

Corruption and the Czech Public Law*

Blanka Vítová

Abstract: *The article focuses on the means used in the fight against corruption in Public Law. In Criminal Law, the problem of corruption is described within the framework of punishment of the criminal offence of bribery; it also discusses the regulations regarding criminal liability of corporate bodies. In the framework of Administrative Law, the author of the article focuses on the area of public contracts, regulations for transparency in managing public assets, the Law on Civil Servants and Employees of the Public Administration and regarding Education in Public Administration and, last but not least, the Ethical Code in Public Administration.*

Keywords: *Corruption, Public Contracts, Act on Civil Servants and Employees of the Public Administration and on Education in the Public Administration*

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Introduction

Currently, it is not possible in the Czech legal environment to find a uniform definition of corruption. According to the government strategy in the fight against corruption, from the years 2011 and 2012, corruption includes the promise, offer or provision of a bribe with the goal to influence someone's actions or decision-making, or a request for a bribe or its acceptance¹. A great deal of attention in connection with corruption is paid to lobbying and generally conflict of interest. Examples of frequent cases of corruption in the public sphere are cases of manipulated public tenders or benefits associated with the transfer of real-estate from the assets of the state, municipality, or region, to the private sphere². One of the indicators of the perception of corruption is research from Transparency International, which examines the level of 'the perceptions of corruption' by the population in the public administration (for example the ability of government institutions to suppress and punish corruption, the effectiveness of anti-corruption measures, the extent of corruption in various institutions and areas of public administration, etc.). According to research from 2011, the Czech Republic fell at the twenty-seventh place in the region of the EU and Western Europe³ in 'the perceptions of corruption'. Worldwide, in 2011, the Czech Republic was in fifty-seventh place, similar to countries such as Namibia, Cuba, and Georgia⁴. In 2012, the Czech Republic moved up to fifty-fourth place, however, it is still behind states such as Georgia and Rwanda⁵.

Legal regulation of corruption functions, on the one hand, with prosecution, but on the other hand it works with the prevention of actions leading to corruption. Corruption is regulated by way of Private Law, yet a substantial majority of regulation overlaps with Public Law. In the framework of Private Law, corruption is defined by provisions in the Commercial Code, the Civil Code and, at the same time, the Labor Code. In the Commercial Code, these are primarily provisions regarding unfair competition, where unfair competition is according to the general clause of actions in economic competition or in economic relations, which are in conflict with the good morals of competition and are capable of causing damage⁶ to other competitors (their actions can negatively influence the competitive position of others), consumers or other customers. The purpose of the regulation of unfair competition in the Commercial Code is the protection against aggressive, immoral and harmful practices of other competitive entities.⁷

Sedláček states that society *"is led by the conviction that the individual, led by his egoistic interest, will try to satisfy the needs of others as much as possible, when he offers his goods or his work as an individual business person and he will try to surpass others and with the assumptions of a reasonable customer, will make only better goods or performance. This ideology substitutes a moralistic human character with a real person, who is not always critical enough to judge which performance or goods are better. This*

