

CZECH REPUBLIC

By Glopolis, with the support of the Association for International Affairs (AMO) and NGO Information Portal Svet neziskovek¹

Summary:

*In the first half of 2021, the Czech Republic was hit hard by **Covid-19** and had one of the longest lockdowns. The Czech government implemented anti-Covid-19 measures in an unpredictable and unjustified way, often violating the rule of law - the most prominent being the declaration of the new state of emergency in mid-February, despite the disapproval by the Chamber of Deputies. Besides the Covid-19 crisis, the country has been gradually facing **multiple crises** that challenged the political representatives and state administration to make informed and effective decisions, impacting the economic and societal environment. The **independence of state administration** from political pressure has been persistently weakened, decreasing the quality of its performance by politicians trying to impose political responsibility on civil servants. The unusually early announcement of the **2021 parliamentary elections** by the President already in 2020 also led to a protracted election campaign that further politicised the state administration. Over the last year, the **independence of Justice, Secret Services and media** has been under pressure by members of former Andrej Babiš's government posing challenges to the rule of law and civic space. An additional challenge is the increased **fragmentation of society** due to the polarising vaccination policies and narratives exploited by anti-rights groups for political gains.*

*The general regulatory framework to enjoy freedom of association, expression and assembly is set and implemented fairly. Nevertheless, the **bureaucratic and administrative burden for CSOs** to apply and administer for public funding is still high. This is particularly demanding in the case of smaller organisations and those working in social services. While the new 'Pandemic Act' did not directly limit freedom of assembly or expression, the anti-Covid-19 measures did, in practice, affect the freedom of assembly, particularly the unlawful lockdown at the end of February 2021. The unpredictability of constantly changing governmental decrees was also an obstacle that practically eliminated courts' possibility of protection. Regarding the sector's economic viability, the state budget allocations (i.e., those not channelled from the EU funds) for 2022 NGO programmes show that the*

¹ This document shall not be considered as a joint policy or other statement of the named or involved organisations, but rather an aggregated summary from various sources put together in a short deadline period with the best intention to share the best knowledge that the participating parties had at that time. The document was elaborated by the Czech non-governmental organisation **Glopolis** that is acting as a backbone organisation of NeoN (Network of Networks) with the great contribution of **Association for International Affairs (AMO)** and NGO info portal "**Svet neziskovek**". **NeoN (Network of Networks)** is an informal network of - originally 12 - and lately 18 networks, providing a vibrant infrastructure for collaboration to reactively defend and proactively cultivate a democratic and civic space. NeoN strives for a sustainable society where comprehensive, collective responses to the challenges are sought and implemented, the rule of law is observed, and public institutions are supportive of active citizens (see more in [NeoN Charter](#)). The involved networks (mostly advocacy umbrellas, but also less formal platforms and working groups) together represent more than 400 Czech based CSOs and thousands of activists. Their thematic focus includes democracy, transparency, open data, anti-corruption, media independence, gender equality, children and youth, inclusive education, international development and human rights abroad, migration, LGBT, environment and climate change, local development, constituency building, communication towards the public, and more.

human rights and non-social service agenda stays at the margin of the state funding. The Covid-19 pandemic impacted funding too. The government did not implement any specific measure to support the civic sector, but economic programmes are open to most registered entities, without distinction between business and CSOs. Also, the National Recovery and Resilience Plan does not provide any financial measures for supporting civil society specifically. Despite the challenging environment created by the Covid-19 pandemic and related restrictions, the Czech civil society proved capable of delivering help and support to the citizens, including the elderly, the ill and other disadvantaged and vulnerable people, and collected an unprecedentedly huge donations to quickly respond to the impacts of the tornado in Moravia in Summer 2021. The huge support of public was in contrast to the public polls figures showing a **decreasing public trust in NGOs**. Additionally, the Czech civil society has played an active role in the rule of law landscape, including by exposing the **conflict of interest of the former Prime Minister Babiš**, calling out the abuses and anti-rights narratives of the Ombudsperson and taking part in the preparation of policies regarding the right to participation to ensure a transparent and inclusive law-making process. A new Strategy of cooperation between the state and NGOs 2021-2030 outlines the state's goals and measures to improve the recognition of CSOs, support for enabling climate for CSO activities, participation in public decision-making and partnership, legal environment and financing. The effective implementation of this strategy will need to confirm the positive developments in the coming period. To date, efforts to introduce some participatory elements in the process are rather patchy and lack more sustainable political support. Thus, they are not always meaningfully reflected in the outcomes of the decision making.

The situation of **advocacy CSOs** has worsened over the last couple of years, as these organisations are often given the label of 'political NGOs' or 'eco-terrorists' when they engage in the public debate, and are to some degree sidelined from the decision-making process or refused funding from the public authorities. This has been the case also for environmental NGOs, as well as watchdog organisations. Since 2020, the anti-corruption organisations and activists had particularly been targeted by smear campaign especially by the former Prime Minister Babiš due to CSOs' consistent criticism for conflict-of-interest cases involving Babiš. Transparency International (TI) sued Babiš for almost twenty statements that the former Prime Minister claimed against the organisation since 2020: among other things, Babiš stated that TI is a "corrupt, dubious and absolutely untrustworthy non-profit". In July 2021, the Regional Court in Prague ruled that Babiš does not have to apologise to TI because - according to the judge - what he said could not be considered a factual statement since Babiš made the vast majority of the incriminated statements using the wording "in my opinion". In summer 2021, the tensions between Babiš and anti-corruption organisations were exacerbated when the European Parliament passed a resolution on the conflict of interests of the former Czech prime minister's engagement in the future EU Multiannual Financial Framework 2021-27. During the 2021 parliamentary elections campaigns, **harsh rhetoric and negative discourse on NGOs** by populist and far-right parties in the Czech political landscape, as well as by parts of the former government, became more visible.

Institutional landscape and safe space (including state duty to protect and right to freedom from fear)

In the first half of 2021, the Czech Republic was hit hard by Covid-19² and had one of the longest lockdowns. Besides the Covid-19 pandemic, the country has been gradually facing multiple crises, with impact on the economic and societal environment, such as: the increasing state indebtedness, state budget deficit and unsustainable state of public finance³ (due to Covid-19 compensations policy, but also to the government's populist decisions about taxation); the energy crisis (the increase of electricity and gas prices caused the collapse of energy supplying companies, followed by about 900,000 people being left all of the sudden to deal with unpredictable and unbearable costs of the energy supplies); and increasing inflation and pricing that is only to show its effects on the economy and people in the coming year. The economic challenges also shake the trust of society in institutions and democracy.

