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CENTRE FOR NONPROFIT SECTOR RESEARCH

**COUNTRY-SPECIFIC SITUATION OF THE NONPROFIT
SECTOR IN THE CZECH REPUBLIC**

Miroslav Pospíšil, Vladimír Hyánek



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1. History and Specifics of the Czech Nonprofit Sector

1.1 Historical Development of the Czech Nonprofit Sector

The tradition of charity and voluntary association in „The Lands of the Czech Crown” is rich and old, dating back to the beginning of the Czech state in the 9th and 10th centuries. Its long evolution culminated in the latter half the 19th century and in the twenty years of the first Czechoslovak Republic in the 1920's and 1930's, after which its evolution was disrupted by fifty years of totalitarian rule (1939-1989).

In the 19th century the Industrial Revolution started transforming the economic, social and demographic map of the Czech Lands, but also spawned a new class of dispossessed. The new wealth and power of the bourgeoisie gave rise to many new scientific, scholarly, literary, cultural and social institutions; the poverty and societal upheavals led to the establishment of workers' self defence and mutual aid. A most important process, however, that contributed to an unprecedented boom in associational life in Czech society was the Czech National Revival (approx. 1770's – 1860's). Similar emancipation efforts in the German population and the competition and rivalry between the two national groups further contributed to the “associational boom”. By the end of the 19th century the Czech Lands had the largest number of charitable and voluntary organisations in the Austro-Hungarian Empire.

In the 20 years between the two World Wars the Czech Lands became part of a new Czechoslovak Republic. Czechoslovakia was one of the world's most advanced industrial-agrarian countries, and the Constitution of February 1920 had guaranteed that the new Republic would also be one of the few states in Europe to have a genuine parliamentary democracy. Consequently dynamic charitable and voluntary organisations flourished.

The dynamic development of nonprofit organisations came to an abrupt end when Hitler's *Wehrmacht* occupied what was left of the Czech Lands in March 1939. His *Eimarsch* marked the beginning of fifty years of totalitarian rule in the conditions of the Second World War and the ensuing Cold War. Under the German occupation (1939-1945), most nonprofits were banned and others were reorganised in order to serve the ideological purposes of the Nazi state. After World War II nonprofits renewed their activities, but their independent development was soon stopped again, this time by the Communist *coup d'état* in 1948. Like the Nazis before them, the Communist regime banned all independent activity. The assets of churches as well as of foundations and associations were confiscated and most of them were dissolved. The remaining associations were amalgamated into several so called 'mass social organisations' (*masové společenské organizace*) and with the new ones created by the communist regime they were unified under the umbrella of the infamous 'National Front', controlled by the Communist Party. The state monopolised the provision of public services, such as education, health and social care. These services were provided by governmental organisations. No voluntary organisations were permitted to exist outside the National Front, the membership in the National Front was considered to be the expression of the loyalty to the state (Frič and Goulli, 2001).

In spite of harsh repression, some independent citizen initiative as well as opposition to the communist regime did exist, but remained fragmented and weak. Both the early scattered opposition of the 1950's and the mightier reform movement of the Prague Spring in the 1960's were put down by force, and so after 1968 occupation of the country by the Soviet Union, cultural activists and civic leaders had to find new ways of independent existence and opposition to the regime. They found it in the parallel polis of

independent cultural initiatives, *samizdat* publishing, underground church and underground university¹ and in the defence of human and civil rights initiated and inspired by Charter 77².

In spite of the admirable work of the cultural activists and the opposition leaders, independent voluntary sector remained small and isolated from the rest of the society. It was not until the second half of the 1980's, after Gorbachev had started his reforms in Moscow, that people started awakening again. The isolated opposition groups were intensifying their dialogue with the rest of society, a new generation of young people was beginning to speak up, and the Catholic Church finally turned around to confront the regime. In 1989 people's long-suppressed frustration finally burst open and made the communist regime collapse within one week.

In the course of the past seventeen years (1990-2006), the nonprofit sector in the Czech Republic has experienced a dramatic transformation in the conditions of transition from a totalitarian regime to parliamentary democracy.

1.2 Specific Features of the Czech Nonprofit Sector

It is typical of Czech nonprofit organisations that they have always played an important role in the building or renewal of Czech nationhood (19th century) and democracy (19th and 20th centuries) and, on the other hand, they have always been targets of harsh repression by authoritarian or totalitarian regimes. The frequent fundamental changes in the attitude of the state towards NPOs and the long years of totalitarian rule have left behind a confusing legacy of varied, often contradicting, traditions and legacies which have shaped the post-1989 development of the Czech nonprofit sector. Among them, the most important are (see also Frič and Goulli, 2001 and Pospíšil, 2006):