can be exploited by less conscientious business people and can, under the guise of good goods or performance, offer lower quality and in this cause harm to conscientious business people."⁸ However, corruption relates primarily to the individual body of the crime of unfair competition, such as is stated in § 44 paragraph 2 letter e), respectively § 49 (Bribery) and § 44 paragraph 2 letter h), respectively § 51, which regulates the violation of trade secrets. The Civil Code, in relation to corruption, reflects the Civil Law Convention on Corruption negotiated by the Council of Europe in Strasbourg, on November 4, 1999⁹, which has the objective to allow individuals who have suffered damage to gain proportionate compensation, which they can achieve through Civil Law, both by the invalidity of the action against the injured party, which in its content or purpose contradicts the law or circumvents it, or is inconsistent with good moral values; and also the individual who suffered damage as a result of the corruption is allowed to request compensation for the damages. The Labor Code regulates not only the basic duties of the employee, but in relation to corruption it also regulates other special duties of certain groups of employees (such as employees in the administrative offices, the Police of the Czech Republic, the Security Information Service, the Prison Service of the Czech Republic, the Office for the Government Representation in Property Affairs, the Supreme Audit Office, the Czech National Bank, employees at the Court and the State Prosecutor's Office, employees of the territorial self-governing units, employees of schools established by the Ministry of the Interior, etc.), who are required to act and make decisions impartially and abstain in their performance of their work from anything that could endanger the trust in their impartial decision-making, maintaining confidentiality about details that they learn during the performance of their work, and which is in their interest that the employees do not share this information with other individuals. In connection with the performance of their work they cannot accept gifts or any benefits, and must abstain from any action which could lead to a conflict in the public interest with individual interests; more specifically they cannot misuse information gained in connection with the performance of employment for their own benefit or the benefit of someone else. Often, there are various ethical codes which relate to these legal regulations for the employees of various organizations¹⁰.

1 Criminal Law measures of protection against corruption

Bribery is defined according to Act No. 40/2009 Coll., the Criminal Code, as unwarranted benefits associated with the direct enrichment of assets or other benefits, which are received or will be received by the individual who is bribed or with his agreement another by individual who does not have a right to it¹¹. Corruption can be punished according to specific qualifications of several bodies of the offence

contained in the Criminal Code. This primarily regards criminal offences stated in the second part of Chapter X under the heading “Criminal offences against order in public matters.” Section 3 of this Chapter, entitled “Bribery,” addresses the criminal offences of accepting bribes, bribery and indirect bribery.

The Criminal Code does not establish any financial limit for the amount of the bribe — this is necessary to judge in connection with other factors which determine the level of danger of the act in question. Offering a bribe is an act where the perpetrator expresses a willingness to offer the bribe in order to procure something that is in the public interest if his request is granted. The offer to provide a bribe can be undertaken in any manner (explicitly, in an obscured manner, or secretly, etc.) and from a time perspective, practically at any time (before receiving the matter of public interest, but also after receiving the matter of public interest, which is being discussed)¹². With regards to the fact that the punished offence is against the order in public affairs, the law defines at the same time the concept of a person of authority¹³. This is understood to include judges, State Prosecutors, the President of the Czech Republic, Members of the Chamber of Deputies or Senators of the Parliament of the Czech Republic, Members of the Government of the Czech Republic or other individual representing functions in other bodies of public authority, members of the local government or responsible civil servants of the territorial self-governing units, bodies of the state administration or other bodies of public authority, members of the Armed Forces or Security Forces or Policemen of the Municipal Police, Judicial Executors (but only during the performance of execution activities and during functions carried out under the authorization of the court or the State Prosecutor), Notaries (but again, only when carrying out deeds in proceedings of inheritance as a Judicial Commissioner), Financial Arbitrators and their representatives, individuals who are appointed as Forest Rangers, Nature Guards, Hunting Guards, or Fishing Guards (only if they are carrying out deeds of the state or society). Other individuals who belong to this group include those representing functions in legislative bodies, judicial bodies or other bodies of public power of foreign countries, representatives of functions or employees or workers in international judicial bodies, representatives or employees or workers in international or multinational organizations created by countries or other entities under International Public Law or in its body or institution, or a representative of a function in the business of a corporate body, in which decisive influence is the Czech Republic or a foreign country, if the performance of such a function, employment or work associated with the authority when procuring something that is in the public interest and a criminal offence is committed in relation to this authority.

