Local Autonomy Index 2.0 (2015-2019): Czech Republic (CZ)

# Introduction

By Jakub Lysek, Palacky University in Olomouc (assistant professor)

[jakub.lysek@upol.cz](mailto:jakub.lysek@upol.cz)

The text below records and justifies the scoring of Czech municipalities on the Local Autonomy Index as modified in January 2020[1](#_bookmark0). “Local autonomy” refers to the position of the lowest level of local government, often denoted as municipalities, “obce”. The Czech Republic is a unitary country, but there is a second tier of government – fourteen regions (*kraj*). The scores presented are those for the year 2020. However, between years 2014 and 2020, no substantial changes has occurred. Additionally, there were only minor changes that has no substantial impact on LAI.1 scores before 2014.

# Self-rule

## Institutional depth

The Municipal Act of 2000 (*Zákon č. 128/2000 Sb., Zákon o obcích (obecní zřízení)*) is still in force without being substantially amended. In the Constitution (Article 104 (2)) The municipal council decides on matters of self-government, unless they are entrusted by law to the council of a higher territorial self-government unit (in practice state bodies or regional councils). The municipalities execute both self-government (independent competencies) and also functions of state administration (delegated competencies), entrusted to them by law. The Municipal Act stipulates in § 35 (2) “*The independent competence of a municipality includes in particular the matters specified in Sections 84, 85 and 102, with the exception of issuing regulations of the municipality. The municipality, in its independent competence in its territorial district, also takes care, in accordance with local preconditions and local customs, of creating conditions for the development of social care and for satisfying the needs of its citizens. It is primarily about satisfying the need for housing, protection and development of health, transport and communications, the need for information, education and training, overall cultural development and protection of public order*.”

The independent competencies include matters of interest municipalities and which are not entrusted to the regions. Or if they are not part of the delegated competence of municipalities and regions or the competence which a special law entrusts to administrative authorities as the exercise of state law. It includes the matters that are delegated by special laws, some of them make specific functions mandatory for local government: Act No. 565/1990 Coll., on local fees; Act No. 561/2004 Coll., on pre-school, primary, secondary, higher vocational and other education (School Act); Act No. 185/2001 Coll., on waste; Act No. 133/1985 Coll., on fire protection; Act No. 257/2001 Coll., on libraries and conditions of operation of public library and information services (library law); Act No. 202/1990 Coll., on lotteries and other similar games; Act No. 114/1988 Coll., on the competence of the Czech authorities in social security (e.g. issuing generally binding ordinances of the municipality, establishing school facilities or municipal police).

This duality of municipalities' responsibilities is manifestation of a dual function model of local government that is blamed for causing complexities to the system of public service in the Czech Republic (Illner 2003: 265).

The municipalities are not restricted in a matter of which tasks shall be financed. That means that a municipality may spend financial resources on policy tasks that are also assigned to higher tier regions (social policy, public transportation) if it wills.

CODING: 3

## Policy scope

EDUCATION

Coding: 1.5

*Pre-school education* – score 0,75 (0,5 + 0,25): Municipalities have responsibility for the availability of services (kindergartens) to children of age 3-6 (School Act); there is a compulsory school attendance for children of age 5. If these children cannot be accepted for capacity reasons or the municipality does not establish a kindergarten, the municipality in which the child has a place of permanent residence is obliged to secure a place in another kindergarten established by the municipality or association of municipalities (provisions of § 179 para. 2 of the School Act). A score of 0.5 is given since municipalities have the overall responsibility for availability of services in this field and are responsible for staff hiring (selection procedure for the director). The service is financed by a combination of contributions from the municipalities, regions and state. Salaries are determined by state regulations. A municipality can add extra bonuses form its budget.

