

IAJ – 1st Study Commission
Economics, Jurisdiction and Independence

Czech Republic

1.2. Questions

1.2.1. A lot of words has been said around a deviation from a traditional public administration approximately since the year 1994. Despite that until now all money distribution refrain concentrated in one State budget (chapter Justice, Health Care, Defense, Interior a so on). Concrete courts are not independent either in phase of using of „Public Money“. Criteria for that are very detailed and restrictive and factually there is no space for flexible activities of courts. An activity of court is also limited by the obligation to use only firms from „Electronic Market“. The Government creates the lists of so entitled firms. Firms outside of the list aren't factually entitled to take part in choosing procedure when State body interest is in game. Just now a designated Minister of Justice (15th since the yaer 1989) started to speak about something like devolution of budget, strengthening of position of presidents of courts. But, few months before election it doesn't show any new direction
Current system of global budget distribution, from the point of view of target groups (courts or other State bodies and General Public) failing permanently in affectivity as well as it seems to be dangerous for corruption environment in the Czech Republic.

1.2.2.

- Devolution of budget, customer orientation (espacially target group – general public) are not touched by the practice in the Czech Republic
- Other criteria in some shape we know as a methodology of our choosing procedure – but limited by an order to contact principally in advance indicated subjects from „Electronic Market“ and restrictive and centralized State Budget distribution

2. Cost of Judiciary

2.1. Absolute figure of professional judges in the Czech Republic, current situation = 2883.

A final figure (by the Ministry of Justice) = 3071

Figure of judges per 100.000 inhabitants = 27

According to a proposal of judges themselves (Czech Union of Judges as well as presidents of courts) the relation of judges per inhabitants is to high. We prefer to increase the figure of qualified courts staff and decrease the figure of judges

2.2. The share of judiciary of the overall annual State Budget is for us very complicated (in fact it is impossible) to indicate. Even Ministry of Justice didn't answer this guestion. There is many aspects we should and have to take in our consideration. Especially lot of changes within one budget year, both direction, up and down, reflection of the Constitutional Court decision concerning salary of judges (permanently cutted and than settled up) and consequences of very dilettante decisions of State administration of courts (e.g. tasks of courts are extremely growing but the money budget for courts staff was limited to the cca 91% of the factual situation in the year 2003

In last days we found some more detailed figures concerning the budget situation in the year 2006. The proposal is to get for Ministry of Justice together around 18,360,000.000CZK

(618,200.000 EUR) = less than 2% of overall State budget. Don't forget that one third of this money is indicated for prison system and only two thirds for Judiciary and State prosecutors. Since the year 1995 until the year 2005 the budget for Judiciary has grown for more than 300%(!). It shows transparently the problematic budget situation of Judiciary in former years, when the share of 2% in overall State budget is not also too high. On the other hand the financial care for judiciary is changing for better.

2.3. There isn't any fixed percentage in the overall State budget in the Czech Republic

2.4.

Year	Budget in percent of previous year	Difference from the beginning of the period (1995)
1995	100	0
1996	133	33
1997	129	171
1998	104	178
1999	124	221
2000	108	238
2001	100	239
2002	121	288
2003	119	344
2004	91	313
2005	97	305

The overview shows a freezing of the development in last two years. It had serious consequences in functioning of the court system as well as in the "atmosphere" in judiciary. The changing for next years is not sure

2.5. A lot of cost-cutting measures was done in last 10 years. Cutting of salary of judges was described; three times judges were successful in the case against the State, once they lost. Even more important is the cutting of money for the court staff in last three years. The position of clerks in courts is very weak because relevant manipulation with their salaries is possible not by law (as in case of judges salary) but only by decision of the Government and Ministry of Justice. The consequence for performance of the judiciary is very relevant.

2.6. The influence of the cutting measures for independence of judges is absolutely clear – as it was expressed by the Czech Constitutional Court. But also above-mentioned cutting of money for court staff has very serious effect. Czech General public expects better functioning of courts according promises of our politicians. Judiciary with dramatically reduced money is not able to fulfill this promises – growing attacks against judiciary, attempts to create a new political controlling system over judges, construct more strict measures against judges (in disciplinary law) and prolongation of low confidence of judiciary in the society are consequence of that.

The relatively high salary level of judges presents a coincidence – in one historical moment one group of judges (Czech Union of Judges) met with open mind Minister of Justice and group of politicians in the Parliament, motivated also by their own effort to increase their salaries. So, they used judges (according to the Law on Salaries of State Representatives belonging also to this group) like an argumentation. Anyway, from that time we have to face a

permanent attempts to reduce our salary and mainly to exclude us from the group of Constitutionally mentioned person (as Members of Parliament and Government are) – it is „never ending story“

3. Privatization of the Judiciary

3.1. Arbitration, mediation and other forms of deviation from standard judicial performance are not examples of any kind of „privatization“ of the Judiciary in the Czech Republic. They should help courts to handle with extremely growing imputes, more friendly for litigants and sometimes more effectively.

But, according to the law our litigants and other people (including foreigners), have a lot of years the right to use instead court solving of their cases by arbitration when money is the subject of dispute. The indicated way is not used often and there is a problem to explain why, perhaps nobody exactly knows the reason.

4. Diversa

4.1. Salary of judge is strictly indicate by law. For the salary performance of his/her judicial office (quantity or quality of output) is not relevant, until now.