

LIBERTIES RULE OF LAW REPORT 2022

CZECH REPUBLIC



Foreword

This country report is part of the Liberties Rule of Law Report 2022, which is the third annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and to gather public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2022 Report was drafted by Liberties and its member and partner organisations and covers the situation in 2021. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2022 Report includes 17 country reports that follow a common structure mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-two member and partner organisations across the EU contributed to the compilation of these country reports.

Building on the country findings, the 2022 Report offers an overview of general trends on the rule of law in the EU and compiles a series of recommendations to national and EU policy makers, which suggest concrete actions the EU institutions and national governments need to take to address identified shortcomings.

[Download the full Liberties Rule of Law Report 2022 here](#)

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Czech Republic

About the authors



LIGA LIDSKÝCH PRÁV

The **League of Human Rights (LLP)** is a non-governmental non-profit human rights organization that monitors the state of respect for fundamental rights in the Czech Republic and points out their violations. LLP has long advocated systemic changes in the area of violations of fundamental rights in the Czech Republic, through various instruments. At present, we focus on the protection of the rights of vulnerable people, including patients, mothers, and especially mothers with psychosocial disabilities, children and illegally sterilized women..

Key concerns

In the area of justice, new rules on judges' appointment and selection will come into force in summer 2022 and are expected to increase the transparency of the appointment process. A reform of both the public prosecutor's office and the system of appointment and selection of prosecutors is also on the table and could be discussed by the newly elected government and parliament, whereas no proposals have been made to date as regards the creation of

a supreme council of the judiciary, on which there are divergent public opinions.

Discussions are yet to take place under the new government and parliament on several anti-corruption bills, including new rules on whistleblower protection. The vast majority of people in the Czech Republic consider corruption a problem and more than half think that the new government should focus on tackling corruption.

While the level of objectivity and independence of media in the Czech Republic is generally regarded as high, stakeholders are urging the parliament to establish fully independent and effective media councils with a view to strengthening media independence.

Despite the fact that there are still systemic fundamental rights issues in the Czech Republic that need to be addressed, things are slowly changing for the better and such progress benefits the national rule of law environment. The adoption of a law compensating victims of illegal sterilization is a major symbolic step forward, as is the abolition of infant institutions. NGOs played a major role in prompting such important achievements.

State of play

- ⬇️ Justice system
- ⬇️ Anti-corruption framework
- ⬆️ Media environment and freedom of expression and of information
- N/A Checks and balances
- N/A Enabling framework for civil society
- ⬆️ Systemic human rights issues

Legend (versus 2020)

Regression: ⬇️

No progress: ⬇️

Progress: ⬆️

Report, will come into force in summer 2022. This legislation introduces changes which should make the whole appointment process more transparent.

Last year, a reform of the public prosecutor's office was expected, including a new system for the appointment and dismissal of the chief prosecutor. The new legislation is drafted but the former Chamber of Deputies did not get to discuss it. In the beginning of October 2021, elections to the Chamber of Deputies took place, followed by the formation of the new government. The government and Chamber of Deputies are now expected to deal with this and other important proposed reforms that did not pass through the legislative process of the former Chamber of Deputies.

There is also a new draft legislation proposed by the Senate concerning the appointment and selection of prosecutors.¹ The proposal was also not discussed in the former Chamber of Deputies and since the elections no progress has been made. The proposal has a dissenting opinion of the former government because supposedly the executive had proposed another bill on the same matter. Nonetheless, the Organizing Committee of the Chamber of Deputies recommended the proposal to be discussed. It is yet to be seen what the new members of Chamber of Deputies will do with this proposal. The main goal of the proposed reform is to increase the transparency of the appointment of the public prosecutors and to ensure that the dismissal of the Chief Public

Justice system ⬇️

Key recommendations

- The legislators, in cooperation with the Government, should discuss and adopt all proposed legislation as soon as possible, several of which are already ready for debate

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The new legislation on judges' appointment and selection, which we reported about in our contribution to Liberties' 2021 Rule of Law

1 More information at <https://www.psp.cz/sqw/historie.sqw?O=8&T=569>

Prosecutor may only occur on the basis of disciplinary proceedings. The new law would also set clear terms for the mandate of prosecutors.

