

### Europeanisation and transformation of public administration: the case of the Czech Republic

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**“ ‘Europeanisation’ of Public Administration in EU candidate countries from Central and Eastern Europe in the context of transformation and integration”**

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**Europeanisation and Transformation of Public Administration:  
The case of the Czech Republic**

WORKING PAPER

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## **List of abbreviations**

CEECs - Central and Eastern European countries

CFA - Centre for Foreign Assistance

CFCU - Central Finance & Contracting Unit

CSA - central state administration

CSS - civil service system

EA - Europe Agreement

EUZE - Department of the European Union and Western Europe at the Czech MFA

PCU - Programme Coordination Unit

PMU - Programme Management Unit

ISPA - Instrument for Structural Policies for Pre-Accession

MFA - Ministry of Foreign Affairs

MI - Ministry of Interior

NPAA - National Programme for the Preparation of the Czech Republic for Membership of the European Union (National Programme for the Adoption of the Acquis)

OKS - Department of the Communication Strategy at the Czech MFA

OKEU - Department for the Coordination of Relations with EU at the Czech Ministry of Foreign Affairs

SAPARD - Special Accession Programme for Agriculture and Rural Development

SEI - Section of European Integration at the Czech MFA

## **Abstract**

This article examines the public administration reform in the Czech Republic within the context of the process of European integration. At the same time, it tries to assess the major aspects of Europeanisation of the Czech central state administration.

As far as the impact of Europeanisation is concerned it cannot easily be distinguished to what extent the reform of public administration is the result of the Czech Republic's membership in important European and Euro-Atlantic structures (such as the Council of Europe, WTO, IMF, World Bank, OECD, NATO etc.) and of the expected accession to the EU, and to what extent this reform is influenced by the country's transition from a centrally planned to a market economy, from a communist dictatorial regime to a pluralist parliamentary democracy.

The reform of public administration in the Czech Republic is based on three major components: territorial structure reform of public administration, reform of the central state administration, and reform of the administrative functions as such.

In general, the reform of public administration had been neglected for many years in the Czech Republic. In fact, very little has been achieved until the 1998 elections. Since then, great steps forward have been made as far as de-centralisation and de-concentration is concerned. In this respect, a major part of the territorial reorganisation of the country has been accomplished.

On the other hand, only limited progress can be observed in the field of the reform of the central state administration with the aim of improving its functioning, effectiveness and efficiency. This is connected to the non-existence of the Civil Service Act, which in May 2002 finally has been adopted and will enter into force on 1<sup>st</sup> January 2004.

This is also the date of the expected entry of Czech Republic into the EU. In this context, certainly still a lot remains to be done with respect to the overall capacity of the Czech public administration not only in view of the ability to join the EU, but also in view of the post-accession period.

## 1. Introduction: The Czech Republic on the way ‘back to Europe’

For more than 40 years, Czechoslovakia<sup>1</sup> was a hard-line communist country. This had a great impact on the political and economic system, on the whole sphere of public administration, and practically all other spheres of human activities. It has been an important task for the Czech Republic as a successor country of the Czechoslovak federation<sup>2</sup> to adapt its public administration not only to the conditions of a parliamentary democracy and a market economy but also with a view to its integration into European and Euro-Atlantic structures, especially the European Union.

Despite the long period of communist regime, for several reasons, the Czech Republic can still be regarded as a developed country. It has a long industrial tradition and a relatively cheap but skilled labour force. On a GDP per capita basis, the Czech Republic is the third richest country of accession candidates to the EU. Its economic transformation is, together with Hungary's and Poland's, one of the most advanced of all post-communist candidates for EU membership. The Czech Republic is, however, lagging behind, even in comparison to generally less advanced countries, when it comes to the quality of the legal and institutional framework of its transformation. The same can be said about its progress and performance in the area of public administration reform, which has not been very impressive so far despite the fact that a significant acceleration of reform efforts has taken place over the last couple of years. This sub-optimal record has major implications for the Czech Republic's aim to join the EU and become an efficient member of the European Union.

The purpose of the article is to give an overview of the process of the public administration reform in the Czech Republic. Special attention is given to the process of its Europeanisation<sup>3</sup> and the structures, key actors and procedure to negotiate and prepare the Czech Republic's membership. The aim is to analyse the main problems, which the Czech Republic has to deal with in this context in order to be ready to cope with new challenges that will emerge from EU-membership.

### 1.1 Political system

According its constitution of 1992<sup>4</sup>, the Czech Republic is a sovereign and democratic state governed by law, based on respect for the rights and freedom of the individual and the citizen with the Charter of Fundamental Rights and Freedoms as part of its constitutional order. Legislative power is vested in the Parliament which consists of two chambers: the Chamber of Deputies, which is elected for a period of four years and the Senate elected for a term of six years. The executive power is vested in the President of the Republic and in the Government of the Czech Republic. Judicial power is exercised on behalf of the Republic by independent courts and is comprised of the Constitutional Court and a system of common courts.

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<sup>1</sup> Since 1968, when Czechoslovakia became a federation, until the end of 1989, when the communist regime collapsed, Czech Socialist Republic together with Slovak Socialist Republic formed the two parts of the Czechoslovak Socialist Republic.

<sup>2</sup> Czech and Slovak Federal Republic ceased to exist at the end of 1992.

<sup>3</sup> The term “Europeanisation” is understood here in the same way as it is explained in the article: Lippert, B. et al., ‘Europeanisation of CEE executives’, *Journal of European Public Policy*, Special Issue. Executive Governance in Central and Eastern Europe, Vol. 8, No. 6, pp. 980-1012.

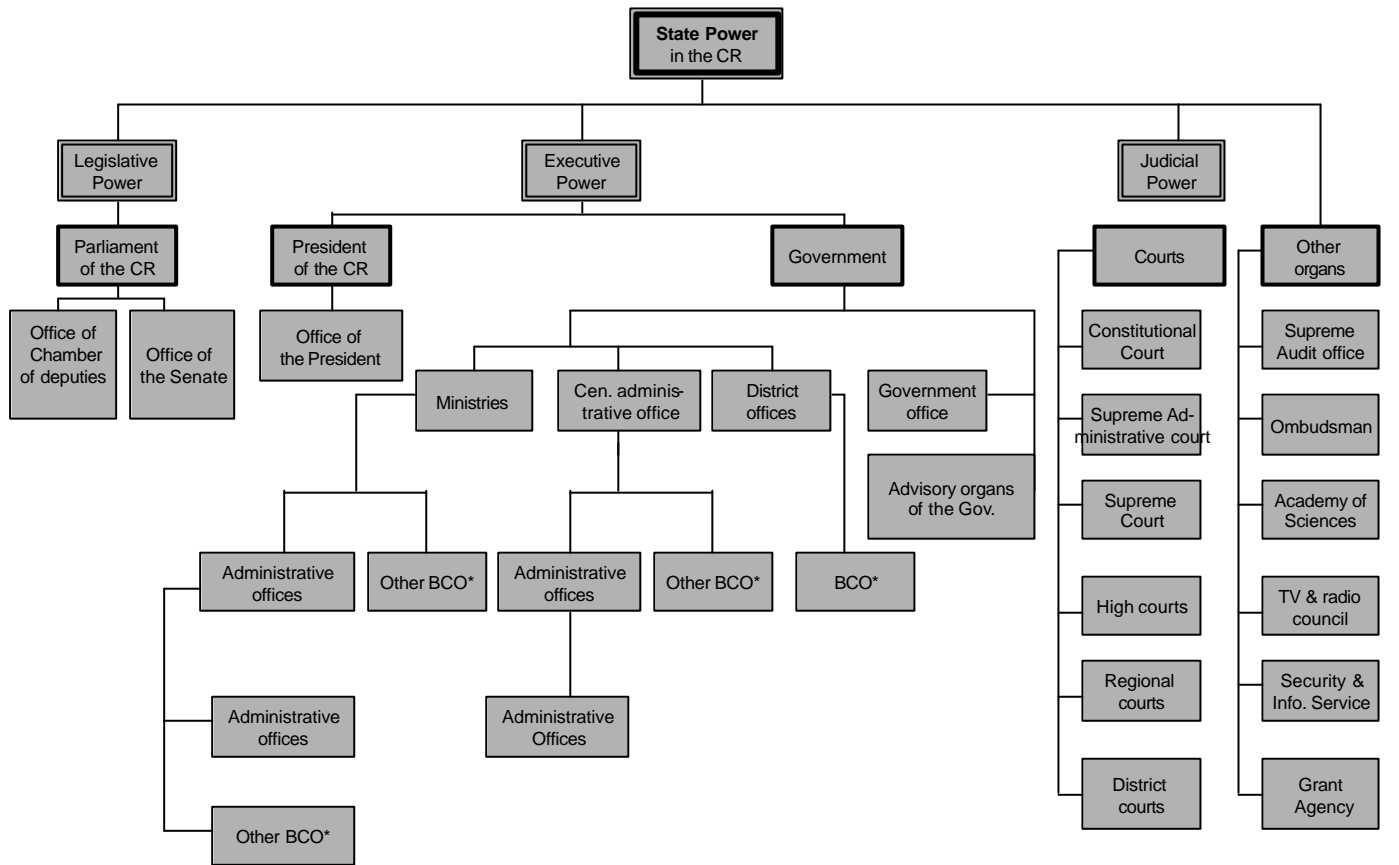
<sup>4</sup> Constitution of the Czech Republic, December 16, 1992.

The Czech political system is based on the free and voluntary foundation and free competition of political parties respecting fundamental democratic principles and rejecting force as a means for asserting their interests. In this sense it can be regarded as a western style parliamentary democracy. The Czech constitution is based on fundamental western values. At the present the main task is to implement these values in a way, which would fully be compatible with the standards in EU member countries.

Although the Czech political system formally does not differ from political systems in EU member countries and other developed countries, the influence of the two big political parties of the bipolar political party system is perhaps too strong and at the expense of smaller political parties as well as at the expense of other elements of civil society. In general, it is often argued that civil society in the Czech Republic has not developed sufficiently yet. Czech citizens can participate in free elections on different levels and can choose from a big number of political parties from all parts of the political spectrum, but they perceive themselves as little influential on the political life. At the same time, a tendency of big political parties to have indirect control over the economic sphere, the media and also the public administration can be observed.



Chart 1 – Distribution of state power in the Czech Republic



\* Budgetary and contributory organisations

Source: Own compilation

## 1.2 Relations with the European Union

Diplomatic relations between the EC and the CSSR (Czechoslovak Socialist Republic) were first established in 1988 and with the Czech Republic in January 1993. In the pre-stage of Europeanisation<sup>5</sup>, the Trade and Co-operation Agreement was signed between the CSFR (Czech and Slovak Federal Republic) and the EC in 1990. The present contractual relationship between the Czech Republic and the European Union is regulated by the Europe Agreement. The Europe Agreement can be considered as the starting point of true Europeanisation in the Czech Republic. It was first signed with CSFR on 16<sup>th</sup> December 1991. In the meantime, the trade related part of this agreement, which aimed to create a free trade area, entered into force on 1<sup>st</sup> March 1992 in the form of an Interim Agreement. The validity of the Interim Agreement was terminated by the activation of the Europe Agreement. According to the association agreements, a free trade area between the EU and the Central and East European countries for non-agricultural products has been created by the end of 2001. After the division of Czechoslovakia on 1<sup>st</sup> January 1993, the EA had to be renegotiated. The new agreement between the EU and the Czech Republic was signed on 4<sup>th</sup> October 1993 and came into effect on 1<sup>st</sup> February 1995.

The second stage of Europeanisation started in 1996, when two important events considerably improved the quality to the Czech Republic-EU relationship. On 23<sup>rd</sup> January, the Czech government presented its formal application for EU membership, accompanied by a Memorandum. This Memorandum contains an explanation of the reasons for EU membership and at the same time it clarifies that there is no alternative for the Czech Republic to membership of the EU. At the end of July 1996, the Czech government presented detailed answers to the European Commission questionnaire<sup>6</sup>. These answers served as one of the important sources of information for the Commission to prepare its opinion on the readiness of the Czech Republic to join the EU. The Czech Republic demonstrated its will to join the Union although it applied for membership later than most of the other countries from the region. Through this exercise of answering the questionnaire and also to the White Paper on integration into the Internal Market which the Commission issued the year before, the Czech Government became acquainted in detail with the many different areas in which it will have to adapt to the administrative and institutional requirements of the 'club' that it wishes to join.

At the meeting in Luxembourg in December 1997 the European Council decided that accession negotiations should start first with a group of the six best prepared countries - Hungary, Poland, Slovenia, Czech Republic, Estonia and Cyprus. Thus the Czech Republic became part of the formally so-called 'Luxembourg group' of countries. On 31<sup>st</sup> March 1998 the negotiation process started through a series of bilateral intergovernmental conferences between the EU and the six applicants - this can be regarded as the beginning of the third stage of Europeanisation. The target date of the Czech Government for the Czech Republic to be prepared to enter the EU is the 1<sup>st</sup> January of 2003<sup>7</sup>. It is generally expected that the Czech Republic could become a member of the EU between 2004-2006. Prior to ratification of the accession treaty by both chambers of the Czech Parliament (most probably in 2003), a referendum on EU membership is likely to take place in the Czech Republic.