The criminal offence of accepting a bribe includes the actions of an individual who himself, or through another in connection with procuring items of the public interest¹⁴, accepts for himself or for another individual or is promised or requests

a bribe, or who in connection with conducting his business or that of another individual accepts, requests or is promised a bribe for himself or another individual. According to previous judicial decisions, which are still applicable even today, it is not necessary for the perpetrator to request the bribe explicitly, it is enough for there to be any kind of act where it is evident that the perpetrator expects a bribe and wants it (for example, he asks for a “loan” and if the person does not received this then he will not be placed in a certain function, or in some cases he will be removed from a function¹⁵). This criminal offence is perpetrated without regard to whether the individual who requested the bribe truly received it (or if it was promised) did nothing¹⁶. The length of punishment is dependent on the seriousness of the criminal offence (for example, if the individual who commits the offence with the intention to obtain a significant benefit for himself or someone else, or if he commits it as a person in authority).

Similarly in the case of the criminal offence of bribery, the individual that provides, offers or promises a bribe to someone else of in connecting with procuring items of the public interest¹⁷ is criminally responsible, if he offers or promises a bribe, or in connection with carrying out his business or that of someone else, offers or promises a bribe.

Indirect bribery therefore affects the actions of individuals who request or accept a bribe in order that through his influence or through the influence of someone else the performance of an authorized person of authority will be affected, or by the fact that it has already been done (for example a promise that through the use of his contacts and position as a Member of the Chamber of Deputies of the Parliament of the Czech Republic he will achieve a reversal of an earlier negative decision of a representative of a certain office regarding a given problem, and will receive a bribe for doing this). This criminal offence is perpetrated at the moment of the request or acceptance of a bribe; it is not necessary for the perpetrator to truly affect the performance of the person in authority. If, however, the perpetrator who requests or accepts the bribe only pretends that he will influence the person in authority, but in reality does not want to do this, then this does not fall under this type of criminal offence, but is rather a criminal offence of fraud.¹⁸

In addition to bribery, the Criminal Code regulates other criminal offences which in their nature to corruption. From the nature of the matter this relates mainly to criminal offences of persons in authority (the abuse of power of persons in authority, obstruction of duties of persons in authority for negligence), furthermore, the current highly-discussed criminal act of negotiating benefits during the issuing of public tenders, during public procurement and public auctions, scheming during the issuing of public tenders and public procurement and scheming in public auctions. Last but not least is the misuse of information and position in business relations and the unauthorized handling of personal data.

Among the significant criminal law measures in the fight against corruption belongs the discussed and newly approved Act No. 418/2011 Coll., on Corporate Criminal Liability and Proceedings Against Them, which regulates the conditions of corporate criminal liability, punishment and the protective measures which can be imposed against someone who has committed a corporate criminal offence, and the procedures in proceedings against corporate bodies. This Act is connected to the Criminal Code and the Rules of Criminal Procedure. The punishment of various criminal offences by corporate bodies has been discussed since the 1970's. According to reports, it was necessary to introduce into the legal system corporate criminal liability in order to increase the effectiveness of the fight against serious illegal offences, which had not yet been able to be satisfactorily punished as the perpetrators often remained in anonymity as a corporate body, or it was very difficult to show individual liability for criminal offences committed in the competence of a corporate body. Šámal adds to this; *“Even if several corporate bodies have been found guilty, their punishment, from the standpoint of further criminal acts committed in the framework of corporate bodies, does not fulfill, from the standpoint of being adequately intimidating or preventative as a function, as in general they do not affect the special acts of the corporate bodies, whose material resources and personnel are pre-conditions for continuing their criminal acts, as is typically seen in criminal acts associated with damage to the environment, in corruption activities or in organized crime. Several corporate bodies that have been found guilty even have been compensated in various ways for their imposed criminal sanctions.”*¹⁹ The punishment of the illegal offences of corporate bodies (even if they are not explicitly criminal) emerges not only from the legal regulations of the EU, but also from numerous international treaties²⁰. Those affected according to this Act can be corporate bodies without regard for the method of its establishment from criminal liability. According to this Act, however, both the Czech Republic²¹ and also the territorial self-governing units, when carrying out public authority, are exempted from this.