- (i) **The tradition of the National Revival:** The 19th century may seem too distant to be directly inspirational, but the Czech National Revival occupies such a prominent place in the Czech national mythology that a considerable number of groups and organisations base their work on the model of selfless sacrifice for the patriotic cause, of community development in difficult, neglected parts of the country, and of carrying out their mission on a strictly voluntary basis. Sometimes even the associations and societies of the 19th century have been revived.
- (ii) **The tradition of the first Czechoslovak Republic:** The pre-WWII Czechoslovakia is seen as the golden age of civil society and the desire to re-start its successful institutions and to copy its successful models has been very strong. A large number of organisations have indeed been revived (Sokol, Boys Scouts, YMCA, the Caritas, ...), some have even been restituted some of their property. Equally inspirational has been the relation between the state and the NPOs, particularly in the areas of health and social care, which the organisations working in these fields have been trying to imitate.
- (iii) **The legacy of mistrust:** Of the many negative legacies of the totalitarian years, that of mistrust is one of the hardest to overcome. Under the communist regime, it had become second nature to disbelieve in the possibility of influencing public policy and in the usefulness of public engagement. People continue to mistrust the institutions that should serve them, including nonprofits.
- (iv) **The legacy of clientelism:** Nepotism and informal networks of mutual services had become the dominant system of securing goods for the individual and the family in the short-supply economy of the "advanced socialist society". The system survived the fall of communism and continues to pose a serious challenge to any attempt to introduce the rule of law and standard procedures in the market, in the public sphere and in the nonprofit sector.

¹ A good account of the history of the underground church is given in Fiala and Hanuš (1999) and of the underground university in Day (1999).

² For basic information on Charter 77 see e.g. Wikipedia, for a detailed account *Nadace Charty 77* (1998) and especially Prečan (1990).

- (v) **Divides in the sector:** A specific manifestation of the legacy of mistrust is the deep divide that exists between 'old' and 'new' organisations. The 'old' NPOs are continuations and transformations of those organisations that existed in the communist era, and they are to be found especially in the areas of sport, recreation and leisure; the 'new' ones, which had been established since 1989, dominate in such areas as human rights, environment, and social services. In terms of numbers, the old NPOs by far outnumber the new ones. The problem that this divide causes is twofold: The 'old' organisations still enjoy preferential treatment by all levels of government in their access to public funding, based on old networks of nepotism and clientelism – a fact much criticised by the 'new' organisations; and in the areas where both the old and the new organisations co-exist, it invariably leads to bitter disputes, not only about public funding but also methods and styles of work. The divide also weakens the position of the sector vis-à-vis other sectors and societal actors. The mutual mistrust and animosity makes concerted action by the whole sector difficult, the state does not know with whom to deal as representatives of the sector because the two parts tend to ignore each other.
- (vi) **Position of churches:** Although central to the life of Czech society and fundamental to the development of the charitable and voluntary action for centuries, the churches have been finding it very hard to recover from the devastation inflicted on them by the Communist regime. Equally, the most atheist country in Europe (with 59% of non-believers³) has been finding it very difficult to re-integrate the churches into society. The long and bitter struggle between the state and the churches about the restitution of former church property and about the separation of churches from the state remains unresolved (Potůček, 2000). Even though there have been no allegations that the state has used financial means to influence church affairs, the continued economic dependence of the churches on the state is intolerable for both parties (Frič, 2000). Even within the nonprofit sector, the churches and their organisations appear to be largely separated from the other NPOs.
- (vii) **The legacy of the nanny state:** The paternalistic communist state was a monopoly provider of all educational, cultural, social, health, and other services (e.g. Brhlíková, 2004). It had built for the purpose a centralised system of organisations, a state nonprofit sector of its own. The public sector has been finding it very hard to accept the loss of its monopoly in the public services after 1989, to recognise the existence of an independent nonprofit sector, and to change its role of providing the public services into the new role of securing their provision (e.g. Frič, 2000). In the field of public services the dominance of the state and state-run organisations is still clearly visible⁴. (It is not only typical of the Czech Republic: it seems to be a general 'post-communist' pattern of providing public services.)

The new development of the Czech nonprofit sector after 1989 has been impressive, both in terms of the number of organisations and the scope of their activities. But, like the rest of the society, it has been, and still is in 2006, a societal sector in transition. Its organisations are still far from being taken by the body politic and the society at large as integral and important parts of the new democratic order. Their relations with the state and the business sector as well as with the general public are still fragile and unstable. Their position in law, in society, or in the market place is still in flux. This means that, besides fulfilling their mission, NPOs have to invest a considerable amount of resources to public relations, advocacy and political lobbying to establish and defend their place in their communities and in society at large.

2. Relevance of the Nonprofit Sector in Economic Terms

Like most other Central/Eastern European countries, the Czech Republic lacked quantitative information on the nonprofit sector for a very long time. Although the Czech Statistical Office (CZSO) started collecting

³ Czech Statistical Office 2004

⁴ For more detailed information see Salamon, L.M., H.K. Anheier, and Associates (1999), "Global Civil Society: Dimensions of the Nonprofit Sector", Baltimore, MD: Johns Hopkins Center for Civil Society Studies

data on nonprofit organisations in 1994, they were used for the system of national accounts only, were ill structured for analytic work and did not cover all the nonprofit organisations, but only some of them. In the 1990's the Czech Republic took part in the Johns Hopkins Comparative Nonprofit Sector Project (CNP), but the data published by the project did not seem very reliable.⁵

The situation changed in 2004, when CZSO decided to implement a Satellite Account on Nonprofit Institutions. After publishing the pilot versions of the NPI Satellite Account, based on 2002 and 2003 data, in the second half of 2005, the Czech Statistical Office (CZSO) issued the first regular edition of its NPI Satellite Account, based on 2004 data, at the end of June 2006. The CZSO obtained the 2004 data on NPIs through two separate statistical surveys: Questionnaire NI 1a-01, designated for "small" entities (entities with less than 20 employees), and NI 1b-01 for "large" entities (entities with more than 20 employees).⁶ Although the share of nonprofit organisations that are annually surveyed is not very high, the CZSO also uses the business register and other administrative sources to make the data reliable.