In this fourth, post-accession stage of Europeanisation, the next important turning point will be the country's entry into the European Economic and Monetary Union - this is expected to happen in the period 2007-2009.

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<sup>5</sup> Stages of Europeanisation are defined in the article: Lippert, B. et al. (ibid.).

<sup>6</sup> Questionnaire Czech Republic. Information Provided for the Preparation on the Opinion on the Application for Membership of the EU, 1996.

<sup>7</sup> According to the Concept of the foreign policy of the Czech Republic from February 1999.

Whereas before entering the Union, the Czech Republic will have to fulfil the relatively vaguely defined Copenhagen criteria. In order to join the Euro zone, the Czech economy will have to comply with very concrete and demanding Maastricht convergence criteria.

According to CVVM (Centre for Public Opinion Research), support for EU membership has increased recently. The latest CVVM survey shows that if there were a referendum at the beginning of September 2001, 45% of people would vote for EU membership, 18% would vote against and one fifth of Czechs does not know how they would vote. According to the same survey, 7% would certainly not participate in such a referendum and another one tenth does not know whether they would participate. Another question shows that the efforts made by the state to accede the EU are supported by 56% of citizens; 29% of them do not agree, and 15% have not made up their mind yet.

It would be an overstatement to say that there exists something like a general doctrine regarding EU-integration. Nonetheless, the main elements of the Czech government's attitude towards EU integration are expressed in the subchapter 'European Policy of the Czech Republic' of the Concept of Foreign Policy of the Czech Republic from February 1999. The aim of the present government is to conclude the preparations the accession to the EU by 2003. It is a priority of Czech foreign policy to negotiate the accession treaty. The Czech Republic will accept the EU, as it will be at the time when the Czech Republic will enter it. This refers to the EU *acquis* as well as to the EU institutional framework and also EU policies. When defining its present European policy, the Czech Republic assumes that the goal of European integration is to create a political union with a strong social and ecological dimension. The Czech Republic supports EU reforms, which will enable the continuation of the integration process, which will preserve relations among individual countries based on equal rights and solidarity, and which will ensure good functioning of the whole organisation after enlargement. After its accession to the EU, the Czech Republic will strive for earliest possible membership of Economic and Monetary Union.

### **1.3 Framework conditions of the integration process**

After the fall of communism in November 1989, democratic Czechoslovakia and later the independent Czech Republic has gradually gained membership of all important international and regional organisations and intergovernmental institutions with the exception of the EFTA, EC/EU and WEU. In September 1990, Czechoslovakia was admitted both to the IMF and the World Bank. In February 1991, Czechoslovakia was officially admitted to the Council of Europe as its 25<sup>th</sup> member. In 1993, both the Czech Republic and Slovakia became members of the Council of Europe. In March 1992, an agreement between Czechoslovakia and EFTA on free trade was signed in Prague.

So far, the greatest success of the Czech Republic on the international scene has been its membership of OECD and NATO. Membership of these organisations at present makes the most important distinction between the most developed Central European countries and the rest of the post-communist countries. The Czech Republic became a member of OECD on 21<sup>st</sup> December 1995 as its 26<sup>th</sup> member country, and the first post-communist country to join the organisation. On 12<sup>th</sup> March 1999, the Czech Republic, together with Hungary and Poland, acquired full NATO membership. With respect to the WEU, the Czech Republic's status changed from "associate partner" to "associate member" just after the country joined NATO. As far as Central Europe is concerned, stronger cooperation among the countries of the Visegrad group was revived in 1998, and the CR fully supports further development of

cooperation within the framework of CEFTA (Central Europe Free Trade Agreement) and CEI (Central European Initiative).

Membership of European and Euro-Atlantic organisations and structures other than the EU supports the Czech Republic's preparations to join the Union. In this respect, at least part of the Czech public administration has already been affected in a positive way thanks to dealing with the tasks that are connected with the agenda of the above-mentioned international institutions<sup>8</sup>. This positive effect is mainly visible in those units of the central state administration, which are in charge of external relations and are dealing with international organisations and intergovernmental institutions of which the Czech Republic is a member. Those units had to adapt to a style of work, which is standard to Western Europe, and also had to hire a certain number of highly skilled people with a good knowledge of foreign languages.

The so-called "Velvet Revolution" of November 1989 was the start of radical changes in Czechoslovakia, which affected practically all spheres of daily life. The political system was changed from a totalitarian regime into a pluralist parliamentary democracy. The leading role of the Communist Party finished in December 1989, to be followed by the adoption of a law on political parties in January 1990. The first free elections after five decades of totalitarianism were held in June the same year. At the beginning of the changes, the political movement called 'Civic Forum', encompassing various political forces, which were united in the opposition against the preceding communist regime, played an important role. It won the first free elections but later split into a number of political parties. The political spectrum gradually started to resemble the standard spectrum that exists in most of Western Europe. Thus after the break-up of the federation of the Czechoslovak federation at the end of 1992, the Czech Republic inherited a relatively stable bipolar party system with all major political families represented in the political spectrum.

#### **1.4 Attitudes of political parties towards accession to the European Union**

There are now four major political groupings in the Czech Republic, all sitting in the Parliament: the Civic Democratic Party (ODS), the Czech Social Democratic Party (CSSD), the Coalition (successor to the former 4-Coalition), and the Communist Party of Bohemia and Moravia (KSCM). The 4-Coalition formally consisted of the Christian Democratic Union - Czechoslovak People's Party (KDU-CSL), the Civic Democratic Alliance (ODA), and the Freedom Union (US) together with the Democratic Union (DEU), which have merged into one political party (US-DEU). The present Coalition is a block of two parties (KDU-CSL and US-DEU)<sup>9</sup>.

Nearly all the Czech political parties now represented in parliament are in favour of the country's EU membership, perhaps with the exception of the KSCM, whose position is not very clear. However, the perception of European integration differs very much from party to party. While the CSSD and all parties inside the former 4K are strongly pro-European, there are great reservations about many aspects of European integration in the ODS and the KSCM. When representatives of individual political parties are asked, what kind of EU they would prefer in the future, there are huge differences among the four major political groups,

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<sup>8</sup> It is important to mention in this respect the fruitful working contacts between the CR and bodies namely at the Council of Europe and OECD (especially the PUMA Committee and representatives of the SIGMA programme) involved in public administration reform.

<sup>9</sup> At the beginning of February 2002, the 4-Coalition unexpectedly dissolved but after ODA had to leave it because of its inability to repay its debt, it was soon re-established under the name "Coalition".

when not taking into account several small extreme right-wing nationalistic or neo-fascist, often semi-legal, parties and movements which are all strongly against accession into the EU.

It is somewhat peculiar that while many top politicians of ODS often express euro sceptic remarks in public, the electorate of ODS is one of the most pro-European. Just the opposite can be stated for the KSCM. While members of the intellectual elite of KSCM are mostly in favour of the country's entry into the EU, the vast majority of the communist electorate opposes it. While the leaders of CSSD are very pro-European, the supporters of CSSD are much less pro-EU than it is the case for ODS. As far as the Coalition is concerned, the strongly pro-European attitude of leaders of both parties included corresponds to the strong pro-European attitude of the electorate of these parties.

Table 1: Opinion of the Czech population concerning the EU accession according to political parties - April 2001 (in %) more recent data?

Political party or coalition	In favour of EU accession	Against EU accession
<b>4K</b>	64	7
<b>ODS</b>	62	9
<b>US</b>	52	16
<b>CSSD</b>	39	20
<b>KDU-CSL</b>	27	12
<b>KSCM</b>	14	41

Source: CVVM

According to a survey carried out by the predecessor of the CVVM, the Institute for the Research of Public Opinion (IVVM), in November 2000, 87% of supporters of ODS would agree with the entry into the EU, 77% of US supporters would agree, 69% of KDU-CSL, 67% of CSSD and 19% of possible voters of KSCM.

The leader of ODS, and the Chairman of the Chamber of Deputies, Václav Klaus has stated many times that there is no alternative to the country joining the EU. It was also him, who - as the prime minister - presented the application for EU membership in January 1996. Conversely, he has expressed many critical remarks towards the EU, which have irritated many officials from the EU institutions and politicians from EU member states. Big issues for Václav Klaus are questions of national sovereignty and national identity. He has warned that the Czech Republic should not dissolve within the EU like a piece of sugar in a cup of coffee. According to him, supranational and regional aspects of European integration should not be strengthened at the expense of the role of a nation state. As far as public administration reform is concerned, Václav Klaus has never considered it a key issue. ODS had been against the establishment of new regions and at present does not consider the Civil Service Act as a step in the right direction.

The way the CSSD sees the process of European integration and its main trends is in sharp contrast with the view of ODS. Miloš Zeman, former Czech Prime Minister and former chairman of CSSD, has said openly on various occasions that he is in favour of a European federation and that he supports fully all EU common policies. He has also said several times that unlike the ODS he does not want the EU to be just a large free trade zone. In this respect, he has often criticised many euro sceptic remarks coming from the ODS. Vladimír Špidla, the present Chairman of CSSD, considers as very important the social dimension of EU integration including the Social Charter and the value of solidarity. The EU social policy,

however, is one of the greatest targets of criticism from the ODS. From the point of view of the public administration reform, the CSSD has done a great deal of work in this field since it came to power in 1998. This aspect has ever since been one of the top priorities of the CSSD government.

Generally speaking, for the Coalition, the country's membership in the EU is a number one priority. Although the economic programme of the Coalition is closer to ODS than to CSSD, its approach towards the EU is clearly closer to that of the CSSD than the ODS. The Coalition is strongly in favour of the principle of subsidiarity and a reasonable balance between the supranational and intergovernmental elements of the integration process and the functioning of the EU institutions. Many Coalition politicians are not against the idea of some kind of "United States of Europe" but few of them would probably like it to be a pan-European copy of the USA or the Federal Republic of Germany. Unlike the ODS, euro sceptic remarks are seldom heard from the Coalition parties. The Coalition considers as very important the harmonisation of Czech law with the European one. The improvement of the legal framework in the CR is one of the main goals of all the Coalition parties and they all believe that acceptance of European standards in this area will be a great step in the right direction. With respect to public administration reform, the Coalition is aware of its importance but it does not agree with much of the concept of the CSSD in this field, and together with ODS it had, until recently, blocked the draft of the Civil Service Act prepared by the Government from being passed in Parliament. Unlike the ODS, all the parties included in the former 4-Coalition have always been in favour of territorial reform.

According to its 1998 election programme, the KSCM would support the "integration into Europe" based on equal rights. However, it does not want to enter the EU if the Czech Republic would find itself in a situation like a colony perceived by stronger countries only as a market for their overproduction and a source of cheap labour. It requires a Europe of social security, culture and education, unity and national sovereignty, democracy and human rights, peace, safety and cooperation. It is striving for an equal and democratic integration of all European countries and to use the objective integration processes for the improvement of living conditions of people and equal chances for the development of all. It refuses a policy of unconditional and premature entry into the EU without discussions about the form of integration. It will require a change of the character of European integration and introduction of a socially just and ecologically acceptable European integration process that is not subordinated to the interests of the large member states and supranational capital. These views have not changed significantly since the last elections. The KSCM deputies in the Parliament have not been very active in the field of the public administration reform. Without any doubt, it is the former communist regime, which is to blame for most defects of the present Czech public administration.

## **2. Public administration reform and modernisation**

The tradition of the Czech public administration goes back to the Austro-Hungarian monarchy and even the long period of communist regime was not able to suppress entirely all the elements of this old tradition. During the communist period, the efforts to reform the public administration were influenced very much by the Soviet experience but the public administration in Czechoslovakia was never completely organised according to the Soviet model<sup>10</sup>. This tradition of the so-called First Republic (1918-1938) is also important for understanding the present steps of public administration reform.

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<sup>10</sup> For additional information see Lacina, K., Cechák, V. (2001), *Vývoj systému veřejné správy*, Praha.

The term 'public administration' as it is used in the Czech Republic, does not always entirely correspond to how it is used in the EU institutions and EU member states. "Public administration is an administration of public affairs, which is being done in public interest, as a manifestation of, or part of the executive power. Since it is an organized activity, it has to be entrusted to an entity, which guarantees that it will be executed. This entity is above all the state and other entities, which have been authorized for this purpose by the state (e.g. public-law corporations, public funds or public enterprises.....Public administration is formed by two subsystems, namely by state administration and self-government.... Since a positive definition of public administration is more or less impossible, there are usually formulated so-called negative definitions: administration is according to them stipulated as a range of activities which are neither legislature, judiciary nor government, and which are performed by organs, which are organs neither of legislative, judicial nor government power"<sup>11</sup>.

"State administration is a designation for that part (subsystem) of public administration, whose execution is ensured by either a state with its organs, which it has established for this purpose, or which is performed in its name by entities (organs), on which it transferred the execution of state administration. State administration is considered as direct administration, because it is part of the executive power belonging to the state"<sup>12</sup>.

