

# Annual Report of the Security Information Service for 2012

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## 1. Introduction

On the basis of a decision made by its Director, the Security Information Service (in Czech *Bezpečnostní informační služba*, hereinafter 'BIS') presents this annual report in order to provide the public, to the maximum possible extent, with findings that the BIS as an internal intelligence service of the Czech Republic has gathered and has shared with addressees stipulated by law as recipients of its information. The BIS, as a state authority without any executive powers, cannot by its own decisions assure rectification e.g. in cases where it finds serious shortcomings in the decision-making of public administration authorities. Therefore, submission of information to responsible officials is the only possibility it has in this regard.

Previous annual reports indicate that the BIS not only fulfils this role, but expands it by informing the public about its activities while adhering to laws governing the activities of an intelligence service. In the past, the BIS has repeatedly drawn attention, also in its public annual reports, to shortcomings that could have or already do have a very negative impact on the Czech state in various areas of its functioning and on its citizens. However, particularly certain structures that increase their profits at the expense of public budgets in an illegitimate manner are highly resistant to corrective measures adopted by representatives of public administration authorities. This fact has led the BIS to include state prosecutors' offices among the recipients of its most serious findings..

This report (containing information on findings of the BIS in 2012) is presented to the public with a certain delay. Furthermore, the report is limited in its scope in that it cannot be as detailed as the confidential *Report on the Activities of the Security Information Service* which, by law, is submitted once a year to the Government (and the President of the Czech Republic. Nevertheless, the senior officials of the BIS consider it important to draw up this report and present those findings regarded as very serious also to the public since they affect every citizen of our state. In this connection it will be well to recall once more that the BIS submits its findings on an ongoing basis to relevant addressees, to those state representatives who have instruments at their disposal for the rectification of undesirable situations that arise in society, and to those state authorities and their senior officials who are responsible for the proper 'conduct of public affairs'. In addition to all of this, however, every citizen of our state can make her or his own not insignificant contribution.

In presenting this report to the public the BIS is guided by an effort to outline, within the restricted possibilities, major challenges that if not addressed with sufficient speed and effectiveness can cause harm to the state and all of its citizens in an important and fundamental way. However, many of the problems discussed in this report did not appear in our society for the first time in 2012 but have been present for a relatively long period. Therefore, this report primarily aims to draw attention to negative phenomena in society and describe them as fully as possible, leaving it to every reader to reflect on whether, when, and in what form she or he has encountered them personally, because the problems of the Czech Republic affect every citizen.

## 2. The Nature and Scope of Intelligence Activities

### 2.1. The Powers and Responsibilities of the Intelligence Service

The activities, the status, and the scope of powers and responsibilities of the Security Information Service (BIS) as an intelligence service of a democratic state are provided for in relevant acts, especially Act No. 153/1994 Coll. on Intelligence Services of the Czech Republic, as amended and Act No. 154/1994 Coll. on the Security Information Service, as amended. The BIS is also governed in its activities by the Constitution of the Czech Republic, the Charter of Fundamental Rights and Liberties, international treaties, and other legal regulations of the Czech Republic.

Under Section 2 of Act No. 153/1994 Coll., the BIS is a state authority for the acquisition, collection and evaluation of information (hereinafter referred to as “securing information”) which is important for protecting the constitutional order, major economic interests, security, and defence of the Czech Republic.

A general definition of the powers and responsibilities of the BIS is given in Section 5, Paragraph 1 of Act No. 153/1994 Coll., according to which the BIS secures information on:

- schemes and activities directed against the democratic foundations, the sovereignty and territorial integrity of the Czech Republic,
- the intelligence services of foreign powers,
- activities endangering state and official secrets,
- activities the consequences of which may jeopardize the security or major economic interests of the Czech Republic, and
- organized crime and terrorism.

Under Section 5, Paragraph 4 of Act No. 153/1994 Coll., the BIS also fulfils further tasks as defined by specific legislation (e.g. Act No. 412/2005 Coll. on the Protection of Classified Information and Security Clearance, as amended) or international treaties by which the Czech Republic is bound.

One must also remember that the international community aims to halt the proliferation (dissemination) of weapons of mass destruction and their carriers (WMD) and therefore imposes many export rules and sanctions provided for in resolutions of the United Nations Security Council (UNSC) and the Council of the European Union. Some high-risk countries, however, continually strive to acquire expertise, technologies, machinery, equipment, and/or other goods for the production and transport of weapons of mass destruction that they themselves do not know how to produce. The risk of such commodities falling into the hands of those who do not provide a general and sufficiently reliable guarantee that they will not develop and produce weapons of mass destruction and will not use them against people, can be significantly reduced by a thorough evaluation of requests for and preparation of transactions that include items of dual use, military equipment, weapons, or explosives, and by the enforcement of legislative rules<sup>1</sup> for trade in abusable goods.

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<sup>1</sup> E.g. the law on foreign trade in military equipment, or the law implementing the European Community’s regime for the control of exports of dual-use goods and technologies.

Companies from sanctioned and high-risk countries continually express interest in the transfer of goods from the Czech Republic that are subject to international control regimes<sup>2</sup> or to Czech national legislation . In some cases they endeavour to acquire commodities otherwise inaccessible for them via re-exports through third countries.

Furthermore, Section 7 of Act No. 153/1994 Coll. stipulates that the responsibility for the activities of the BIS and for the co-ordination of its operation lies with the Government According to Section 8, Paragraph 4 of this Act the Government assigns tasks to the BIS within the Service's legal jurisdiction. The President of the Czech Republic is entitled to task BIS with the knowledge of the Government.

To fulfil its tasks, the BIS is authorized to cooperate with other intelligence services of the Czech Republic. Section 9 of Act No. 153/1994 Coll. stipulates that this cooperation must be based on agreements concluded between the intelligence services with the consent of the Government.

Under Section 10 of Act No. 153/1994 Coll., the BIS may cooperate with intelligence services of foreign powers only with the consent of the Government.

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<sup>2</sup> The Nuclear Suppliers Group (NSG), the Zangger Committee (ZC), the Australia Group (AG), the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA), and the Missile Technology Control Regime (MTCR) reinforced by the Hague Code of Conduct (HCOC).

### 3. Intelligence Activities and Findings

A summary of all the intelligence activities of the Security Information Service (BIS) during the past year is contained in the classified *Report on the Activities of the Security Information Service for 2012* – a report the BIS submits to the President of the Republic and the Government each year in accordance with Section 8, Paragraph 1 of Act No. 153/1994 Coll.

During the course of the year, again in accordance with Section 8 of Act No. 153/1994 Coll., the BIS informed entitled addressees about particular intelligence findings and results of analyses on which the overview of its activities in this public annual report is based.

In 2012, the BIS submitted almost 700 documents to the President and members of the Government and sent more than another 350 notifications to appropriate state authorities, including the Police of the Czech Republic, the Office for Foreign Relations and Information (in Czech *Úřad pro zahraniční styky a informace* – ÚZSI), and Military Intelligence.

Fulfilling its obligations under Act No. 412/2005 Coll., the BIS was asked by the National Security Office (in Czech *Národní bezpečnostní úřad* – NBÚ) to conduct almost 22,000 security clearance investigations for the issuance of security clearance certificates for natural and legal persons.

#### 3.1. Protection of Major Economic Interests

In many respects the protection of major economic interests of the state is closely related to matters addressed in the section devoted to organized crime. In essence it can be said that these are two sides of the same coin or two different perceptions. of targeted and often also organized activities aimed at acquiring such an influence on public administration representatives as can be utilized even over a long period of time for one's own enrichment by illegally acquiring financial resources intended for various projects, which are artificially overpriced for these purposes.

However, it would be a gross oversimplification to believe that this problem applies only to the 'highest floors' of public administration. The opposite is true: varying degrees of this problem can be encountered at all levels of public administration. It is no exaggeration to say that this is a problem affecting society as a whole, permeating all areas financed from public budgets.

The protection of major economic interests of the Czech Republic pertains also to risks that arise through the natural fluctuation of the economy, the commercial activities of both foreign and domestic companies, and through the operations of foreign intelligence services. In these cases the state faces conflicts arising between short-term economic goals, such as annual profit or loss, and long-term strategic and security interests with an economic benefit evident only over a period of decades. Therefore, risks often originate in an incorrectly or imprecisely established decision-making system. In an ideal scenario, such a system would ensure that state representatives have sufficient motivation for a thorough consideration of long-term consequences of decisions being made

#### **Inefficient handling of state assets led to the weakening of independent and effective economic decision-making in state institutions and state-run companies.**

Many state institutions and state-run companies handled financial resources entrusted to them in inefficient ways. The BIS repeatedly noted procedures in public procurement that did not comply with or intentionally circumvented the Act on Public Contracts. Inefficiency was

also frequently evident in non-effective sales of an entity's own services, goods, and property.

