



# **Government Anti-Corruption Conception for the Years 2015 to 2017**

Minister for Human Rights, Equal Opportunities and Legislation

Prague, December 2014

## Table of contents

1. Introduction .....	3
2. Definition of the Basic Area .....	4
2.1. Priorities of the Government Anti-Corruption Policy .....	4
2.1.1. Efficient and Independent Executive .....	5
2.1.2. Transparency and Free Access to Information .....	5
2.1.3. Efficient management of State Property .....	6
2.1.4. Development of Civil Society .....	7
3. Anti-Corruption Instruments on the Governmental Level .....	8
3.1. Corruption Risks Assessment .....	8
3.2. Action Plans .....	8
4. Participants and Institutions Involved in Fighting Corruption on the Governmental Level .....	9
4.1. Government .....	9
4.2. Minister for Human Rights, Equal Opportunities and Legislation .....	9
4.3. Government Departments .....	9
4.4. Council .....	10
4.5. Interdepartmental Coordination Group .....	10
4.6. Unit .....	11
5. Evaluation of the Government Fight against Corruption .....	12
6. Summary .....	13

## 1. Introduction

*Corruption represents a serious society-wide problem with a negative impact upon functioning of the state, undermines the citizens' confidence in a democratic rule of law and has a detrimental effect on the economy. The Government of Bohuslav Sobotka declares its determination to take realistic and targeted anti-corruption measures. A rigorous enforcement of the governmental policy in the fight against corruption must primarily lead to improvement of legal environment and generally contribute to cultivation of political culture in the Czech Republic.*

The Government Anti-Corruption Conception for the Years 2015 to 2017 (hereinafter only „Conception“) has been presented as a follow-up to the Government Resolution No.418 of 4 June 2014, by which the conceptual document under the title „Basic Anti-Corruption Directions on the Governmental Level“ was ratified (hereinafter only „Basic Directions“) and is also enshrined in the valid international obligations<sup>1</sup> of the Czech Republic. The Conception describes in detail the propositions embedded in the Basic Directions and aims to define governmental anti-corruption policy limits, in particular specify effective instruments, formulate basic content of one-year anti-corruption action plans (hereinafter only „action plans“) and define its institutional framework.

The presented Conception is the fifth successive governmental anti-corruption strategic document since 1999.<sup>2</sup> During this period certain partial successes has been achieved, which has not, however, led to a change of social atmosphere or subjective perception of corruption in the Czech Republic. The Conception takes into account the long-term society-wide discourse or more precisely certain consensus on particular anti-corruption measures, which have not been implemented due to political instability yet. Thus the Conception relates mainly to the analytical part and priorities of the preceding governmental strategy,<sup>3</sup> but also creates conditions for extending the fight against corruption also to other areas during the fixed period.

<sup>1</sup> The Czech Republic has committed to create anti-corruption strategies and preventive measures (Articles 5 and 6 of the UN Convention against Corruption). In respect to Programme alone it reflects the Recommendation No. III of the First Evaluation Round of 2003 issued by of the Group of States against corruption (hereinafter only „GRECO“) by the Council of Europe, indicating that each Government Programme should be revised so that: „(i) the bodies in charge for its implementation and coordination with other relevant authorities are clearly identified, (ii) a series of very specific and measurable objectives and the detailed steps required to achieve them are indicated, and (iii) awareness [of this Programme] is increased both throughout Czech public institutions (particularly those concerned with its implementation), and the public at large.

<sup>2</sup> Government Resolution No. 125+Annex of 17 February 1999 on the Government Anti-Corruption Programme for Fighting Corruption in the Czech Republic and to the Report on Corruption in the Czech Republic and on means of an effective combating this negative social phenomenon; Government Resolution No. 1199 of 25 October 2006 on the Government Anti-Corruption Strategy for the period from 2006 to 2011; Government Resolution No. 1 of 5 January 2011 on the Government Anti-Corruption Strategy for the years 2011 and 2012; Government Resolution No. 39 of 16 January on the Government Anti-Corruption Strategy for the years 2013 and 2014.

<sup>3</sup> The Government Anti-Corruption Strategy for the years 2013 and 2014, p. 5–70.