Criminal offences committed by corporate bodies, according to this law, are unlawful offences committed in its name or its interest or in the framework of its activities, if the statutory body or member of the statutory body²², or another individual who is authorized to act on behalf of the corporate body, or someone who has a managing or controlling function, or someone who has a decisive influence on the management of the corporate body, if his actions were at least one of the conditions of the emergence of the consequences of the resulting legal liability of the corporate body, or an employee of person in a similar position who was carrying out work duties, if the criminal act was committed by the actions of the body of the corporation or a aforementioned person on the basis of a decision, approval or order of the body of the corporation or an aforementioned person or because the body of the corporation or an aforementioned individual did not take the necessary measures

which they should have taken according to other legal regulation or which could be fairly requested. This primarily deals with the failure to adopt required or necessary controls of activities by the employees or other people who are subordinates or not carrying out necessary measures to limit or avert the consequences of the criminal offence.

For criminal offences committed by corporate bodies it is only possible to impose certain punishments (corporate bodies cannot logically have forfeiture of freedom imposed on them), such as liquidation of a corporate body as the strictest possible punishment²³, forfeiture of assets (all or only partial), monetary penalty as the most often imposed punishment, forfeiture of assets or other property whose essence in seizure of tools and gains from the criminal acts; prohibition of activities (in which there is a need of a special permit); prohibition of performance of public contracts, participation in concession proceedings or in public tenders, prohibition of accepting subsidies or grants or publishing decision in the media with the goal of providing information to the public in cases where the activities of the corporate body is dangerous for the health and property of people. For criminal offences committed by corporate bodies, there can also be protective measures imposed, such as the seizure of assets of other property.

2 Selected Administrative Law measures of protection against corruption

The fight against corruption, in regards to the target group, concerns primarily the public administration. From research which was carried out in the framework of a project of the Czech Science Foundation “Regions in the Czech Republic: creating of model of efficiency”²⁴ it emerges that the problem of corruption is perceived to be the fourth biggest threat for the functioning of the region among regional councilors, immediately after the lack of interest of the national government in the regions, the poor state of infrastructure and the lack of a workforce²⁵.

For the purpose of eliminating corruption in public administration, the government has formulated a strategy which should limit corruption in the Czech Republic. The strategy rests on three pillars — prevention, transparency and punishment²⁶. It is possible to divide the legislative and non-legislative measures into several areas, which include public administration, public contracts, activities of bodies active in criminal proceedings (such as the Police of the Czech Republic, the State Prosecutor’s Office and the Courts), and areas of legislative power.

2.1 The Act on Civil Servants and Employees of the Public

Administration and on Education in the Public Administration

On August 31, 2011, the government passed Resolution No. 647 on Subject-matter of the Act on Civil Servants and Employees of the Public Administration and on Education in Public Administration²⁷. Currently civil servants of self-governing units follow the Act No. 312/2002 Coll., on Civil Servants of the Self-governing Administrative units; civil servants of the self-governing administrative units should be governed by the Service Act (this however is still not yet in effect).

On the one hand, the objective of the Act should be the stabilization and professionalization of public administration, which lacks the basic systematic measures leading to the depoliticizing of the public administration and increasing its transparency. On the other hand the public administration should guarantee professional and erudite civil servants as a quality provider of public administration, determine the boundaries between political positions and civil servant positions and unify the legal regulations of civil servants of the public administration. However, a fundamental question is whether the new legal regulations will fall under the Private Law (subsidiary to the Labor Code) or the Public Law character (Service regulation).

The proposal for the Act contains many factors which influence corruption, such as the system of compensation — which motivates the civil servant not to be bribed and at the same time prevents a high fluctuation of people in the area of public administration — or rules on the selection of personnel for the civil service, which should prevent nepotism²⁸.