A common trait in these cases was the existence of informal ties between representatives of the state entities in question and groups of persons who tried to gain benefit from the activities of those entities. These groups utilized ties to highly-positioned representatives of state entities to expand their influence by appointing allied persons to positions in the subordinate organizational structure. To advance their interests they either utilized internal information acquired from these persons, or influenced their decisions. The following methods were employed in order to gain privileged access to contracts or to secure more advantageous terms for their fulfilment: agreements on the terms of the tender offer or on the specifics of the tender procedure, and subsequent changes to agreed contract terms. Furthermore, representatives of the state and state-run enterprises often fail to impose sanctions.

Due to the above-described manner of strengthening influence on personnel in state institutions even a dramatic replacement of the top management need not lead to the rectification of the situation. In several cases the middle and lower management structure was able to ensure that the new high-level management could not identify or satisfactorily solve fundamental problems. Furthermore, in some cases it helped prolong the influence of the previous management.

This year has seen a change in the structure of contracts affected by the above-mentioned problems. In some state-run companies the BIS noted a shift from the manipulation of commercial relations pertaining to the company's main activity toward an effort to influence contracts relating to internal operations (e.g. supplies of information technologies and their servicing, consulting, legal services, marketing, and security services). This trend was evident especially in the case of agricultural and transportation entities. State-run financial institutions continued to face problems primarily connected to their main activity, i.e. to loan granting and payment protection insurance.

Competitiveness among construction companies taking part in large infrastructure construction projects has shown certain signs of improvement. However, construction companies also continued to seek new ways of asserting their influence in relevant state institutions or of manipulating contracts to their own benefit.

The state also continually contends with **managements providing incorrect, incomplete, and misleading information to supervisory boards of state-run companies.**

The BIS noted this phenomenon especially in connection to increasing pressure on economic results of some state-run companies. This pressure led to a growing number of cases where the management manipulated information submitted to responsible state representatives in an effort to hide unfavourable results. The BIS informed legally stipulated addressees about cases in which the management of the company's executive branch provided the supervisory board with incomplete or distorted information, tried to exclude the board from decision-making procedures by intentionally changing internal rules, or submitted materials giving a falsely favourable impression. The motivation for such conduct was usually an effort to hide the true state of finances, an attempt to prevent the revelation of erroneous decisions, or to circumvent the expected disagreement of the board of supervisors with controversial proposals.

Such practices followed by the management of state-run companies resulted in the possibility of state representatives making some key economic decisions based on incomplete or misleading information or responding to approaching economic threats with a delay. The above-mentioned risks appeared especially in the transportation and energy sectors.

**Delays in addressing problems in the financial management of state-run companies, and the associated worsening of their economic situation are a further pressing issue.**

Transportation and energy companies with a state ownership share, which faced difficult outward conditions in 2012, were forced to consider major restructuring and divestment programmes<sup>3</sup>. In several cases members of the company's management (aiming to preserve their positions in the short-term) postponed difficult and unpopular but necessary decisions. As a result non-systematic solutions were adopted causing the accumulation of economic damages with the risk of their further deepening in the future.

**Other fundamental problems result from the calculated, illegitimate influencing of the legislative process, the exploitation of the lack of legal coverage in some areas, the abuse of system deficiencies, and from the direct obstruction of corrective measures.**

In 2012, there was a growing tendency to carefully –plan the exploitation of shortcomings in legal regulations providing for some sectors. The most serious threats to the economic interests of the state emerged usually in connection with established business structures e.g. in the following areas: environmental protection, storage of petroleum and petroleum products, and health care. These areas were exploited by applying methods and procedures that on the one hand were clearly directed against the interests of the state and against the goals and purpose of the given legal standard, but on the other hand in most cases could not be clearly designated as illegal.

The plans of business groups depended on at least a passive role of persons in state administration, in state-run companies, and in other public institutions. Therefore, these persons were purposefully influenced so as not to interfere with the plans. One frequent approach was to gain influence drawing on relations with previous employers or on ties from earlier work in the non-profit and business sectors. Vague goals set by state representatives holding key positions also contributed substantially to a certain arbitrariness allowing the defence of some controversial actions.

Due to insufficient or incorrect definitions of their powers , these persons could (in some cases were even compelled to) decide in the framework of current legislation against the interest of the state, although the state did not support their decision. In such cases it is difficult to prove their real motivation, which may include an effort to gain unjustified personal benefit.

Another typical accompanying feature of the above-described activities was the effort to block legislative changes remedying shortcomings in legal regulations or establishing stricter rules for conducting business in the given sector (e.g. regulation of gambling).

**Negative consequences follow from the persistent lack of an overall approach and from illegitimate efforts to influence the final wording of strategic documents.**

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<sup>3</sup> Divestment is the opposite of investment: a company gets rids of property, securities, daughter companies, ownership shares in other companies, etc.

The lack of a long-term approach to the future development in some sectors of the economy (e.g. in transportation) allowed various *ad hoc* decisions being in the competency of the state to be made in a non-transparent way that can easily be influenced. In the energy sector, the BIS followed the drafting of documents and strategies relevant to the future of energy security of the Czech Republic. In some cases they were drafted in a non-transparent manner raising major doubts about the motives of the proposals set forth.

Further significant harm is caused by **negligence in the protection of information**. The energy sector has seen cases in which important strategic documents or key internal management decisions were leaked to competing entities or important business partners as a result of a high degree of interest expressed by private entities about strategic information on state-run enterprises.

**Efforts of foreign powers to enter the Czech energy market** proved to be an especially important element. In 2012, the Czech energy market, especially the nuclear, petroleum, and gas sectors, was subjected to a growing effort by Russian entities to maintain and strengthen their influence. Russian energy companies expressed continuous interest in entering firms playing an important part in ensuring the energy security of the Czech Republic or having the potential to win contracts for future energy projects in the Czech Republic. In some cases this Russian effort was accompanied by non-transparent procedures caused by a close relation between the Russian state administration and economic structures.

### 3.2. Organized Crime

Organized crime is a very broad topic, therefore, it must be stated that no activities of the BIS are related to uncovering purely criminal activities. In no way does the BIS supplant the work of specialized units of the Police of the Czech Republic and it cannot be perceived as an ‘advance guard’ of the Police.

In 2012, the BIS concentrated on two main aspects of organized crime in the Czech Republic: the **dysfunction of state authorities** and **the operation of regional clientelistic structures**.

Although this report describes information the BIS gathered during 2012, it must be kept in mind that the described findings cannot by any means be considered ‘phenomena of 2012’. Such a simplification would be erroneous and misleading, because many of the undesirable phenomena described in this report have been present in society in various forms and guises at least since the end of the twentieth century.

The BIS noted illegitimate methods employed by various groups in order to influence decision-making of the highest state authorities and local administration bodies and the legislative process in the Czech Republic in a manner harming the exercise of fundamental functions of the state.

Organized crime structures not only continued to systematically siphon funds from public budgets (e.g. via subsidies, public contracts, and outsourcing of public services), but were also capable of influencing important decisions of state authorities and local administration bodies pertaining to infrastructure projects, subsidy programmes, and public contracts for the provision of public services, as well as the legislative process itself.



Organized crime successfully exploited a situation that can be characterized in a simplified way as the fundamental absence of *de facto* personal responsibility on the part of representatives of authorities of state and local administration and of elected representatives of citizens for decisions they make.

Insufficient respect for laws in general, the absence of specific legal standards in certain areas, and legislation based on 'lobbied' laws, i.e. legislation tailor made for certain interest groups, also contribute to this dismal state. Objectively, it must be admitted that some of the cases of lobbying for legislation playing into the hands of certain interest groups may be examples of unconscious lobbying. However, this does not reduce its negative impact on society. Ecological energy production is a concrete example of the implications of these laws intentionally 'lobbied' at a high level. In this case society, not only in the Czech Republic, will suffer from a clear and long-term impact of the legislation. However the relevant interest groups have not only gained a return on their financial investments, but will also benefit from long-term high profits.

In the view of the BIS, one of the main manifestations of the dysfunctional public administration is the **conflict of interest**, which mainly occurred in the allocation of EU subsidies from operational programmes and in awarding public contracts. These cases involved direct connections between representatives of governing bodies of companies to which public contracts or EU subsidies were awarded on the one hand and public entities that allocated the contracts or subsidies on the other.

In this connection the BIS devoted close attention to the low level of effectiveness and responsibility in exercise of public administration, leading to the origin and persistence of dysfunctions in this sphere.

The following example of frequent personnel changes in the Section for Management of EU Operational Programmes of the Ministry of Education, Youth, and Sports of the Czech Republic illustrates a state-level conflict of interest case. During the past year and a half five persons have successively occupied the position of the Section's Director. These frequent changes have had a negative impact on the effective fulfilment of the assigned agenda as they complicated the allocation of EU subsidies. At the regional level one can name e.g. the ties of the company Energetické a dopravní stavby (Energy and Transportation Construction) to local administration representatives in the North Bohemia region.