Functioning of the state institutions

The Czech government implemented anti-Covid-19 measures in an unpredictable and unjustified way, often violating the rule of law. The most prominent case was the declaration of the new state of emergency in mid-February, in spite of the disapproval by the Chamber of Deputies. Many experts on constitutional law identified that as an unconstitutional step, and the NGO sector

mobilised quickly⁴ to collectively call on the government, deputies and senators to remedy this illegal situation. Due to procedural limits, the Constitutional Court did not cancel the declaration;⁵ however, the Court did confirm that the government cannot go against the decision of the Chamber of Deputies and declare the state of emergency only based on the request of regional governors.

The experts on state administration observed that the Covid-19 pandemic tested the quality of the state administration and its ability to function in crisis situations effectively - and they concluded that it failed.⁶ Even after many months of the pandemic, the state administration's reactions were late, very often not legal, uncoordinated or unexplained, lacking any strategic dimension. One of the reasons for this situation has been the dependency of the state administration on weak political leadership. The establishment of the position of Deputy Minister for the state service in the Ministry of Interior did not solve any of these problems of politicisation.

The independence of state administration from political pressure has been persistently weakened, decreasing the quality of its performance government politicians' trying to impose political responsibility on civil servants.

The conflict of interest of former Prime Minister Andrej Babiš was directly confronted by the European Commission, which published the final results of a years-long audit process of EU subsidies granted to the Agrofert agricultural conglomerate that Babiš

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<https://ourworldindata.org/coronavirus/country/czech-republic>

³ <https://unrr.cz/en/report-on-the-long-term-sustainability-of-public-finances-summary/>

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<https://www.ochranademokracie.cz/aktuality/cerven-a-vyzva-vyhlaseni-nouzoveho-stavu-je-v-rozporu-s-ustavnim-poradkem-cr>

⁵ https://www.irozhlas.cz/zpravy-domov/ustavni-soud-zamitl-zadost-senatoru-unor-nouzovy-stav_2103251028_btk

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https://ochranademokracie.s3.amazonaws.com/ochranademokracie/production/files/2021/10/21/16/22/42/77d785ce-9384-4748-9f0c-973d9dd6d314/report_08_2021_var-1.pdf

founded.⁷ It concluded he still controlled the business and the disbursement of the subsidies, despite having put his assets into trusts. The European Parliament later voted to condemn Czech Prime Minister Andrej Babiš for conflicts of interest regarding EU subsidies paid to Agrofert.⁸

The unusually early announcement of the 2021 parliamentary elections by the President Miloš Zeman already in 2020 also led to a protracted electoral campaign that further politicised the state administration.

Independence of Justice and Secret Services

The year 2021 showed some worrying episodes by members of the government towards the independence of Justice and Secret Services.

- The pressure of the Minister of Justice Marie Benešová led to the resignation of the Prosecutor General Pavel Zeman at the end of June 2021. Zeman claimed to *"not to be able to carry out the duties properly"*. The experts of the constitutional system observed that the relation of the Minister of Justice with the ex-Prosecutor General illustrated a more general problem of disrespecting the spirit of the Constitution⁹ and the principles of the rule of law by the former government.
- President Miloš Zeman has continued his efforts to discredit the Czech Secret Services (BIS), which intensified after the case of explosion of ammunition

warehouse in Vrbětice was made public and in which were involved Russian agents. President Zeman, for example, declared during a televised interview in August 2021 that the acting BIS chief Michal Koudelka *"not only allegedly ordered the wiretapping of the president's economic adviser but also of others in president's inner circle – and without cause"*.¹⁰

The Ombudsperson

Over the years, the Public Defender of Rights Office gained the trust of vulnerable groups, helped many Czech citizens and won the respect of the state *apparatus* under the leadership of its previous Ombudspersons. However, since 2020, with the new leadership of Stanislav Křeček as the Ombudsperson, the Office has been accompanied by controversy, mainly due to Křeček's own statements and public proclamations. NGOs and civic groups operating in the field of human rights warned about the deterioration of the trust of citizens in the institution and have organised petitions for his resignation in 2020,¹¹ collecting more than 5000 signatures.

Křeček's views the Ombudsperson office in an absolutist way (*"The Ombudsperson's position is what I think!"*)¹² and does not allow for a pluralistic exchange of views; he refuses to respond to claims of breaching of human rights only based on his own discretion; and he is often in opposition to the Office Deputy Monika Šimunková, staff and professionals (see the open letter).¹³

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https://ec.europa.eu/regional_policy/sources/docoffic/official/reports/cz_functioning_report/cz_functioning_report_en.pdf

⁸ <https://www.politico.eu/article/european-parliament-andrej-babis-subsidies-agrofert/>

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https://ochranademokracie.s3.amazonaws.com/ochranademokracie/production/files/2021/12/03/15/55/35/3d4162ee-919d-40fb-a0d1-34578b7e6540/report_10_2021.pdf

¹⁰ <https://english.radio.cz/mps-hear-bis-spy-master-over-president-zemans-wiretapping-claims-8726568>

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https://www.petice.com/odstoupeni_ombudsmana_k_recka_odmita_pracovat

¹² <https://www.respekt.cz/rozhovor/stanovisko-ombudsmana-je-to-co-si-pomyslim-porody-se-setrit-nebudou-a-tecka>

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https://www.scribd.com/document/456371546/Otev%C5%99en%C3%BD-dopis-ve%C5%99ejnemu-ochranci-prav#from_embed

In 2021, representatives of 16 pro-Roma and human rights organisations addressed¹⁴ the then Prime Minister Andrej Babiš and deputies to distance themselves from the statements of the Ombudsperson Křeček on the Roma community. The Ombudsperson's statements reinforce anti-Roma prejudices, inciting hatred and disparaging his office. Křeček's public proclamations also target LGBTI+ community, migrants and other minorities. Linda Sokačová from Amnesty International¹⁵ warned that if this Office does not work through the prism of human rights but based on private opinions, it could turn against the rights of other social categories, such as seniors or people with disabilities, for whom this office plays a big role.