Subject matter of the Act on Civil Servants and Employees of the Public Administration and on Education in the Public Administration summarizes possible variants of the amendments, especially with regard to personal activities. The law will either amend the legal relationship of employees, which is realized by sovereign public administration in organizational elements of the country carrying out the public administration, employees of the territorial self-governing units, and employees of corporate bodies set up by law who carry out the public administration; or instead, of employees of corporate bodies set up by law who carry out public administration will be defined as corporate bodies set up by law who carry out the public administration. The third and final variant would include the other executors of public administration, the so-called corporate bodies of Public Law, corporate bodies of Private Law, and corporate bodies that carry out public administration. Concerning the assorted variations of rights and regulations of the civil servants of the public administration which are crucial in regards to the fight against corruption, the variation that includes leaving the current state of slightly increased duties of the civil servants and their compensation would not carry legal weight in the ethical code. In the second variation, it would lead to a significant increase in divergence from the regular legal working relationship without interfering in the other profitable ac-

tivities of civil servants, and only with limited compensation, while the ethical code would have legal weight. In the last variation it would lead to a significant increase in divergence, but, with a potential limiting of profitable activities of civil servants and higher compensation, the ethical code would again have legal weight.

In the end, the subject matter of the Act accounts for the fact that the law will yield to corporate bodies in the employment relationship with the Czech Republic, classified in the administrative offices and other organizational elements of the state with the exception of corporate bodies carrying out service and assistance activities of a manual nature (and this with the exception of individuals who manage these activities); civil servants of the Regional Council for regional solidarity, with the exception of those who carry out service and assistance activities of a manual nature; and further corporate bodies in an employment relationship with the territorial self-governing units, which are classified into the offices of the territorial self-governing units, with the exception of corporate bodies carrying out service and assistance activities of a manual nature, and further classified into municipal police excluding officers and trainees; and also with the exception of individuals who manage these activities.

A very important factor in the fight against corruption will be the interpretation of the individual provisions of the Act, and in including people who at first sight do not seem to belong to the category of civil servants (for example employees of IT departments, etc.).

2.2 Public contracts

The area of public contracts is currently a much discussed theme, especially with regard to the amount of financial resources which are provided to this area and financed from EU funds. This is why the area of public contracts became a priority of the government in the fight against corruption. The most important change in this area is the amendment to the Law on Public Contracts (Law No. 137/2006 Coll., on Public Contracts) and increasing the transparency in the managing of public assets. While the second point is still being worked on at the current time, the amendment to the Law on Public Contracts No. 55/2012 Coll. has been in effect since 1. 4. 2012. The adoption of the amendment to the law led to the implementation of the Directive of the European Parliament and the Council 2009/81/ES, from July 13, 2009, for the coordination of the procedure in issuing several contracts for supply, work, and services by the contracting authority in the area of Defense and Security, and in amendments to the Directives 2004/17/ES and 2004/18/ES.

The Law on Public Contracts regulates procedures in issuing public contracts, as well as competition, in the proposal; in addition, regulation over the upholding of this law and conditions for the management and functions of a list of qualified suppliers

and a system of certified suppliers, where a public contract is understood as a contract carried out on the basis of a contract between the contracting authority and one or more suppliers, the subject of which is the valued provision of supply or services or the valued completion of construction works. Public contracts are divided based on their subject into Public Supply Contracts, Public Service Contracts and Public Works Contracts. According to the amount of the estimated value, they are further divided as above the threshold and below the threshold public contracts and minor public contracts. The amendment makes working with public means more effective in that it places greater stress on fair competition and control over the maintenance of the principles of economy, effectiveness and efficiency. One of the most important changes is the lowering of the limit for minor public contracts, as the new conditions established in the law must be followed by contracting public authorities in public contracts which have a higher estimated value than 1 million Czech Crowns, without VAT, for supply and services, and 3 million Czech Crowns for Public Works. By doing this, the transparency in smaller public contracts is increased.