At present, public administration reform is closely linked to the process of the Czech Republic's integration into the EU. The central theme in this regard is not only the approximation of Czech law to European law but also its implementation and enforcement. For this purpose, the Czech Republic needs a public administration capable of fulfilling this task. It must, however, be taken into account that there is neither a formal *acquis* on public administration nor a unique model of public administration within the EU itself. Each EU member states' public administration reflects its own history and traditions. Therefore no EU member state can serve as an example for the public administrative reform in the Czech Republic. Hence the Czech Republic should study the experience of all EU member states and look for inspiration in all of them. This view is shared by most of the Czech experts, who are dealing with issues related to the public administration reform.

## **2.1 System of central state administration**

The present system of ministries and their structure differ very much from the ministerial set up of the communist times. When the economy was controlled centrally and administratively, special branch ministries such as e.g. the ministry of metallurgy and heavy machinery, of fuels and energetics, of electrotechnic industry, of light industry, of internal trade etc. existed and influenced the implementation and enforcement of laws and legal acts. After 1989, these ministries have gradually merged or have been abolished as the old system of central planning, which was based on a system of management of individual branches of the economy, dissolved. Gradually a system of horizontal and individual influencing of economic development by means of the economic ministries and other institutions of central state administration has been established. The Ministry of Finance monitors and influences the macroeconomic parameters of economic development, while the Ministry of Trade and Industry and partially also the Ministry for Regional Development influence and monitor

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<sup>11</sup> Mates, P., Wokoun, R. (2001), 'Malá encyklopedie regionalistiky a veřejné správy', Praha, p. 135.

<sup>12</sup> Ibid., p. 134.

primarily the microeconomic sphere<sup>13</sup>. This system can be regarded as being compatible with a standard market economy.

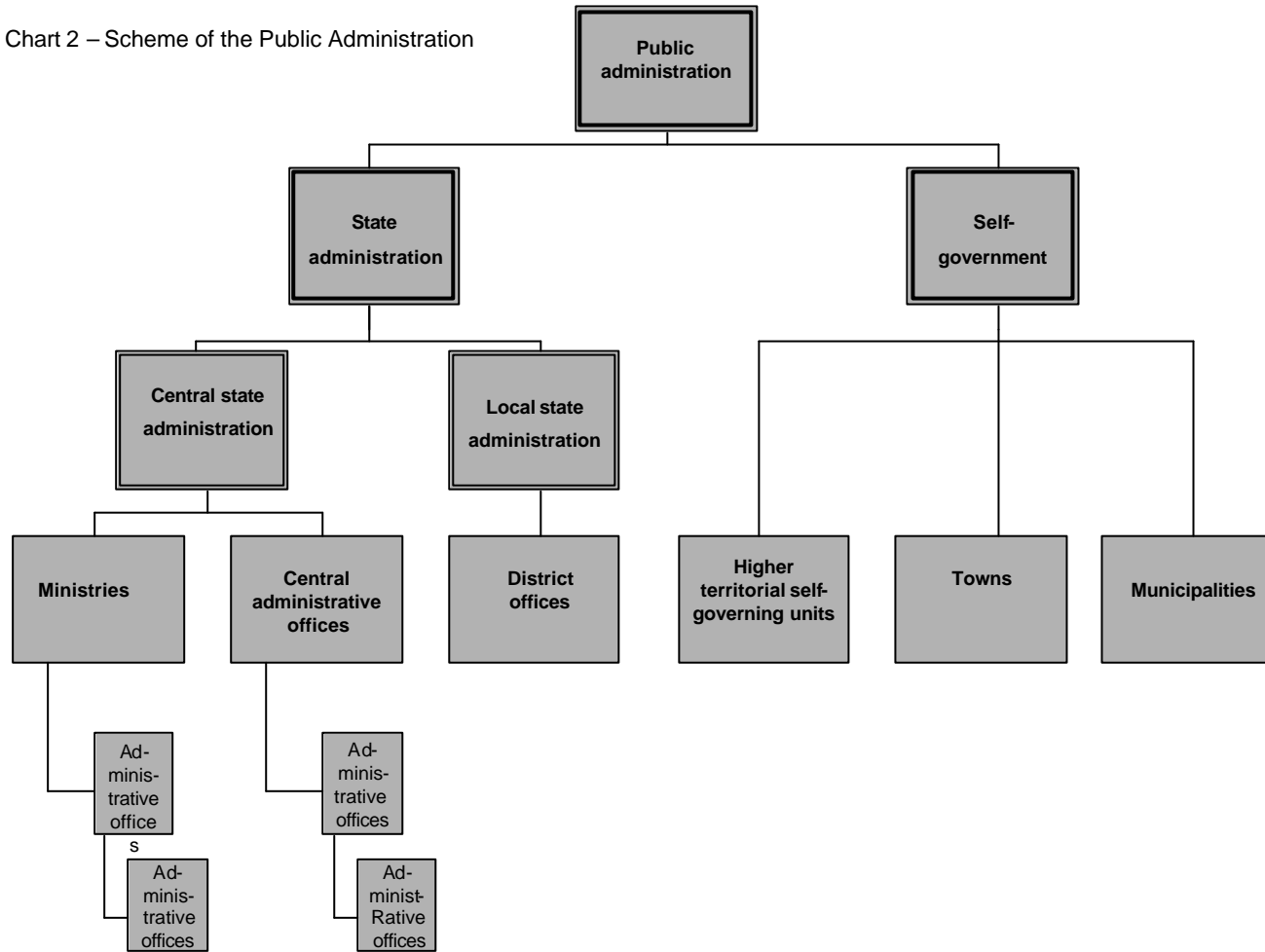
At present, the system of public administration in the Czech Republic includes the organs of the state administration, organs of the territorial self-government and other public institutions. The first two types of organs represent the public administration in the narrower sense. As far as organs of the state administration are concerned, they consist of the ministries and other offices of the central state administration.

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<sup>13</sup> The branch approach has been to a certain extent preserved in the case of the activities of the Ministry of Agriculture and also in the case of the Ministry of Transport and Telecommunications.



Chart 2 – Scheme of the Public Administration



Source: Own compilation

The central authorities of state administration are headed by a member of the Government of the Czech Republic and include:

Table 2: Ministries and other institutions of central state administration

<p><b>15 Ministries</b></p>	<p>Ministry of Finance  Ministry of Foreign Affairs  Ministry of Education, Youth and Physical Education  Ministry of Culture  Ministry of Labour and Social Affairs  Ministry of Health  Ministry of Justice  Ministry of Interior  Ministry of Industry and Trade  Ministry for Regional Development<sup>14</sup>  Ministry of Agriculture  Ministry of Defence  Ministry of Transport and Telecommunications  Ministry of Environment</p>
<p><b>15 other central bodies of state administration (excluding the institutions of the judicial system)</b></p>	<p>Czech National Bank  Czech Statistical Office  Czech Geodesic and Cadastre Office  Czech Mining Office  Czech Telecommunications Office  National Property Fund  Supreme Audit Office  Industrial Property Office  Office for the Protection of Economic Competition  State Information System Office  Administration of State Material Reserves  State Nuclear Security Office  Securities Exchange Commission  National Security Office</p>

Their activities are defined by the competency law, the district offices (at present there are 77 of them including 4 statutory cities), the system of specialised state organs (e.g. Financial Offices, Military Administrations etc.), 14 regional offices (from 1<sup>st</sup> January 2001), and offices at the municipalities.<sup>15</sup>

## 2.2. Employment in civil service

According to the World Bank, the consolidated central government in the Czech Republic includes the Cabinet office, parliament, ministries, president's office, Supreme Court, government agencies, local governments, extra budgetary funds and health insurance organisations. The definition of state administration is complex and has undergone several changes but generally includes ministries, selected other central bodies and their subsidiary organisations.

“Due to the absence of a Civil Service Act, data on government employment in the Czech Republic does not reflect the standard distinction between public servants and civil servants.

<sup>14</sup> A literal translation from the Czech language of the name of this ministry would be the Ministry for Local Development. However, it has been agreed that the official English translation would be the Ministry for Regional Development.

<sup>15</sup> The activities carried out by the ministries are guided, controlled and coordinated by the Government of the CR, and the tasks related with professional, organizational and technical support for the Government are performed by the Office of the Government of the CR.

Instead, employment is broadly divided between budgetary organisations<sup>16</sup> (fully financed from the state budget) and those organisations that are to some extent self-financing but that also receive subsidies from the state budget. While no official definition of the civil service exists, unofficial estimates speak of between eighty and ninety thousand staff in core administrative positions that might form the basis of a future civil service. In 1998, total employment in both budgetary and subsidised organisations was 508 351. Of this number, 207 814 were employed by subsidised organisations, while 300 537 worked in budgetary organisations. Just over half of the budgetary organisation staff worked for the state administration, of whom 13 849 were employed directly in ministries and other central bodies. Relative to other EU accession candidates and to EU member countries, the Czech Republic's public employment levels are not excessively high. At 4.9 of population, public employment in the Czech Republic in 1997 placed it near the bottom of the range among its closest neighbours, and nearly at the bottom of the range of EU member countries".<sup>17</sup>

Table 3: Government Employment in Selected Countries, 1997

Country	Percent of population	Percent of Labour Force
Sweden	18.1	34.7
Finland	13.0	25.5
Denmark	13.3	24.0
Hungary	9.0	20.3
Belgium	8.1	19.5
France	7.7	17.2
Slovak Republic	8.6	19.4
United Kingdom	7.5	15.6
Italy	6.0	14.6
Greece	4.4	11.6
Portugal	5.7	11.1
<b>Czech Republic</b>	4.9	11.2
Germany	4.9	9.4
Poland	4.9	9.3

Source: World Bank

The estimated number of employees of the central state administration as of 31<sup>st</sup> December 2000 was 57 910 of which 53 099 constituted specialists and administrative workers (1 539 of which directors of departments and 4 199 heads of divisions). The estimated number of employees of district offices together with the statutory cities of Prague, Brno, Ostrava, Plzen as of 31<sup>st</sup> December 2000 was 18 000. The estimated number of employees of the regional offices as of 9<sup>th</sup> September 2001 is 2 700. The number of employees of the municipal and town offices as of 31<sup>st</sup> December 2000 was 61 000.<sup>18</sup>

More recent data is available on the number of positions in the central state administration. The data (see table below) has been used inter alia for a calculation of state budget expenditures for 2002. It should be noted that the number of positions in the CSA does not exactly correspond to the number of people employed in it, because some of the positions may remain unoccupied while other positions are shared between several people with part-

<sup>16</sup> Budgetary organizations (rozpočtové organizace) in the CR have recently been renamed as organization components of state (organizacní články státu).

<sup>17</sup> World Bank (1999), 'Czech Republic. Toward EU Accession. Main Report', Washington, D.C., p.190.

<sup>18</sup> Internal materials of the Ministry of Interior of the CR.

time contracts. The figures in the table include the number of positions in subordinated offices and sections for defence and security of CSA institutions.

Table 4: Number of positions in the central state administration in the CR<sup>19</sup>

Name of the CSA institution	Total number of positions
Office of the Government	544
Ministry of Foreign Affairs	2 159
Ministry of Defence	7 355
National Security Office	250
Ministry of Finance	26 712
Ministry of Labour and Social Affairs	14 217
Ministry of Interior	12 844
Ministry of Environment	1 296
Ministry for Regional Development	406
Ministry of Industry and Trade	1 977
Ministry of Transport and Telecommunications	800
Czech Telecommunications Office	483
Ministry of Agriculture	4 988
Ministry of Education, Youth and Physical Education	1 093
Ministry of Culture	235
Ministry of Health	624
Ministry of Justice	11 974
State Information System Office	119
Industrial Property Office	266
Czech Statistical Office	2 252
Czech Geodesic and Cadastre Office	5 917
Securities Exchange Commission	133
Czech Mining Office	222
Energy Regulation Office	80
Office for the Protection of Economic Competition	129
Council for Radio and Television Broadcasting	34
Administration of State Material Reserves	467
State Nuclear Security Office	190
Total	97 766
District offices	18 903
Total of CSA and district offices	116 669

Source: Office of the Government, Ministry of Finance

The number of employees of the state administration varies greatly from region to region. According to the available statistical data<sup>20</sup> the distribution of the total number of these employees into the regions is the following:

<sup>19</sup> The institutions in the table are in the order which corresponds to the order of the chapters of the state budget.

<sup>20</sup> Data from the internal materials of the Ministry of Interior of the CR.

Table 5: Number of employees of the state administration

Area		Percentage
<b>Capital</b>	Prague	20-25%
<b>Regions</b>	Stredočeský Jihomoravský (formerly Brněnský) Moravskoslezský (formerly Ostravský)	9-11%
<b>Regions</b>	Jihočeský (formerly Českobudějovický) Plzeňský Ústecký Královéhradecký	5-6%
<b>Regions</b>	Karlovarský Liberecký Pardubický Vysocina (formerly Jihlavský) Olomoucký Zlínský	2-4%

The data is important for determining the appropriate localities for the building of training capacities.