The independence of public media

Out of 180 countries, Czechia was ranked 40th in the 2021 World Press Freedom Index.¹⁶ The Reporters Without Borders report mentions the challenges faced by Czech journalists, including endangerment of public broadcasting by the policy of controlling supervisory authorities, hateful online campaigns or so-called 'alternative' media. Distrust in the media is also fuelled by the sharp rhetoric of President Miloš Zeman and a number of other former government officials. The concentration of media power in the hands of the oligarchs is also problematic.

During the first half of 2021, the critical battleground was mainly the Czech Television Council, which oversees the activities of Czech Television. Within 2020, the Chamber of Deputies of the Czech Parliament appointed many controversial personalities in CTV Council. The newly composed Council

increased the political pressure on the Czech TV. Between 2020 and 2021, the Council member Hana Lipovská led several attempts to enforce a resolution that could later lead to the dismissal of the Czech Television Director General Petr Dvořák due to alleged conflicts of interest. The situation around the CTV was developing dynamically mainly around the spring 2021 election which were decisive for whether all the problematic new candidates for the CTV Council would be elected by the Chamber of Deputies and would create a majority in the Council and therefore also make the dismissal of Director General Petr Dvořák possible. Few parliamentarians from the democratic opposition were therefore trying to postpone the elections. In September 2021, Lipovská was removed from her position by the Chamber of Deputies,¹⁷ as she refused to step down herself. The reason was her alleged violation of the Act on Czech Television and the loss of independence referred to in this Act, since Lipovská was running in the October 2021 parliamentary elections for the Free Bloc group (the extremist far-right party).

The European Broadcasting Union, in a letter to the Prime Minister and the Minister of Culture, also raised concern that the national broadcaster Česká Televize (CT) has increasingly been exposed to political pressure with the government trying to shortlist pro-government candidates for the broadcaster's governing council. This move was aimed at ensuring favourable reporting on the government's campaign during the general election, which took place in October 2021.¹⁸

¹⁴

<http://www.romea.cz/cz/zpravodajstvi/domaci/protiromske-vyroky-ombudsmana-krecka-organizace-pisi-babisovi-a-snemovne-vyroky-ombudsmana-jsou-nepravdive-a>

¹⁵ https://www.irozhlas.cz/zivotni-styl/spolecnost/amnesty-international-sokacova-ombudsman-prava-romove_2109171807_tzr

¹⁶ <https://rsf.org/en/czech-republic?fbclid=IwAR0YzXjfPIC8x7E73hHQYMblXRcd7K18DA4xvNTJL7jLSeIvjkliZyVIBI4>

¹⁷ https://www.irozhlas.cz/zpravy-domov/hana-lipovska-snemovna-rada-ct-lubomir-volny-volny-blok_2109171543_ere

¹⁸ <https://www.ebu.ch/news/2021/04/public-service-media-in-the-czech-republic-under-threat>

A similar appeal was later noted by the Global Task Force for public media¹⁹ (GTF), concerned by the risks undermining the independence of Czech TV and its vital role in the country's democracy.

General social atmosphere

The year 2021 saw a new, growing polarisation between pro-vaccination and anti-vaccination stances in the public discourse.²⁰ Legitimate worries regarding the vaccine and the inability of the political leadership to deal with the crisis are conflated into an 'anti-vax camp'.²¹ The sense of unfairness and anger among citizens was also fuelled by the miscommunication in the public space (partly also done by the governmental officials), calling the new wave of Covid-19 as the "wave of the unvaccinated". This sense of discrimination feeds the polarisation. Moreover, this situation was exacerbated by the ineffectiveness of the former Czech government in the management of the crisis. In February 2021, the trust hit a historical low point: only 25% of the population declared to trust²² the government to handle the crisis well.

According to a survey conducted by STEM Institute from March 2021, up to 40% of Czech citizens using the internet trusted some kind of Covid-19 disinformation.²³ This situation has been worsened by Czech media producing xenophobic content,²⁴ misinformation and conspiracy theories.

Furthermore, some populist, nationalist or Eurosceptic groups have taken advantage of the polarisation around vaccination for their political agenda.

Freedom and Direct Democracy Party (Czech abbreviation 'SPD') has been a parliamentary party since the last elections. This political party has also been repeatedly identified by the Ministry of Interior Report on extremism²⁵ and prejudiced hatred in the Czech Republic as the most important group with the dominant "*xenophobic and sharply nationalist elements*" in 2020. According to the report, the extremist scene and groups whose central theme is the spread of xenophobic ideas were affected by the Covid-19 pandemic: the supporters of these entities often criticised government measures against the spread of coronavirus and adopted misinformation and conspiracy theories. These extremist groups spread internally hateful ideas against migrants and Muslims, especially in the first half of 2021 when they were referred to as "*carriers of Covid-19*". Hate attacks also targeted political opponents, civic activists and journalists, as well as Roma people and foreign workers.

Yet, the polarisation around the Covid-19 vaccine is part of broader fragmentation trends observed for a few years.²⁶

The October 2021 parliamentary elections and new government

Even though Parliamentary elections led to a victory of a coalition(s) of liberal and

¹⁹ <https://www.publicmediaalliance.org/the-threat-facing-czech-tv-ceska-televize/>

²⁰ <https://a2larm.cz/2021/12/kdo-ma-rozum-o-racionalite-v-koronavirove-situaci/>

²¹ See latest BISOP research for a more nuance understanding of the phenomenon:

<https://www.bisop.eu/jak-lepe-komunikovat-s-lidmi-keri-odmitaji-ockovani-proti-covid19/>

²² <https://www.stem.cz/dodrzovani-a-hodnoceni-protipandemickych-opatreni-a-duvera-ve-schopnost-vlady-zvladat-pandemii-covid-19/#more-6358>

²³ <https://www.stem.cz/mytum-a-konspiracim-o-covid-19-veri-vice-nez-tretina-ceske-internetove-populace/>