*Primary Education* - score 0,75 (0,5 + 0,25): Municipalities have full responsibility for primary education for 6-15 year olds as stipulated by the School Act. The responsibility includes the construction and maintenance of school buildings and hiring directors who are responsible for the personnel policy. Only a small minority of children in this age group go to private schools. Municipalities are responsible for establishing school districts. Parents are granted the right to send their children to the school of the school districts of their permanent residence. The service is financed by a combination of contributions from the municipalities, regions and state. Salaries are determined by state regulations. A municipality can add extra bonuses form its budget.

*Secondary education* – Score 0: this is a responsibility for the regional councils, not the municipalities.

SOCIAL ASSISTANCE

Generally, the social services are assigned to the regional governments who coordinates the provision of social services on the regional level with municipalities, IMCs (Local Action Groups, Microregions) and local NGOs (*Action plan for the development of social services*). Municipalities has thus no responsibility in social services besides individual ad hoc policy programs such as subsidizing NGOs and various networks that are providing various services. Regarding the economic assistance and work training, the employment agencies were centralized in 2010 and are fully operated by central ministry. Before 2010, the offices were part of the municipal offices with delegated power. However, municipalities are implementing minor task such as social work (curators for adults, social work for housing).

*Economic assistance –* Score 0:

*Work training* – score 0:

*Integration of refugees* – Score 0:

HEALTH

The health care services are assigned to the regional governments. Municipalities are responsible only for the policy of drugs and alcoholic preventions. Municipalities have some competencies regarding public health protection (Act No. 258/2000 Coll., On the protection of public health).

*Primary health services –* Score 0:

*Hospitals –* score 0: Hospitals are the responsibilities of the regions.

*Dental services –* score 0: Dental services are the responsibility of the county councils.

LAND USE

Coding: 1.0

*Zoning and building permits -* Score 1 (0 and 1): Although zoning policy is in the scope of independent powers (regions have coordinating functions for issues that concern larger areas), only the municipalities with extended competencies (*ORP*) (205 ORP municipalities as total) are responsible for building permits (Act No. 183/2006 Coll., On spatial planning and construction order). Municipalities with extended competencies are the primary authorities for their respective territories although certain reserve powers remain with regional authorities (county councils) concerning large infrastructure projects (highways etc.). Nevertheless, this competence is a part of delegated state powers and the municipal government cannot interfere in the municipal authority decisions (dual function model of local government).

PUBLIC TRANSPORT AND HOUSING

*Public transport* – score 0.5: This is not a mandatory municipal function. Large town usually provides public transport services in their areas. However, the primary responsibility for public transport is allocated to the regional councils. Municipalities may take on supplementary functions, such as e.g. organizing special services for persons with disabilities or elderly people, or transport along routes or at hours not covered by regular public transport). Municipalities may establish additional transport services beyond the basic services provided by the regional government by means of intermunicipal cooperation with coordination with regional authorities. The score is 0.5 since municipalities are only supplementary service providers.

*Housing –* 1: Generally, municipalities are not limited in housing policy because it is defined as independent competency by Municipal Act. They define the capacities of social housing and determine the number of crisis flats.

*Police* – score 0.5: A municipality may establish a municipal policy task force. However, municipal police have rather low competencies. It serves for crime preventions, coordination of crime prevention with local citizens and minorities, and it issues parking fines on municipal areas. There it may fine drivers for overspeed. Nevertheless, for other task it is obliged to call the state policy that overtakes responsibility.

CARING

Coding: 1.5

The responsibility of a municipality is only that it is obliged to provide an information on social services and mediate the service (Act No. 108/2006 Coll., on social services). The social service provision is a main task for the regional government. However, a municipality can establish, finance and staff facilities for social services, such as foster care system in case of child protection policy. The main task in this area is mainly the coordination with region, providing information and cooperation on the *Action plan for the development of social services.* Municipalities are coordinating social work in the region - community planning of social services, providing subsidies for social services, establishing social services, ensuring social and legal protection of children, determine the number of nursing homes, coordinate school policy in connection with social services (underwear, tutoring, etc.). They coordinate security policy, including prevention.