The BIS believes that unsuitable legislation providing for industrial relations in public administration and for the education of employees is a fundamental deficiency and also one of the causes of conflicts of interest. This results in the fluctuation of personnel, insufficient responsibility in decision-making, virtually non-existent legal protection of employees, and a non-uniform and ineffective system of education that has a direct impact on the exercise of public administration.

In 2012, the perception of harm caused by **corrupt conduct of public officials** and the unacceptability of such conduct has seen a noticeable social shift. This shift occurred due to certain actions taken by the Government in relation to implementing its strategy to fight corruption and due to activities of law enforcement authorities that led to charges against senior politicians and public administration representatives.

The strengthening of ties between businessmen and local administration representatives with influence also on central state administration is demonstrated by the cases of governor David Rath, director of The Regional Council of the Severozapad Cohesion Region Petr Kušnierz, deputy governor of the Ústí nad Labem Region Pavel Kouda, and former senator

Alexandr Novák. Traditionally, corruption most often manifests itself in decisions on public contracts, subsidies, and on the administration of municipal property. However, this phenomenon has also begun to appear in regional projects of partnership between the public and private sectors. With ever-increasing frequency, local government representatives have avoided responsibility for poor or suspicious (non-transparent) decisions and the associated criticism by hiring external advisors and outsourcing public services to private entities. This practice is common e.g. in Prague and in the West Bohemia region.

It must be said that the perception of corruption in society tends to be distorted. On the one hand, it must be stated that corruption, like other undesirable phenomena in society, affects every citizen. Corruption is not an isolated phenomenon appearing only 'somewhere'. Corrupt conduct occurs not only at all levels of public administration – municipal, regional, and state – but also in other segments of society. Fighting corruption at the lowest levels is an effective way of eradicating this negative phenomenon. Curbing corruption at lower levels, which tends to be smaller in volume, but is widely spread can prevent its spreading to higher levels. However, this requires personal responsibility on the part of every citizen and every elected state official.

On the other hand, there are groups in society that try to benefit from the fact that corruption is viewed as a 'fashionable topic of recent years' and paint a dismal picture of corruption in society. They intentionally distort the real extent and scope of corruption, endeavour to portray themselves as 'the only true' fighters against corruption in society, and calculatedly criticize everyone else. Such an approach, however, does not contribute to a positive perception of anti-corruption measures, quite on the contrary.

The BIS looked at risks stemming from **public service outsourcing**. Some of them, such as a lower degree of transparency, the restriction of competition in public services, the weakening of public administration authorities in the areas of expertise and monitoring, and the scattering of powers and responsibilities, have consequences leading to the weakening of the state.

In the opinion of the BIS, the ever-greater extent of the outsourcing of services that lie primarily within the powers and responsibilities of public administration authorities demonstrates a transfer of responsibility from relevant authorities to external servicing organizations. The number of unqualified officials with no responsibilities, who hold their positions only thanks to clientelism in personnel, can be seen as one of the phenomena determining the degree of dysfunction in the exercise of public administration as such.

Service outsourcing at the central and regional levels of public administration is accompanied by the establishment of personal ties, the favouring of 'allied' firms (especially solicitor's offices), the manipulation of public contracts, and the abuse of subsidies.

In 2012, the BIS noted this phenomenon in a number of areas, including the allocation of EU subsidies and education in public administration.

Companies offering subsidy consulting and monitoring or mediation services connected to securing funds were involved in the former area. In some cases these companies were involved in abusing subsidies by overpricing projects, siphoning secured funds by overpricing related services and by gaining advantage in a tender by being in conflict of interest or having ties to the contracting authority.

The former area involved private educational institutions providing the education of public administration officials by. The BIS noted ties between private providers of education and public contracting authorities. The common practice was to commission a private

educational institution to hire public administration officials in order to educate other public administration officials.

The BIS identified potential for corrupt conduct in this area in companies with ties to the Ministry of the Interior.

A further example of questionable outsourcing is the well-known case of the Ministry of Transport, which hired five solicitor's offices for a period of three years for CZK 450 million. The offices were hired to provide legal services and draft expert opinions on projects co-financed by EU funds. However, the Ministry was not capable of judging the quality of the services provided; in some cases their low quality came to light only during an audit later carried out by the European Court of Auditors.

The BIS has evaluated several years of experience with **public-private partnership (PPPs) projects** and has reached the conclusion that the concept of PPP in its current form, though promoted as an advantageous alternative for public service provision, does not provide a reliable basis for advancing public interests.

One weakness of a PPP is the assessment and management of the individual phases of projects carried out by external commercial advisors commissioned by public contracting authorities. Contracting authorities resort to this solution as there is no central authority providing them with expert support on PPP projects. In 2004 the Ministry of Finance established the company 'PPP Centrum', however the company has become a commercial organization and does not fulfil its intended role of an advisory authority. In the opinion of the BIS, hiring external consultants from the private sector and outsourcing consulting services to commercial companies contribute to the failure of PPP projects in the Czech Republic. These two aspects reveal the limited capability of public officials to assess and manage PPP projects autonomously and their reluctance to bear responsibility for potentially erroneous decisions.

Staffing in the public sector has not been reinforced in a way that would allow it to fill key positions on teams assessing and managing individual phases of PPP projects with its own employees. Instead, the public sector is forced to outsource all tasks requiring expertise to the private sector.

The complexity and the high costs of tenders for PPP projects justify the high fees paid to private consulting companies and solicitor's offices. Therefore, the management of the projects is expensive and ineffective.

In the opinion of the BIS, these facts demonstrate that money from public budgets can be siphoned from PPP projects in a manner similar to that observed in the case of subsidies from EU funds. In this case the danger is all the greater since it involves hidden 'tunnelling on credit' and the transfer of long-term mandatory commitments of public budgets to future generations of administrators of public assets.

A concrete example of a problematic PPP project is the collaboration of the city of Plzeň with companies linked to the company Škoda Transportation, a.s., in building a new depot for the company Plzeňské městské dopravní podniky, a.s. (Pilsen City Transport Company) and servicing its vehicles. This is an extraordinarily important project that exceeds other comparable projects in cost (ca. CZK 12 billion), duration (29 years), and the degree of risks. Furthermore, this project is surrounded by many doubts, including uncertainties about the financial advantages for the city of Plzeň. **Regional clientelistic systems**, aimed at siphoning funds from public budgets, permeate not only public administration bodies, but also business entities. In recent years clientelistic networks have developed and strengthened

mainly in connection with Regional Operational Programmes (ROP). However, the following aspects have also played a major role in the formation of regional clientelism: the serial cumulation of functions and the resulting interconnection of ROP authorities and regional and local public administration bodies, virtually non-existent personal responsibility of regional representatives in ROP authorities, and the lack of an independent, objective evaluation of the usefulness of projects applying for subsidies. One clientelistic network was mapped in the Ústí nad Labem Region; another formed in the South Bohemia region in connection with the promotion of the project 'Šumava Electric Railways'.

The BIS also noted the following negative phenomena arising from the participation of non-transparent companies in public contracts and EU subsidies: conflict of interest in subsidy allocation, artificially overpriced project costs, or the founding of companies only for the purpose of acquiring funds from public budgets.

The latter phenomenon manifested itself mainly in the calculated founding of companies with non-transparent ownership structures and ties to public administration authorities deciding on the given contracts or subsidies.

A similar problem lies in public companies with an unclear ownership structure that provide services for municipalities, e.g. transit operators, energy companies, water management companies, waste collection and disposal companies, and crematoriums. A certain share in these companies is often held by business entities with a non-transparent ownership structure (companies with bearer shares or with headquarters in tax havens). Therefore, municipal administration representatives of, their relatives, or other affiliates may be hidden co-owners of public companies. The non-transparent ownership structure of public companies allows siphoning money from municipality budgets to unknown beneficiaries. Conflicts of interest on the part of municipal council members making decisions on public contracts also cannot be ruled out

Such entities can be found in all regions of the Czech Republic, e. g. almost a fifth of the shares of the company Pražské služby, a.s. (Prague Services) is held by the Cyprus-based firm Soranus Limited, owned by the non-transparent Natland Group Limited also headquartered in Cyprus, c. Further examples include the following companies: Vodovody a kanalizace Hradec Králové, a.s. (The Water and Sewerage Authority of Hradec Králové), Krematorium a.s., Teplárna České Budějovice, a.s. (Heating Plant České Budějovice), and Vodovody a kanalizace Chrudim, a.s (The Water and Sewerage Authority of Chrudim).

Another associated phenomenon is the abuse of restitution claims by private entities that buy them, then sell or trade them and bring their claims against the Czech Republic. This issue draws attention to a number of problems, including to the conduct of public officials contrary to the public interest (their ineffective handling of entrusted assets and the susceptibility of their decision-making to pressure from lobbies or other parties) and to systematic problems in the functioning of the Land Fund of the Czech Republic. Enrichment of private entities via restitution claims, resulting in damages to the Czech Republic, may also be expected in association with church restitutions.