The data concerning the total number of people employed in the whole Czech PA are difficult to obtain. The table below gives a certain idea about its size. However, the reliability of these data is limited because they are being constantly revised.

Table 6: Workers in public administration, defence and compulsory social security in the CR in the period 1990-2001

Year	Average number of employees
<b>1990</b>	95 743
<b>1991</b>	99 098
<b>1992</b>	123 448
<b>1993</b>	132 675
<b>1994</b>	146 266
<b>1995</b>	161 644
<b>1996</b>	167 917
<b>1997</b>	175 478
<b>1998</b>	176 959
<b>1999</b>	177 770
<b>2000</b>	179 700
<b>2001 - 1<sup>st</sup> Q.</b>	181 000

Source: Czech Statistical Office

### 2.3. Reform of the Czech public administration

The reform of the public administration in the Czech Republic consists of three main areas:

- ?? territorial structural reform of public administration
- ?? reform of the central state administration
- ?? reform of the functioning of public administration

### 2.3.1. State of play

For the management and preparation of the public administration reform in the Czech Republic, three new departments were established within the Ministry of the Interior (MI) in November 1998 (Public Administration Reform, Human Resources and Development in Public Administration, and Information of State Administration). These departments prepared the comprehensive legal framework for territorial reform and a concept for training in public administration, which was approved by the Government in June 1999. In 1999, the government discussed the proposed concept of the public administration reform and submitted this proposal to Parliament. The whole concept of reform is very much focused on the territorial dimension. The problems of the Czech public administration can be seen in the context of present European trends. In May 1999 by 167 of 176 votes the Chamber of Deputies of the Czech Parliament supported the implementation of the reform concept and adopted the recommendations aiming at the application of a unified model of performance of the territorial public administration and starting the work on rationalising of the central state administration.

At present, the Department of the Central State Administration at the MI together with the Office of the Government (Section of Organisation, Personnel Management and Training in State Administration <sup>21</sup>) has prepared a draft "Concept of Modernisation of the Central State Administration". During the course of its work, the MI has been using the terms 'reform' and 'modernisation' simultaneously. Both modernisation and reform bring about change. However, the experts of the MI suppose that the process in question can better be defined using the term 'modernisation' especially because modernisation is a step-by-step and long-term process of evolutionary character, and unlike reform, modernisation does not affect the substance of the system as such, but it rather modifies the way that it works.<sup>22</sup> While at the beginning of the 1990s, revolutionary changes were necessary to change the entire economic and political system; at present it is no longer necessary to change the existing system of state administration radically. What is needed is a substantial improvement in its effectiveness and efficiency.

The division 'Organisation, Personnel Management and Training in State Administration' was created within the Office of the Government as of 1<sup>st</sup> September 2001 with the aim to prepare the implementation of the Civil Service Act. The establishment of this division means a significant strengthening of the importance of the human resources development area in modernisation of the CSA. Within this division, the Institute of State Administration was established. This institute institutionalises the system of training of the employees of administrative offices, with special emphasis on the EU accession process. Together with the Institute for Local Administration (administered by the Ministry of Interior) and other training institutions, it creates an institutional framework for the training of employees of the Czech public administration. A more intensive involvement of universities and faculties providing education in the fields connected with public administration is envisaged.

Unfortunately, this framework does not yet work efficiently enough. Most of the positions at the Institute of State Administration remain unoccupied. There are at present 32 people employed in the division 'Organisation, Personnel Management and Training in State Administration'. In the unit for Training in administrative offices, there are five civil servants at present (one position remains unoccupied). Given the relatively low salaries level, it is difficult

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<sup>21</sup> Former Department of Civil Service.

<sup>22</sup> This information is based on interviews held at the Ministry of Interior of the CR.

to attract a sufficient number of adequately skilled people. This is however a general problem of the whole Czech civil service.

The Office of the Government jointly with other central authorities in particular elaborated the description and analysis of the organisational structure of the administrative authorities. The MI co-ordinated the Phare project 9808.01 "Fostering the institutional and administrative capacities to implement the *acquis communautaire*", and with the support of the Czech expert team for this project it went on elaborating the concept of the modernisation of the central state administration.

### 2.3.2. Major aspects of reform

According to the MI experts<sup>23</sup>, reasons to modernise the central state administration (CSA) are twofold. The first consists of general shortcomings of the CSA, the second involves the changing environment and changing tasks of the CSA.

The most serious shortcomings are in particular:

- ?? Unclear delineation of the sphere of action of individual sections;
- ?? Insufficient horizontal co-ordination within the state administration, also caused by the non-harmonised organisational structures of the ministries and other central administration authorities;
- ?? Insufficient management of the CSA, and in particular the insufficient focus of the ministries on the results of their activities;
- ?? Lack of human resources stabilisation and excessive political involvement in the CSA.

Regardless of their shortcomings, the CSA and the ministries in particular are being forced to adjust to the changing environment in which they operate, leading to changes of their tasks. The major influences on the CSA in the Czech Republic are:

- ?? Reform of the regional public administration under which the activities of the operational character are transferred from a ministry to the regional self-administration units (decentralisation and de-concentration), and at the same time the increased pressure on the ministries and other CSA authorities to co-ordinate their proceedings;
- ?? Implementation of modern information systems and technologies leading to a change of the way public administration is executed, creating favourable circumstances to improve the interaction between the public administration and citizens;
- ?? Intended accession of the Czech Republic to the EU will increase the demands on the efficiency of the CSA, since the ministries in particular will be responsible for asserting the Czech interests in the EU and at the same time, for taking over and implementing the *acquis communautaire* in the Czech Republic.

In a short-term perspective, the concept of the CSA focuses in particular on so-called horizontal processes. Horizontal processes describe groups of activities carried out by all and/or at least the major ministries or, depending on the case, some other central administration authorities. The character of these processes enables the following:

1. comparison between the individual CSA authorities in the Czech Republic and also in comparison to the CSA in the member states of the EU;
2. setting up standard (type) procedures to execute these processes to reach a higher efficiency in execution of these simultaneously in the entire CSA.

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<sup>23</sup> Most of the information is based on the internal materials of the Ministry of Interior and on the interviews with competent people at the MI.

The core of the concept of modernisation of the CSA is to draft measures in the two main areas regarding the improvement of the efficiency of the horizontal processes between the individual ministries, which are the field of the structure and the field of the operation of the CSA.

According to the MI experts, the aim of this concept is to outline a certain modernisation strategy and lay down short-term and long-term priorities. The measures of this concept should be understood as principle guidelines of reform. The actual implementation of this concept and its application according to the circumstances of the affected ministries and other central administration authorities should then be carried out in the course of implementation of a new civil service system (CSS).

Priorities connected with the establishment of the new civil service system:

**Short-term priorities:**

~~EE~~ Period: June 2001-June 2002

~~EE~~ Targets:

1. Harmonisation of the structure of the ministries and other central administration authorities;
2. An increase of the efficiency and general improvement of the co-ordination of the horizontal functions and processes.

**Mid-term priorities:**

~~EE~~ Period: July 2002-December 2003

~~EE~~ Targets:

1. An increase of the efficiency and general improvement of the co-ordination of the horizontal functions and processes;
2. System consolidation of the CSA;
3. reinforcement of the concept, co-ordination and inspection role of the ministries;
4. improvement of management standards in the ministries and other CSA authorities.

The above-mentioned priorities correspond with the obligations and priorities of the Accession Partnership.

A recent World Bank report<sup>24</sup> drew several conclusions about the public sector reform in the Czech Republic:

- ?? Absence of legal distinction between political appointments and civil servants undermines professionalism, and encourages civil servants to be politically focused and discourages them from being responsive to crosscutting and medium term policy objectives.
- ?? Absence of systematic mechanisms to hold budget units and their employees accountable for achieving objectives makes it difficult to monitor and achieve targets.
- ?? Provision of wage ceilings on line ministries, by the Ministry of Finance, provides the managerial discretion needed to effectively manage human resources while still maintaining effective fiscal discipline. However, the absence of a mechanism for holding budgetary units accountable for outcomes undermines the incentives to use this autonomy well.
- ?? Absence of systematic mechanisms to ensure clear and shared organisational objectives and to focus attention on meeting those objectives undermines effective meeting of policy objectives.

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<sup>24</sup> World Bank (1999), "Chapter 11: Public Administration", in: Czech Republic, Towards EU Accession, Main Report, Washington, D.C.



- ?? Lack of mechanisms (such as career streams and performance-linked rewards) to make the public sector an attractive career undermines the capacity of the administration to attract, retain and develop skilled employees.
- ?? While the Administrative Procedures Act establishes basic standards for responding to citizen enquiries, lack of systematic mechanisms (such as service standards and publication of actual performance) make it difficult to determine how effective and responsive administrators are in service delivery.
- ?? Policy processes and procedures are well designed and function smoothly.
- ?? Actions are needed to foster career development within the public sector.
- ?? Actions are needed to improve capacities for policy formulation and co-ordination at the centre, by creating a single, professional policy analysis unit within the office of the Prime Minister, focussing particularly on inter-sectoral trade-offs and co-ordination issues.

The World Bank evaluation indirectly shows that there is still a significant lack of quality in the Czech public administration in comparison to EU member states. Although certain improvements in this field have been achieved in the Czech Republic over the last decade, the task to make the Czech public administration ready for the challenges, which the accession to the EU will bring, is a very complex one. A huge number of steps are still needed in order to substantially improve the present situation.

### **2.3.3 Links between regulatory reform and public administration reform**

The reform of public administration in the Czech Republic is narrowly connected with regulatory reform, the purpose of which is to make the regulation mechanisms correspond with the conditions of the single market of the EU. Until September 2000, the Czech Republic did not have an explicit policy on regulatory quality, and according to the OECD experts, this reduced the accountability related to performance and increased the risks of capture and abuses in the public administration.

A Government Resolution of September 2000 imposed on each minister the duty to follow the 1995 "OECD Recommendation on Improving the Quality of Government Regulation" when preparing regulations. A resolution of 17<sup>th</sup> January 2001 requires the MI, when reforming the central state administration, to respect the conclusions and recommendations resulting from the OECD's Regulatory Management and Reform Working Party on 5<sup>th</sup> December 2000. In September 2000, the government of the Czech Republic, based on source data prepared by the MI in cooperation with the intergovernmental working group<sup>25</sup>, expressed clear support for the basic principles of the regulatory reform.

According to the OECD review of the regulatory reform in the CR from 28<sup>th</sup> June 2001, "in the first half of the 1990s, economic reforms leapt ahead of institution-building. For much of the transition period, reform of the state was seen as a task of rolling back the state rather than rebuilding the state. Political awareness of the need for an effective public administration and a robust and modern regulatory framework to support democratic and market institutions came much later....The lag in rebuilding the state through the public sector and regulatory reform imposed a heavy price on the economic transition in the Czech Republic....The late start in reform of the public sector, gaps in the regulatory framework and delayed policy

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<sup>25</sup> This intergovernmental group is composed of representatives from the Ministry of the Interior, the Ministry of Finance, the Ministry of Industry and Trade, the Ministry of Foreign Affairs, the Ministry of Transport and Telecommunications, the Government Office, the Office for the Protection of Economic Competition and the Czech Telecommunications Office.

corrections to mistakes in market liberalisation amplified the mistrust of Czech citizens toward the state.”<sup>26</sup>

#### **2.4. The long absence of the Civil Service Act – a continual target for criticism in the Commission Regular Reports**

In May 2002 the Government finally adopted the Civil Service Act. However, its original commitment for the Act to enter into force by 1<sup>st</sup> January 2001 was first deferred to 1<sup>st</sup> January 2002, and is now scheduled for 1<sup>st</sup> January 2004. In 2000, the European Commission<sup>27</sup> stated that the future performance of the state administration remains crucially dependent on the approval and implementation of the Civil Service Act. According to the Commission, this should foster political independence and will reduce the scope of political interventions in the appointment of officials. It should also promote effective management and assist in the creation of a unified system of human resource development. The terms of employment of officials should also be improved, so helping to attract and retain sufficiently qualified staff.

In its 2001 Regular Report<sup>28</sup>, the Commission states that “the structure and functioning of the government and administration is in general stable and some improvements have been achieved. However, the remaining reform agenda remains long and has only just begun to be tackled. In key areas the Czech Republic still does not have a specific legal framework for its civil servants. The 1999 Accession Partnership established as a short-term priority the adoption and implementation of the Act on the Civil Service. Furthermore, the Government’s 1998 Manifesto identified the Act on the Civil Service as one of the most important objectives to be reached by mid-election term (i.e. mid-2000). The Act on the Civil Service has been proposed by the government and a first reading was held by Parliament in May 2001. However, discussions so far have shown that a sufficient consensus on the reform is still lacking in Parliament. In view of the key importance of this Act, this is regrettable. The adoption of the Civil Service Act remains a precondition for establishing an independent, professional, stable and accountable public administration.”<sup>29</sup>

Finally, on 13<sup>th</sup> March 2002, the Civil Service Act was passed in the Chamber of Deputies of the Czech Parliament. It was passed by a majority of only one vote (deputies from CSSD, KDU-CSL and US-DEU supported it, deputies from ODS and KSCM were against). The law will affect around 80 000 civil servants employed in ministries, the Office of the Government, financial offices, administration of social security, and labour offices. According to the new law, the civil servants will have to take an oath of allegiance to the state and their work will be regularly evaluated. The demands for their professional and language skills will increase significantly. On the other hand, their salaries will rise, they will get a contribution to a pension, and they will have a right to vacation of five weeks, one week more than in the private sector. The CSSD, however, has not succeeded in pushing through the tenure into the new law. The influence of political parties on civil servants should end. A minister will no longer be able to decide about the selection of his subordinates with the exception of deputy ministers and the press officer.