*General caring services* – Score 0.5:

*Special groups* – Score 0.5:

*Child protection* – Score 0.5:

CODING: 2.0

## Effective political discretion

If the respective policy area regards independent power, it is coded as full discretion. If the task is performed partly as delegated state power, or the competency is shared with higher tier and state deconcentrated bodies of central administration, the score is lowered. Generally, the effective political discretion correlates with the scope of defined competencies of the municipal level of governance.

EDUCATION

Coding: 1.5

*Pre-School Education* - score 0,75

*Primary Schools* – score 0,75

*Secondary Schools* – score 0: Not a municipal function

SOCIAL ASSISTANCE

Coding: 0

*Economic Assistance* – score 0: The function is primarily carried out by the employment agencies.

Work Training – score 0: The function is primarily carried out by the employment agencies.

Integration of refugees – score 0:

HEALTH

Coding 0

General/primary services – score 0.

Hospitals – score 0: not a municipal function. The function is carried out by the regional hospitals.

Dental services– score 0: not a municipal function.

LAND USE

Coding: 0.75

Building permits – score 0: Delegated state power.

Zoning – score 0,75: With some limitations given by the government legislation, municipalities have effective political discretion.

PUBLIC TRANSPORT

Public transport - score 0.5. Bus public transportation only.

HOUSING

Housing - score 0,75. A municipality can provide rental housing if a municipality owns municipal houses and flats. However, due to the privatization in the early 90s, most of the municipalities has no capacity to provide houses for its citizens. There is no Act on Social Housing adopted yet that would stipulate further provisions in this policy area. Hosing policy linked to the social services is shared with regional level.

POLICE

Police – score 0.5: A municipal police has limited power concerning public order, criminality prevention and enforcing traffic rules in a municipality.

CARING

Coding: 1.5

Generally, a municipality is granted a political discretion in providing social services. It may establish any social facility. However, in real practice, it must consult it with a regional government that is responsible for the whole social system. There are differences across regions, however, most typically, the municipality co-finance this services aprox. by 30 %. The system of regional coordination is not defined by law, but rather secondary EU regulations of the European Social Funds provision in the Czech Republic. This applies for all the dimensions of caring.

General caring – score 0.5

Special groups – score 0.5

Child protection – score 0.5

CODING: 2

## Fiscal autonomy

Municipalities are severely limited in their powers to set rates of taxes over which they have nominal powers. The municipal budget income may be increased by house property taxes (exclusive income) and local fees that under the discretion of a municipality (dog fee, tourism (accommodation) fee, etc.). Yet the dominant share of income is from the shared tax. The shared tax are value added tax (VAT), corporate income tax, personal income tax. The municipal income is determined by an exact formula (*RUD – Rozpočtové určení daní*) that has a form of law that is adopted centrally by the parliament. So the fiscal autonomy of the Czech municipalities is very limited.

The tax income base is calculated dominantly according to the population of a municipality (78 % weight), yet other coefficients applies as well (e.g. cadaster area, number of children in kindergartens and grammar schools). It is practically unaffected by private companies (legal entities) sited on the part’s territory (Local Finance Act 243/2000). Recent budged data might be find in the online application by the Ministry of Finance.[[1]](#footnote-1)

The proportion on the shared taxes that goes to the municipal level is 23.58% on the total state tax base. In the Czech Republic, share taxes from the state represent 85% of the total tax revenues of municipalities (Papcunová et al. 2020).

CODING: 1

## Financial transfer system

The conditional transfers are the second dominant source of income. These can be divided into two main categories: contribution to the performance of state administration (approximately 13 % of direct transfers[[2]](#footnote-2)), and other subsidies (state, regional and EU funds). The proportion of *conditional* transfers amounted to around 30 % of total transfers in recent years. Yet it varies across municipalities.