The BIS devotes close attention to uncovering serious negative manifestations of **organized crime of the traditional type** affecting the security of the Czech Republic. Thus selected foreign-language crime groups – post-Soviet (Armenian and Georgian), Vietnamese, or of Balkan origin – have gradually come to the attention of the BIS, if only marginally. Findings concerning the activities of some crime groups were submitted to the relevant authority, i.e. to the Police of the Czech Republic.

A specific case widely publicized in the media was the 'methanol affair'. The BIS provided the Police of the Czech Republic with information on the affair, its possible background, and the black market in alcohol.

In addition to the above matters, the BIS directed its attention in 2012 also to higher education and the dysfunctional justice system. However, the information gathered did not indicate any risks that had not been noted earlier.

### 3.3. Counterintelligence activities

In 2012, the BIS continued to focus its counterintelligence efforts on the intelligence activities of the Russian Federation and the People's Republic of China in order to determine the degree of risk for the interests of the Czech Republic and its citizens. In both cases the BIS had its eye on activities aimed at asserting and strengthening political and economic influence in the Czech Republic and at economic intelligence.

In 2012, the BIS saw a protracted problem in the disproportion of personnel and material capacities, especially in connection to the activities of the Russian state. From the standpoint of security interests of the Czech Republic, the numbers of Russian intelligence officers within the ranks of the Russian diplomatic mission (or Russian travelling intelligence officers – 'tourists') in the Czech Republic can be perceived as very high. Moreover, Russian intelligence services are capable of flexibly resolving any personnel difficulties in the Czech Republic in the framework of free movement in the Schengen Area.

Interests of foreign powers are continually manifested in **efforts to control communities of immigrants from those countries**. Especially Russia and China view these communities in the Czech Republic as instruments for advancing their foreign-political and intelligence interests. In the case of Russia, the BIS noted continuing interest in achieving central coordination and control of the Russian community in the Czech Republic. Whereas the majority of Russian immigrants are not interested in Russian protection, most Chinese consider such efforts natural.

A long-term problem of Czech citizens and especially of civil servants is the nature and manner of contacts **with members of foreign security and intelligence services**. It is necessary to constantly emphasize cultural differences that, if not perceived or not taken into consideration, can lead to fundamental security risks, even if these risks are not evident and clear at first sight. This problem is most visible in the activities of the Federal Security Service of the Russian Federation (FSB). The FSB is effectively the successor of the Soviet KGB. Although it operates primarily as a 'federal police department', at the same time it serves the function of a civilian and military counterintelligence service (which is not so often emphasized) and is also entitled to engage in intelligence activities outside the Russian Federation. In communication with foreign (Czech and generally Western) state institutions and officials, emphasis is placed on the police aspect of the FSB and on active cooperation in the fight against terrorism and organized crime. The said institutions and officials believe that all involved are partners 'in the same boat' with the same goals fighting against the same enemy. Unfortunately, they completely overlook the fact that their counterpart is a foreign intelligence officer who might be using the fight against terrorism or organized crime only as

a cover and a means for fulfilling his or her own intelligence goals that have little in common with combating terrorism or organized crime.

An analogous problem appears also in connection with economic, industrial, and scientific-technical espionage, especially in the context of cooperation with Chinese and Russian entities. Businessmen, scientists, and politicians have a tendency to ascribe their own motivations and goals (results of research, investment, profit, etc.) to their Eastern partners. For them, however, these motivations and goals may be secondary and short-term, because in reality they are pursuing a completely different primary interest that is often much more long-term and can pose hidden security risks.

Another phenomenon that may be included among serious problems identified in the area of counterintelligence is the exploitation of evolutionary changes, crises, and dysfunctions in society, state administration, and local administration for the activities of intelligence services of foreign powers, again especially from Russia and China. Dangers lie e.g. in the influence of the 'grey zone' on state and local administration structures. Non-elected persons and groups with no political or official powers, e.g. lobbyists, lobbying, consulting or law companies and special interest or networking organizations, usually tend to assert their influence at all levels of state and local administration,. The devolution and decentralization of state power creates an environment with low protection against direct and indirect undesirable foreign activities. Democratic states of the Western type have difficulty with adopting an appropriate manner of responding to demands or pressure from multinational capital, seeking a balance among diverse interests, and with protecting their own interests against the interests of Russia and China. A serious problem noted in recent years is insufficient loyalty to the state on the part of officials, persons engaged in politics and ordinary citizens. This lack of loyalty contributes to the creation or to the deepening of distrust in the state among society as a whole. This problem leads the public to marginalize and question the degree of risk posed by persons with a problematic professional and career history working in state and local administration bodies. Furthermore, some media outlets and entities operating in the information industry, show signs of weakening resistance to manipulations and disinformation emanating from the above-mentioned 'grey zone' or from representatives of foreign powers.

All the phenomena described above reduce the resistance of politicians, officials, and ordinary citizens to the activities of intelligence services of foreign powers, and lead some of them to consciously or unconsciously work for foreign powers or for foreign intelligence services. Their cooperation is based on all sorts of reasons: financial gain, ideological convictions or diverse personal motives (e.g. a threat to one's reputation, reinforcement of one's own ego, or professional frustration).

### **3.4. Protection of the Constitutionality and of the Democratic Foundations of the Czech Republic**

In the framework of protecting the constitutionality and the democratic foundations of the state the BIS focuses on activities and phenomena striving for or potentially causing the destruction of the democratic system. These phenomena and activities have come to be called extremism; political scientists call them anti-system activities.<sup>4</sup> Activities employing

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4 Giovanni Sartori.

inappropriate, i.e. illegal or subversive, methods for achieving their otherwise legitimate goals (e.g. a moderate change in a political or economic decision) are also sometimes considered extremist.

The label 'extremist' covers a very wide, diverse, and fluid range of activities which are very difficult to monitor for a number of reasons, including the need to carefully differentiate between the legitimate assertion of constitutional civil rights and activities aimed either directly or in their final result against the democratic foundations and the constitutional order of the Czech Republic.

The difficulty is exacerbated by the fact that this is an easily abusable issue: many extremist activists perceive any steps taken against their activities, or the mere monitoring of such activities, as a violation of their civil rights and freedoms and make massive use of this for propaganda. Currently, most individuals with an unfriendly stance toward the democratic system are fully aware that their open propaganda is in conflict with the legal order and will not secure public support. Therefore, they take care not to violate laws in their public appearances. Their real intentions and goals become fully evident during internal discussions and meetings of leading representatives of individual entities or on Internet social networking sites which are almost impossible to monitor.

Currently, we are seeing a slight decline in typical extremist activities based on certain ideologies, e.g. on neo-Nazism or on orthodox Marxism-Leninism. These groups are marginalized to a great extent; their capability of posing a direct threat to the constitutionality and the democratic foundations of the state is minimal.

The Czech Neo-Nazi scene is not united. It consists mainly of individual local groups, and for the time being it does not seem likely that they would unite and engage in extremist activities in the foreseeable future. Their activities continue to concentrate on the Romani ethnic group, on police raids, on court prosecutions of fellow clansmen, and in some cases on the activities of the Czech Government and its reforms.

A certain part of the right-wing extremist scene draws on foreign models (e.g. the Italian CasaPound) and strives to update its ideas in order to unite itself and become active. However, their ideas are somewhat unrealistic and virtually unfeasible in the Czech environment.

An additional factor that moderates the radicalism of right-wing extremists is the effort to engage in public politics via a political party (the Dělnická strana sociální spravedlivosti – DSSS – Workers' Party of Social Justice). This requires public conduct acceptable to the population as a whole, not only to a relatively close group of activists. For this reason the DSSS played an active role in the recent events in northern Bohemia.

It is likely that the failure to address social problems often associated with the ethnicity of the problematic 'unadaptables' will lead to further growth of tension in the given areas. One of the consequences may be growing support for extremist entities. Moreover, a further danger lies in the willingness of mainstream political parties, especially those at the local level, to gradually adopt the rhetoric or some positions of the extremists and use them as part of their political campaigns. This could lead to a gradual, partial radicalization of ordinary political parties caused by fears of losing the support of voters. To prevent this scenario from becoming a reality it will be necessary to give up the 'fearful' approach to the immediate, especially ethnic, problems and stop avoiding a realistic description of existing issues. Constant academic debates that lead nowhere must be abandoned, and attention

must focus on particular projects and matters of a practical nature. This is the only way of weakening the arguments of extremist groups and indirectly reducing their popularity.

In 2012, left-wing extremist groups continued in their efforts to profit from civil protests against austerity measures and the Government. They usually took part in various demonstrations organized by non-extremist groups criticizing the Government's current policies.

The BIS regularly informs the public about the current state of the extremist scene in its annual reports and on its web pages. Currently the extremist scene does not have the potential to pose a true threat to democracy in the Czech Republic. Nevertheless, this scene must not be underestimated. However, it is also unnecessary to overestimate it in any way, especially because society is very sensitive to its operations.

It is also becoming evident that to a certain extent it no longer makes sense to consider a strict distinction between right-wing and left-wing extremists a decisive criterion for evaluating individual phenomena.