## 2. Definition of the Basic Area

The basic area of the governmental fight against corruption constitutes the **public administration with emphasis on state administration**. In the following three years the interest will be focused on central authorities of the state administration. The Government puts the main emphasis on identification of corruption risks in individual areas of public administration activities and will initiate sector analyses of corruption risks according to the Council of Europe methodology.<sup>4</sup> Outputs from these analyses will afterwards serve to formulate targets and tasks of the following strategic documents in the area of fight against corruption.

The basic area is based on programme documents of the Government of Bohuslav Sobotka.<sup>5</sup> It is also necessary to reflect international engagement of the Czech Republic, namely its membership in the Group of States against Corruption (GRECO) by the Council of Europe,<sup>6</sup> participation in the international initiative Open Government Partnership (OGP)<sup>7</sup> and finally in the European Union,<sup>8</sup> United Nations Organisation<sup>9</sup> and Organisation for Economic Co-operation and Development (OECD).<sup>10</sup> Cross-cut of programme documents and until now unfulfilled international obligations is emerging for instance in the area of **conflict of interests**, in the general requirement for **depoliticization of public administration**, in the currently insufficient **protection of whistleblowers**, in the area of **public procurement** or in the effort for higher **transparency of political parties funding**. These are the main themes which have not been solved in a satisfactory way in the long run.<sup>11</sup> Implementation of anti-corruption measures will be tangibly stipulated in the framework of legislative and non-legislative task plans of the Government (in the period 2015–2017). At the same time, the tasks to be discussed by the Government Anti-Corruption Coordination Council (hereinafter only „Council“)<sup>12</sup> beyond the scope of the corruption risks assessment will be determined.

### 2.1. Priorities of the Government Anti-Corruption Policy

Governmental anti-corruption policy within the public administration is characterized by four specific thematic areas stemming from programme documents of the Government of Bohuslav

<sup>4</sup> Available at

[http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/Albania/TechnicalPapers/PACA\\_TP2011-RiskAssessmentMethodology.pdf](http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/Albania/TechnicalPapers/PACA_TP2011-RiskAssessmentMethodology.pdf).

<sup>5</sup> Policy Statement of the Government of the Czech Republic (Prague, February 2014), involving a programme part of the Coalition Agreement between the ČSSD and KDU-ČSL parties and the ANO movement for the 2013–2017 electoral period, available at [http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/programove\\_prohlaseni\\_unor\\_2014.pdf](http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/programove_prohlaseni_unor_2014.pdf).

<sup>6</sup> Available at [http://www.coe.int/t/dghl/monitoring/greco/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/default_en.asp).

<sup>7</sup> Available at <http://www.opengovpartnership.org/>.

<sup>8</sup> In particular activities of European Commission, i.e. European Anti-Fraud Office (OLAF). In February 2014 the Commission has issued the 1st EU Anti-Corruption Report [COM (2014) 38 final]. Evaluation of individual member states is to be made regularly every two years.

<sup>9</sup> UN Convention against Corruption.

<sup>10</sup> OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

<sup>11</sup> Recommendation VI, VII and IX of the GRECO Second Evaluation Round and Recommendations I to IX of the GRECO Third Evaluation Round.

<sup>12</sup> Government Resolution No. 629 of 30 July 2014 on establishing The Government Anti-Corruption Coordination Council and the Statute and Rules of Procedure of this Council.

Sobotka or from international obligations of the Czech Republic. They represent an **unexceedable contents minimum** of future Action Plans for particular years. Other anti-corruption measures are supposed to be involved in action plans, such as those being in competence of public procurement, constitutional institutions or private sector, following from factual findings and recommendations of the Council.

### 2.1.1. Efficient and Independent Executive

*Proper, transparent and corruption-resistant public administration means for the present Government a base for good governance of the state, whose mission is protection of public interest and to be at the service of citizens.. The Government commits to enforce adoption of functional and proper **Civil Service Act**. This Act has to ensure a complete depoliticization of the public service, clearly define criteria for recruitment and remuneration of officers, set out conditions of career advancement and ensure high level of training for civil servants.*<sup>13</sup>

Equally important part of further steps is to focus on a consistent implementation of the Act into practice, namely through a number of constituent measures strengthening independence, professionalism and stability in the public service, contributing to its better performance and stability in general.<sup>14</sup>

*The Government will enforce a new act on state prosecution, ensuring independency of state prosecutors and their responsibility during investigation of criminal acts, for instance through defining a fixed functional period for leading state prosecutors and limitation of possibility of their dismissal to precisely defined reasons and subject to decision of an independent disciplinary senate. The new legislation will involve a creation of systemic and organizational prerequisites for specialization in fighting serious economic and financial crime and all forms of organized crime including corruption.*

### 2.1.2. Transparency and Free Access to Information

The Government objective is to strengthen public supervision through a *strict observance of transparency principle in activities of the public administration*, maintenance of *procedure transparency* and involvement of other relevant political participants.