In regards to the principle of transparency, the amendment introduces the requirement of the public contracting authority to make public, in the form of a preliminary notification, all public contracts. At the same time they must give reasons for the effectiveness of the public contract, and explain aspects of the public contract which will be decisive for the chosen method of ensuring the needs of the contracting authority. The contracting authority in an open procedure, simplified below the threshold proceeding, restricted proceeding and negotiated procedure with publication, must at the same time make public in their profile at least the text version of the issuing documentation (with the exception of cases in which it could lead to the disclosure or endangerment of classified information). The law regulates in detail everything that must be included in the issuing documentation, it also provides stricter rules for the issuing of contracts for public works, as the issuing documentation of these contracts must contain the relevant documentation, to the extent of established and implemented legal regulations carried out in detail, which specify the subject of the public contract to the extent necessary for processing the offer, and furthermore, primarily the description of public works, supply and services with the official cost determination. The amendment to the law also introduces the possibility of the contracting authority to withdraw from the contract in cases where the supplier presents in the offer information of receipts which do not relate to the reality, and had or could have influence on the results of the issuing procedure. In agreement with the judicial decisions of the Court of Justice of the EU²⁹, the amendment forbids the issuers from allowing significant changes to the rights and obligations emerging from the contract, which was entered into with the selected applicant, while significant changes are understood to be changes which expand the subject of the public contract, for the use of the original issuing proceedings, which

allows the participation of other suppliers, can influence the selection of the most suitable offer, or could change the economic balance of the contract in the favor of the selected applicant.

2.3 Legal regulation of the territorial self-governing units

The proposed legal regulations emerge from the principles of transparency and public control of the handling of public property³⁰, as well as the principles of economical and effective handling of public property (the principle of nature of property)³¹ and at the same time the highly discussed principle of individual responsibility for the decisions made while handling public property³².

As can be seen in the explanatory report, which was published by the Ministry of the Interior, the objective of the proposed legal regulation is for an increase in protection and transparency in the handing of the property of the territorial self-governing units. This should be achieved by making the existing legal regulations more precise, respectively strengthening the possibilities of public control for handling property of the territorial self-governing units.

2.4 Codes of ethics

In general, ethical codes exist in both the private and the public sector. In the Czech Republic, the most important document for the relationship with public administration is the Ethical Code for Civil Servants and Employees of the Public Administration³³, which relates primarily to the Law No. 159/2006 Coll., regarding the conflict of interest, which regulates the duties of public functionaries to carry out their positions in a manner that does not lead to a conflict of interest between their personal interests and the interests which they are required to promote or defend as a result of their position. The objective of the code is to create, maintain and deepen trust of the public in public administration, and define and support the desired standards of behavior by civil servants and employees of the public administration in relation to the public and their fellow workers. Regarding the activities of the region and the ethical code, the survey of the Evaluation of the Transparency of the Region³⁴ showed that only two³⁵ out of fourteen regions have accepted the ethical code for councilors, while employees of the self-governing units are bound by the ethical code in all regions, except for the Central Bohemian Region. In the opinion of the authors of the research project, it is apparent that there is an *“evident imbalance in the willingness to create a code that relates to others and an acceptance of a code that binds the councilors themselves. If the regional council is not inclined to create and accept any ethical code, such actions can cause a certain amount of uncertainty by the public regarding possible elimination of conflict of interest.”*