Some incidents (such as the attack on the President of the Republic in Chrastava) and other events in 2012 indicated that threats to the democratic principles of the Czech Republic need not necessarily be based only on the activities of extremist entities with relatively low potential for mobilization. Under specific circumstances the source of such a threat may be an increase in distrust in the functioning of democratic principles in general expressed by certain groups of the population.

The following factors contribute to the creation of such distrust: the impact of the economic crisis, the Government's austerity measures, different corruption affairs, the dysfunction of state authorities, the operations of clientelistic structures, insufficient personal responsibility of officials and public figures for decisions made, etc. All these elements lead to frustration, feelings of helplessness, and a sense of hopelessness in regard to the current situation in the majority of the population. Various informal organizations, initiatives, civic associations, and even political parties can easily take advantage of manifestations of legitimate civil discontent and, under the banner of a fight against social ills attempt to advance their private objectives, consisting for example even in the destruction of the traditional model of a representative democracy.

As mentioned above, the label 'extremist' covers a very wide, diverse and fluid range of activities and it is often very difficult to distinguish between the legitimate exercise of constitutional civil rights and activities aimed either directly or in their final result against the democratic foundations of the state and its constitutional order.

Undoubtedly, many negative phenomena, some of which have not been satisfactorily contained even on a long-term basis, are appearing in society; however the desired situation in a democratic society can be achieved only by democratic means and procedures, including legitimate expressions of civil discontent.

Currently, anti-system activities pose a potential threat. The reduction of this threat should be mainly a topic for expert and public discussions in which the BIS does not and cannot participate. However, failure to take note of these activities would mean their strengthening and their transformation into a more-than-real threat.



### 3.4.1. Right-Wing Extremism

In 2012, no major changes in the right-wing extremist scene occurred and right-wing extremists did not engage in many activities. The mobilization potential of radical nationalist and Neo-Nazi groups and their financial, political, and staffing possibilities remained minimal. The risk that they might pose a serious and realistic threat to the democratic principles of the Czech Republic was small. Nevertheless, many of them did openly or covertly proclaim ideas incompatible with the Czech legal order. The BIS responded to such findings by submitting information to legally-stipulated addressees.

The year 2012 was characterized by **fragmentation, disunity, and disarray on the right-wing extremist scene**. Right-wing activists were aware of this fact. Some of them tried to fight against it and reunite the scene, or at least temper mutual animosities. However, these efforts were mostly short-lived and were not successful.

The functioning of the scene was also influenced by continuing clashes of opinion between advocates of new trends and stalwart right-wing extremists sympathizing with neo-Nazism. Although efforts to mitigate these disputes were noted, the 'ceasefire' usually did not last long, and one side or the other always violated it in the end.

As a whole, the Neo-Nazi scene practically did not function. It was made up only of local cells not working together. Although some of them were relatively active, their members concentrated primarily on local issues, and therefore no agreement was reached at the national level.

Although the right-wing extremist scene was not united, this did not mean that all its activists gave up all operations. On the contrary, many of them devoted continuous efforts to establish new ways of **public promotion and presentation** drawing inspiration from abroad. Right-wing extremists hoped that the organization of charitable and public benefit events (handing out toys in children's hospitals and children's homes, collecting trash, providing financial and material support for animal shelters, etc.), would increase their popularity and lead to a favourable public opinion. However, these activities did not produce the expected results.

The Internet continued to play a major role in right-wing extremist propaganda and communication. The Internet's relative anonymity is one of the main reasons for its popularity. Right-wing extremists continued in their frequent exploitation of **issues of socially unadaptable groups**, particularly from the Romani community, and of increasing social tensions in some regions. These themes were exploited especially by the Workers' Party of Social Justice, but also by other entities including some of a non-extremist nature. The criticism of the Czech Government and its reforms was another important mobilization theme for right-wing extremists, who held many demonstrations and protest concentrating on this theme.

Traditional **demonstrations, concerts, and marches** continued to be organized. They usually took place on various national holidays or days commemorating important events of the Neo-Nazi movement. Some of them were held in order to honour the memory of deceased activists. However, participation was generally not large, and these events did not present a significant security problem.

For several years right wing concerts suffered from a decline. In 2012, these events underwent a transformation and experienced a certain revival. 'White Power' concerts turned into hard rock events without a clear right-wing extremist character often attended not only by right-wing extremists but also by ordinary citizens.

### 3.4.2. Left-Wing Extremism

In 2012, the left-wing extremist scene continued to stagnate and did not undergo any major changes. Given various ideological differences and personal disputes it remained highly fragmented, split into many cells, and fraught with numerous long-term problems.

Activities of left-wing extremists posed no real threat to democratic principles. Their clashes with right-wing extremists during public demonstrations were the biggest security threat as these activities endangered public order.

All Marxist-Leninist and anarchist-autonomous groups responded to the ongoing economic recession and to the Government's austerity measures. Left-wing extremists addressed not only general left-wing issues, such as the struggle against capitalism and state oppression and repression, but also levelled **criticism at the present Government and its reforms** and participated in various **demonstrations against the Government**.

Left-wing extremists often took part in civil protests organized by the 'Stop the Government' initiative, which brings together trade unions, and various leftist civic initiatives and associations. However, they were also present at many other protest rallies organized by different entities, e.g. they supported protests against the reform of higher education during the 'Week of Unrest', organized in late February and early March in a number of cities in the Czech Republic by the Initiative for Free Colleges and Universities.

At the beginning of the year they also joined **protests against the signing the international Anti-Counterfeiting Trade Agreement (ACTA)**<sup>5</sup>. Protests against the Agreement took place across Europe and during January and February demonstrations were staged in almost all regions of the Czech Republic. About 3,500 people took part in the biggest protest which took place on February 2, 2012 in Prague. In some regions left-wing extremists also organized their own small events against ACTA.

Left-wing extremists tried perceived civil protests as an opportunity **to disseminate anarchist or Marxist-Leninist ideas among ordinary citizens**, to gain public sympathy, to attract new members, and even to radicalize demonstrations against the Government by drawing on foreign protests. However, only a limited number of extremists took part in these events, and therefore they were not able to significantly influence the course and form of these demonstrations.

Left-wing extremists not only became involved in various protest movements, but they also endeavoured to organize **their own public activities**. Rather than large demonstrations

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5 The Anti-Counterfeiting Trade Agreement (ACTA) is an international agreement on standards for the protection of intellectual property. The Agreement made public in 2011 aimed at establishing an international legal framework on the fight against counterfeiting tangible goods and violating copyrights. The ACTA was signed by 31 countries including 22 EU member states. However, it was not ratified since the public feared the ACTA would restrict the freedom of expression and lead to invasions of privacy. These fears culminated in February 2012 with large-scale protests in more than 200 European cities.

and public rallies these tended to be various happenings, street parties, festivals, memorial and solidarity events, or traditional meetings of left-wing extremists. The majority of these events were of regional character with significance only for the activists themselves and transpired without arousing the interest of the public or the media. This confirmed once more that left-wing extremist events are not capable of attracting large numbers of ordinary citizens.

Supporters of the left-wing extremist scene continued to present their positions on the Internet and concentrated on organizing internal events such as various lectures, meetings, discussions, workshops, film screenings, exhibitions, concerts, benefit events, activist camps, 'action weekends', sporting events, etc. The left-wing also scene experienced a revival of publishing activities, were given along with

Left-wing extremists also focused **fighting the supporters of the extreme right**. They organized protests against demonstrations and pre-election meetings of their ideological adversaries. In addition, especially militant anti-Fascists kept an eye on neo-Nazis and representatives of the Workers' Party of Social Justice, published information about them on the Internet, and carried out direct physical attacks on leading right-wing extremists.

### 3.4.3. Events Connected by the Media with Extremism

In 2012, two events that attracted attention were **connected by the media with extremism**.

The first event took place on August 10, 2012. Vojtěch Mlýnek, , who had been hoarding weapons and explosives was arrested in Ostrava. According to some media reports Mlýnek sympathized with the Norwegian terrorist Anders Breivik. According to findings of the BIS, Mlýnek is not connected to the extremist scene and was only minimally inspired by Breivik. The BIS has no information indicating he was planning an act of terrorism.

The second event was the attack on the President of the Czech Republic with an airsoft gun. The attack took place on September 28, 2012 in Chrastava. According to findings of the BIS the arrested man is not connected to the Czech extremist scene. Nevertheless this event demonstrated that part of Czech society is becoming strongly radicalized. Although the threat of similar attacks remains low, the Czech Republic faces the possibility of attacks targeting political representatives.

## 3.5. Terrorism

In 2012, the BIS concentrated on the early detection of potential participants in terrorist attacks on the territory of the Czech Republic and on the process of radicalization accompanying the spread of Islamism. The BIS also evaluated possible negative effects of jihadist propaganda and the impact of the further development of the 'Arab Spring' on the security of the Czech Republic and its citizens.

The BIS has fully assessed international developments and has looked at the situation in other European countries. It has come to the conclusion that conditions suitable for the creation and operation of terrorist groups have not yet arisen in the Czech Republic.