The Government will take actions to strengthen transparency of legislative environment, i.e. through ensuring user-friendly access to *all legislation regulations thanks to the project of **Electronic Collection of Laws and Collection of International Treaties and electronic legislative process***, which will be made available to any citizen on the Internet. Strengthening transparency in decision-making and legislative processes should minimize a hidden lobbying for partial interests. Thanks to increased efficiency of the system of free access to information and making data and information accessible on the Internet, the free public access to information will be supported.<sup>15</sup>

<sup>13</sup> Parts of the Sections 2.1.1 to 2.1.3. written in italics are quotations from the Policy Statement of the Government.

<sup>14</sup> This task is linked to one of three obligations arising from the Czech Republic membership in OGP, see Action Plan of the Czech Republic Open Government Partnership for the years 2014 to 2016, available at <http://www.korupce.cz/cz/partnerstvi-pro-otevrene-vladnuti/partnerstvi-pro-otevrene-vladnuti-ogp-104810/>.

<sup>15</sup> These obligations are arising from the Czech Republic's membership in the OGP.

One of the priorities in this area is an *amendment of the **Conflict of Interests Act**, which will implement electronic filling and publication of declaration of assets by politicians* in order to ensure an easy access for the public. A financial disclosure will be presented by the date of assuming a function.

The Government will seek to *tighten up the system of **funding of political parties** by implementation of an expenditure limit for election campaigns and enactment of a limit for donations from nature and legal persons. Any incomes and outgoings shall be made through transparent accounts.*

Next to be submitted is the **Central Electronic Register of Contracts Act** concluded by the public administration above the minimum financial limit (the publication will not relate to sensitive data). This register will be available on the Internet. The Government will also create non-discrimination and transparent conditions to obtain contracts between health insurance companies and medical facilities. The Government will ensure public access to all contracts of health insurance companies and public access to commercial contracts of medical facilities and health insurance companies as prevention against overpriced purchases, involving also establishing a supervisory body on health insurance financial flows.

There will be *created mandatory standards for **nomination of state representatives** to trade companies and state enterprises including laying down the principles of their management remuneration.*

### 2.1.3. Efficient Management of State Property

The Government has declared an *uncompromising approach against all forms of corruption with emphasis on a consistent enforcement of transparency in decision-making on taxpayers' money.*

Within this priority area the Government will for instance urge to *prohibit the state to do business with hidden ownership companies, remove all forms of public resources wasting, improve computerisation of invoices in the public sphere and transparent publication of expenditures paid from the taxpayers' money, including small-scale public orders, strengthen management control system of the public administration and extend powers of the Supreme Audit Office.*

*In relation to public procurements, efficiency of their awarding process will be subject to review. The Government will prepare **new rules for public procurement awarding**, reflecting modern trends of public procurement in the European Union and harmonising requirements for consistent transparency of procurements with the aim to avert corruption and ensure choice of an optimal supplier. The Government will also support training of new entrepreneurs and their access to public procurements through simplification of Public Procurement Act.*

One of the priority issues is also dealing with ownership structure of the suppliers. The draft bill regarding to ownership transparency will be submitted. Its main task is to ensure ownership transparency in the companies with registered stock, besides bearer shares and enable the *authorized state bodies to find a share holder of a company during the whole period of its existence. Information on ownership structure will be made available to the public with the exception of limitations set by law.*

The Government will support **central purchases and electronic auctions** in the public sector, prevent wasting in the area of services procurement by the public administration and implement computerisation of invoicing for public administration institutions and their suppliers. Another

priority considered by the Government is establishment of legal conditions for transparent and indisputable realization of public assets, thus in a manner the procedure which is stipulated by law.