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<sup>26</sup> OECD (2001), “Chapter 2: Government Capacity to Assure High Quality Regulation”, in: Regulatory Reform in the Czech Republic, OECD Reviews of Regulatory Reform, Paris, p. 42.

<sup>27</sup> European Commission (November 2000), ‘2000 Regular Report from the Commission on the Czech Republic’s Progress Towards Accession’, Brussels.

<sup>28</sup> European Commission (November 2001), “2001 Regular Report from the Commission on the Czech Republic’s Progress Towards Accession”, Brussels.

<sup>29</sup> *Ibid.*, p. 20.

In connection with the Concept of Training of Public Administration Officials adopted in 1999, the Government approved certain crucial concept materials during the year 2000, which charge ministries with the task of improving the quality of training of public administration officials. In December 2000, the Code of Ethics of Public Administration Officials was completed and subsequently approved by the Government in April 2001. The content of the Code, inter alia, lays down rules for when a conflict of interests in execution of public administration arises or abuse of official functions, including corruption etc.. The training system provides comprehensive education for employees in the state administration (binding rules) and in the field of self-government (recommendations).

## **2.5. Legislative Rules, the Legislative Council and the harmonisation of legislation**

At present, the quality of the legislation, including the required justification according to the Legislative Rules of the Government, is overseen by an advisory body - the Legislative Council of the Government. The professional source records for the actual negotiations are prepared by the government legislation department of the Government Office. The compatibility of the law with the *acquis communautaire* is then overseen by the Department of Compatibility of the Government Office.<sup>30</sup>

The Legislative Rules of the Government are binding instructions for the central bodies of the state administration as well as the presenters of legislative drafts. The purpose of the rules is to unify the procedure of the ministries and other central bodies of the state administration in the preparation of legal regulations and to contribute to an increased standardisation in the creation of the legislation code. The legislative rules of the government specify the general requirements for the creation of legal regulations address the procedure for the preparation of the drafts of the legal regulations, and technical legislative requirements concerning the legal regulations.

The Legislative Council of the Government deals with the presented legislative drafts, with the participation of the entity, which is proposing the legal regulation, together with other persons, who are experts in the area affected by the legal regulation, representatives of professional associations, organisations of employers, and so on. The Legislative Council, which examines draft legislation before it is submitted to the government in order to assess its compatibility with the *acquis*, has been upgraded, and is now under the responsibility of the Deputy Prime Minister. Its procedures have been simplified in order to accelerate the submission of legislation to Parliament.

A good example of a successful co-ordination and an instrument of regulatory reform are the amendment and harmonisation of Czech law with the laws of the European Communities. Legal harmonisation in the CR started with an order issued to the ministries by the central government to submit only legislative proposals that are compatible with the EC laws. Ministries were thus made responsible for the compatibility of legislation in individual areas within their competencies and area of responsibility. However, it was left to the initiatives of ministries how best to transpose EC regulations into Czech law.

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<sup>30</sup> The Office for Legislation and Public Administration (OLPA) had been responsible for providing guidance on the harmonisation of the legal approximation process. In 1996, this responsibility was transferred to the Ministry of Justice and its new Department for Compatibility with EC Law (CODEC). In March 1999, CODEC became an integral part of the Office of the Government.

In order to connect the regulatory function of the centre and the initiative of ministries and the social partners, an independent system of integration authorities was established. It is headed by the Government Council for European Integration<sup>31</sup> and it further includes the Working Committee for European Integration and Working Groups. A Working Group for the approximation of legislation is important in relation to the question of compatibility, which is specifically managed by the Compatibility Department of the Office of the Government. The Compatibility Department fulfils the task of directing and co-ordinating the process of harmonising legislation, co-ordinating collaboration between ministries, solving disputable questions and accepting ideas from ministries and social partners.

It is important to mention that an agreement between the Government and the Parliament was concluded regarding the shortening of the discussion period of legislative proposals related to and important for EU accession, submitted by the Government. This was in the light of the fact that in June 1999, the Government failed to adopt a constitutional law according to which it would be allowed to pass EU-related legislation by decree. Based on the amended Opposition Agreement (an agreement between the ODS and the CSSD) of January 2000, the Parliament changed its rules of procedure so that EU-related legislation does no longer require three readings of Parliament.

Harmonisation of legislation is one of the key elements of domestic preparation for accession to the EU and requires efficient co-operation between the Government and the Parliament. The Czech Republic has been proceeding relatively successfully and by the end of 2000, 40% of laws have been fully, and another 50% partially, harmonised. Since then, there has been further progress in this field. However, harmonisation of law alone is not sufficient if it is not accompanied by its implementation. For this reason, increasing attention is now paid also to non-legislative implementation measures and the public administration reform is certainly one of the most important ones of these.

It is also worth mentioning that by the beginning of 2003 a Supreme Administrative Court should have been established in Brno. This Court was supposed to exist according to the Constitution since the start of the Czech Republic but the lack of political will from some political forces has caused the severe delay. The Constitutional Court and the Supreme Court are already located in Brno.

## **2.6. National Programme for the Adaptation of the Acquis and public administration reform**

In line with the objectives defined in the now updated Accession Partnership (AP), the updated National Programme for the Preparation of the Czech Republic for Membership of the European Union does not differ fundamentally from 2000. Public administration reform remains one of the main priorities. According to the June 2001 version of the NPAA, the task of reinforcing the institutional infrastructure in the context of adopting, implementing and enforcing the *acquis communautaire* is being addressed both horizontally - through the reform of public administration - and along sectoral lines in connection with the drafting of specific legal regulations and the harmonisation of national policies with community policies. The latest NPAA considers the main short-term priorities to be the legislative preparation and implementation of the second stage of the reform of the PA (the first stage was concerned with the establishment of the regions, elections to the Regional Councils (which took place on 12<sup>th</sup> November 2000), dissolution of a number of de-concentrated state bodies in the relevant

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<sup>31</sup> Until 7<sup>th</sup> November 2001, it was called the Government Committee for European Integration.

territories and a transfer of their competencies and the creation of conditions for central co-ordination of education of the officials in state administration and self-government.

The main medium-term priorities are the gradual completion of the programme of public administration reform. In this respect, emphasis is directed mainly on:

- ?? Completion of the institutional basis of public administration, both at the level of the central state administration and at the regional and local levels (transfer of competencies from the central state administration bodies and from the District Authorities to the Regional Authorities and Municipal Authorities of the 3<sup>rd</sup> degree entrusted with the performance of state administration in relation to dissolution of District Authorities as of 31<sup>st</sup> December 2002).
- ?? Establishment of the systems of horizontal co-ordination of management of state administration in the relevant territory through the board of regional coordinators of performance of state administration and the Working Committee of Deputy Ministers for public administration reform.
- ?? Building of information systems of public administration (in accordance with the State Information Policy) with the goal of gradual creation of conditions for electronic exchange of information between the basic registers and other information systems, and between the public administration and the public (electronic services, e-Government) where information systems constitute one of the instruments for increasing the level of decision-making processes and other activities of the PA bodies.

## 2.7. Regional reform

One of the important elements of the preparations of the Czech Republic for EU membership is regional reform. In this respect, a 'European dimension' has been introduced in the Czech regional policy. The regional reform, formally introduced in 1997, established 14 so-called higher-level territorial administrative units (regions at NUTS<sup>32</sup> III level). The first regional elections at NUTS III level in the CR took place on 12<sup>th</sup> November 2000. The administrative structure of NUTS III has been operational since 1<sup>st</sup> January 2001. However, most of the newly established units are too small to participate in European regional programs connected with Objective 1<sup>33</sup> and to be eligible for structural funds<sup>34</sup>. In order to comply with European standards, eight regions at the NUTS II level had to be established. In some cases, it was necessary to aggregate two or three administrative regions. However, no self-administration at the European regional level in those new artificial units is anticipated.

Regional public administration reform has three phases. In the first phase, already finished, regions were established, there were elections to regional government, and a number of de-concentrated state bodies in the relevant territories were dissolved and their powers transferred. In 2001, the emphasis has primarily been on the legislative preparation and implementation of the second phase of the public administration reform, which will culminate in abolishing of the district authorities on 31<sup>st</sup> December 2002. The third phase will involve improving the quality of public administration in small municipalities, primarily by means of their voluntary merger and use of the Internet.

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<sup>32</sup> NUTS is the French version of the abbreviation for the Nomenclature of Territorial Units for Statistical Purposes.

<sup>33</sup> Objective 1 concerns the promotion of the development and structural adjustment of regions whose development is lagging behind.

<sup>34</sup> As far as Objective 2 is concerned, the size of the new regions at the NUTS III level is adequate. Objective 2 concerns the support of the economic and social conversion of areas facing structural difficulties.

Based on laws adopted in 2000, the Czech public administration commenced transferring the competence of the central administration authorities to regional self-governing units. The Regional Authorities undertake public administration within independent and delegated jurisdiction in the following areas: education, culture, social security, health, administration of internal affairs, the construction industry and land use, agriculture, game-keeping, forestry, fishing, water management, transport and environment.

The regional structures do not yet work sufficiently. This can partly be explained by the fact that they were established only short time ago and thus there is little experience of their functioning is not long enough. However, the main reason why they are not able to work properly is the lack of financial resources that the new regions have at their disposal. This is really a crucial issue, and it has already caused many difficulties. In any case it can be said that the new self-governing regions have been created before all the rules and details of their financing had been clarified.

## **2.8. Interim conclusion**

The public administration reform in the Czech Republic is characterised by slow progress. In fact, very little was achieved in this field until the elections of 1998. Since then, certain steps forward have been made, but most of the significant changes have happened in the area of the regional re-organisation of the country including the delimitation of the competencies of the newly-established regions. Unfortunately, relatively little has been achieved as far as better functioning, efficiency and effectiveness of the central state administration is concerned although some minor improvements can be observed. It is also important to recognise that the quality of the CSA has finally become an issue and the overall situation in it is now being analysed in detail and solutions to the major problems are being sought.

The long non-existence of the Civil Service Act can be considered as a key problem. If such a law would have been adopted earlier, the civil service in the Czech Republic could have been much more attractive for highly skilled people.

## **3. The EU-related decision and policy-making with special regard to the ministerial bureaucracy involved**

This chapter examines the main institutions, which are involved with the accession process of the Czech Republic. One group of these institutions are internal to the Czech Republic government (the MFA of the CR, the Government Council for European Integration, the Working Committee for European Integration, the Working Groups, the Negotiation Delegation, the parliamentary Committees for European Integration, Czech Mission to the EU). The other group of institutions was established for the implementation of the Europe Agreement between the Czech Republic and the EU (the Association Council, the Association Committee, Sub-Committees, Parliamentary Association Committee). This chapter also explains who some of the key actors are and last but not least, how the pre-accession aid is administered.