The Czech nonprofit sector is defined according to the structural-operational definition in the Satellite Account.⁷ The CZSO decided to define NPIs by legal form although this approach is not trouble-free.⁸ Even though the situation has greatly improved with the Satellite Account, some data are still available for the NPISH sector only (any use of such statistics will be indicated).

2.1 Employment in the Nonprofit Sector

Although the data on the nonprofit sector employment are accurate, we are unable to make a detailed analysis in terms of fields of activity, because the available statistics use the *OKEČ* classification (the Czech version of NACE). That means that more than half the nonprofit organisations are classified in the category "Other community, social and personal service activities".

According to the data, the number of employees at the end of 2004 was around 45,600, which made up 0.7% of the total employment in the country. Expressed in full-time equivalent (FTE), there were 42.6 thousand employees. The share of women employed in the nonprofit sector was estimated at about 62%.

⁵ Using the same definition of the nonprofit sector, the CNP estimated the nonprofit sector employment to be 1.7% of economic active population for the year 1995 (see Sokolowski, 2005), whereas the Satellite Account shows only 0.7% for 2004. Other data show similar discrepancies, while it is at the same time clear from them that the economic size of the sector was slowly growing between 1995 and 2004.

⁶ The response rates: NI 1b-01 questionnaires were sent (like before) to all the 497 big entities, of which 493 returned them (99,2 % response rate). The statistical survey of small entities was sent to a sample that had been significantly enlarged for the year 2004: for the first time the NI 1a-01 was sent to 9,438 small NPIs (out of 74,727 active ones), out of which 4,582 responded (48,5 % response rate).

⁷ Definition: (a) Organisations; (b) Not-for-profit and non-profit-distributing; (c) Institutionally separate from government; (d) Self-governing; (e) Non-compulsory.

⁸ The most controversial legal form proved to be 'public university', because Act 111/1998 on Higher Education stipulates that public universities shall be established and dissolved by an Act of Parliament. For the purposes of this Country Background Review we have excluded them from NPI Satellite Account statistics.

Table 1: Intersectoral comparison of employment, OKEČ categories, FTE, 2004

	OKEČ-categories	NPO Sector		Public Sector		Market Sector	
		Total	%	Total	%	Total	%
L	Public administration and defence; compulsory social security	269	0,68	299 560	44,91	0	0,00
M	Education	4 312	10,95	239 726	35,94	12 104	0,41
N	Health and social work						
	- Human health services	1 659	4,21	11 635	1,74	155 439	5,29
	- Social work activities	3 058	7,77	38 501	5,77	1 386	0,05
O	Other community, social and personal service activities						
	- Unions	1 037	2,63	0	0,00	0	0,00
	- Culture and arts	836	2,12	25 100	3,76	12 033	0,41
	- Sports	5 850	14,86	1 817	0,27	3 889	0,13
	- Other activities	20 516	52,10	9 167	1,37	39 312	1,34
A-K	Other OKEČ-categories	1 838	4,67	38 566	5,78	2 715 699	92,37
	Total	39 375	100,00	666 988	100,00	2 940 151	100,00

Source: CZSO, NPI satellite account, 2006

2.2 Voluntary Work

The total number of volunteers that worked in nonprofit organisations in the Czech Republic in 2004 was estimated by CZSO at 568,823 volunteers (approximately 6.8% of the total population over 18 years), which represented almost 14,000 full-time equivalent persons. It is not possible to say how many people volunteer in which areas of activity. The only survey aimed at such questions was the Johns Hopkins CNP, but it only obtained answers from 262 volunteers.

2.3 Revenues and Spending

The data on revenues and spending are only available for the NPISH Sector at a global level. Detailed research projects carried out by the Centre for Nonprofit Sector Research have shown that the structure of revenues differs not only by type of nonprofit organisation but also by field of activity and by legal form.

Table 2: Revenues and spending in NPISH, 2004 (in Euro million)

Revenues	NPISH		Spending	NPISH	
	Total	%		Total	%
Donations	253,89	18,88	Consumption of materials and services	598,67	44,84
Membership fees	103,44	7,69	Wages and salaries	206,87	15,49
Sales	391,80	29,14	Social insurance	65,82	4,93
Subsidies	294,63	21,91	Contributions provided	103,44	7,75
Sale of assets	25,08	1,86	Other expenses	360,46	27,00
Other revenues	275,83	20,51			
Total	1 344,66	100,00	Total	1 335,26	100,00

Source: CZSO, NPI survey, 2004

The CZSO data make it possible to make an intersectoral comparison of output. This variable shows the total production in the nonprofit sector.