*In the context of the above mentioned steps, approval of governmental proposal for extending power of the Supreme Audit Office in order to review all expenditures of public budgets, along with removal of control systems duplication is no less important. The Government will create a new **Act on Internal Management and Control**, which will replace the non-functional financial control and insufficient authority of the Supreme Audit Office, strengthen managerial responsibility and functioning independent audit. The intention is to review most expenditure prior to settlement of invoices. In general, the Government will seek to create effective management control systems for the programme period 2014–2020 in order to set fair conditions and simplification of administration for applicants.*

#### 2.1.4. Development of Civil Society

The Government has committed to support *development of civil society, activities of non-governmental non-profit organizations and participation of citizens in decision-making and administration of public matters as an indispensable part of a functioning democratic rule of law.*

One of manifestations of the civic engagement is corruption reporting. The Government will therefore **adopt legislative solution of whistleblowers protection**. In addition to targeted legislative activity and repression the governmental anti-corruption policy will lie in prevention, namely through training and supportive activities focused in particular on the area of primary and secondary education and also on public administration employees. An important instrument in this field is support subsidy to non-governmental non-profit organizations, for instance through a support of the main area of the state subsidy policy towards non-governmental non-profit organizations „Fight against Corruption“.

## 3. Anti-Corruption Instruments on the Governmental Level

### 3.1. Corruption Risks Assessment

In terms of the governmental fight against corruption legislative activity is crucial. It is not restricted only to preparation of new or amendments to the existing legislation in the sense of implementation of particular anti-corruption measures. An inseparable part of legislative procedure represents also an analysis of systemic corruption risks in specific legal fields, directed towards a substantial reduction of the existing space for corruption and proper analysis of corruption risks in selected legal standards (anti-corruption legislation) in preparation, aimed at corruption prevention. Equally important is also a critical evaluation of the already adopted measures as a basis for legislative changes.

Regarding to legislation, attention will be focused on a consistent application of **instrument for corruption risks assessment in accordance with the Legislative Rules of the Government**,<sup>16</sup> involving not only its careful and general application in an interdepartmental comment procedure, but also a targeted and individual application, in particular on the basis of incentives from the Council which will be, among others, dealing drafts of the planned anti-corruption legislation. The Council will consider the performed corruption risks assessment, which may be completed with an expert view. Relation between corruption risks assessment and activities of the Council will be thereby complementary.

### 3.2. Action Plans

Instead of comprehensive strategies, the key instrument of the government anti-corruption fight should be one-year action plans. They will involve selected anti-corruption measures of legislative and non-legislative nature to be executed by individual departments. Action plans will be discussed in the Council, the related authorities will comment on the contents within inter-departmental comment procedure prior to its submission to the Government Meeting Programme.

With respect to described methods of action plans formation their contents may not be quite anticipated. To avoid randomness the Conception therefore defines the above mentioned Government priorities of the fight against corruption as an obligatory content minimum of the action plans. In case the Government decides otherwise, the defined scope of individual action plans will be extended, however not restricted. New issues or modified approaches to current unresolved questions may appear in activities of the Council or its working commissions or working commission of its Chairman.

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<sup>16</sup> Available in Czech at [http://www.vlada.cz/assets/jednani-vlady/legislativni-pravidla/LPV\\_uplne-zneni.pdf](http://www.vlada.cz/assets/jednani-vlady/legislativni-pravidla/LPV_uplne-zneni.pdf).



## 4. Participants and Institutions Involved in Fighting Corruption on the Governmental Level

Among the participants of the governmental anti-corruption fight are the Government, Minister for Human Rights, Equal Opportunities and Legislation, ministries or other central bodies of public administration (hereinafter only „departments“), the Council, Interdepartmental Coordination Anti-Corruption Group (hereinafter only „Interdepartmental Coordination Group“) and a unit of the Office of the Government of the Czech Republic, responsible for anti-corruption fight on the governmental level.

Operational execution of fight against corruption (of repressive and preventive nature) have been realized by the respective bodies, in particular prosecuting authorities or specialized departmental units, such as Financial Analytical Unit of the Ministry of Finance or an interdepartmental team Kobra of the Ministry of Finance and Ministry of the Interior.

### 4.1. Government

Government anti-corruption activities are focused on preventive measures of legislative and non-legislative nature, which may be decided upon a collective principle. Concrete instruments are represented by one-year action plans and assessment of corruption risks of prepared legislation. Besides its decision-making power, the Government exercises supervision over application of the mentioned instruments and a wide coordination activity. An inseparable part of the fight against corruption on the governmental level is also repression, factual combating of corruption is, however, responsibility of prosecuting authorities.