The BIS also focused on **radicalization accompanying the possible spread of Islamism** from abroad. Although mass media and social networking websites devote great attention to this phenomenon, manifestations of Islamism perceived from the perspective of the total number of Muslims are not characteristic for the Czech Muslim community. Nevertheless,

the BIS keeps an eye on the manifestations of radical ideologies and evaluates them on an ongoing basis.

Currently, Muslim communities around the world tend to place greater emphasis on the adherence to Islamic law (in Arabic *Sharia*) as a means of advancing the ideas of Islamism. Specifically, this involves efforts to introduce elements of Islamic law in parallel with the current legal system of the majority society. The BIS noted similar efforts also in the Czech Muslim community. The most significant activity in this regard has been the creation of the Facebook discussion group 'Sharia4Czech'. The BIS will continue to keep an eye on these efforts and take into account further developments abroad where groups of this sort are much more active.

Jihadist propaganda on the Internet might lead to the self-radicalization of individuals blindly accepting propagandistic messages. These persons, called 'lone wolves', are a currently growing trend ideologically promoted by disseminators of hate propaganda

The '**Arab Spring**' – fundamental social changes taking place in many Arab countries – significantly contributed to the re-evaluation of security risks stemming from the Middle East. The Arab Spring was instigated by dissatisfaction with the worsening economic situation in these countries; however, Islamist and terrorist movements, which gained certain social status mainly through long-term persecution by nationalist dictatorships, took political advantage of the rebellion and.

Islamist movements enjoyed major political success in the first free parliamentary elections thanks to their populist rhetoric. Further developments in 2012 confirmed that their main goal is to promote Islamism both at home and abroad. This increases the security risk posed by the spread of Islamism via promotional materials, by the activities of radical clerics, and by financing these activities also in Europe.

Unrest caused by the Arab Spring strengthened and raised the profile of terrorist organizations. Terrorist networks and organizations took advantage of efforts to achieve democratic order in the affected Arab countries to increase their activities. The formation of numerous combat zones, especially in Libya, Syria, Yemen, and in the Sahel, led to the revival of jihadist structures and to an increase in their numbers. They were joined by individuals from abroad, in several cases even by citizens of EU countries. The Arab Spring also had a strong impact on the Israeli-Palestinian conflict. Instability in the Middle East and changes in the attitude of some influential Islamic countries led to the political strengthening and to the recognition of the Hamas movement. These developments culminated in the 'Eight-Day War' in the Gaza Strip.

An important event of the year 2012 was the **terrorist attack in Burgas** targeting a bus with Israeli tourists. This attack was carried out in an extremely professional manner. Its *modus operandi* – engaging a terrorist organization – resembles procedures followed by intelligence services of totalitarian countries. As part of its involvement in international cooperation in the fight against terrorism, the BIS was engaged in clarifying some of the circumstances of this attack. The main analytical conclusion drawn from this attack is that a similar terrorist attack can take place in any EU member state, including the Czech Republic.

The events in Gaza and the subsequent UN vote on the status of Palestine indicated future development in the Middle East. The geopolitical importance of the Middle East has increased and the above-mentioned events confirmed that the security situation in this

region can affect the EU. The Czech Republic's consistent position on this region, in which the strategic interests of some global as well as local 'superpowers' come into conflict, did not change the degree of the terrorist threat to security. The Czech Republic faces this continuing threat since it has expressed its position by being a member of the EU and NATO, by participating in military and civil efforts leading to the stabilization of Afghanistan and by maintaining a traditional alliance with the USA and Israel.

### 3.6. Proliferation of Weapons of Mass Destruction and Their Carriers, Conventional Weapons and Explosives

In this area economic and security considerations come into conflict. From an economic perspective, the export of Czech products would be desirable; however, security concerns impose certain trade restrictions. These are determined mainly by the fact that the Czech Republic, as a signatory to various international control regimes (ICRs) discussed later in this section of the report, is committed to ensuring that certain products and technologies do not fall into the hands of representatives of undemocratic regimes, or of regimes that do not provide a sufficient guarantee that they will not use such products and technologies against people or otherwise misuse them. For the same reasons, the international community restricts the higher education of citizens from some countries in special study programmes with technical specializations. These restrictions must be understood as a contribution of the Czech Republic to ensuring international security.

Risks of the dissemination (proliferation) of items abusable for the development and production of weapons of mass destruction and their carriers (WMDs) in high-risk countries, especially in Iran and North Korea, are reduced by the timely evaluation of information concerning requests for particular goods, technologies, and expertise. Findings of the BIS concerning the preparation and execution of transactions involving goods usable for proliferation included on ICR lists and provided for in regulations implementing Czech national legal standards were submitted to legally-stipulated addressees in order to aid in their decisions on further procedure in assessing goods exported from the Czech Republic.

The Czech Republic prohibits trade in nuclear, chemical, and biological (bacteriological and toxic) WMDs. As an active member of all the relevant **international control regimes** the Czech Republic engages in international cooperation by striving to ensure that not even individual components applicable to WMD development and production are exported from the Czech Republic or from other EU countries to which goods from the Czech Republic can be exported under the Intra-Community Transfer Directive.

The list of items controlled by Czech national regulations is based on many years of experience and on the lists of individual ICRs. Components for nuclear WMDs are listed by the NSG and the ZC.<sup>6</sup> Items for chemical and biological WMDs are controlled according to lists of the Australia Group. Carriers of WMDs are addressed in the list of the MTCR, supplemented by the Hague Codex - HCOC.<sup>7</sup> Additional lists of controlled items, especially a

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<sup>6</sup> Nuclear Suppliers Group (NSG) and Zangger Committee (ZC)

<sup>7</sup> The Missile Technology Control Regime (MTCR) and the Hague (or International) Code of Conduct against Ballistic Missile Proliferation (HCOC).

list of military equipment, are based on the Wassenaar Arrangement<sup>8</sup> and on a joint European list.<sup>9</sup>

Unlike military equipment, and arms, ammunition, and explosives in general, dual-use items used for both civil and military applications can be exported only by foreign entities engaged in civilian production.

Although the international community adopts increasingly effective measures reducing the possibility of transactions in items abusable for military programmes in high-risk countries, the BIS noted efforts to **circumvent sanctions**, e.g. through re-exporting goods via non-sanctioned countries. In 2012, the realistic possibility of the abuse of exported goods resembling directly-controlled items led to the application of the 'catch-all clause'<sup>10</sup>. This clause is based on procedures similar to those used for regular controlled item exports. It has advantages even for the exporter: when a transaction is permitted the exporter can verify that the export is in compliance with export regulations and ensure that his brand name will not be damaged.

In recent years the trend developed toward the **use of new materials and technologies** even in established fields of production. For example steel as a traditional manufacturing material is being replaced by composite materials with different physical and chemical properties. Such products tend to have similar characteristics as controlled items or even exceed them. If the exporter applies a literal interpretation of the list of controlled items provided for in implementing regulations and does not address the actual possibilities and purposes for which the exported goods can be used complications arise. In consequence such conduct can damage the exporter, the manufacturer, and the international reputation of the Czech Republic.

Continuously-developing **nanomaterials**, their production and development in the Czech Republic, and related nanotechnology is a specific, rapidly developing field. Developments in nanotechnology will most likely produce applications usable in military programmes, and future interest in exporting such goods. Nanotechnology is a cutting-edge technology enabling the advancement of a whole range of fields. Nanomaterials are a relatively new and qualitatively important product, presenting a new export opportunity for their Czech manufacturers. However, both the technology itself and experts engaged in its development and implementation might become targets of the intelligence services of countries that know they cannot gain legal access to a technology applicable to various military programmes. From an economic point of view, it is unfortunate that exports of nanotechnology and its products must be restricted or completely banned; however, from the standpoint of security and foreign politics, such a step is logical and is in principle the only option allowing the Czech Republic to maintain its reputation as a reliable partner in international contexts.

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<sup>8</sup> The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA).

<sup>9</sup> Military list.

<sup>10</sup> Article 4 of EC Council Regulation No. 428/2009, as amended.

### 3.7. Cyber security

The dependence of society and the state on communications and information technologies is constantly growing; therefore, it becomes increasingly necessary to protect these technologies. Temporary malfunctions of the systems for the payment of welfare benefits and of the Central Register of Vehicles in 2012 demonstrated that even the failure of a relatively unimportant information system can seriously impact society and lead to major political pressures.

Information and communications systems are threatened in many ways. The BIS focuses on investigating threats from intelligence services of foreign powers, hacktivists, terrorists, and organized crime. The objectives and methods of these groups vary, but their common denominator is the potential to cause serious damage to the interests of the Czech Republic. State and non-state entities are increasingly making use of cyberspace to obtain sensitive information. Especially intelligence services of foreign powers launch sophisticated attacks aimed at **obtaining strategic information on the economy, the military, and diplomacy**. The Czech Republic is no exception.