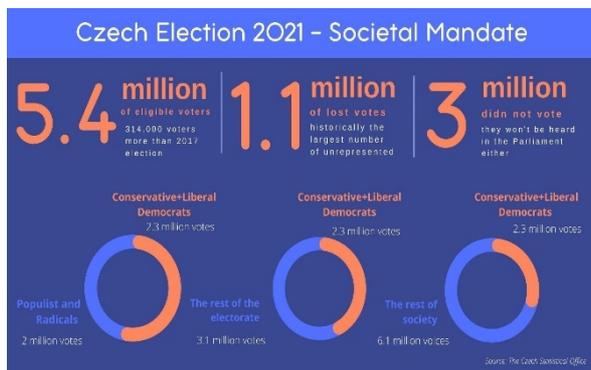
²⁴ <https://www.mvcr.cz/clanek/extremismus-vyrocnizpravy-o-extremismu-a-strategie-boje-proti-extremismu.aspx>

²⁵ <https://www.mvcr.cz/clanek/extremismus-vyrocnizpravy-o-extremismu-a-strategie-boje-proti-extremismu.aspx>

²⁶ See, for example, the 2019 "Divided by freedom" research

<https://www.irozhlaz.cz/sites/default/files/document/s/4cb643625998e931d8f0a9aa34bbb254.pdf>

conservative democrats defeating populist and far-right forces, the victory was tight and fragile. An unprecedented large number of citizens remains without representation in the parliament, as over 1.07 million votes went for parties that did not make it above 5 % benchmark (e.g., none of the leftist parties) and another 2.97 million, mostly even less satisfied citizens over 18 who did not vote at all. The balance tipped in favour of the opposition coalitions (most of the 350,000 new voters) were entrepreneurs and professionals from smaller towns with a good quality of life and the youngest voter groups. The new government that handles the upcoming dynamic economic, digital, green and social transformations, thus carries risks not only for liberal currents, but also for the legitimacy of democratic principles and institutions.



The graph above is based on an internal analysis of the elections for NeoN prepared by Glopolis. For a more detailed view on the new Government Coalition Agreement from the perspective of NeoN and democratic and civic space agenda, see Glopolis analysis in English.²⁷

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https://glopolis.org/site/assets/files/1317/analyza_koalicni_smlouvy_en.pdf

²⁸ <https://cvvmapp.soc.cas.cz/#question24>

Public trust in NGOs and public institutions

According to the regular public opinion poll²⁸ conducted by the Public Opinion Research Centre (CVVM), since 2015, there has been a visible trend of declining public trust in NGOs: in 2021, among Czech citizens, the percentage level of trust was 37%, while for distrust was 55%. However, this is too little data to draw a definite conclusion on the public trust towards NGOs. Trends in donations, participation in civil society, and ways of understanding as being part of active citizenship, including through public assemblies, show a more complex and complicated picture.

Recent NeoN research²⁹ (conducted by PAQ Research, STEM and Median, and published in January 2021) shows that the trust for the CSO sector among those citizens who know little about CSOs is largely influenced by the narrative of the media and politicians, especially by the image of the respective CSOs fields of work in the public space. The most negative attitude relates to the topic of integration of foreigners and minorities, while the most positive associations are enjoyed by education, youth, humanitarian aid and charity. However, a negative attitude to a sector, as a whole, does not impede trust in a particular CSO. Moreover, one-third of the population actively participated in their activities in 2019, and 48 % of the population financially supported some kind of philanthropic cause. The research has shown that trust in public institutions – including NGOs - correlates, to a large degree, to overall trust in the functioning of the political system, higher satisfaction with the Czech Republic's membership in the European Union, a lower degree of belief that public officials are corrupt and a positive attitude towards

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https://www.glopolis.org/site/assets/files/1287/english_version_of_summary_of_neon_research-1.pdf

foreigners living in the Czech Republic, as well as war refugees, Roma and other groups.

According to a special CVVM survey³⁰ from April 2021, the public evaluated the work of institutions during the Covid-19 pandemic as it follows: the best ranking was health professionals (92% positive evaluation), firefighters, the army and the police, while the Czech government was the most criticised (only 24 % positive evaluation). Compared to 2020, positive perception of the government decreased by 40%, and negative attitudes increased by 39%. When looking at other data from 2021 CVVM research,³¹ we can also complement the picture behind public trust in NGOs with other public attitudes which relate to findings to the perception of the quality of democracy, participation in decision-making processes, trust in public institutions. Czech citizens show scepticism, disengagement and partial openness to authoritarianism.

During Covid-19, the CSOs sector showed the diverse scope of CSOs' innovative responses in helping different parts of society and addressing otherwise neglected topics (e.g., increase of gender and home-based violence, huge inequality in access to quality education during home-schooling, unjustifiable system of distraints for debtors). Watchdog organisations have been monitoring the relevance of governmental pandemic programmes for the most vulnerable, the transparency of public procurements, and the attempts to push shoddy or harming laws during the rapid procedures in the state of emergency. As a consequence, the public credit of the civil society increased, and citizens, in general, recognized the added value of civic activism for the public good and well-being as well as management of public affairs, including by delivering ready-made

solutions (e.g., in the IT and data sphere) to the state.

The Czech citizens show a tendency to solidarity in cases of emergency and crisis situations - both at home and abroad. This also happened after the unprecedented tornado in Moravia (in the South-eastern part of the country) in Summer 2021: when people saw the scale of the disaster, they immediately contributed to helping the people in the affected communities through money collections organised by foundations and CSOs. In few days, CSOs collected over 900 million CZK.

Smear campaigns

If we focus on public trust towards CSOs active in public affairs (so-called 'advocacy'), the low levels of trust are largely caused by both the lack of credible communication by public officials about the role of advocacy CSOs in democracy, as well as disinformation and negative labelling of these CSOs as 'political NGOs' (a label that has assumed no clear definition so far). Since 2020, the anti-corruption organisations and activists have been targeted by smear campaigns, especially by former Prime Minister Andrej Babiš. These tensions are linked to CSOs consistent criticism for conflict of interest cases that Babiš has been facing both at the national and European levels.