### 4.2. Minister for Human Rights, Equal Opportunities and Legislation

By the governmental resolution No. 629 of 30 July 2014 the Minister for Human Rights, Equal Opportunities and Legislation was charged of coordination of anti-corruption activities on the governmental level (hereinafter also „Minister“). Hereby the Minister is entrusted with power of submitting drafts of anti-corruption strategy on the governmental level, draft of future one-year action plans and other information and incentives for anti-corruption measures. The Minister is the Chairman of the Government Anti-Corruption Committee as a government advisory body for combating corruption.

### 4.3. Government Departments

Departments are the key component of the governmental fight against corruption. In the inter-departmental comment procedure they participate on preparation of conceptual documents and one-year action plans, realized within their responsibility. Departments cooperate with the Council primarily during discussion over selected draft legislation from the perspective of corruption risks assessment. Representatives of responsible departments will become members of working commissions, established by the Council or by the Chairperson of the Council. Some departments

are also concerned with international aspects of fighting corruption, namely in compliance with their scope of activities.

A significant part of the governmental fight against corruption is also realization of preventive anti-corruption and other non-legislative measures in individual departments (in broad terms). Internal anti-corruption programmes of departments are one example; their evaluation will be discussed in the Council and afterwards presented to the Government for information or adoption of concrete measures.

Some departments involve also control, inspection or repressive units, whose activities cannot be coordinated by the Government as a collective body, but solely on the departmental level. Their role within the fight against corruption on the governmental level does not involve only providing information on their own everyday activities, but also searching for areas, which may be regulated by the Government in the field of repression both in legislative or factual way. Draft amendments to legislation or measures connected with material or other provision of the said units.

#### 4.4. Council

The Government Anti-Corruption Council is a core body of the governmental fight against corruption. The Council consists of 18 members and its added value is in particular its composition, involving representatives of all significant components in fight against corruption in the Czech Republic: selected ministers,<sup>17</sup> representatives of prosecuting authorities,<sup>18</sup> self-governing bodies,<sup>19</sup> important institutions,<sup>20</sup> non-profit sector, academic sphere and professional public. Their activities in the Council will bring a number of concrete proposals for identified areas where the Government could use its legislative and executive powers.

From the timing and practical point of view the Council's activities may be sorted into long-term, medium-term and short-term. Among long-term, therefore conceptual activities is in particular participation in preparation of anti-corruption documents on governmental level. A typical medium-term activity of the Council will be preparation of one-year action plan, while the short-term activities are connected with current plan of the Government legislative works and other tasks assigned to this advisory body by the Government. Within short-term activities the Council should in particular discuss selected legislation drafts with regard to their corruption risks.

#### 4.5. Interdepartmental Coordination Group

Interdepartmental Coordination Group is a working group whose task is an additional activity to activities of the Council and above others ensuring coordination of all involved central authorities of public administration in order to achieve the most efficient coordination and implementation of the governmental anti-corruption policy. Its members are representatives delegated by all departments and other important state institutions.

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<sup>17</sup> Deputy Prime Minister for the Science, Research and Innovation, Minister of the Interior, Minister of Finance and Minister of Justice are vice-chairpersons of the Committee.

<sup>18</sup> Supreme Public Prosecutor, Director of the Unit for Combating Corruption and Financial Crime of the Criminal Police and Investigation Service, Director of General Inspection of Security Services.

<sup>19</sup> President of the Association of Regions of the Czech Republic, President of the Union of Towns and Municipalities of the Czech Republic.

<sup>20</sup> President of the Czech Chamber of Commerce, the Public Defender of Rights.

## 4.6. Unit

A very important element in the field of the government fight against corruption is the Anti-Corruption Unit of the Office of the Government of the Czech Republic (hereinafter only „Unit“). It is part of the Department of Concept of Legislation and State within the Section of the Government Legislative Council under the Minister for Human Rights, Equal Opportunities and Legislation. Scope of its activity involves coordination of fight against corruption on the governmental level while current organizational arrangement supports also coordination of concrete legislative measures in the area of fight against corruption.