In 2012, the BIS investigated an unsuccessful attempt at covert retrieval of data from the computer network of a Czech state office. As in most cases of cyber espionage, however, it was not possible to determine the exact source of the attack, and merely identifying the country from which the attack was launched may be considered a success.

A major portion of domestic electronic attacks comes from **hactivist groups** with a loose organizational structure. The best known group in the Czech Republic is the group 'Anonymous', which has gained many sympathizers among young people. Attacks by hactivist groups are very ostentatious and their aim is to show dissatisfaction with social or political phenomena. Hacktivists often attack by overloading their targets with web traffic or by modifying the targeted website. Websites of political parties, state offices, and public officials were attacked especially in the early months of 2012.

Currently, terrorists do not consider cyberspace to be a 'war zone', and they use it in the conventional way for **disseminating propaganda, for mutual communication, and for recruiting new members**. It is likely that over time and with society's growing dependence on information and communications systems they will concentrate their efforts on sabotaging them. However, for the time being the BIS has not uncovered signs of such a development.

**Organized cyber criminal groups** are well aware of the opportunities offered to them by the virtual world and its anonymity. Home and business users of Internet banking are the most frequent victims of these groups. A popular method of attack is to spread a harmful code via websites or e-mail, and social engineering. Since these activities are of criminal nature, they fall within the range of powers and responsibilities of law enforcement authorities and the BIS does not intentionally focus on them.

## **4. Protection of Classified Information**

### **4.1. Administrative Security**

In 2012, checks were carried out in the section of records management and administrative security, primarily as part of archive inspections in the departments and in the BIS record office. Special attention was devoted to administrative requirements for volumes of intelligence documents and to the registry of classified information.

Workers in the archive service conducted a total of 58 archive inspections related to checks of records management. Checks were focused primarily on establishing that no classified documents were missing, on meeting administrative requirements, and on the precision of keeping record entries. Special attention was paid to checking the completeness of submitted documents and of randomly-selected documents deposited in department registries.

Registry workers conducted a regular annual inspection of classified NATO and EU documents stored in the registry of the BIS. The inspection is carried out in compliance with Section 27, Paragraph 12 of Regulation 529/2005 Coll. on Administrative Security and on Registries of Classified Information. The inspection did not reveal any deficiencies either in the record keeping or in the completeness of documents.

The inspections found no serious threats to the administrative security of the BIS. Most of the minor deficiencies discovered were corrected during the course of the inspections or immediately thereafter.

### **4.2. Security of Information and Communications Systems**

In the areas of security of information and communications systems and of cryptographic protection, the BIS cooperated with the National Security Office (NBÚ) in re-certifications and in the implementation of cryptographic algorithms. In collaboration with other public administration authorities cryptographic algorithms were implemented in mutual partial connections and information systems.

All BIS information systems processing classified information have a valid National Security Office (NBÚ) certificate. In 2012, the certificate for the information system processing information classified as 'Secret' expired. This system successfully passed a NBÚ inspection, and the security certificate was extended. The re-certification of the information system also included the review and amendment of security documentation.

In 2012, emphasis was again placed on implementing new, more advanced and more sophisticated technologies.

### **4.3. Physical Security**

In the area of physical security, the BIS focused on improving systems of special rules providing for the operation of BIS buildings, their technical protection, and their physical guarding in order to meet the requirements on the protection of classified information provided for in Act No. 412/2005 Coll. and Regulation No. 528/2005 Coll., as amended by Regulation No. 454/2011 Coll.

Documentation on BIS offices and buildings was regularly updated. In many cases the documentation was amended in order to reflect the current status.



#### 4.4. Crisis Management

A new BIS Crisis Plan was drawn up in compliance with crisis legislation in force since 2011 (meeting the legally-specified deadline of the end of 2012). The Crisis Plan also includes a Crisis Preparedness Plan for Critical Infrastructure Entities<sup>11</sup>.

Emergency Plans for buildings were updated in order to protect BIS members in emergencies.

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<sup>11</sup> The BIS was designated as a critical infrastructure entity by Government Executive Order No. 934 of 14 December 2011.

## **5. Cooperation with Intelligence Services of the Czech Republic and with Other State Authorities**

### **5.1. Cooperation with Intelligence Services of the Czech Republic**

The BIS regularly provides other intelligence services of the Czech Republic with its intelligence and findings. Cooperation takes place at different levels in the areas of operations, analysis, and servicing.

In 2012, the BIS cooperated within the framework of the fight against terrorism, with other intelligence services and other public administration authorities primarily through the work of the Joint Intelligence Group of the Cabinet Office of the Czech Republic and of the National Contact Point for the Fight against Terrorism (NKBT).

The BIS also cooperates with Military Intelligence and the Office for Foreign Relations and Information and fulfils its obligations stemming from Government Resolution No. 1060 of 13 September 2006 on the coordination of activities of the intelligence services of the Czech Republic in evaluating information pertaining to the fight against terrorism and important for national security.

The BIS, the ÚZSI, and Military Intelligence also cooperate and exchange information on the proliferation of weapons of mass destruction and their carriers.

### **5.2. Cooperation with the Police of the Czech Republic**

Section 8, Paragraph 3 of Act No. 153/1994 Coll. stipulates that the BIS must pass information to the Police of the Czech Republic. In many cases cooperation between various departments of the BIS and the police draws on the nature of passed information and takes the form of joint meetings. Given the competency of the BIS these meetings are usually held with specialized police units operating on a nationwide basis.

In addition to this type of cooperation, the BIS works with individual police units and participates in a whole range of operational activities.

Especially during the first half of the year, the BIS investigated electronic attacks together with the Department of Information Criminality. Identified threats and security shortcomings were addressed in collaboration with information system and computer network administrators of some state institutions.

Generally, BIS promptly submits all obtained information falling within the range of powers and responsibilities of police authorities to the relevant police unit.

### **5.3. Cooperation with Other State Authorities and Institutions**

During the course of 2012, the BIS worked closely with the National Security Office (NBÚ) responsible for ensuring the cyber security of the Czech Republic on drafting a bill on cyber security and wording its text. Consultations are being held with the NBÚ on its plans to create Computer Emergency Response Team (CERT)<sup>12</sup> in order to create an environment leading to effective cooperation among state security bodies, CERT, and other relevant state authorities and institutions.

In 2012, the BIS closely cooperated with customs authorities – with the Directorate General of Customs and with individual customs offices. The BIS also cooperated with the

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<sup>12</sup> A team playing a key role in critical information infrastructure protection.

Financial Analytical Department of the Ministry of Finance, with state prosecutors' offices, with the Licensing Office of the Ministry of Industry and Trade, with the State Office for Nuclear Safety and its subordinate organizations, and with the Ministry of Foreign Affairs.

Act No. 412/2005 Coll., stipulates that the NBÚ may request the BIS to conduct investigations pertaining to personnel security, industrial security, and security clearance including security clearance investigations for the issuance or revocation of security clearance certificates for natural and legal persons and the issuance or revocation of security eligibility certificates.

Furthermore, the law imposes on the BIS the duty to report findings indicating that the natural or legal person holding a security clearance or security eligibility certificate no longer meets the requirements for their issuance. In accordance with Section 8, Paragraph 3 of Act No. 153/1994 Coll., and Section 140, Paragraph 3 of Act No. 412/2005 Coll., the BIS passes such information to the NBÚ and to other intelligence services if their members or employees are concerned

## **6. Cooperation with Intelligence Services of Foreign Powers**

Our cooperation with the intelligence services of foreign powers is characterized by the BIS acting as an active and reliable service perceived by most cooperating intelligence services as a strategic partner. The BIS maintained close contacts especially with intelligence services from the Euro-Atlantic space, i.e. with intelligence services from EU member states and from the USA.

In international cooperation the BIS benefits from trust built over a long period of time, which is the basic building block of a mutually beneficial cooperation among the intelligence services of democratic countries. Important foreign partner intelligence services perceive the BIS as a long-term reliable and stable intelligence service of a democratic country and as a reliable partner for the sharing of intelligence information vital for international security.

This approach is reflected in the high-quality results of international cooperation. As mentioned above, the BIS is highly valued in the international community (in both bilateral and multilateral relationships) as a reliable and stable partner.

### **6.1. Bilateral Cooperation**

The BIS is authorized by the Government to cooperate with 97 intelligence services of 63 countries and to maintain active contacts with 57 foreign partner services.

The most active exchange of findings traditionally occurred between the BIS and the services of neighbouring countries and EU and NATO member states. The principal topics of our broad international contacts included the fight against terrorism, counterintelligence, proliferation, organized crime, extremism, and the increasingly important area of cyber security.

Cooperation with partner intelligence services includes not only a regular exchange of operational and analytical findings, but also leads to ad hoc operational collaboration.

The BIS also engaged in successful operational collaboration with traditional long-term partners outside the Euro-Atlantic space.