Table 3: Intersectoral comparison of output, OKEČ categories, 2004 (in Euro million)

OKEČ-categories		NPO Sector		Public Sector		Market Sector	
		Total	%	Total	%	Total	%
L	Public administration and defence; compulsory social security	13	1,01	6 838	40,50	0	0,00
M	Education	74	5,66	4 161	24,64	191	0,11
N	Health and social work	67	5,13	899	5,33	3 310	1,92
	- Human health services	26	2,03	200	1,18	3 286	1,90
	- Social work activities	40	3,10	622	3,69	19	0,01
O	Other community, social and personal service activities	1 039	79,88	1 175	6,96	3 179	1,84
	- Unions	49	3,78	0	0,00	0	0,00
	- Culture and arts	27	2,05	521	3,09	1 122	0,65
	- Sports	321	24,68	56	0,33	231	0,13
	- Other activities	642	49,37	598	3,54	1 827	1,06
A-K	Other OKEČ-categories	108	8,31	3 811	22,57	166 041	96,13
	Total	1 300	100,00	16 885	100,00	172 722	100,00

Source: CZSO, NPI satellite account, 2006

2.4 Funding Arrangements with the Public Sector

As shown above, funding from public budgets makes up almost 22% of the total revenues of nonprofit organisations. In Table 4 we try to analyse this variable using data from state and regional databases on grants distributed, to which we added the contributions awarded to political parties and churches.⁹ The state and the regions gave most of their grants to four fields: Social services (25%), Education and research (20%), Sport and recreation (18%) and Religion (14%). The figures do not include grants made from the local level of government and from some specific state funds.

Table 4: State and regional subsidies to NPO Sector, ICNPO categories, 2004 (CZK thousand)

Fields of activity	National budget	Regional budgets	Total	%
Culture and arts	5,79	3,76	9,55	3,78
Sports and recreation	39,28	6,38	45,66	18,07
Education and research	47,51	2,56	50,07	19,81
Health	7,46	0,90	8,35	3,31
Social services	47,80	15,87	63,66	25,19
Environment	2,23	0,63	2,86	1,13
Development and housing	4,61	0,56	5,17	2,05
Law, advocacy and politics	20,35	0,47	20,83	8,24
Philanthropic intermediaries and voluntarism promotions	0,24	0,05	0,29	0,12
International	1,09	0,08	1,17	0,46
Religion	33,06	3,17	36,22	14,33
Business and professional associations, unions	8,80	0,09	8,90	3,52
Total	218,22	34,51	252,73	100,00

Source: Analysis of Funding for Non-State Nonprofit Organisations from Selected Public Budgets in 2004

3. Relevance of the Third Sector in Political Terms

The public discourse in the post-communist countries in Central Europe has been much concerned with two basic concepts, linked to two basic ideological streams of thinking that evolved on the post-communist political scene. One, born in the neo-liberal environment, believes the nonprofit sector is exclusively a sphere of private voluntary action, completely independent of the state, and therefore public funding for NPOs is a relic of the communist era. The other one, growing from the social-democratic ideology, says that the welfare state is the universal tool for solving social problems, and NPOs are only a relic of outdated, traditional societies. Therefore, NPOs are perceived as an archaic method of tackling social problems; in modern society, they can at best play a supplementary function to the institutions of the welfare state.

⁹ Churches receive annually approximately 30 million Euro from the Government to pay salaries to clergymen. Funds are divided proportionally according to number of clergyman among the 21 registered religions based on the number of clergy in each, with the exception of 4 religions.

It is observable that old NPOs tend to prefer the social-democratic model, with the provision, however, that they want to be included in the welfare state machine. New NPOs seem undecided about which role they wish to play and what place they wish to assume in society. As far as the state is concerned, most Czech politicians of all colours as well as most public servants continue to be united in their mistrust of nonprofit organisations and independent citizen action in general.

The place of NPOs in the political, and indeed public, sphere thus remains very much in flux. Only some of the relevant relations and procedures have been institutionalised, most are informal and depend very much on individual relations between the NPOs involved and their counterparts. Because of the mistrust and resistance on the part of public administration, access to public policy formation is still largely restricted for most NPOs. Especially the position of NPOs vis-à-vis the new administrative regions (*kraje*) is still unclear because the new administrative division of the country was only instituted in 2001. Below are some of the most important structures and mechanisms that enable NPOs to participate in the political life of the country.

3.1 Council for Non-State Non-Profit Organisations

The Council of the Czech Government for Non-State Non-Profit Organisations (*Rada pro nestátní neziskové organizace*) is an advisory council to the national government on the issues related to nonprofit organisations. It consists of 50% representatives of the public sector (ministries and regions) and 50% representatives of nonprofit organisations. It is presided over by a Cabinet Minister, which gives its deliberations and recommendations adequate weight in the political process. It is the most important platform for the nonprofit sector to introduce and discuss issues that are of importance to it, to introduce legislative initiatives and proposals, to influence public policies, and last but not least, to hold the state accountable for the implementation of agreed policies.

3.2 Council of Economic and Social Agreement

The Council of Economic and Social Agreement (*Rada hospodářské a sociální dohody*) is the most important corporatist arrangement between the government, trade unions and employers. Popularly known as the '*tripartita*', it is widely seen as the main vehicle for maintaining social peace and resolving social conflicts. Both the trade unions, representing employees, and the chambers of commerce and employers' associations, representing business, use this platform to negotiate legislation and policies with the government, both on the national and regional levels.

3.3 Other Corporatist Arrangements

The Czech Republic has a system of professional associations and chambers that have traditionally played the dual role of partner and opponent in the relation with the state. Almost each profession has a self-governing chamber established in law, very often with obligatory membership, which serves the interests of its members and represents their collective interests vis-à-vis the state. At the same time, however, the state delegates to them certain powers of control over their profession and invites them to take part in shaping and implementing public policies, which makes their relation with the state rather ambiguous. They are among the most powerful lobbyists in the country, but at the same time they often stand accused by their members (and/or the rest of the public) of being in the state's pay.