Transparency International (TI) sued Babiš for almost twenty statements that the former Prime Minister claimed against the organisation since 2020: among other things, Babiš stated that TI is a "*corrupt, dubious and absolutely untrustworthy non-profit*". In July 2021, the Regional Court in Prague ruled³² that Babiš does not have to apologise to TI because - according to the judge - what he

³⁰ <https://cvvm.soc.cas.cz/cz/tiskove-zpravy/politicke/instituce-a-politici/5379-hodnoceni-reakce-instituci-na-epidemii-covid-19-a-dodrzovani-opatreni-proti-sireni-koronaviru-nase-spolecnost-special-duben-2021>

³¹ <https://cvvm.soc.cas.cz/cz/vyhledavani?q=na%C5%A1e+spole%C4%8Dnost>

³² <https://www.novinky.cz/domaci/clanek/babis-se-nemusi-omlouvati-transparency-international-40367180>

said could not be considered a factual statement, since Babiš made it (as the vast majority of his incriminated statements) using the wording “*in my opinion*”.

The tensions between Babiš and anti-corruption organisations were exacerbated in June 2021, when the European Parliament passed a resolution³³ on the conflict of interest of the former Czech prime minister's engagement in the future EU Multi-Annual Financial Framework 2021-27.

Recently, there has been harsh rhetoric and negative discourse on NGOs by populist and far-right parties in the Czech political landscape, as well as by parts of the government. This was more visible during the 2021 parliamentary elections campaigns led by nationalist and populist parties when anti-NGO rhetoric appeared in the political programmes of Tomio Okamura's Freedom and Direct Democracy Party³⁴ (demanding to cancel financing for all the “political non-profits”, claiming that they support mass migration to Europe³⁵ and smuggle migrants,³⁶ and criticising NGOs defending Roma people against racist attacks),³⁷ Free Block³⁸ (calling for limiting education services provided by NGOs), and Prisaha³⁹ (claiming that all NGOs finances from the state budget must go through a hearing in the Chamber of Deputies).

Harassment - particularly in the online space - against activists and NGO actors, including death threats and hate speech, happens increasingly. However, none of these episodes actually materialised into serious actions.

³³

https://www.europarl.europa.eu/doceo/document/T-A-9-2021-0282_EN.html

³⁴ <https://www.spd.cz/tomio-okamura-zrusme-financovani-politicky-nejiskovek/>

³⁵ <https://www.spd.cz/pobavil-me-komentar-hamackova-ministerstva-vnitra/>

³⁶ <https://www.spd.cz/sokujici-fakta-o-tom-jak-nejiskovky-pomahaji-pasovat-nelegalni-imigranty-do-evropy/>

The regulatory environment for and implementation of civic freedoms

The regulatory framework for civic freedoms is enabling, but the bureaucratic burden is an obstacle

The general regulatory framework to enjoy freedom of association, expression and assembly is set and implemented fairly. The key legislation for assembly is set in the Civil Code,⁴⁰ which has been valid since 2012. The freedom of expression and right to information is set in the Charter of Fundamental Rights and Freedoms as part of the constitutional order of the Czech Republic.

The Civil Code describes several forms of legal entities/corporations that are being used to establish an NGO: associations, endowed institutions (foundations, endowment funds) and institutes. The obligation to register applies to obtain legal personality; the requirements for individual legal entities are clearly set out - i.e., establishing leadership, organising the official first meeting, registering the entity within the state registry, etc. The registration is not costly; NGOs are exempt from most fees. Registration is done by the courts, the process itself is easy, and the deadlines are reasonable.

Informal movements and initiatives can operate freely without the need for registration, but if they do not have legal personality, they cannot conclude contracts, apply for public grants and subsidies, or organise public fundraisings.

³⁷ <https://www.spd.cz/ombudsman-stanislav-krecek-zkritizoval-neprizpusobive-a-romy-a-hned-se-ozvaly-romske-a-slunickarske-nejiskovky/>

³⁸ <https://2021.programydvoleb.cz/strana/volny-blok/priority>

³⁹ <https://www.prisaha.cz/files/prisaha-plan-pro-spravedlive-cesko.pdf>

⁴⁰ <http://obcanskyzakonik.justice.cz/images/pdf/Civil-Code.pdf>

Registered NGOs are required to submit an annual report which is published in the official registry. If they do not do so repeatedly, they are considered inactive. In 2021, the Ministry of Justice did a revision of the registry and deleted those inactive or non-existing entities, and by that the number of registered entities that can be considered as NGOs dropped from more than 130,000 to a bit more than 70,000.

Legislation in the Czech Republic does not directly restrict the operation of NGOs. However, the bureaucratic and administrative burden is still high by default. Organisations that are recipients of public subsidies face particularly demanding administrative burdens to apply but also administer the project funded by public sources. This is particularly challenging in the case of smaller organisations and those working in social services.

However, the situation of advocacy CSOs has worsened over the last couple of years, as these organisations are often given the label of 'political NGOs' or 'eco-terrorists' when they engage in the public debate, and are to some degree side-lined from the decision-making process or refused funding from the public authorities. This has been the case also for environmental NGOs, as well as watchdog organisations.

Freedom of assembly under Covid-19

No specific law that would limit or restrict the freedom of association, assembly or expression was passed during the Covid-19 period. While the new so-called 'Pandemic Act' did not limit freedom of assembly or expression directly, the anti-Covid-19

measures did, in practice, affect the freedom of assembly. The unpredictability of constantly changing governmental decrees was also an obstacle that practically eliminated a possibility of protection by courts.⁴¹

Regarding some of the measures which might be considered going against the freedom of assembly, we might mention the measures that introduced hard lockdown at the end of February 2021 (amended at the beginning of March). Those put some very strict limitations on the freedom of assembly. Citizens were not allowed to travel outside their district,⁴² and the assembly could consist of only 100 people in groups, keeping a two-meter distance. In June 2021, new restrictions were passed, stating only 20 persons⁴³ can assemble outdoors, practically limiting freedom of assembly. Later, in November, it was prescribed that a group of more than 30 persons⁴⁴ needed to use the masks and keep the two-meter distance, which did not limit the freedom of assembly, yet it made it practically rather difficult - considering the huge amount of people who usually participate in events celebrating November 17 and the 1989 Velvet Revolution.

