

# TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT

## UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Czechia, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Czechia, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

## CZECHIA REVIEW

---

### Justice System

#### ➤ *Independence*

The UN Human Rights Committee in its 2019 concluding observations expressed concern about reports that the judiciary is susceptible to political interference, especially in high-profile cases, and that the independence of judges and prosecutors from the executive and legislative branches is not sufficiently secured under the law, owing in particular to: the current procedures for the selection, appointment, promotion and transfer of judges; the status of the Supreme Public Prosecutor's Office, formally part of the executive branch; and the procedure for the selection, appointment and removal of the Supreme Public Prosecutor and other public prosecutors. Noting the plans for judicial reform, including the development of a new Code of Civil Procedure and the proposed amendments to the courts and judges act and to the Public Prosecutor Act, the Committee recommended that Czechia eradicate all forms of undue interference with the judiciary by the legislative and executive branches and safeguard, in law and in practice, the full independence and impartiality of judges and the independence and effective autonomy of the Supreme Public Prosecutor's Office, by, inter alia, ensuring that the procedures for the selection, appointment, promotion, transfer and removal of judges and prosecutors are in compliance with the Covenant and relevant

international standards, including the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors. The Committee also recommended that Czechia give due consideration to establishing a supreme judicial council, or other similar bodies, that would be mandated to govern the judicial selection process, be fully independent, comprise mostly judges and prosecutors elected by professional self-governing bodies and operate with full transparency ([CCPR/C/CZE/CO/4](#), para 32, 33).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern that many victims of racially motivated crimes are reluctant to report the crimes. With the aim of increasing trust in these bodies, the Committee recommended that Czechia promote the recruitment of persons belonging to minority groups in the police and the judicial system ([CERD/C/CZE/CO/12-13](#), para 13, 14).

➤ ***Quality of justice***

The UN Committee against Torture in its 2018 concluding observations expressed concerns that free legal aid is not available from the very outset of deprivation of liberty as the Police Act (No. 273/2008) provides for the right of access to a lawyer only at the concerned person's own expense. The Committee recommended that Czechia take effective measures to guarantee, and monitor, that all detained persons are afforded, in law and in practice, all the fundamental legal safeguards from the outset of their deprivation of liberty, in accordance with international standards, including to have prompt and confidential access to a qualified and independent lawyer, or to free legal aid, when needed. In relation to some aspects of treatment in psychiatric institutions, the Committee also recommended to investigate all complaints of ill-treatment, bring those responsible to justice and provide redress to victims ([CAT/C/CZE/CO/6](#), para, 10, 11, 32, 33).

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination expressed concern about the prevalence of racially motivated crimes as well as underreporting to the justice system, and recommended that Czechia proceed with the training of police officers, prosecutors, judges and other law enforcement officials on how to address such crimes ([CERD/C/CZE/CO/12-13](#), para 13, 14).

While welcoming measures taken to address violence against women, the UN Human Rights Committee in its 2019 concluding observations recommended that Czechia step up its efforts, including by ensuring that law enforcement officials, the judiciary, prosecutors and other relevant stakeholders receive appropriate training on gender-sensitive detection, handling, investigation and prosecution of cases of violence against women ([CCPR/C/CZE/CO/4](#), para 20, 21c).

In its 2019 concluding observations on Czechia's implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Committee on the Rights of the Child expressed concern that training programmes on the Optional Protocol for all personnel working for or with children were insufficient and not mandatory. It recommended Czechia to establish systematic, multidisciplinary and mandatory training programmes on the Optional Protocol for all

personnel working for or with children, including judicial and law enforcement officers ([CRC/C/OPSC/CZE/CO/1](#), para 15, 16).

➤ ***Justice system response to online child sexual exploitation and abuse***

*Justice system response to online child sexual exploitation and abuse* - Expressing concern about the reported increase in cases of online child sexual exploitation and abuse, the UN Committee on the Rights of the Child recommended in its 2019 concluding observations, appropriate support services be provided for children, including integrated services during investigation, prosecution and aftercare; trained professionals working with and for children; and accessible procedures for complaints, compensation and remedies. The Committee also recommended a victim-focused criminal justice system with a trained police force, prosecution and judiciary, and a national database linked to the international child sexual exploitation image database of Interpol ([CRC/C/OPSC/CZE/CO/1](#), para 22, 23).

## **Media pluralism**

➤ ***Transparency of media ownership and government interference***

The UN Human Rights Committee in its 2019 concluding observations was concerned about the reported growing concentration of ownership of private media in the hands of a few actors, and about allegations of increasing political influence over the media that, inter alia, affects the manner of coverage of all political actors during elections. The Committee recommended that Czechia avoid any form of political influence over media outlets, ensure the transparency of private media ownership and prevent undue media dominance or concentration that may adversely impact media freedom and pluralistic views ([CCPR/C/CZE/CO/4](#), para 38, 39).

➤ ***Framework for journalists' protection***

In its 2019 concluding observations, the UN Committee on the Elimination of Racial Discrimination was concerned about reports of intimidation of, and a growing hostility towards, journalists who attempt to cover issues related to migration independently and impartially. It recommended that Czechia protect journalists who cover issues related to migration and ensure they can perform their work without fear of reprisals or intimidation ([CERD/C/CZE/CO/12-13](#), para 11, 12).

The UN Human Rights Committee also expressed concern in its 2019 concluding observations about increasing allegations of threats against journalists, especially by high-ranking politicians, including violence. It was also concerned about instances of hostile rhetoric against media outlets and accusations of media manipulation of public opinion emanating from public officials. The Committee recommended that Czechia ensure that officials refrain from any interference with the legitimate exercise of the right to freedom of expression of journalists and media workers, that their effective protection against any kind of threat, pressure, intimidation or attack is guaranteed, and that illegal acts against journalists are thoroughly investigated and those responsible brought to justice ([CCPR/C/CZE/CO/4](#), para 36, 37).

The UN Human Rights Committee in its 2019 concluding observations was concerned about reported difficulties in gaining access pursuant to the Free Access to Information Act to information held by public bodies, including unclear conditions under which information can be withheld, the tendency to provide general information that lacks detail, inconsistent practice in releasing information among public authorities, and insufficient efforts to publish information proactively. The Committee noted that an amendment to the Free Access to Information Act foresaw, inter alia, simplified processing of information requests and that a draft amendment approved on 14 October 2019 would explicitly stipulate that abuse of the right to information constitutes grounds for refusal of an information request. The Committee recommended that Czechia ensure that the right of access to information held by public bodies can be effectively exercised in practice, including by addressing any practical or administrative obstacles to processing information requests, and by ensuring timely and comprehensive responses to such requests. Czechia should also proactively put in the public domain government information of public interest to give effect to the right of access to information ([CCPR/C/CZE/CO/4](#), para 40, 41).

## **Other institutional issues related to checks and balances**

### **➤ *Independent authorities***

The UN Committee on the Elimination of Racial Discrimination in its 2019 Concluding observations regretted the lack of progress in bringing the Office of the Public Defender of Rights (Ombudsperson) into full conformity with the Paris principles, and recommended that Czechia expedite the adoption of necessary amendments to the Ombudsperson Act to bring the Office of the Public Defender of Rights into full conformity ([CERD/C/CZE/CO/12-13](#), para 9 and 10).

The UN Human Rights Committee in its 2019 Concluding observations similarly recommended that Czechia complete the process of consolidating the mandate of the Office of the Public Defender of Rights, to enable it to act as the national human rights institution with a mandate to protect the full range of human rights and in full compliance with the Paris Principles. ([CCPR/C/CZE/CO/4](#), para 8).