3.4 The Legislative Process

The right of legislative initiative is restricted to elected bodies, namely the National Government, Members of Parliament, the Senate and the Regional Governments (*kraje*), no NPO enjoys this privilege. The legislative process, however, is open to the public and its organisations through a number of mechanisms and procedures. More importantly, each piece of proposed legislation goes through several stages of public

debate, in which NPOs can participate, like any other member of the public. The bills are also sent for comment to obligatory and optional consultants, which range from state agencies to trade unions, professional chambers and citizen associations, if they are affected by the proposed legislation. In 2006, the Office of the Government established a database of consulting organisations (*Databáze konzultujících organizací*) in an effort to improve the consultation process. Any organisation can get registered with the database and thus offer itself to interested parties for consultation in the field of its expertise.

3.5 Administrative Procedure

The 500/2004 Administrative Procedure Act defines the entities that can be parties to an administrative procedure as all those whose rights would be affected by the administrative decision. However, in case the decision would affect the natural environment or if the case in question is subject to the Environmental Impact Assessment (EIA), registered civic associations whose stated purpose is the protection of the environment or the countryside can request to become party to the administrative procedure.

3.6 Political Affiliation

Political parties and movements are, of course, nonprofit organisations themselves, but due to their unique relation with the state through the participation in government, they are regarded by the rest of the nonprofit sector as a special sub-species or even as being outside the nonprofit sector altogether. Moreover, the bad experience with political control by one party of all public life under communism makes most Czech NPOs very suspicious of any relation or contact with political parties. The political parties have themselves established a few NPOs such as think tanks or party youth or women's organisations, but otherwise it is almost universal in the Czech third sector that its organisations are non-party-political.

3.7 Government Policy towards the Nonprofit Sector

The government policy towards the nonprofit sector in the Czech Republic only envisages nonprofit organisations in a supplementary role. According to the Constitution, the government is responsible for the provision of public services such as education, culture, transport infrastructure, defence and law enforcement, justice, social security, etc. To provide them, the government either establishes governmental agencies of its own or can support nongovernmental providers (through so-called government grant policy). At the moment, the state still strongly favours the option of providing the public services itself, rather than inviting other providers. Frič's observation is quite unambiguous: "The state a little opened the door for private business in the areas such as schools, health care and social care, but by the preferential treatment of the organisations founded by the state and active in these areas, it actually preserves their almost monopoly position. It means this dilemma is solved more for the benefit of the idea of strong state and tendency to centralism. ... As a consequence, the nonprofit sector in the post communist countries in Central Europe is relatively small and NPOs have not yet managed to win the position they have in the West" (Frič, 2004, p. 14).

4. Legal Background of NPOs' Activities

The general legal framework of the Czech Republic is consistent with the Constitution. The Constitution of the Czech Republic fully supports the freedoms of association and other freedoms. In addition, the Czech Republic became a signatory to the International Covenant on Civil and Political Rights, which became an integral part of its constitutional arrangement in 1993. The Constitution explicitly guarantees these basic rights not only to citizens of the Czech Republic, but also to foreigners dwelling on the territory of the republic.

As concerns the civil nonprofit sector and charitable or philanthropic activities, five basic regulations currently govern this field. These are the Civil Code, the Law on Citizens' Assembly, the Law on Churches and Religious Congregations, the Law on Public Benefit Companies and the Law on Foundations and Funds. There are also several older laws and regulations governing organisations funded by the state or by municipalities. Special laws deal with tax issues, customs regulations, accounting procedures, insurance, retirement schemes of physical persons and wage regulations of all legal bodies, including those in the civil society sector.

4.1 Legal Forms of Nonprofit Organisation

All in all, there are thirteen legal forms of nonprofit organisation that the Czech NPI Satellite Account includes in their definition of the nonprofit sector. Table 5 offers a summary of the forms and their numbers in 2004.

Table 5: Number of nonprofit institutions included in the NPI Satellite Account for the year 2004

Code No.	Legal form	Number of active entities
117	Foundation (<i>nadace</i>)	250
118	Fund (<i>nadační fond</i>)	573
141	Public benefit company (<i>obecně prospěšná společnost</i>)	634
145	Association of owners of dwelling units (<i>společenství vlastníků bytových jednotek</i>)	12585
601	Public university (<i>veřejná vysoká škola</i>)	25
711	Political party or movement (<i>politická strana, politické hnutí</i>)	55
701	Association (<i>občanské sdružení</i>)	34424
731	Organisational branch of association (<i>organizační složka sdružení</i>)	20377
721	Church organisation (<i>církevní organizace</i>)	3295
741	Professional organisation or chamber (<i>stavovská organizace - profesní komora</i>)	71
745	Chamber –other than professional (<i>komora -kromě profesních komor</i>)	99
751	Association of legal persons (<i>zájmové sdružení právnických osob</i>)	404
761	Hunting community (<i>honební společenstvo</i>)	2432
	TOTAL	75224

Source: CZSO, NPI Satellite Account 2006

The trouble with numbers is that those in Table 5 only show the numbers of 'economically active' entities, i.e. those that reported some income or some expenditure in the given year. Thus the numerous small and/or local organisations whose work is based on volunteer labour and/or whose income or expenditure were nil or minimal in the given year are not recorded in the statistics. The data in Table 6 indicate how large are the differences that emerge if the numbers of economically active organisations are compared with the numbers of registered organisations. (This comparison is only possible for the legal forms included in Table 6 because there are no data on the numbers of registered entities in the remaining legal forms.) Unfortunately, the number of registered organisations is not a reliable guide to the actual size of the

nonprofit sector either: it no doubt includes a lot of 'dead wood', ie. organisations that have been truly inactive for a long period of time or have ceased to exist.

