not corrupt and intolerant to corruption