Notes

- ¹ See <http://www.vlada.cz/assets/ppov/boj-s-korupci/protikorupcni-strategie/zneni-strategie/Strategie-vlady-v-boji-proti-korupci-na-obdobi-let-2011-a-2012---aktualni-zneni.pdf>. [Online]. [Cit. 15. 11. 2012].
- ² See Resolution of the Supreme Court on 31.5.2012, sp.zn. 8 Tdo 1131/2011.
- ³ Only Latvia, Slovakia, Italy, Romania, Greece and Bulgaria had lower rankings.
- ⁴ For more see Corruption Perceptions Index CPI 2011. [Online]. [Cit. 15. 11. 2012]. Available at [www: http://www.transparency.cz/index-cpi-2011/](http://www.transparency.cz/index-cpi-2011/).
- ⁵ For more see Corruption Perceptions Index CPI 2011. [Online]. [Cit. 15. 11. 2012]. Available at [www: http://www.transparency.cz/hodnoceni-ceske-republiky-indexu-vnimani-korupce-cpi-2012-od/](http://www.transparency.cz/hodnoceni-ceske-republiky-indexu-vnimani-korupce-cpi-2012-od/)
- ⁶ Damage in the sense of § 44 of the Commercial Code does not have to be only tangible, it can even include damage to the name or good reputation of the competitor.
- ⁷ Ruling of the Constitutional Court of the Czech Republic on 11. 9. 2009, sp.zn. IV. ÚS 27/09.
- ⁸ Sedláček, J. *Obligační právo*. 3. díl. Praha: Wolters Kluwer ČR, a.s., 2010, s. 77.
- ⁹ The Czech Republic signed the Civil Law Convention on Corruption in Strasbourg on November 9, 2000.
- ¹⁰ See, for example, *Etický kodex zaměstnance ministerstva dopravy*. (Ethical code of employees of the Ministry of Transportation) [Online]. [Cit. 15. 11. 2012]. Available at [www: http://www.mdcz.cz/NR/rdonlyres/A9F26FE6-921B-47D9-A247-A22671D315EA/0/EtickyKodexMD.pdf](http://www.mdcz.cz/NR/rdonlyres/A9F26FE6-921B-47D9-A247-A22671D315EA/0/EtickyKodexMD.pdf). For more details see below.
- ¹¹ Under certain circumstances on a general level even “sponsorship donations” can be a bribe, for example when processing an expert opinion for the purposes of civil judicial proceedings, where the procurement is a matter of the public interest. For more see the Resolution of the Supreme Court from 23. 2. 2011, sp.zn. 8 Tdo 81/2011.
- ¹² See Resolution of the Supreme Court from 23. 2. 2011, sp.zn. 8 Tdo 81/2011.
- ¹³ An example of a public official found guilty in connection with the criminal act of bribery was the Chairman of the appraisal commission for the district social welfare; the national committee is during decision-making about the allocation of vouchers for spa treatment a public official. See Resolution of the Supreme Court from 6. 7. 1986, sp.zn. 11 Tz 19/86.
- ¹⁴ The procurement of items of a public interest, maintaining the duties in the stated legal regulations or contractually accepted is also considered to be those which have the objective of ensuring that the business relationships of the participants of this relationship or individuals who act on their behalf are not damaged or disadvantaged without reason.
- ¹⁵ Decision of the Supreme Court from 23. 2. 1983, sp.zn. 11 Tz 3/83.
- ¹⁶ See decision of the Supreme Court from 25. 3. 1977, sp.zn. 11 Tzf 11/77.
- ¹⁷ The procurement of items of the public interest in judicial practice and legal theory is considered to be acts which relate to the fulfillment of tasks relating to matter of the public interest, that is, not only decision-making by bodies of state authority and administration, but also other acts for satisfying the interests of the citizens and businesses in the material areas, social, cultural and other needs (compare the Decision No. 16/1988, p. 76 Coll. determining punishment). For more, see Resolution of the Supreme Court from 23. 2. 2011, sp.zn. 8 Tdo 81/2011. In this sense, there is also the properly and objectively carried out selection of public tenders relating to the management of health-care facilities (with an impact on satisfying the needs of the citizens in a given region) is a matter of the public interest. See Resolution of the Supreme Court from 8. 9. 2012, sp.zn. 3 Tdo 814/2010.