In late October 2021, the government proposed an amendment⁴⁵ that would give police more power to enforce the anti-Covid-19 measures - one of the measures was to allow the police to fine people on the spot, instead of sending the cases of people who breach the measures to the administrative procedure. This was the second time the government tried to push this proposal, even though exactly the same proposal was

⁴¹ <https://advokatnidenik.cz/2021/02/14/muze-covid-19-zpusobit-konec-demokracie-jak-ji-zname/>

⁴² <https://www.ceska-justice.cz/2021/03/demonstrovat-lze-pouze-v-miste-bydliste-na-sportovni-zapasy-lze-cestovat-i-v-noci/>

⁴³ <https://www.ceska-justice.cz/2021/06/omezeni-demonstraci-venku-lide-musi-tvorit-skupiny-po-20-lidech/>

⁴⁴ <https://www.ceska-justice.cz/2021/11/ucastnici-demonstraci-musi-mit-respiratory-a-dodrzet-rozestup-dva-metry/>

⁴⁵ <https://www.seznamzpravy.cz/clanek/vlada-chce-kvuli-covidu-dat-vetsi-pravomoci-policii-koalice-jsou-proti-179002>

rejected by the Chamber of Deputies in Summer 2021.

In Průhonice (near Prague), there was a dubious case of possible harassment⁴⁶ of the 'Million moments for democracy' movement, which protested⁴⁷ the mishandling of the Covid-19 crisis by the government by painting hundreds of crosses, symbolising thousands of covid victims, on the floor of the square where then Prime Minister Andrej Babiš was signing his new book in August 2021. Soon after, the police claimed the protesters did not notify the authorities of the demonstration. The protesters claimed it was not a protest *sensu stricto*, according to the law of assembly, because only members and employees of the movement gathered during the event, and therefore they did not have this obligation. The protest action, then, was brought into the administrative proceeding.

Right to privacy during Covid-19

The experts of the Network for Democracy Protection claimed that the state has repeatedly used instruments (e.g., for tracking or distant learning) which were connected to tracking tools of technological giants. Considering the uncertain legal regime after the cancellation of the so-called 'Privacy shield', it is possible that the data of the Czech citizens were transferred to the USA in contradiction to European legislation.⁴⁸

⁴⁶ https://www.irozhlas.cz/zpravy-domov/milion-chvilek-pro-demokracii-krizky-protest-v-pruhonicich-shromazdeni-babis_2108271821_onz

⁴⁷ <https://www.ceskenoviny.cz/zpravy/babisovu-autogramiadu-v-pruhonicich-narusili-jeho-odpurci-policie-dva-zadrzela/2074243>

⁴⁸ <https://ochranademokracie.s3.amazonaws.com/ochr>

The framework for civic organisations' financial viability and sustainability

The economic situation of NGOs differs according to the thematic area of NGOs' operations and the structure of their funding – whether coming from EU sources, national public sources or private and corporate fundraising.

The national public funding for NGOs is very modest and diversify the thematic area greatly. The government state budget allocations⁴⁹ for 2022 NGO programmes show that 50% of the total budget goes to one single semi-governmental organisation - the National Sport Agency, justified by the necessity to engage children in sport after Covid-19 - while the human rights and non-social service agenda stays in the margin of the state funding. The environmental programmes got only 0,7 %, gender equality 0,08 %, and anti-corruption even 0,06 %.

The difficulties to secure sufficient financial funding will even worsen under the new EU Multiannual Financial Framework. In the previous programming period, an across-the-board tax exemption was established for entities carrying out public benefit activities - i.e., typically NGOs where their share in ESF-financed projects was reduced to 0%. The new rules no longer provide for an across-the-board exemption, only allow the managing authorities to decide to reduce the beneficiary's share to 0% but under unclear conditions.

[anademokracie/production/files/2021/11/08/15/49/01/7044ec39-06f1-479f-b0e7-ae2064d90985/report_09_2021_edit.pdf](https://www.vlada.cz/assets/ppov/rnno/aktuality/Hla-vni-oblasti-statni-dotace-NNO-2022.pdf)

⁴⁹

<https://www.vlada.cz/assets/ppov/rnno/aktuality/Hla-vni-oblasti-statni-dotace-NNO-2022.pdf>

Also, the national managing authority of Asylum, Migration and Integration fund (AMIF) has decided to remove legal assistance for applicants for international protection and foreigners in detention from the next programming period. NGOs working with refugees will therefore not be eligible for funding which will not only significantly worsen their financial stability, but also the long-term expertise of the NGO sector will be lost.

Many organisations that are implementing mainly EU funded projects from the operation programmes have been struggling with lack of funding due to the ending of the previous EU programming period, while the new one has not started yet as the new EU Multiannual Financial Framework 2021-27 has been still negotiated in 2020, and the Partnership Agreement between EU and the Czech Republic was approved by the Czech government only in September 2021. Thus, the operation programmes have been put in place lately, and the calls are still in the process of preparation.

In the area of private funding, the vast majority of the Czech NGOs still lack sufficient resources to invest into developing a solid base of individual donors, also due to lack of communication and fundraising professionals and effective internal mechanisms. The corporate funding has been negatively affected by the covid. There was a problematic implementation of the Public Collections Act by the Ministry of the Interior (and some of Regional Authorities), lack of senior fundraisers in the labour market, underdeveloped independent self-regulatory bodies for CSO's, viable networks of CSOs (communication highways for fundraising know-how) and low knowledge and ability to think in the context of achieving collective impact.

Impact of Covid-19

The research of OSF Prague⁵⁰ showed the pandemic had both positive and negative impacts on CSOs, in economic and financial terms:

- **Negative:** a ban on the implementation of activities by the state administration; the duty to return money due to unrealised projects; reduced services for clients/vulnerable groups.
- **Positive:** support of individual donors; expanded online ways of working and communicating; new topics and directions for activities; new cooperation.

Despite the mostly negative impact of the Covid-19 pandemic, the government did not actually recognise NGO entities as a specific group of recipients of the supporting measures, so it did not implement any specific measure to support the civic sector. Government Covid-19 programmes are usually open to most of the registered entities without making any significant distinction between business and CSOs.

Even the National Recovery and Resilience Plan (NRRP) has been prepared and negotiated with the European Commission in the course of 2021, without any financial measures prepared for supporting civil society. The NGOs are only considered as one of the actors/stakeholders of the plan, and it is envisaged that NGOs will also be eligible within the programmes under the particular 'owners of the components' of the plan (i.e., the line ministries).