Table 6: Number of economically active NPOs in comparison with number of registered NPOs – selected legal forms

Legal form	Number of active entities	Number of registered entities
Foundation	250	362
Fund	573	898
Public benefit company	634	1 038
Association	34 424	53 306
Organisational branch of association	20 377	32 020
Church organisation	3 295	4 927

Sources: CZSO, NPI Satellite Account 2006, and www.neziskovsky.cz

Not all authors and practitioners agree that the thirteen legal forms of the Czech NPI satellite account constitute the Czech nonprofit sector. There are in fact several definitions of the nonprofit sector (or civil society sector or third sector) in common usage and it is sometimes difficult to distinguish between them. The most relevant are:

- **Nonprofit institutions:** This is the most authoritative definition, used by the CZSO. It includes all the legal forms in Table 5.
- **Nonprofit organisations (civil society organisations):** The most common term in popular usage, but the haziest. It usually excludes from the CZSO list the following legal forms: associations of owners of dwelling units, public universities, political parties, associations of legal persons and hunting communities. Some people would also exclude chambers and trade unions (which is problematic because they take the legal form of association), others even churches and their organisational units.
- **Non-state non-profit organisations:** This is a political definition, but fairly influential because it is used by the Council of the Czech Government for Non-State Non-Profit Organisations. It is the narrowest definition, which includes only those organisations that the Government has decided to support in its 1992 policy document „Guidelines for awarding grants to civic associations“, as later amended. These are: associations, public benefit companies, foundation and funds, and church social service organisations (ie. not the churches themselves).

The characteristics of the most common legal forms are as follows:

- **Associations** (literal translation of the Czech term is *citizens' association*) typically take the form societies, clubs, unions (including trade unions), leagues, guilds, federations, ..., just to name a few. They are established and operate on a membership basis to pursue the interests of their members. They are governed by Act No. 83/1990 On Citizens' Assembly and are by far the most numerous and hence the most important legal form. Associating for business, political, military or religious activities takes other legal forms and is covered by other special laws.
- **Public benefit companies** represent a new type of nonprofit organisation introduced by Act No. 248/1995 On Public Benefit Companies. They are service-providing, non-membership, not-for-profit organisations, asset-holding or not, such as theatres, schools, hospitals, social care institutions, etc. The legal form was introduced into the Czech legal system with the expectation that the many communist state-owned institutions would be transformed into this nonprofit legal form. This did

not materialise to any significant extent, however, because of the reluctance of the state to give up its dominant position in the provision of public services (see 3.7 above). As a result, only a small number of around 1,000 PBCs have been established so far.

- **Foundations and funds** (governed by Act No. 227/1997 On Foundations and Funds, as later amended) are defined as asset-based, non-membership, grant-making organisations. The difference between the two is that a foundation must have an endowment whose value may not become less than CZK 500,000 and which must be able to generate sufficient income for its grant-making operation, while a fund is not required to possess any endowment and may use all of its property to carry out its mission.
- **Churches and their organisations** operate under Act No. 3/2002 On Churches and Religious Congregations, Act No. 218/1949 On Funding of Churches and Religious Congregations by the State and some other special laws on land reform, on cultural heritage preservation, on education, and on education in theology. In spite of some progress over the years, the legal situation of churches is not good because a number of the laws are long outdated but the legislation has not been revised because of the protracted stalemate in the negotiations between the churches and the state.
- **Other forms** can be chosen by nonprofits whose mission is narrowly specialised so that they serve a specific purpose. Examples include associations of owners of dwelling units, political parties and movements, professional and other chambers, or hunting communities. Trade unions and unions of employers are, technically speaking, registered as associations.

It is important to realise that the post-1989 development of the nonprofit legislation has been too slow and unsystematic for the needs of the rapidly expanding sector. Some areas of nonprofit legislation have not yet been dealt with (above all associations and churches), the nonprofit legislation as a whole is unsystematic, inconsistent and sometimes even contradictory, and new legislative initiatives have often brought unexpected results.

An example of such a surprise was provided by the new Act No. 111/1998 On Higher Education, which introduced into the Czech legal system a new legal form of 'public university'. In so doing, it *de facto* transformed the state universities into institutions that have to be considered nonprofit according to the structural-operational definition even if they retain much of their old dependence on the state. A similar bill is currently in Parliament on public nonprofit hospitals.