CODING: 2

## Financial self-reliance

Own/local sources include property tax and fees and charges for specific services. Approximately 15% of the own revenues are derived from those taxes and fees. A municipality may have non-tax revenues (revenues from own activities, revenues from sales non-capital assets, received repayments of borrowed funds) and capital revenues (income from the sale of fixed assets). In total, municipal level has approximately 20 % of income based on its own sources or tax shares and fees that a municipality can effectively determine, but 80 % of the income is from direct transfers and tax shared formula revenues.

CODING: 1

## Borrowing autonomy

Borrowing does not require approbation by the state. Yet the Ministry of Finance may suspend the transfer of the share of tax revenues, if the debt of the municipality exceeds 60% of the average income for the last 4 budget years.

CODING: 3

## Organisational autonomy

Executives (*radní*) are elected by the municipal council. The municipality may, furthermore, decide minor elements of the political system yet it must follows the general rules in the Municipal and Electoral Act (the minimum and maximum size of elected councilors and municipal board members, the proportional electoral system yet a municipality may create electoral districts). Municipalities hire own staff, decide organisational structure, fix salaries, may establish legal entities/enterprises. However, they have to follow national rules and general laws. For example, there is an Act on personal of local self-governments that protects the civil servants employed by municipal offices.

CODING: 3.25

# Interactive-rule

## Legal protection

As a result of former Communist rule, the protection of self-government is explicitly ensured in the Czech constitution. Municipalities may appeal and regularly do before higher level courts if their right was, in their view, violated by the regional or state government. For example, in 2017, the Supreme Administrative Court in Brno ruled that the municipality did not have to include value added tax in the taxable amount, as required by the Financial Directorate.[[3]](#footnote-3)

CODING: 3

## Administrative supervision

The administrative supervision is conducted by the regional office, the Ministry of Interior and Ministry of Finance. The systematic control from the Ministry of Interior is conducted in the area of delegated state powers. In the independent power, the legality of ordinary binding regulation is supervised and if the regulation does not follow the rule, the supervising institution suspend the local regulation. The supervision of legality of the decision made by municipal board or municipal council is not systematic. Rather the central and regional offices act on behalf of complaints of third parties or citizens[[4]](#footnote-4).

CODING: 2

## Central or regional access

The municipalities are granted the access to the ministerial phase of law-making process. In the so-called inter-ministerial consultation period, when the first draft of the bill is forwarded to other state offices and relevant stakeholders, the municipalities may through the Union of Towns and Municipalities cast a comment or suggest an amendment to scrutinized draft of a bill.

Dominantly, the access to the central or regional government is informal, through party office, double mandates or though the upper Chamber of the parliament, the Senate, that is dominantly composed of local mayors and former municipal or regional politicians.

CODING: 2

# References

Papcunová, V.; Hudáková, J.; Štubňová, M.; Urbaníková, M. Revenues of Municipalities as a Tool of Local Self-Government Development (Comparative Study). Adm. Sci. 2020, 10, 101. https://doi.org/10.3390/admsci10040101

1. *Ministry of Finance,* [*https://monitor.statnipokladna.cz/uzemni-samosprava/prehled?rad=t&obdobi=2012*](https://monitor.statnipokladna.cz/uzemni-samosprava/prehled?rad=t&obdobi=2012) [↑](#footnote-ref-1)
2. *Ministry of Finance,* [*https://www.prispevekobce.cz/*](https://www.prispevekobce.cz/) [↑](#footnote-ref-2)
3. *Supreme Administrative Court,* [*https://sbirka.nssoud.cz/cz/dan-z-nabyti-nemovitych-veci-zaklad-dane.p3598.html*](https://sbirka.nssoud.cz/cz/dan-z-nabyti-nemovitych-veci-zaklad-dane.p3598.html) [↑](#footnote-ref-3)
4. *Ministry of Interior, Supervision of municipalities and regions, citizens complaints,* [*https://www.mvcr.cz/dozor-a-kontrola-obci-a-kraju.aspx*](https://www.mvcr.cz/dozor-a-kontrola-obci-a-kraju.aspx) [↑](#footnote-ref-4)