⁵⁰ <https://osf.cz/2021/03/17/dopady-pandemie-covid-19-vice-nez-petina-neziskovych-organizaci-ocekava-ze-bude-muset-v-roce-2021-omezit-sve-sluzby/>

The right to participation and dialogue between the sector and governing bodies

New developments create hope to overcome the patchy involvement of CSOs in the policy-making

The Government Council for Non-Governmental Non-Profit Organisations⁵¹ is the only permanent advisory, initiating and coordinating governmental body dealing with the CSOs environment, and it is part of the Office of the Government of the Czech Republic. The Council is composed of 34 members, mainly Deputy Ministers, while the non-state members make less than a half. The Council, through its chair, submits to the government conceptual and implementation materials for governmental decisions relating to CSOs, incl. legislative, regulatory and political measures. It also deals with the authorities responsible for the administration and monitoring of EU financial resources in the Czech Republic, whenever implemented by or related to CSOs. The Council is also in charge of nominations, on behalf of CSOs, for committees at the national and EU levels.

In 2021, the government adopted a new *Strategy of cooperation between the state and NGOs 2021-2030*,⁵² which was prepared under the Government Council for NGOs with fair participation of CSOs. The *Strategy* is the key official document outlining the state's priorities and measures to support the partnership between the state and CSOs; it included the key priority goals also from the perspective of NeoN: improved recognition of CSOs, support for enabling social climate for CSO activities, participation in public decision-making and partnership, legal environment

and financing. The *Strategy* implementation is starting in 2022, outlined in the Action plan for 2022-2024.

The current Secretariat of the Council for NGOs has been making good efforts to introduce some participatory elements in the process of the new *Strategy* preparation, and other partial improvements in the Council ways of working. Besides two online public consultations, there is more practice of open calls for CSOs candidates for the Council for NGOs and the European Economic and Social Committee (Group III). The problem is that these positive changes are rather patchy, not enough embedded in the system, and lack more sustainable political support. They are not always meaningfully reflected in the outcomes of the decision making (e.g., the case of manipulation of the final list of candidates for the EESC by former Prime Minister Andrej Babiš).

Parallel to the *Strategy*, a separate process of preparation of the *Methodology for CSO Participation*, started during summer 2021 under the Ministry of Justice as part of the Open Government Partnership Action Plan⁵³. The *Methodology* is one of the practical documents for the public administration to support the participation of NGOs and their umbrella organisations in the consulting bodies and the preparation of legislation, state policies and strategic materials concerning the civic sector. This document shall improve the so-far fragmented and unsystematic way of participation of CSOs in policy-making and the unclear nomination processes in the advisory and working bodies.

Thanks to NeoN's collective efforts, CSOs umbrella organisations were actively engaged in drafting the *Methodology*, which is currently in the phase of public consultation

⁵¹ <https://www.vlada.cz/en/ppov/rnno/basic-information-45510/>

⁵² <https://www.vlada.cz/cz/ppov/rnno/dokumenty/strategie-spoluprace-verejne-spravny-s-nestavnimi->

[neziskovymi-organizacemi-na-leta-2021-az-2030-189753/](https://www.vlada.cz/en/ppov/rnno/basic-information-45510/)

⁵³ <https://korupce.cz/partnerstvi-pro-otevrene-vladnuti-ogp/>

opened until the end of January 2022 and shall be adopted in Spring 2022. There is hope that this methodology will contribute to changing the practice within the state administration also in relation to such important processes like the preparation of the NRRP and EU programming.

Impact of the Covid-19 pandemic

The process of drafting and passing of legislation was affected by anti-Covid-19 measures, which also related to the Parliamentary proceedings. The members of parliament were meeting only in total of 100 people, and based on an ad hoc key which was not predetermined nor public. The Parliamentary Committees were accessible only to invited people. The public was not allowed in the buildings of the Parliament and could follow the proceedings only via online webcasts. The quality and legitimacy of the legislative processes were thus weakened. Moreover, a different course of debate, if a majority of MPs were present without constraints, could indicate a different outcome.

The government, public authorities and local and regional representations certainly made use of the pandemic crisis moment to limit the access to information and close the space for public oversight. That was often a deliberate move, but in some cases, it was simply the lack of means and opportunities to engage with the public (e.g., at the local level). The access to information on public procurement was effectively put on hold under the emergency regime. Even if the Ministry of Health and the Ministry of Interior - responsible for purchases of most of the personal protective equipment (PPE) - claimed that they would announce all information after the state of

emergency, this involved suspicion of corruption, clientelism and ill-governance, and was questioned by political opposition, independent media, CSOs, as well as law enforcement.

Moreover, during the pandemic, the Czech government took advantage of the limited public oversight to proceed with the largest public tender in Czech history to construct additional block(s) of the nuclear power station Dukovany. This issue had previously been heavily debated in the public. This was criticised by the political opposition, as well as independent media and civil society groups. Even if these issues never reached a systemic level, as we have witnessed in Hungary and Poland, the Covid-19 pandemic made this situation even more complicated.

In 2018-2021 period, the preparation of the new Construction Act (the most extensive legislative change in that Parliamentary period) took place. The preparation was carried out in a very non-standard way – the drafting of the text was done entirely by the Chamber of Commerce, which includes, among others, the largest developers. The state did not pay for any of these services. The Act was created at the expense of the private entrepreneurs who are to be regulated by it. This was criticised by Green Circle⁵⁴ and other NGOs,⁵⁵ as well as by the Ombudsperson⁵⁶ and Security information Service.⁵⁷ The amended Construction Act presented a dangerous precedent in reducing the protection of public interest, limiting access to public decision-making.