4.2 Tax Treatment of NPOs

Nonprofit organisations in the Czech Republic are subject to the same income tax requirements as other not-for-profit entities. This stays the same throughout the life span of the organisation and is virtually identical for all types of nonprofit organisations. (Deverová, Pajas et al., 1996b)

Generally, according to the *Act No. 586/1992 On Income Tax*, subsidies, contributions, and other forms of support received from the state, regions or municipalities are tax exempt. In addition, no tax is paid on interest from current accounts. Membership fees are tax exempt as are the collection proceeds of churches and religious societies, income from ecclesiastical charges, and membership dues of registered churches and religious societies. Lottery proceeds are tax-free provided at least 90 percent of them used for public benefit purposes. Finally, exempt from income tax is also the income of foundations from their registered endowments, including the income from the lease of real estate that is registered as a part of the endowment.

However, income in excess of expenditures deriving from the conduct of mission-related activities is subject to taxation. The *Act on Income Tax* requires organisations to account separately for each programme area and income tax is levied on each programme area as opposed to the organisation as a whole. Nonprofit organisations are allowed to lower their tax base in programme areas that yield surpluses by up to 30

percent (not to exceed CZK three million) or CZK300,000, whichever is higher, provided the amount will be fully used to offset losses in other related programmes. Nonprofit organisations also pay taxes on income from advertising and lease of property.

Regarding business activities, the *Public Benefit Company Act* stipulates that nonprofit organisations may not participate in joint business activities with other parties. The *Association Act* prohibits civil associations from being established solely for the purpose of profit-making activities. The *Act on Foundations and Funds* explicitly prohibits any direct business activities or participation in such activities for these organisations. A special exemption from this rule applies to foundations allowing them to invest up to 20 percent of their assets in shares of a joint stock company in order to better utilize their endowments. By the same token, however, a foundation may not own more than 20 percent of any individual company. More generally, the Act stipulates that the conduct of educational, social, sporting and cultural activities as well as lotteries and similar public games is permissible and not to be considered business activity as long as it is not the sole source of income and not conducted on a regular and continuous basis.

Generally, NPOs are exempt from inheritance tax, donation tax and property transfer tax if the transfers are made to finance their stated (public benefit) purposes. Equally, transactions related to the stated main (public benefit) activities of legal entities that are "not established for entrepreneurial purposes" are exempt from value added tax.

Apart from tax relief for NPOs, the *Income Tax Act* also spells out tax incentives for donors to the nonprofit sector. Generally, the Act allows the deduction of donations for public benefit purposes. While the range of purposes that merit deduction of donations is the same for both natural persons and legal entities, there is a difference in the deductibility limits. Natural persons may deduct a minimum of 2 percent, but not more than 10 percent, from their tax base, but there is a CZK 1,000 minimum donation. Legal entities may deduct a maximum of 5 percent from their tax base, after other eligible deductions, with a CZK2,000 minimum donation.

5. Organisational Characteristics

Given the wide choice of legal forms for various nonprofit functions described in Chapter 4 above, it would be reasonable to expect that the Czech nonprofit organisations are neatly distinguishable from one another and clearly defined in their organisational form. Nothing could be farther from the truth. In actual fact, being registered as an association is no guarantee that the NPO is a membership organisation, nor is it at all certain that a 'foundation' will be a grant-making entity. Czech NPOs have taken great liberties with the legal forms and organisational characteristics that they have chosen to take.

The main reason for this situation is the lack of any legislative regulation in the first half of the 1990's, when the development of the nonprofit sector was the most dramatic and the growth of the number of new registrations explosive, and the uneven regulation for different legal forms in the legislation that was enacted in the second half of the 1990's. In the first weeks after the 1989 democratic revolution, the appropriate sections of the Constitution, the Civil Code and the Business Code were quickly amended to suit the new democratic regime, but no specific nonprofit legislation was enacted until the second half of the decade. Thus most of the many tens of thousands of organisations established in those years chose their legal forms as they pleased, without much regard to their real functions and organisational characteristics. The legal form, therefore, is a very unreliable guide to what an organisation really is and how it operates.

Another peculiarity of the Czech nonprofit sector results from the fact that most of the newly created NPOs in the 1990's were in fact not new organisations but results of the disintegration of the communist 'mass social organisations'. After the communist takeover in 1948, the new regime amalgamated the many tens of thousands of recreational, sports and hobby NPOs of those days into several massive organisations, one for each leisure activity or hobby, and one for all sport and physical education. The same held true for other fields: there was one women's union, one children's organisation, one youth organisation, and so on

and so forth. After 1989, naturally, a reverse process started: the mass organisations disintegrated into tens of thousands of independent local NPOs. However, after a while they realised that while they gained freedom and independence, they also lost the comfortable path to public funding that they had been able to use in the past. And when they saw that the state was more than willing to continue to use the same funding policy as before, they quickly re-allied to form field-specific umbrella associations so as not to lose the old contacts and the old privileges with the state. Thus, in place of the mass organisations, there are now large coalitions and associations of sports organisations, children and youth organisations, women's organisations, hunting societies, social service organisations, and many others, that preserve both the 'ethos' and the practice of the former National Front.

The 'new' (see 1.2 above) post-1989 organisations behaved differently in forming 'their' coalitions and umbrella associations. They were naturally much slower, having first to establish and stabilise their own organisations before reaching out to the outside world, and they built their umbrellas from the bottom up and on the basis of real shared needs and interests, rather than on the pragmatic aim of gaining easy access to public funding.