Independence and powers of the body tasked with safeguarding the independence of the judiciary

There have been discussions about the creation of a Supreme Council of the Judiciary among the ‘professional public’ for decades but no proposal to that effect has been made yet. In the Czech Republic, a Judicial Union exists, which is a professional association created by and composed of judges and operates on a voluntary basis. About 50% of judges are members of this association. However, opinions on the opportunity of establishing an official Supreme Council of the Judiciary vary across the society. Some think it might help coordinating the judicial system considering the limited resources of the Ministry of Justice, while some think it might lead to encapsulation of the judiciary.²

Anti-corruption framework –

Key recommendations

- The legislators, in cooperation with the Government, should dis-

cuss and adopt all proposed legislation as soon as possible, several of which are already ready for debate

Framework to prevent corruption

Around 92% of people in the Czech Republic consider corruption a problem and more than half think that the new government should focus on tackling corruption.³

At present, at least 9 important anti-corruption bills have been prepared, which the former government and the Chamber of Deputies did not manage to discuss. These include an amendment to the Public Prosecutor’s Office Act, the Whistleblower Protection Act, an amendment to the Conflict of Interest Act, the Lobbying Act, an amendment to the Information Act, reform of campaign and political party supervision, amendments to public service media law, public procurement supervision reform, or extension of the powers of the Supreme Audit Office to joint-stock companies with state participation.⁴ These bills are now expected to be discussed by newly elected deputies and government officials. The new government underlined its commitment to achieve the adoption of several of, albeit not all, these laws in its programming statement.

2 Šipulová, K., Urbániková, M., Kosař, D. Nekonečný příběh Nejvyšší rady soudnictví: Kdo ji chce a proč ji pořád nemáme? Časopis pro právní vědu a praxi. 2021, č. 1. <https://journals.muni.cz/cpvp/article/view/14273>

3 See the article of the project Rekonstrukce státu by the organisation Frank Bold Society, z. s., [here](#).

4 See the article of the project Rekonstrukce státu by the organisation Frank Bold Society, z. s., [here](#).

Measures in place to ensure whistleblower protection and encourage reporting of corruption

The former Chamber of Deputies did not manage to discuss the bill on the protection of whistleblowers, which is based on the now effective European directive 2019/1937. The directive is now directly applicable to public authorities. The aim of the implementation of the directive is to ensure the protection of the whistleblowers so that they do not face negative consequences after reporting, for example in the form of job loss or wage reduction. Representatives of the civil sector now call on the new government and the new Chamber of Deputies to adopt a quality law to protect whistleblowers as soon as possible.⁵

Media environment and freedom of expression and of information

Key recommendations

- Legislators should adopt new legislation on media councils which should be more independent, and their structure and decision-making should be subject to judicial review

Media authorities and bodies

According to the project Rekonstrukce státu carried out by the organization Frank Bold, the level of objectivity and independence of the media in the Czech Republic is high even by European standards. However, it is fragile because it lacks the necessary legal support in the absence of fully independent and effective media councils. Rekonstrukce státu is now lobbying at the Senate to push for the following measures aimed at ensuring media independence:⁶

- Members of public service media councils should be elected by the Chamber of Deputies and the Senate. Now they are elected only by the Chamber of Deputies.
- Only established institutions should be able to appoint councillors.
- Councillors should be impartial and politically independent experts.
- Parliament should not be able to dismiss the media council as a whole. The annual reports of the councils will not require approval by the Parliament, but only serve to advise of their activities.
- The Supreme Administrative Court will be able to verify the legality of the procedure for the election of a media council

5 See the article of the project Rekonstrukce státu by the organisation Frank Bold Society, z. s., [here](#).

6 See the article of the project Rekonstrukce státu by the organisation Frank Bold Society, z. s., [here](#).

members and the decisions of the media councils.