In reference to inclusion of the Unit into the Section of the Government Legislative Council its activity (like activities of other units of this section) is primarily connected to legislative process, in particular to analysis of corruption risks in the submitted legislative drafts. The Unit ensures administrative and technical support for the Council and its activities, providing also expert and analytical service in this area. The Unit prepares a draft plan of the Council activities, drafts of conceptual documents and anti-corruption action plans. The Unit also recommends, which draft legislation should be discussed by the Council due to corruption risks.

The Unit also maintains activities of the Council's working commission established by the Chairperson of the Council. The Unit coordinates the implementation of action plans and communicates with bodies responsible for individual tasks. It follows the progress achieved in implementation of action plans and informs the Council regularly. The outcomes of the fight against corruption on governmental level are published and provided to the public on its website [www.korupce.cz](http://www.korupce.cz). It also communicates with similar units abroad and with international organizations involved in combating corruption.

An important role of the Unit consists in deepening and spreading knowledge about corruption prevention, used by individual participants and institutions involved in fight against corruption on the governmental level, public educational institutions and non-profit sector. It also provides cooperation to departments by preparation of internal anti-corruption standards. The Unit is a body for prevention of corruption according to Article 6 of the UN Convention against Corruption and meets commitments arising from this Convention, although it does not meet all the demanded requirements for independence

## 5. Evaluation of the Government Fight against Corruption

The result of the fight against corruption on the governmental level should be a factual lowering of corruption rate and its subjective perception in the Czech Republic. This common objective may be achieved only in case the anti-corruption tools are efficient which requires an active cooperation between involved departments and, above all, a sufficient political will.

The Government has set two basic anti-corruption tools, **corruption risks assessment** and **action plans**. The objective of the process of corruption risks assessment should be the greatest possible restriction of systemic corruption risks in the legal order of the Czech Republic. Corruption risks assessment is a part of a more general regulatory impacts assessment (RIA), which is in conformity with “General Principles of Regulatory Impacts Assessment”, applied also retrospectively after coming into force of the relevant legal regulation. The aim of the mentioned retrospective assessment should be a verification of a real fulfilling of the anti-corruption effect. For elaboration of RIA ex post a proactive approach of the relevant departments is quite indispensable.

One-year action plan will be focused on priority areas in the forthcoming or current legislation with the aim to reduce corruption risks. Action plans will be submitted to the Government for assessment always by 31 March of the following year at the latest. Not only simple overview of fulfilling of anti-corruption measures but mainly outputs from the Council activities will be part of this assessment. The Council will concentrate on an assessment whether the separate legislative drafts involve an anti-corruption effect. An assessment methodology will be created by the Conception Commission of the chairperson of the Council during the first half of 2015. The action plans may be additionally subject to assessment of the non-profit sector, professional public or certain groups of the public (i.e. opinion polls focused on public employees, entrepreneurs etc.).

Implementation of anti-corruption measures in individual action plans and consistent application of corruption risks assessment should have a positive impact even upon perception of corruption in the society. The governmental fight against corruption will also involve a monitoring of statistics development of the Police, public prosecutions, courts and analyses of judicial decisions issued in cases of corruption offences.

A change in corruption perception cannot be expected immediately but after a certain time. The Government will strive to ensure that by the end of 2017 the Czech Republic will rank better than the current 57<sup>th</sup> place in the world (22<sup>nd</sup> in the EU) in the Corruption Perception Index (CPI)<sup>21</sup>.

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<sup>21</sup> CPI available at <http://cpi.transparency.org/cpi2013/results/>

## 6. Summary

Presented Conception represents a **realistic basis** for governmental anti-corruption policy. The most important partaker is the representative Council charged with coordination and implementation of anti-corruption policy in the following three-year period. Fight against corruption should be supported by two basic instruments – corruption risks assessment in legislation having in particular a preventive nature and one-year action plans prepared by the Council. The action plans target **four basic priority areas**. Individual action plans will present anti-corruption measures of legislative and non-legislative character to be implemented by individual departments during the concerned period.

The current institutionalized fight against corruption on the governmental level has not met the expectations of the Czech public for the time being. The Government makes combating corruption its important task and declares a sufficient political will necessary for effective enforcement of anti-corruption measures in practice. A consistent enforcement of the governmental anti-corruption policy must lead to **improvement of legal environment in the Czech Republic, increase of transparency and confidence in decision-making processes and to overall decrease of corruption rate in the Czech society.**