⁵⁴ <http://zelenykruh.cz/novy-stavebni-zakon-z-pera-developeru-oklestuje-prava-obci-a-lidi/>

⁵⁵ <http://zelenykruh.cz/novy-stavebni-zakon-z-pera-developeru-oklestuje-prava-obci-a-lidi/>

⁵⁶ <https://www.ochrance.cz/aktualne/ombudsmanka-upozornuje-na-nektere-problematicke-body-vecneho-zameru-stavebniho-zakona/>

⁵⁷ <https://www.bis.cz/vyrocní-zpravy/vyrocní-zprava-bezpecnostni-informacni-sluzby-za-rok-2020-158d1414.html>

Civil society's responses to challenges to democracy, the rule of law and fundamental rights

As NeoN coalition, we can definitely note the most significant developments in 2021:

- Under the call of Reconstruction of the State⁵⁸ (network also associated in NeoN), several CSOs mobilised around the unconstitutional government's declaration of the new state of emergency in mid-February;
- Dozens of CSOs prepared and signed a joint statement titled *Courage to Live Freely: Statement by NGOs as of November 17*,⁵⁹ calling for collaboration, which was presented during the commemoration event of the 1989 Velvet Revolution on November 17 at Vaclavske Square, in Prague, as part of the 'Takovi jsme' campaign⁶⁰ to improve the public perception of the non-profit sector.
- The NeoN coalition, with other NGOs, strived and succeeded in increasing their participation in the preparation of the National Recovery and Resilience Plan. At the end of March 2021, the CSOs addressed the Members of the Parliament with concrete recommendations,⁶¹ ahead of the government's hearing on the progress in the preparation of the plan in the Chamber of Deputies, to address the plan's lack of transparency, public debate, and transformative conceptualisation. Later, they appealed by an open letter

to the Deputy Prime Minister,⁶² demanding transparency in preparation of the NRRP. Members of the CSO sector offered their expertise to provide suggestions for specific changes in areas including the environment and climate change (attempting to stop the trend of greenwashing), digitalisation, culture, or the mental development of children in education. The current NRRP is a resulting compromise that, in fact, did not satisfy anyone. Nonetheless, four CSOs representatives were involved, with the help of NeoN, within the 40-member NRRP Committee to tackle important and complex tasks: to pay attention to viable project proposals; to oversee the milestones set out by the European Commission with regards to transparency and reducing corruption; and to ensure that at least 41.6% of funds will be dedicated to fighting climate change, whilst making sure that the funds are implemented by 2026.

- Despite the lack of attention from the media, the issue of NGO representation in the European Economic and Social Committee has become one of the key watchdog targets for the Czech NGO sector. The reason behind this was the failed nomination process, as - despite the transparent nomination process in the Council for NGOs - former Prime Minister Andrej Babiš appointed his economic adviser J. Ungermann as a nominee, as well as J. Dubravská, who was connected to the agrarian

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<https://www.ochranademokracie.cz/aktuality/cerven-a-vyzva-vyhlaseni-nouzoveho-stavu-je-v-rozporu-s-ustavnim-poradkem-cr>

59 <https://svetneziskovek.cz/aktualne-z-nezisku/odvaha-zit-svobodne-prohlaseni-neziskovych-organizaci-k-17-listopadu>

60 <https://takovijisme.cz/>

61

https://glopolis.org/site/assets/files/1293/doporu_en_nno_k_npo.pdf

62

https://glopolis.org/site/assets/files/1298/otevreny_dopis_nno_k_npo.pdf

lobbyists. The Office of the Government stood behind Ungermann's nomination, despite numerous protests from the CSOs sector, and continuously tried to prove to the EESC that he, in fact represented certain (dubious) NGOs. However, one of these named NGOs stated they did not know of Ungermann, while another organisation has been inactive for a very long time. His 8-month delayed appointment by the Council of the EU failed to be averted, but the result showed that the CSOs sector was correct. The Group III of the EESC did not accept Ungermann as its member. This meant that he, along with only one more member, remained unplaced out of the 329 EESC members in total.

- CSOs played an active role in mobilising and providing voters with information to make a qualified choice in the 2021 parliamentary elections. Various CSOs designed their kind of 'guides', showing the voters which parties have a good record of working for sustainable positive changes in the society in the fields of gender rights,⁶³ ecological measures⁶⁴ or anti-corruption/open governance.⁶⁵
- NeoN coalition also actively engaged in the one-year process for the preparation of the new government's *Strategy of cooperation between the state and NGOs 2021-2030* and prepared collective inputs for the different stages of the drafting process. This means that the *Strategy* enjoys wide support from the CSOs sector and outlines collective aims of the involved actors: a) improving the social climate for CSOs functioning, b) supporting the state-CSOs

partnership, and c) the facilitation of adequate and enabling conditions for the effective functioning of CSOs. Another important aspect is the transparency of nominations of NGO representatives in departmental and interdepartmental processes. This shall be improved by the government's *Methodology of participation*, where NeoN also participated in the drafting phases.

Recommendations

A stronger civic space (especially for advocacy CSOs and networks) needs to become not only more effective and resilient, but finally also more inclusive, open to the groups of civil society more sceptical of the economic, environmental, social and cultural transformations in today's European societies. Inclusion means to include their different interests and worldviews to have a more honest dialogue about costs and benefits of these complex transformations that many CSOs advocate for.

Importantly, the efforts to improve civic space will be taking place in the context of greater economic, social, environmental, and indeed cultural transformations. Political issues such as green and digital transition, post pandemic recovery and social inequalities, or women's and LGBT+ rights represent crucial issues that the state shall address together with CSOs and other actors. Apart from technical aspects, each of these issues also represents emotional and controversial shifts in cultural norms aspired by some groups and resisted by others. We need to understand the substance and dynamics of these complex issues and be able to link them to the issues of civic space.

During the recovery from the Covid-19 pandemic and its forthcoming socio-economic consequences, civil society and

⁶³ <https://www.jsmefer.cz/krouzkujsrdcem#vysledky>

⁶⁴ <https://volby.hnutiduha.cz/predvolebni-anketa>

⁶⁵ <https://www.volebnipruvodce.cz/>

independent media will play a crucial role in increasing societal resilience and restoring the public trust in the state and its institutions. Civil society will also be instrumental for the full restoration of democracy, human rights, or the rule of law to pre-pandemic times. For the EU, it is therefore of critical importance to make the right choices regarding EU future instruments for upholding European values and supporting civil society in its member states, including in Czechia. Therefore, this is the right moment to support civil society in Czechia and across the whole EU and in this sense deliver on the EU's ambitious priorities set by European Commission President Ursula von der Leyen and put in the portfolio of Czech Commissioner Věra Jourová covering the democratic consolidation, restoration of the rule of law, and rebuilding the trust and confidence in the EU values.

The agreement of the European Council on the Multiannual Financial Framework serves as a solid basis for that - if it is soon translated into concrete projects and policies to serve the interests of Czech and other European citizens. In this regard, the newly agreed Rights and Values Programme offers a good (although limited) opportunity for additional funding and help to the civil society sector as well as upholding the common European values, especially when put together with the EU Democracy Action Plan, the rule of law monitoring or the media action plan.