Disregard of human rights obligations and other systemic issues affecting the rule of law framework

Key recommendations

- Legislators should finally adopt new legislation on the disciplinary proceedings of judges in order to take due account of infringements
- Legislators should pay more attention to the possibilities of monitoring the observance of fundamental rights in psychiatric hospitals and their effective exercise, and possible sanctions for violations of these rights
- The Ministry of Labor and Social Affairs should give more support to training opportunities for social workers and other professionals helping people with disabilities. It should also seek to increase the number of these professionals, who are few and lack sufficient sup-

port to carry out their work effectively. As a result, the rights of their clients, i.e. vulnerable people with disabilities, might be violated

Systemic human rights violations

There is insufficient protection of people with psychosocial disabilities (i.e. people with mental disabilities, mental illness, autism spectrum disorder, etc.) in the Czech Republic.

As regards the interference with their rights in connection with their involuntary hospitalization in psychiatric hospitals, the problem is perceived on different levels.

First, we observe an ineffective representation of the assessed person within proceedings to assess the opportunity of involuntary hospitalization. The assessed person must be represented in the proceedings. The court appoints an attorney to the assessed person as procedural guardian.⁷ However, often the lawyer does not meet the assessed person in person, listen to him/her, or reflect his/her wishes and interests in court. The court also sometimes fails to meet these standards. Also, the court often issues a decision on the appointment of a guardian at the same time (or in close succession) with the decision on the merits, and deliver them both to the lawyer at once. In such a situation, the lawyer cannot defend the rights of the assessed

7 DURAJOVÁ, Z., KAŠTYL, M. *Analýza dostupnosti a účinnosti existujících nástrojů ochrany práv pacientů při nedobrovolné hospitalizaci a léčbě*, odst. 97.

person effectively. The courts rely only on the report of the doctor who admitted the person to the hospital. Secondly, the rights of the involuntarily hospitalized person are also violated by the employees of the psychiatric hospitals. This was confirmed by the Office of the Ombudsman which LLP approached as the national preventive authority to monitor the compliance with the UN Convention against Torture.

Women with psychosocial disabilities are often deprived of their children immediately after birth, even if there is no proof of risk of neglect or abuse.⁸ The European Court of Human Rights has long criticized this unlawful practice.⁹ The persistent reluctance to address this problem points to strong prejudices on the part of social and healthcare workers towards mothers with psychosocial disabilities, which is also confirmed by expert research.¹⁰

On a positive note, the law on compensation for women sterilized against their will and against the law¹¹ finally passed in summer 2021. Victims of illegal sterilizations have been waiting for compensation for decades and an estimated 400 women will want to apply for it (from thousands of victims). As

they often have low socio-economic status, old age and unfavorable health, they will need help applying for compensation. To that effect, LLP in cooperation with other civil society organisations created two dedicated support centres.

Although the law establishing the institution of a children's ombudsman has still not been adopted, new legislation banning infant institutions has finally passed.

8 FELDMAN, M., MCCONNELL, D., AUNOS M. Parental Cognitive. Impairment, Mental Health, and Child Outcomes in a Child Protection Population. *Journal of Mental Health Research in Intellectual Disabilities* [online] 2012; 5(1): 66-90. [cit. 28.4.2021]. Dostupné z: <https://doi.org/10.1080/19315864.2011.587632>

9 Judgement of European Courts of Human Rights from 29. 3. 2016 in case n. 16899/13. *Kocherov and Sergeeva vs. Russia*. Available [here](#).

10 BERNOLDOVÁ, J. et al., *Ženy s mentálním postižením v roli matek*. Praha: Univerzita Karlova, Pedagogická fakulta. 2019, 115 s. ISBN 978-80-246-4329-8.

11 See here: <https://www.psp.cz/sqw/historie.sqw?o=8&t=603>

Contacts

Liga lidských práv (LIGA)

Society for Civil Rights League of Human Rights

The League of Human Rights (LIGA) is a Czech human rights non-governmental organisation that advances the rights and freedoms of all people of the Czech Republic.

In our work, we mainly focus on the rights of especially vulnerable persons or those facing social exclusion, such as children, people with disabilities, or victims of police violence.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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