### **6.2. Multilateral Cooperation**

#### **The Counter-Terrorist Group (CTG)**

In the framework of the Counter-Terrorist Group the BIS participated in several expert sessions enabling expert collaboration on seminars, projects and meetings of the heads of counterterrorist departments. Discussion focuses especially on radicalization, the use of the Internet by terrorists, the 'Arab Spring' and its impact on security, and on changes in the level and overall nature of current threats.

#### **NATO**

The BIS takes an active part in a number of meetings on topics closely connected with current security threats and is perceived as a respected intelligence service also among the relevant intelligence structures of the North Atlantic Alliance.

## 7. Oversight

Section 12 of Act No. 153/1994 Coll. on Intelligence Services of the Czech Republic stipulates that the activities of the BIS are subject to oversight by the Government and Parliament.

The Act defines neither the scope nor the manner of the Government oversight. It is based on further provisions of Act No.153/1994 – on the Government’s entitlement to assign tasks to the BIS within the Service’s legal jurisdiction and to assess their fulfilment; and on the fact that BIS is accountable to the Government, which also co-ordinates its activities and appoints and dismiss the Director of the BIS. Section 8, Paragraph 1 of Act No. 153/1994 Coll. states that the BIS must submit reports on its activities to the President and to the Government once a year and whenever it is requested to do so. Government oversight focuses on all BIS activities.

Act No. 154/1994 Coll. on the Security Information Service (i.e. the BIS), as amended, provides for Parliamentary oversight. Under section 18, the responsibility for overseeing the activities of the BIS lies with the Chamber of Deputies (lower house) of the Czech Parliament, which sets up a special oversight body for this purpose (the Standing Oversight Commission). Sections 19 and 20 of the said Act provide for the authorities of the Oversight Commission. Members of the oversight body may: enter the facilities of the BIS when accompanied by the Director or a member designated by the Director for this purpose, acquaint themselves with information and documents to the extent stipulated by this Act, and request due explanation from the Director should they feel that the activities of the BIS unlawfully curb or damage the rights and freedoms of citizens.

The BIS regards external Government and Parliamentary oversight as an important prerequisite for its activities contributing to high-quality fulfilment of tasks in the range of its powers and responsibilities.

Oversight regarding the management of state-assets and of funding allocated to the BIS from the state budget is carried out by relevant state authorities: by the Ministry of Finance according to Act No. 320/2001 Coll. on Financial Audit in Public Administration and the amendment of some related acts (the Financial Audit Act), as amended; and by the Supreme Audit Office according to Act No. 166/1993 on the Supreme Audit Office, as amended.

The activities of the BIS are also subject to court oversight when using intelligence technology according to Act No. 154/1994 Coll. According to Section 10 and further Sections of this Act permissions to use intelligence technology are granted by the chair of the senate of the High Court of Justice in Prague who also oversees their use. Furthermore, according to Section 11a of Act No. 153/1994 Coll., as amended, the chair of the senate of the High Court of Justice in Prague also decides on requests from the BIS to obtain information subject to bank secrecy in order to fight against the financing of terrorism.

External oversight of the BIS is carried out by authorities and institutions that have the legal right to oversee the activities of the BIS.

### 7.1. External Oversight

In 2012, authorised bodies conducted 6 external audits inspecting e.g. state expert supervision at the emissions measurement station and the technical inspection station; and wells and water management.

## 7.2. Internal Audit Activities

The internal oversight system is examined and evaluated by the internal audit group. In 2012, 11 inspections were carried out focusing on public procurement, occupational safety and health, the inventorying of property, and on the implementation of recommendations for improving management and financial activities of the BIS.

Internal oversight is also conducted during the course of the year by expert monitoring units of the BIS producing a set of recommendations which in some cases lead to the refinement of internal regulations.

In 2012, internal audit activities focused on the following areas:

- fulfilment of the budget; adherence to binding limits on managing allocated budget funds and the keeping of accounting records; principles of planning, creating and drawing on the budget and adherence to budget discipline; salary accounting; adherence to principles for allocating money from the cultural and social needs fund;
- provision of material needs in organizational units and keeping material records;
- use of contributions for meals and keeping of relevant records;
- monitoring the technical condition of vehicles, required technical inspections, tracking fuel consumption, management of tires, use of vehicles, and keeping of records concerning service vehicles;
- monitoring the structural condition of buildings and their usage in accordance with their intended purpose; adherence to relevant norms for lodging and for the operation of buildings; tracking energy consumption; conducting prescribed inspections; adherence to principles of occupational safety and hygiene, of fire protection, of water management, and of ecology.

Pursuant to Act No. 187/2006 Coll. on sickness insurance, the BIS is responsible for providing its members with sickness insurance. In accordance with Section 76 of the said Act, in 2012 the BIS carried out 11 checks of persons temporarily unable to work.

## **8. Maintenance of Discipline; Handling of Requests and of Complaints**

### **8.1. Investigation of Conduct Suspected of Having the Traits of a Misdemeanour, of a Disciplinary Infraction, and of Other Infractions**

In 2012, the BIS Inspection Department investigated 104 cases of BIS officers suspected of breach of discipline or of conduct having the traits of an infraction. This number includes also the investigations of extraordinary events and represents a decline of 25.18 % compared with 2011.

Of the total number of 104 cases, 48 pertained to transportation, e.g. traffic accidents involving service or private vehicles, damage to service vehicles, and suspicions of other violations Act on Road Traffic. In 2012, extraordinary events pertaining to transportation fell by 50 % compared to the situation in 2011 and reached the lowest level since 2000.

The number of cases involving the protection of classified information also declined.

### **8.2. Investigations of Complaints and Notifications**

In 2012, the BIS Inspection Department investigated complaints, notifications, and suggestions from BIS members as well as from parties outside the BIS. Out of the total of 139 submissions, not even one was evaluated as a complaint. However, 2012 has seen a 6 % rise in the number of notifications and suggestions reflecting the publication of the *Annual Report of the BIS for 2010* and the *Annual Report of the BIS for 2011*.

### **8.3. Activities of the BIS Police Authority**

In cases where a member of the BIS is suspected of having committed a crime, members of the Inspection Department have the position of a police authority in the sense of Section 12, Paragraph 2 of the Code of Criminal Procedure.

In 2012, the BIS police authority was active mainly in several related cases having to do with the ownership of assets. The majority of these cases were referred to the appropriate district state prosecutor's office.

### **8.4. Cooperation with Other Public Administration Authorities**

The BIS Inspection Department cooperates with other public administration authorities primarily in connection with letters rogatory, which are most often sent by authorities of the Police of the Czech Republic engaged in criminal or misdemeanour proceedings.

## 9. Budget

The budget of the BIS in 2012 was stipulated by Act No. 455/2011 Coll. on the State Budget of the Czech Republic for 2012. Income was set at CZK 138,000,000 and expenditure at CZK 1,148,827,000.

During the course of the year the Ministry of Finance adopted 4 budgetary measures influencing expenditures, therefore the BIS expenditure budget as of 31 December 2012 amounted to CZK 1,114,792,000.

Budgetary measures provided for in Government executive order No. 178 of 21 March 2012 on restricting the claims of organizational units of the state in the case of unspent expenditures in 2012 had no direct impact on the modified budget. This portion of planned expenditures was not released by the Government by the end of 2012, and therefore could not be used.

The final expenditure budget, i.e. funds available, was reduced by the amount not released by the Government and at the end of the period in question amounted to CZK 1,124,623,000.

Actual expenditures dropped 3.3% in 2012 compared with 2011. This represents a continuation of the trend which started several years ago and indicates a shift toward downsizing the funds available. As in recent years, salaries and insurance payments accounted for the majority of total expenditure. High-quality personnel play a key role in the functioning of an intelligence service. This is why personnel costs have a high share in overall expenditure. However, in 2012 funds allocated to this area of expenditure declined in comparison to 2011. This is a consequence of budget restrictions which can no longer be applied only to material and capital investment expenditure. For the second year in a row, less systematized service positions were filled especially due to the fact that positions occupied by members who discontinued their service remained vacant.

Personnel expenditures also include pension and severance benefits for members whose service has ended. These benefits are mandatory and their amount cannot be influenced in any way.

Further current expenditures include mainly services, fuel, and electrical power expenses ensuring normal functioning of the organization. Expenditures for repairs and maintenance were aimed at assuring the operability and appropriate technical condition of the property and the buildings of the BIS. Current expenditures also include the costs of certain types of special equipment and special financial resources for intelligence activity.

More than a quarter of capital investment expenditures was invested in buildings and equipment, primarily in the replacement of central optical, metallic, and security distribution lines in the BIS headquarters. Individual projects involving intelligence, communications, security and IT equipment, and several replacements of other technical equipment accounted for remaining capital expenditures.

The BIS is a specific chapter of the state budget as it is essential to comply with requirements for the protection of classified information provided for in Act No. 412/2005 Coll. on the Protection of Classified Information and on Security Clearance, especially in the areas of physical, administrative, and personnel security and in the area of security of information and communications systems. The need to take these facts into consideration in the whole spectrum of activities of the BIS leads to many expenditures that do not occur in other organizational units of the state.