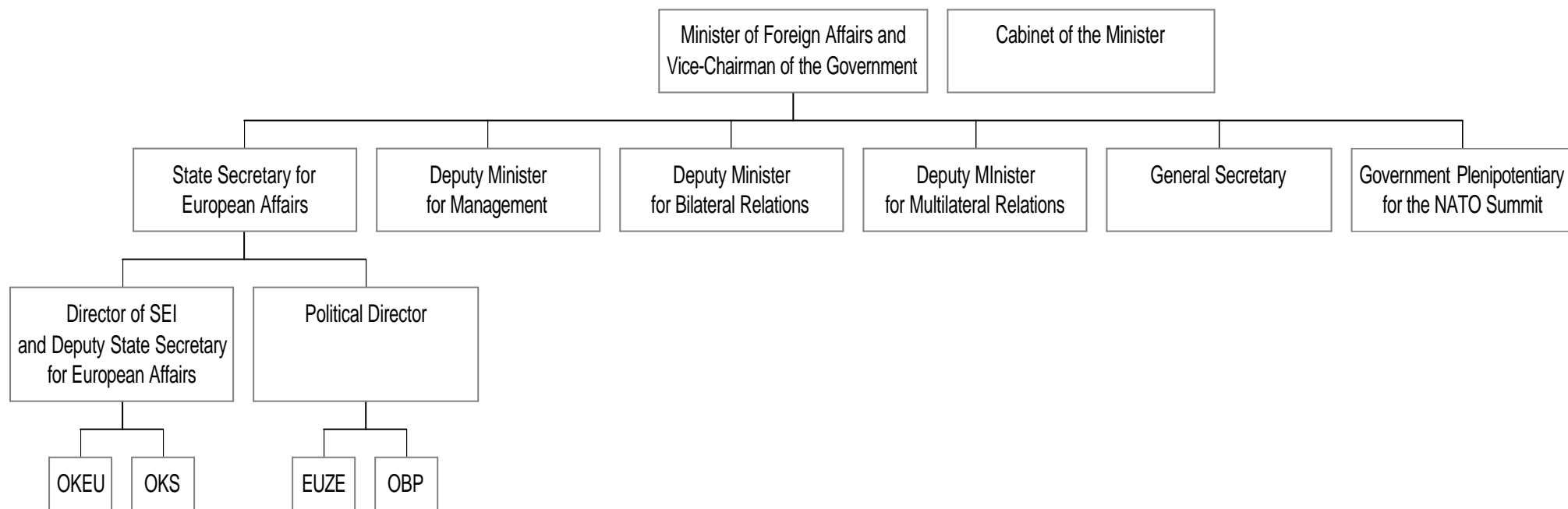
### **3.1. Institutional framework of integration into the European Union**

The Ministry of Foreign Affairs (MFA) coordinates accession negotiations with the European Union. According to the decision of the Minister of Foreign Affairs on the changes in the organisational structure of the Ministry from 20<sup>th</sup> April 2000, the Section of the European

Union (SEU) was renamed Section of European Integration (SEI). At the same time, a new Department of the Communication Strategy (OKS) was established in the MFA. The Director General of the SEI is now in charge of both the Department for the Coordination of Relations with EU (OKEU) and OKS. The Director General of SEI is subordinated to the State Secretary for European Affairs (the first deputy minister, who is in charge of matters concerning the European integration) and he is also methodically supervising the Department of European Integration (OEI) of the Office of the Government of CR (the Prime Minister's Office). Inside the MFA the Department of the Countries of Western Europe (OZE) merged with the Department of Political Relations with EU (OPEU) and the new department is called Department of the European Union and Western Europe (EUZE). A new function of the Political Director, who is now in charge of EUZE and the Department of Security Policy (OBP) has been established. Both SEI (OKEU, OKS) and the section of the Political Director (EUZE, OBP) are subordinated to the State Secretary for European Affairs. Most ministries and institutions of central state administration, such as the central bank already have special sections or departments, which deal with EU-related issues.

The principal aim of this recent re-organisation is on one the hand to separate clearly the different types of activities connected with the integration process at the level of state administration, and on the other hand to improve the coordination of these activities. It is, however, difficult to evaluate to what extent this aim has been achieved.

## Organisational scheme of the management of European Affairs at the Ministry of Foreign Affairs





The MFA was established in 1993 and as of the end of 2001 it had 1958 employees. At the EUZE there are now 19 diplomats with university degree. The agenda of EUZE concentrates on the political relations with the EU including the parliamentary dimension, function of the European Correspondent, bilateral relations with West European countries (excl. Federal Republic of Germany, Austria<sup>35</sup> and Greece<sup>36</sup> - relations with these countries are dealt with at other departments of the MFA) and regular co-operation with European Integration Committees of both chambers of the Czech Parliament. At the OKEU there are at present 23 diplomats with university degrees (mostly in law and economics). The main tasks of the OKEU consist of monitoring and supervising the implementation of the objectives of the Europe Agreement, inter-departmental co-ordination of steps concerning the preparation for the EU accession including negotiations, and preparation of the EU accession negotiation strategy.

The European Correspondent and his unit<sup>37</sup> ensure the cooperation, coordination and convergence with the Common Foreign and Security Policy of the EU. Thus, he can be considered as a point of contact for CFSP issues in the CR. Together with the OBP, he is responsible for the creation of Czech foreign policy in the field of European defence and security, and coordinates its output towards the EU. He also ensures that the MFA communicates with the General Secretariat of the Council of the EU in Brussels.

There are specialists dealing with European affairs in practically all institutions of the central state administration. EU-units have been established in most ministries with the exception of the Ministry of Defence. Generally speaking, personnel numbers in the EU-units are insufficient when taking into account the ever-growing agenda. Although there are many good specialists employed in the EU-units, as far as the general quality of the personnel of these units is concerned, much still remains to be done<sup>38</sup>.

As of 1<sup>st</sup> January 1995, several institutions dealing with the country's accession to the EU have been recently established in the Czech Republic:

?? Government Council for European Integration<sup>39</sup>

?? Working Committee for the Implementation of the European Agreement (now called Working Committee for European Integration)

?? Working Groups

The Negotiation Delegation can be added to this list of institutions even though it is not institutionally firmly set and its character has become gradually looser. The Negotiation Delegation was established by a government decision in 1998. It officially still exists but at this stage of negotiations, the centre of attention has been shifted to the MFA with the experts in various ministries and other institutions of the central state administration, depending on the character of issues being dealt with.<sup>40</sup>

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<sup>35</sup> It is the Department of Countries of Central Europe which is in charge of relations of CR with Germany and Austria. Czech relations with these two neighboring countries are of special character, mainly for historic reasons.

<sup>36</sup> The agenda covering Czech-Greek relations is dealt with at the Department of Countries of South-Eastern Europe.

<sup>37</sup> As of the beginning of February 2002, there were three people in the unit of the European Correspondent but there should be five of them.

<sup>38</sup> This information is based on interviews held at the European Commission in Brussels and the Delegation of the European Commission in Prague.

<sup>39</sup> Until 7<sup>th</sup> November 2001, this institution was called the Government Committee for European Integration.

<sup>40</sup> This information is based on an interview held at the MFA.

The Government Council for European Integration has the following 12 members: the Prime Minister (Chairman), the Deputy Prime Minister for foreign affairs and security policy and Minister of Foreign Affairs (Executive Vice-Chairman), the First Deputy Prime Minister for Labour and Social Affairs, the Deputy Prime Minister and Chairman of the Government Legislative Council, the Ministers of Finance, Interior, Justice, Industry and Trade, Regional Development, Agriculture, and Environment, and the First Deputy Minister of Foreign Affairs, State Secretary for European Affairs and head of the delegation of the Czech Republic for negotiations on the agreement on accession of the Czech Republic to the European Union.

The meetings of the Council are attended by non-members of the Council under conditions provided in the Council Rules of Procedure. The Council non-members are other members of the government, executives of other central governmental agencies, such as the Governor of the Czech National Bank, the head of the Mission of the Czech Republic to the European Communities, and the Director of the Political Department of the Office of the President of the Republic. The organisation of the Council is provided by its Secretariat, which is part of the Office of the Government. The function of the Secretariat of the Council is performed by the European Integration Department of the Office of the Government in co-operation with the European Integration Section of the Ministry of Foreign Affairs.

The Council is concerned with issues mainly of conceptual and strategic character. Its tasks consist primarily in co-ordination, monitoring, initiation and evaluation of activities related to the preparation of the Czech Republic for membership of the EU. Another important task is the analysis of inter-ministerial disputes in the area of preparation of the Czech Republic for EU membership, that can be referred to it, if these have not already been resolved by negotiations between the Minister of Foreign Affairs and competent members of the Government, or executives of other governmental agencies. The Council is also regularly engaged in the communication strategy of the Czech Republic prior to its accession to the EU. It co-operates with the Chamber of Deputies and the Senate, in particular with their committees for European Integration, and advises them on all principal issues concerning integration of the Czech Republic into the EU.

The Working Committee for European Integration has approximately 30 members: the First Deputy Minister of Foreign Affairs and Chief Negotiator (Chairman) and the Deputy Ministers or other leading civil servants of line ministries, of the Supreme Control Office, the Czech National Bank, the Czech Statistical Office and the Office for the Protection of Economic Competition. The Working Committee is the main working co-ordinating authority performing tasks related to the preparation of the Czech Republic for membership of the EU. The Government Council for European Integration charges the Working Committee with implementation of measures and tasks in this context.

The Negotiation Delegation is headed by the First Deputy Minister of Foreign Affairs (State Secretary for European Affairs) and Chief Negotiator, and consists of 11 members: four diplomats of the MFA (including the Chief Negotiator), high-level civil servants from the Ministries of Finance, Trade and Industry, Justice, Interior, Agriculture, from the Centre for Environmental Issues at Charles University (Prague), and from the Czech National Bank.

The Negotiation Delegation is at present assisted by 35 Working Groups<sup>41</sup>, which more or less correspond to the chapters of the *acquis communautaire*. The Working Groups are

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<sup>41</sup> There are the following 35 Working Groups at present:

Financial control, 2. Budget, 3. Taxes, accounting, audit, 4. State aid, 5. Free movement of capital and other financial services, 6. Economic policy and economic union, 7. Phare, 8. Customs duties, 9. Monetary policy, monetary union, 10. Banking, 11. Economic competition, 12. Energetics, 13. Industry, 14. External relations, 15. Health and protection of the consumer, 16. Harmonization of technical regulations, 17. Justice and interior, 18. Public administration, 19.

headed by a representative of the ministry responsible for the respective chapter and involve experts from other ministries, academic experts and representatives of interest groups. The Working Groups have participated in the screening of the acquis and they have supported the line ministries in formulating proposals for negotiating positions.

The Czech Mission to the EU (Permanent Mission of the CR to the European Communities) in Brussels is a part of the MFA structure with direct links to line ministries. The size of its personnel is now more than 40 persons - 24 of which are diplomats. The main task of the Mission is the representation of Czech Republic's interests vis-à-vis the EU and EU's institutions, including negotiations on the accession. The competencies of the Mission have been transferred to it upon the instruction of the Government, the Ministry of Foreign Affairs and other ministries. Contacts to the national public administration/ministerial bureaucracy exist - more than 50 per cent of the diplomatic staff come from the line ministries. Indirect links also exist through the MFA, which is in charge of the overall coordination of relations with the EU.

The Mission provides expertise and liaison to EU institutions but it does not formulate policies. It is involved in the accession negotiations by means of liaison with EU institutions and EU member states (providing and collecting information, influencing the formulation of the EU negotiation position, networking etc.). Standard recruitment procedures apply for the Mission as for other diplomatic posts. There are four sections at the Mission of the CR: the Political Section, the Trade and Agricultural Section, the Sectoral Policies Section, and the Economic and Financial Section. It should be mentioned that the Mission will undergo an important transformation in the near future in connection with the quickly approaching membership of the CR in the EU. The real influence of the Mission may be greater than it may appear at first sight. More quickly than any other body it is able to get relevant information both from the EU side and the Czech side. Its location in Brussels enables the Mission to be up to date with all important events taking place in the EU institutions and at the same time its close links to the Czech MFA keep it well informed about the Czech domestic scene. The Mission's capacity is positively influenced by the highly qualified people who work there, from the point of view of both professional skills and knowledge of languages.

In addition to the creation of a Committee for European Integration in the Chamber of Deputies in July 1998, the Senate set up a Committee for European Integration in December 1998<sup>42</sup>. It has the right to propose to veto legislation sent by the Chamber of Deputies if it considers that an item is incompatible with EC law. After their adoption by the Cabinet, the positions are presented to the parliamentary Committees and to the general public. The influence of these parliamentary Committees is very much determined by the actual political composition of both chambers of the Parliament.

In general, the performance of the above-mentioned structures is neither better nor worse than is the case in comparable candidate countries. It can be said that they have basically fulfilled their tasks. Little more can be expected of them because it is the political will of the major political parties, which influences the quality and pace of the integration process in the Czech Republic the most. It is not always easy to reach a political consensus among the major

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Approximation of law, 20. Economic and social cohesion, 21 Scientific and technological development, 22. Education and training, 23. Audiovision and culture, 24. Transportation, 25. Telecommunications, postal services and information technology, 26. Employment and social affairs, 27. Environment, 28. Agriculture, 29. Statistics, 30. Common Foreign and Security Policy, 31. Small and medium enterprises, 32. Working Group for Schengen cooperation, 33. Internal market, 34. Consumer policy. Working Group for regional maps.

<sup>42</sup> Some time before that, in April 1998, a Subcommittee for European Affairs of the Senate was founded.

political forces in the Czech Republic as far as many pre-accession issues are concerned, and this fact influences very much the performance of all the institutions connected with the integration process.

### **3.2. Key actors of the EU-decision and policy-making process**

At the top political level, so far three persons have strongly influenced the entire process of the Czech Republic's integration into the EU and Euro-Atlantic structures: Václav Havel, Václav Klaus and Miloš Zeman. Additionally the role of two former Foreign Ministers, Jirí Dienstbier and Josef Zieleniec, should not be underestimated. The three high ranking public servants, who have contributed most to pre-accession process are probably Pavel Telicka, Petr Kubernát and Josef Kreuter, the latter being an economist by education who for many years served as the Head of the Czech Mission to the EU in Brussels.

As most important figure the Czech President Václav Havel should be named. Well-known dissident from the communist era, imprisoned three times for his civic views, Václav Havel was elected President of Czechoslovakia in December 1989, shortly after the fall of communism. In January 1993, he was elected as the first President of the independent Czech Republic, and was re-elected in January 1998. Havel has not only influenced the main direction of the Czech foreign policy, but his views are, very much respected abroad especially within the EU.