As a result of these two modes of coalition building, the Czech nonprofit sector now has not only 'old' and 'new' NPOs but also 'old' and 'new' umbrella organisations. Regretfully, the umbrella organisations did not contribute to a gradual erosion of the divide between the 'old' and the 'new', as one might have expected, but rather to its conservation. In some industries it is the 'old' umbrella organisations that dominate (sport, leisure, hobby, children and youth); in others it is the 'new' (human rights, environment, some social services, some education); and in some fields the old and the new fight bitter battles (e.g. the traditional women's organisations versus the post-1989 feminist/gender NPOs, or the traditional social service providers in the fields of assistance to the handicapped, who rely on residential care and a segregation of the handicapped from the rest of society, versus the new NPOs, who advocate for personal types of assistance and integration of the disadvantaged with the rest of the population).

6. Current Issues in the Czech Nonprofit Sector's Discourse

6.1 Sustainability

The Czech nonprofit sector remains largely underfunded and so the debate about the sustainable financing of its activities has been a central theme of the sector's discourse ever since 1990. Recently, nonprofit leaders have focused on corporate and individual giving, and on public funding from Czech and EU sources.

Corporate giving made a slow start in the 1990's but has been on the rise for the past six or seven years, prompted by the systematic work of the Czech Donors Forum and its PR campaigns, including the 'Top Corporate Philanthropist' (*TOP firemní filantrop*) annual awards for the best corporate donors. Also giving by the general public has been steadily rising, boosted especially by the introduction in 2004 of the 'DMS' (Donors Message Service) system of sending donations by means of a text message. The system of SMS Donations is a project of the Czech Donors Forum and the Association of Mobile Phone Network Operators (AMPNO), representing all the phone operators in the country, and is unique to the Czech Republic. NPO's have also been lobbying for several years for the introduction of a '1% Law'¹⁰, known in some other countries of the Central/Eastern European region, but without success so far.

New concerns were raised by the reform of the country's public administration and territorial organisation 2001-2003, which replaced the centralist state with a decentralised system of self-governing administrative regions (*kraje*) and municipalities (*obce*). The reform, based on the principle of subsidiarity, has

¹⁰ The so called "Percentage Law" is a legal mechanism that allows taxpayers to allocate a certain percentage of their personal income tax to a nonprofit organisation of their choosing. It was first introduced in Hungary, followed by Slovakia, Lithuania, Poland, and Romania. See also Bullain, 2004.

decentralised the provision of most public services to the regions and municipalities, which led to a great uncertainty among nonprofit service providers as to which level of public administration they should turn to for funding. The reform is still very fresh and far from completed so that the new complexities and unresolved uncertainties continue to top the agenda of service-providing NPOs.

Perhaps the liveliest debate among NPOs has recently concerned the possibility of EU funding for nonprofit projects or of NPOs participating in larger regional or national projects supported through EU programmes. The nonprofit leaders have already realised that their initial naïve expectations that EU funding would replace the considerable amount of international assistance that Czech NPOs were receiving in the 1990's were unrealistic, but EU funding continues to be seen as a potentially significant source of support for some fields of nonprofit activity.

6.2 Legislation

Like funding, legislation has remained a source of great concern for Czech NPOs ever since the early 1990's. As indicated in 4.1 above, new nonprofit legislation was not enacted until the end of the last decade and, which is worse, it was done in a piecemeal fashion that led to unsatisfactory results. The existing legislation is in bad need of repair and, at the same time, important pieces of legislation are still missing. The hottest issues in the never-ending story of democratic legislation for nonprofits are the proposed new Civil Code, the issue of public benefit and the inter-related issues of categorising NPOs and of their tax treatment.

A new Civil Code is such an essential and important piece of legislation for the new democratic regime that it is little wonder that work on it has already been going on for ten years or so. Important for the nonprofits is the intention of the legislator to replace all the existing nonprofit legislation with provisions in the Civil Code. This, however, has proved a very contentious issue, and representatives of the nonprofit sector have been in conversation with the authors of the Civil Code draft for several years, so far without conclusive results. Similarly controversial is the introduction of the notion of public benefit in the draft. It is proposed that NPOs should be divided into public-benefit and mutual-benefit organisations, with the former enjoying better tax treatment and better access to public funding. The idea has been largely rejected by the NPOs because they fear that it would open the door for political interference by the state and that it would antagonise the two classes of NPOs. At the same time, however, it is felt that the current equal tax treatment for all NPOs is not sustainable and that some system of categorising NPOs and of graded tax relief would be desirable. Such a system, however, would have to be based on objective criteria rather than decisions by a regulating authority.

6.3 Relations with the State

After seventeen years of new development in the conditions of transition to democracy, the relations between the nonprofit sector and the state are still problematic. Not only because of the continuing dominance of the state in public services or the heavy dependence of NPOs on public funding, not only because of the persistent mutual mistrust and mutual ignorance, but also because the state and nonprofit sector have not started a meaningful dialogue about their relationship. The state has not even attempted to formulate its stance or define its policy towards the sector. But, equally, the NPOs have not started a serious debate about the role in society that they wish to play. Do they wish to continue to play the role of a small service-providing appendix to the oversized post-communist welfare state or do they intend to build a robust, self-confident, independent sector? It seems time nonprofit leaders started considering these choices, especially in the light of the recent increased pressure by state authorities for more regulation and more control of the sector under the excuse of the fight against the threat of terrorism.

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