- ¹⁸ See Decision of the Supreme Court of the Slovak Republic from 24. 4. 1980, sp.zn. 4 Tz 23/80.
- ¹⁹ Šámal, P. K trestněprávní odpovědnosti právnických osob. *Bulletin advokacie*. 2011, No. 11, p. 19.
- ²⁰ For example, see the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions from December 17, 1997, The Convention for the Suppression of the Financing of Terrorism, Second Protocol of the Convention on the Protection of the European Communities' Financial Interests from June 19, 1997 (97/C 221/02), Criminal Law Convention on Corruption (Strasbourg, January 27, 1999, ETS no. 173), International Convention for the Suppression of the Financing of Terrorism, which was accepted by a resolution of the General Assembly of the UN on December 9, 1999, UN Convention against Corruption (New York, October 31, 2003), etc.
- ²¹ This assumes that criminal acts that are committed by representatives of the country are exclusively their personal acts.
- ²² This relates to the direct activities of corporate bodies as the activities of the statutory body are the activities of the corporate body in and of itself.
- ²³ The punishment of liquidating a corporate body cannot be imposed by a corporate body which excludes its nature; this is for example a corporate body established by the law.
- ²⁴ There were surveyed over 675 Regional councilors, the rate of return of completed survey was a total of 195 questionnaires, which is approximately 29 %. Source: own research.
- ²⁵ The lack of interest of the national government in the region was considered to be a threat by 25 % of the regional councilors, the poor state of infrastructure by 17 %, a lack of work force 18 %, and corruption was 16 %.
- ²⁶ See Government strategy in the fight against corruption from 2011 and 2012. [Online.]. [Cit. 15. 11. 2012]. Available on the web: <http://www.vlada.cz/assets/ppov/boj-s-korupci/protikorupcni-strategie/Strategie-vlady-v-boji-proti-korupci-na-obdobi-let-2011-a-2012---aktualni-zneni.pdf>.
- ²⁷ See Subject-matter of the Law on Civil Servants and Employees of the Public Administration and on Education in the Public Administration [Online.]. [Cit. 15. 11. 2012]. Available on the web: <http://eklep.vlada.cz/eklep/page.jsf;jsessionid=32E37EFBB6766BA528641395AAC55D05?pid=RACK8ETFSH1M>.
- ²⁸ Giving preference to and filling employment positions and offices to relatives over other individuals, often with better qualifications.
- ²⁹ Decision of the Court of Justice (Third Senate) from June 19, 2008 in the case of presstext Nachrichtenagentur GmbH against the Republic of Austria (Bund), APA-OTS Originaltext-Service GmbH, APA Austria Presse Agentur registrierte Genossenschaft mit beschränkter Haftung (C 454/06).
- ³⁰ The municipality will have greater information of the responsibilities in relation to the citizens regarding the fact that there exists specific intentions for the realization of specific property operations, when that operation will be considered, they will have to provide information about the course of the consideration and regarding its results and basic information about the content or the realized property operations. The municipality will have the responsibility to make public specific contracts which are entered into, the results of the negotiations of the municipal bodies and record decisions nullified by the administrative courts. At the same time, there will be the possibility to make proposals for determining the invalidity of a contract entered into by the municipality or for specific legal relations.
- ³¹ The proposal regulates conditions for decision making regarding property operations, for rental agreements and contracts of borrowing.

- ³² A significant deepening of this principle is the newly stipulated responsibility in each resolution of the council or body of the council to present in the framework of the report, how each member of the given body voted in the resolution (with the exception of secret voting). A demonstration of this principle in the proposed legal regulations in the right of a group of representatives to seek on behalf of the municipality compensation for damages that occurred for the municipality (on the presumption that the municipality itself does not put a claim for damages or explicitly does not decide on whether it will not be claimed). It also expands the right of the State Prosecutors to issue proposals to initiate the civil judicial proceedings to determine the invalidity of contracts entered into by the municipality.
- ³³ Approved by the government in Government Resolution No. 331 from May 9, 2012 for the Ethical code of Civil Servants and Employees of the Public Administration.
- ³⁴ Available on the web at: http://hodnocenikraju.cz/cz/sets/kraje-2012/category/etika_a_stret_zajmu. [Online.]. [Cit. 15. 11. 2012].
- ³⁵ South Moravian Region and Prague.

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