Havel has also contributed to the present debate on the future of Europe. In his speeches in the French Senate in March 1999 and the European Parliament in February 2000, he emphasised his support for a European constitution. According to him, the European Parliament should be divided into two chambers. The members of the second chamber would be delegates from national parliaments, each state having the same representation. The European Commission should be completely detached from national interests and the Commissioners should be appointed on the basis of their qualification only. Havel calls for "deeper parliamentarisation and federalisation" as a replacement for intergovernmental methods. President Havel has had great influence on the overall integration process mainly because of his strongly pro-European attitude.

Václav Klaus, the Chairman of the Chamber of Deputies of the Czech Parliament and former Prime Minister of the CR, has a very solid economic background, which was, in addition to university studies in communist Czechoslovakia, mainly acquired by self-education and studies in Italy and the United States in the 1960s. During the communist era, Klaus was employed in the academic sphere and in the central bank. After communism collapsed in November 1989, Klaus became one of the leaders of the Civic Forum and later the Chairman of the Civic Democratic Party (ODS). As the first post-communist Minister of Finance, Klaus was the main architect of the Czech economic transformation. He is known for his frequent euro sceptic remarks and sometimes very harsh critiques of the EU institutions and policies. On the other hand, he keeps on repeating that there is no alternative to the Czech Republic's membership of the EU. Remarks of Klaus may have weakened enthusiasm of some Czechs towards the EU. On the other hand, these opinions may have also stimulated discussions in the Czech Republic about some important issues related to the integration into the EU. In fact, Klaus is one of the few Czech politicians who are able to stimulate discussions of this kind. It must also be added that Klaus has strongly underestimated the importance of the public administration reform.

Since the general elections of June 1998, the Czech foreign policy has been set by the governing Social Democratic Party (CSSD) with Miloš Zeman as Prime Minister (and until

recently the Chairman of the Party) until 2002. Zeman is strongly pro-European and does not hide his federalist views. While Klaus often criticizes the “socialist bureaucracy” of the European Commission and “socialist tendencies” in the whole EU, Zeman sees in the Western European welfare state a good example for the Czech Republic to follow. Without any doubt, this dualism of views makes it difficult, if not impossible, for Czech political representatives to speak with one voice when commenting issues related to European affairs and the European integration process. It can be said that Zeman has contributed very much to the acceleration of preparations for membership of the Union. Unlike Klaus, Zeman has always been aware of the importance of public administration reform, and his government has at least partly managed to catch up with the time lost by the Klaus governments in this field.

Other important personalities of the CSSD with regard to the preparatory work for EU membership are Deputy Prime Minister Pavel Rychetský, a brilliant lawyer who was also the Chairman of the Legislation Council of the Government; and the former Foreign Minister Jan Kavan, who spent many years in the United Kingdom during the communist regime. Kavan has close personal links to many people in the British Labour Party (he used to be a member of that party). Both Rychetský and Kavan are strongly pro-European and they have both contributed significantly to the speeding-up of the preparations for EU membership.

Both Pavel Telicka (born 1965) and Petr Kubernát (born 1961) belong to the younger generation of Czech diplomats who did their university studies during the communist regime but have been able to adapt successfully to the new situation. Both of them are considered to be very good professionals who contributed strongly to the Czech preparations for EU membership.

Pavel Telicka holds a law degree from the Charles University in Prague. He is First Deputy Foreign Minister and State Secretary for European Affairs. He is also the head of the Czech negotiations team. Petr Kubernát studied at the Faculty of International Law and International Relations of the State University of Kiev. Until recently he was Director of the European Integration Section at the MFA. At present he is the Czech Ambassador in the Netherlands.

At the MFA and other institutions of the Czech public administration there is a significant group of people belonging to the same generation who are gradually replacing their elder colleagues who are much more burdened by the communist past, even in very high posts. To this generation belongs the present Head of the Mission to the EU in Brussels Libor Secka, former Ambassador of the Czech Republic in Mexico. These high-ranking civil servants cannot influence the main directions of the country's foreign policy - that is given by the political parties in power. However, they can influence a great number of sometimes very important details connected with the accession process. Their permanent participation in the negotiation process makes them well informed about many important issues connected with the country's EU accession and enables them to influence the Czech public to a certain extent, especially thanks to their relatively frequent presence in the media.

### **3.3. EU-related decision and policy-making structures**

For the implementation of the Europe Agreement (EA), the Czech Republic, like the other associated CEECs, established joint institutions of the EU and the Czech Republic, namely:

- ?? Association Council: meets at ministerial level once a year and supervises the implementation of the Agreement.
- ?? **Association Committee**: meets at least once per year at senior civil servant level and deals with the concrete implementation of the various provisions of the Agreement.

- ?? **Sub-committees:** there are 9 multi-disciplinary Sub-committees that assist the Association Committee in the implementation of the Agreement with regard to specific areas<sup>43</sup>.
- ?? **Parliamentary Association Committee:** the EU-Czech Joint Parliamentary Association Committee consists of members of the European and Czech Parliaments and meets twice a year.

The Association Council is equipped with decision-making powers. It may resolve disputes arising from the implementation of the EA. Like the EA itself, the decisions adopted by the Association Council are legally binding on all entities concerned, on both the Czech and the EC side. In exercising its powers, the Association Council is assisted by the Association Committee. Detailed technical questions of mutual importance are discussed at the level of Association Sub-committees. Under the EA, a Parliamentary Association Committee was set up as a forum for opinion exchanges between Czech MPs and members of the European Parliament. The Parliamentary Association Committee may make recommendations to the Association Council.

The negotiations are conducted in the framework of an intergovernmental conference held by the 15 EU member states and the Czech Republic. The process takes place at two levels. At the Ministerial level: the Czech Republic is represented by its Minister of Foreign Affairs, while the EU member states are represented by their Ministers of Foreign Affairs. At the Deputies level: the Czech Republic is represented by its Chief Negotiator, the EU member states by their Permanent Representatives to the EU.

Expert meetings take place between the European Commission and Czech state administration officials. These meetings often help to illuminate some of the more sensitive issues from various points of view and sometimes contribute to finding a compromise.

The so-called screening of national legislation, during which potential difficulties were identified, preceded the negotiations. Since 2000 a screening update is carried out for newly adopted legislation.

The first drafts of the Czech position documents were prepared during the screening period in 1998-1999 by the Working Groups established on an ad hoc basis. Their number has been constantly changing. There were 32 in 1998, and there are 35 at the present. The coordinating and responsible entity for each national position document has been the respective ministry. After each Czech position had been drafted, it was submitted to the Working Committee for European Integration, and at the same time, to the Working Team for European Integration of the tripartite. This team consists of 7 representatives of the employers, 7 representatives of the employees and 7 representatives of the government. The Working Team of the tripartite is an organ of the Council of Social and Economic Agreement and its members are economic

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<sup>43</sup> These subcommittees are the following ones:

- (1) Agriculture
- (2) Approximation of legislation
- (3) Trade, Industry, ECSC Products; Consumer Protection
- (4) Economic, financial and monetary issues
- (5) Human Resources; Research, Technological Development; Social Policy
- (6) Transport and Trans-European Networks; Energy; Environment; Regional Development
- (7) Co-operation in customs matters; Statistics; Drugs; Money laundering
- (8) Financial services; Establishment
- (9) Industrial Standards and conformity assessment.

and social partners. The chairman of this Working Team is the State Secretary for European Affairs Mr. Telicka. This team meets regularly roughly every six weeks and discusses issues related to the Czech Republic's accession to the EU, which have a specifically socio-economic impact.

After the position document has been discussed in these institutions, it is submitted to the Government Committee for European Integration, which has the right to approve or refuse it. In case of sensitive issues, the draft position is further submitted to the government, which decides about the final version of the document. The parliament has not had any decision-making power in this respect, but some of the more sensitive or controversial issues are discussed in one or both of its chambers. Nevertheless, the government always has the final say.

The Czech side has already prepared its position documents for 29 chapters of the *acquis* (except for institutions and on miscellaneous). As of mid-March 2002, 24 chapters have already been provisionally closed. The tactics of the Czech negotiation team is not to close provisionally as many chapters of the *acquis* as soon as possible, but rather to try to negotiate the best conditions for the CR, even if this makes the negotiation process much slower.

### **Case study: Negotiations chapter on taxation**

The screening of the chapter "Taxation", as well as all the other chapters of the *acquis*, started in spring 1998. In the first stage, the experts from the European Commission explained to the civil servants from candidate countries the essence of the requirements in this chapter and offered their help with taking over the necessary directives; this was done on a multilateral basis. At the same time, it was pointed out, which laws would have to be changed. The second stage of screening already had a bilateral character. After that a position paper based on the result of the screening was prepared. All the details and partial issues related to taxation have been dealt with in the working group number three (out of a total of 35 working groups) called "Taxation, Accounting, Audit", which is coordinated by the Ministry of Finance. This working group also prepared the first draft of the position paper. While at the beginning most of the work was done within the working group, later on work shifted more and more to negotiations between ministries, especially the Ministry of Foreign Affairs (OKEU), the Ministry of Finance and the Ministry of Industry and Trade. In this respect, the General Directorate of Customs was also consulted.

After the Czech position on taxation was drafted, it was submitted to the Working Committee for European Integration, and at the same time, to the Working Team for European Integration of the tripartite. After the position paper has been discussed in these institutions, it was submitted to the Government Committee for European Integration. It was also discussed in the Committees for European Integration of both chambers of the Czech Parliament. The position paper on taxation was presented to the European Commission in Brussels in July 1999. After that, on 12<sup>th</sup> November 1999, the negotiations on this chapter were opened.

The Czech Republic established a tax system comparable to the systems of the EU member states through the complete tax reform implemented in 1993. Since then, the tax system has consisted of value added tax (VAT), excise duties and income tax on legal and natural persons. Secondary elements of the system are the road tax, property taxes and special fees. Changes had been made in subsequent years, always with the aim of gradually bringing tax law fully into line with that of the European Community. Attention has been paid to the tax

infrastructure, making the tax and customs administration comparable with the systems of the EU member states.

In its position paper, the Czech Republic did not envisage any problems with the entry into force of relevant legislation nor with its implementation by the date of accession with the exception of the cases mentioned below where transitional periods were requested:

?? maintaining the reduced rate of VAT applied on the supply of heat energy, construction works and telecommunication services;

?? exemption from registration to VAT for individuals achieving annual turnover lower than 35 000 EUR;

?? maintaining a lower level of excise duties on fuels, cigarettes and tobacco products.

Furthermore, the Czech Republic requested a special arrangement for excise duty for small fruit growers' distillation.

The negotiations, which followed after the chapter was opened, had three rounds. In the course of negotiations, the Czech Republic was asked four times to present additional information to the position paper. In December 2000, an informal negotiation task force (four people) was established at the OKEU of the MFA in order to smoothen the negotiations process. This task force meets every morning with advisers for European integration of the Foreign Minister, the State Secretary for European Affairs, the directors of OKEU and EUZE, the Director General of SEI, and the Political Director. In these meetings, problems concerning single chapters of the *acquis* are discussed. Finally, the chapter "Taxation" was provisionally closed on 20<sup>th</sup> November 2001.

As a result of negotiations, the Czech Republic was granted the following transitional periods in the field of taxation:

?? until 31 December 2007 to maintain a reduced VAT rate on the supply of heat energy used for heating and hot utility water preparation, excluding raw materials used to generate heat energy, for households and small entrepreneurs, who are not registered for VAT ;

?? until 31 December 2007 to maintain a reduced VAT rate on the supply of construction work for residential housing, not provided as part of a social policy, and excluding building material;

?? until no later than 31 December 2006 to reach the excise duty level of 57% on cigarettes and other tobacco products.

Moreover, it was agreed that EU member states may, until full application of the *acquis* by the Czech Republic, maintain with regard to private travellers entering their territories from the Czech Republic, the same restrictions on the quantity of cigarettes and other tobacco products as applied with regard to private travellers from third countries, and carry out the necessary checks without affecting the proper functioning of the internal market.

In the context of the VAT, it was further agreed to allow the Czech Republic to set the threshold for VAT registration and exemption for small and medium sized enterprises at the equivalent of 35 000 EUR, provided that the Czech Republic confirms that traders with an annual turnover below the threshold are considered as taxable individuals within the scope of VAT.

In excise duties, it was agreed to allow the Czech Republic to continue to apply its excise duty scheme for fruit growers' distillation, where production, on an annual basis, is in excess of 10 hectolitres of ethyl alcohol but no more than 30 litres of fruit spirits per producing household and used exclusively for personal consumption, at a level not less than 50% of the standard duty rate for ethyl alcohol.



The agreed transitional periods are limited by the obligation of the Czech Republic to present a plan for gradually reaching compliance with the *acquis* in the area of taxation.

### 3.4 Administration of EU pre-accession aid

It is the Centre for Foreign Assistance at the Ministry of Finance (CFA) that coordinates the aid coming to the Czech Republic from various international organisations and supranational institutions including the EU. The Phare assistance in the area of public administration is aimed at supporting the integration process, mainly through the harmonisation of laws, improving awareness of the EU, public administration reform, study visits and training for civil servants in EU affairs and negotiation techniques, the establishment of a European Studies Institute and technological provisions for the creation of a database with EU documents and their Czech translations.

A number of activities have been carried out under the Phare legal approximation project: a consortium of international and Czech law firms has been contracted to give legal advice on approximation of Czech legislation for it to become compatible with EU laws and to advise on the implementation of the *acquis*. Training in foreign languages for legal purposes has also taken place for ministerial staff and judges. Study visits to EU member states' institutions and European organisations were also organised to improve knowledge of the functioning of these institutions.

As far as Phare projects for the purpose of support of the public administration reform are concerned, most recently, funds have been assigned for the following ones:

- ?? Phare project CZ 9808-01 Institution Building Strategies, Strengthening the Institutional/Administrative Capacity to Implement the Acquis - expected budget in 2001 equals EUR 500 thousand; the project is guaranteed by the Ministry of the Interior.
- ?? Phare project CZ 00-09-01 Modernisation of the Central State Administration - Twinning CZ 2000/IB/OT/05 - expected budget in 2001 equals EUR 1 million with national co-financing of EUR 0.54 million; the project is guaranteed by the Ministry of Interior and the Office of the Government of the CR.

In general, twinning projects are tripartite ventures between the European Commission, member states and candidate countries. The number of twinning projects financed under Phare in 1998-2001 was 60 in the Czech Republic.<sup>44</sup> Six of these have been in the area of agriculture (incl. veterinary and phyto-sanitary projects), 6 in environment, 11 in public finance (incl. taxation, customs, internal market etc.), 16 in the area of Justice and Home Affairs, 9 in social policy, 3 in regional development and preparation for Structural Funds, and nine in other areas. So far, the experience with twinning has been generally good in the Czech Republic. However, the results depended very much on the individual qualities of actors involved. In some cases, the mutual relations between the domestic and foreign participants did not work especially well, and this has of course influenced the final outcome.

In comparison to traditional technical assistance, twinning seems to be a good instrument for establishing sustainable partnerships directly between the administration of the EU member states and the candidate countries. The greatest advantage of the twinning arrangements is the possibility to acquire expertise that cannot be provided via the private sector. Unlike the

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<sup>44</sup> European Commission (November 2001), "2001 Regular Report from the Commission on the Czech Republic's Progress Towards Accession", Brussels.

previous Phare programmes (projects which were designed for responding to the urgent needs resulting from the transitional period), the re-orientation of EU assistance to twinning requires expertise to be provided mainly by the member state administration. Another advantage is much easier access to the partner state administrations in the member state countries. The disadvantage is that twinning is a relatively expensive exercise, requiring complex bureaucratic procedures.<sup>45</sup>

According to the CFA, objectives of the twinning projects are sometimes not fully reached due to the following:

- a) Objectives of the twinning project are too ambitious.
- b) The process of the acceptance of the legislative changes directly influencing the implementation of the twinning project proceeds too slowly.
- c) Some difficulties may appear if partial objectives of the twinning project require close co-operation and finding consensus between beneficiary partners within the project.

According to the 2001 Regular Report of the European Commission, "for the Czech Republic, the first twinning projects from Phare 1998 have come to an end and the first positive results are being seen in the strengthening of administrative capacity. In addition to the 8 projects which commenced in 1999, a further 10 projects started in 2000. These projects aim to strengthen the phyto-sanitary administration, help implement strategies in the water sector, make recommendations regarding the system of indirect taxation, improve the control and management of EC financial flows, combat economic crime, prepare for the implementation of Schengen, combat organised crime, make recommendations regarding human resource policies and prepare for the European Social Fund, improve health and safety at work, and assist in the design and implementation of the supplier linkage and upgrading programme. All 18 twinning projects are currently being implemented, while a further 23 projects are due to start before the end of 2001"<sup>46</sup>.

Phare multi-beneficiary programmes are managed directly by European Commission headquarters in Brussels, which sometimes delegates responsibility to Programme Coordination Units (PCUs) located in one of the candidate countries. Phare national decentralised programmes, ISPA and SAPARD, are managed through institutions located in the Czech Republic.

It is the National Fund under the control of the Ministry of Finance of the Czech Republic, which has the responsibility to manage the flow of EU money from all Phare, ISPA and SAPARD programmes. The funds are passed from the European Commission headquarters to the National Fund in tranches amounting to 20% or more of the programme. The National Fund is responsible for distributing the required money to the Central Finance & Contracting Unit (CFCU) and other implementing agencies. The CFCU is located at the Ministry of Finance of the Czech Republic and is responsible for organising the selection of Phare (not ISPA or SAPARD) contractors and for paying them. The project design is usually done by the relevant Ministry or organisation.

Investment projects, including construction work, grant and loan schemes and some supply of equipment are not managed by the CFCU but by the relevant specialised government or independent organisation. For example the Implementing Agency for Cross-Border Cooperation is the Ministry for Regional Development; the Implementing Agency for grants to

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<sup>45</sup> Information based on internal materials of the Centre for Foreign Assistance (CFA) of the Ministry of Finance.

<sup>46</sup> European Commission (November 2001), "2001 Regular Report from the Commission on the Czech Republic's Progress Towards Accession", Brussels, p. 15.

non-governmental organisations is the Civil Society Development Foundation; and the Implementing Agency for ISPA transport projects is the Ministry of Transport. The SAPARD Agency is the Implementing Agency for that programme. Some Implementing Agencies were formerly known as Programme Management Units (PMUs).<sup>47</sup>

The Delegation of the European Commission in Prague played an important role in this field. The Delegation represents the European Commission Headquarters for the management of the Phare programme, and is responsible for ensuring that all Phare and ISPA projects are well designed in order to reach their objectives, and also to ensure that all contracts are awarded fairly and correctly. In order to ensure this, all tenders and contracts prepared by the CFCU or by Implementing Agencies have to be approved by the Delegation before projects can start. However, the Delegation is not responsible for approval of SAPARD projects, which is instead subject to audit by the Commission in Brussels headquarters after the projects are completed.

While it is important for the Czech Republic to be able to properly administer and to effectively absorb the EU pre-accession aid, it will be even more important to adequately handle EU aid after accession. Partly in anticipation of this task, the European Integration and Structural Funds Department (OISF) at the Ministry of Regional Development of the Czech Republic has been established.

The OISF employs 17 people and consists of three units: the Integration Unit, the Structural Funds Unit and the Coordination Unit (it coordinates the Phare programme in the field of economic and social cohesion and the ISPA programme). The OISF coordinates the activities related to the negotiations about the chapter on Regional Policy and Coordination of Structural Instruments. It coordinates the preparations for the different Structural Funds (ERDF, EAGGF, ESF, FIFG) and the Cohesion Fund. It also organises the work connected with the preparation of the programme documents, especially the National Development Plan and the regional and sectoral operational programmes. Its most important domestic links are with the Ministry of Finance (coordinator of foreign aid), the Ministry of Foreign Affairs (OKEU) and ministries, which will have to deal with Structural Funds in the near future (Ministries of Labour and Social Affairs, Agriculture, Industry and Trade, Transport and Telecommunications, and Environment). The OISF also has domestic links with the regions, both on the NUTS 3 and NUTS 2 level. As far as EU institutions are concerned, the OISF has links with the Delegation of the European Commission in Prague and the Commission's DG Regio and DG Enlargement in Brussels.<sup>48</sup>

A great problem for the Czech Republic is the fact that the country is not able to take full advantage of the pre-accession funds. Thus, the question arises, how the country will be able to fully benefit from the Cohesion Fund and the Structural Funds in the near future. According to a report of the Supreme Audit Office from the end of 2001, in the period 1995-1999 367 million EUR was allocated to the Czech Republic from the Phare programme, but the country was able to use only 231 million EUR from the whole sum.<sup>49</sup> From the total of 900 million EUR assigned to the Czech Republic in EU pre-accession funds after 1989, the country has spent less than 582 million EUR<sup>50</sup>. The main reason for this is the lack of good projects that the Czech Republic has been able to submit. Moreover, the European Investment Bank (EIB) has

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<sup>47</sup> EU Finance in the Czech Republic, European Commission, March 2001.

<sup>48</sup> This information is based on an interview at the OISF of the Ministry for Regional Development.

<sup>49</sup> Šafaríková, K. (2002), 'EU - boj o zrno', Respekt, No. 6, p. 3.

<sup>50</sup> Olbrichová, A. (2002), 'Brusel dal, Brusel vzal', Ekonom, No. 9, pp. 12-15.

criticised the practical impossibility to cooperate with the regional and local organs in the Czech Republic in the area of co-financing the projects in the field of environment protection<sup>51</sup>. Similarly, Czech farmers have not yet seen a single euro from the SAPARD programme while millions of euros have already been flowing to Bulgaria, Slovenia and the three Baltic countries. Czech officials have so far been unable to finish all the procedures, which are necessary for the Czech SAPARD agency to be accredited in Brussels. This agency has at present 120 employees but the effect of its activities has so far been close to zero.<sup>52</sup>

It should be added that the TAIEX (Technical Assistance Information Exchange) Office was set up in January 1995 to provide the associated countries of Central and Eastern Europe with technical assistance on approximation of legislation. Whereas in the past the scope of TAIEX assistance was limited to legislation related to the Single Market, its mandate was extended in Agenda 2000 to cover all aspects of EU legislation. Moreover, the mandate of TAIEX was enlarged further to provide technical assistance to all levels of national administrations. Among the beneficiaries of TAIEX are administrators from the governmental and non-governmental public administrations in the associated countries and civil servants working in administrations at sub-national level. While normal Phare programmes tend to cover long-term projects, the focus of attention of TAIEX is primarily to solve problems of a short-term character. There is a TAIEX office also in Prague. The assistance from TAIEX has been generally very well appreciated in the CR.

### **3.4. Interim conclusion**

In general, the relations between Czech and EU institutions have developed at many different levels and in the course of the past decade, contacts have intensifying considerably. However, it has taken several years before the frequency and intensity of these contacts has managed to overcome the lack of political will to substantially move ahead with reforms to Europeanisation of the public administration. The financial assistance of Phare has also played an important role. Today, the situation has slowly started to improve. It is generally agreed that public administration reform will continue for many years even after the accession of the Czech Republic into the EU. Therefore the persisting imperfections of the Czech public administration should not prevent the country from entering the EU already in the next wave of enlargement in 2004.

### **4. Final conclusions: remaining problems**

The slow progress in the field of the reform of public administration and of the judiciary has for several years been one of the greatest obstacles to the Czech Republic's way towards swift integration into the EU.

According to the 2000 Regular Report, the reform of the public administration had not advanced significantly and therefore the short-term priority of the Accession Partnership in this field had not been met. In the 2001 Regular Report, exactly the same statement was repeated. Administrative and judicial reforms are both essential for an effective enforcement of the *acquis* and improved good governance.

The Klaus governments strongly underestimated the importance of both the public administration reform and the reform of the judiciary, including the role of these elements in the overall transformation of the Czech society and its link to the accession process. In the

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<sup>51</sup> This information appeared in the Czech daily Lidové noviny in 2000.

<sup>52</sup> Olbrichová, A. (2002), 'Tolik euroúředníku a žádná eura', Ekonom, No. 5, pp. 20-21.

past two and a half years, reforms in this field have finally started to be considered as top priorities by the government.

As a positive aspect, the generally high quality of the human resources of the Czech Republic should be mentioned. If the salaries in the public administration would increase sufficiently, many qualified people from the private sector might enter public administration. Unfortunately weaknesses in this area prevail at present.

One of the major defects of the Czech public administration is the lack of communication between the ministries and other organs of state administration, and also the very weak cooperation between them. In some cases there is even insufficient communication and cooperation between departments inside one ministry. There is also an insufficient exchange of information between the central institutions of the Czech state, the regions and private entities.

Another key problem, which is mentioned in all Regular Reports on the Czech Republic is the high level of corruption, which affects the public administration at all levels. In its last Report, the Commission states that "surveys of public opinion show a consistent increase in the perception of corruption and economic crime. Concern is greatest as regards the state administration, the police and intelligence services, healthcare, banking and the political sphere"<sup>53</sup>.

Insufficient quality of the work of the Czech ministries is also an obstacle for the Czech Republic in the sense of the country not being able to take full advantage of the financial resources from the programmes Phare, SAPARD and ISPA. The Czech Republic is the only country from the Luxembourg group, which was sharply criticised by the European Commission in this respect.

The reform and Europeanisation of the public administration in the Czech Republic is severely delayed even though there has been some progress lately. Nevertheless, according to the opinion at the European Commission, as far as public administration reform is concerned, the Czech Republic is lagging not only behind most countries of the Luxembourg group but even behind some of the more developed members of the Helsinki group.<sup>54</sup>

Thus, the year 2002 will be a year during which the country will have to make substantial progress in the reform and Europeanisation of its public administration - otherwise its entry into the EU could be threatened.

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<sup>53</sup> European Commission (November 2001), '2001 Regular Report from the Commission on the Czech Republic's Progress Towards Accession', Brussels, p. 23.

<sup>54</sup> This information is based on an interview at the European Commission in Brussels.

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