

Annual Report 2012



ENVIRONMENTAL LAW SERVICE

Message from the Director

Czech society exists, not in a vacuum, but on the contrary, in the imaginary neuralgic centre of Europe, where the general ills of European society are more visible than in many other European countries. European society has been losing its comprehension of its own identity. The values on which it was built – respect for universal human rights, plurality of views, and innovation – somewhat pale when face to face with colourless bureaucrats and politicians, a stagnating economy, the inability to deal with new global challenges, and the aggressive rise of the BRICS countries. Thus, it is no surprise that many people lose their heart, saying that the future is not in their own hands. But the reverse is true. The fate of Europe rests only with us. People must begin to take advantage of their rights and demand responsibility from their politicians in order to prevent Europe from becoming a mere historical open-air museum without values and self-respect. Our aim is to help them, and, since last year, we have been helping them in our new Brussels and Krakow branches.



Pavel Franc
Program Director

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Responsible Corporations

Since the late 1990s, the ELS has protected public interests against corporate misbehaviour in front of courts. We helped local communities to seek justice in cases of foreign direct investments of Toyota, L.G. Phillips, Hyundai, and ArcelorMittal; we successfully represented organic farmers and consumers in a dispute with Danone, which misused organic labelling for conventional products; and we assisted our partners in other countries in developing legal strategies in similar cases.

Building on this experience, we develop and promote legal frameworks for corporate accountability. We aim to bridge existing global governance gaps and strengthen the enforcement of laws and people's ability to assert their rights. We are concerned with the growing corporate influence on our society and the diminishing ability of society to manage adverse corporate impacts on human rights, the environment, the economy, and democracy. By working with leading NGOs and civil society movements at the European and global levels, we strive to establish just and clear rules for corporate operations, and to ensure that efficient accountability mechanisms are put in place. In 2012 we engaged in two important initiatives outlined below.

The Human Rights Due Diligence Project

Throughout 2012 we implemented a project entitled *“Human Rights Due Diligence: The Role of States”*. The project was a joint endeavour of the European Coalition for Corporate Justice, which we represented; International Corporate Accountability Roundtable (ICAR); and the Canadian Network on Corporate Accountability (CNCA). The project resulted in the report written and researched by international experts who included Professor Olivier De Schutter, Professor Anita Ramasastry, Mark B. Taylor, and Robert C. Thompson.

The Report builds off of a set of global consultations with legal practitioners, academics, and experts from around the world and examines how States are using their regulatory authority to mandate due diligence for human rights or in areas akin to human rights, such as environmental protection and workplace health and safety. The Report seeks to establish the extent to which the legal systems of States already make use of due diligence to ensure that businesses respect established standards and to describe for policymakers a range of regulatory options they might use to take the next steps in ensuring that businesses respect human rights.

The Human Rights Due Diligence Project has emerged as a key operational concept for corporate responsibility to respect Human Rights. Being a cornerstone of the UN Guiding Principles on Business and Human Rights, it was unanimously endorsed by the UN Human Rights Council in 2011; however, it remained unclear how the States were supposed to ensure that corporations engage in due diligence. The final report provides an authoritative answer to this question. We presented the report on 3rd December 2012 in Geneva at the 1st Annual UN Forum on Business and Human Rights.

Environmental, Social, and Governance Reporting Legislation

Multinational Enterprises operate through a myriad of subsidiaries, suppliers, and business partners, often in high-risk places. Yet MNEs have no duty to identify, analyse, and disclose what the risks and impacts are of these operations or how they address them. This lack of transparency inhibits the ability of affected communities, investors, and the public at large to evaluate whether the response of corporations to those risks is adequate.

In 2011, the European Commission announced a legislative proposal to improve corporate disclosure in non-financial matters. Filip Gregor, an ELS lawyer, participated in 2011 and 2012 in the Expert Group set up by the European Commission to consult the preparation of this important legislation. The Commission is expected to present the proposal to the European Parliament and EU Member States in early 2013.

Responsible Energy

We believe that European countries should be at the head of the new wave of economies that benefit from transformation to clean energy. With its legal know-how, ELS desires to contribute to the creation of a legal environment that leads to the systematic decrease of greenhouse gas emissions, along with development of renewable energy sources. We think that further massive development of coal energy should not continue in Europe as every such project contributes to the conservation of the current state for many decades. Our major activities in this area in 2012 included the following.

State Energy Conception

In 2012 we focused on the problem of absence of effective and transparent planning process in the energy sector in the Czech Republic. The government decisions are usually strongly influenced by large energy firms. The outcomes thus rather reflect the actual business plan of CEZ group — the state-owned and sector dominant enterprise and coal-fired power plant operators associated under a chairmanship of the former Czech Prime Minister Mirek Topolánek — and ignore alternatives or directions proposed by other stakeholders and the European Commission. A new proposal of State Energy Conception (SEC) presented by the Ministry of Industry and Trade (hereinafter “the ministry”) in July 2012 was a typical example of this practice. The draft includes a number of highly controversial plans such as new coal mines, related resettlements, coal-fired and nuclear power plants, nuclear waste storage sites, etc. These plans apparently generate strong public and expert opposition.

Working with leading energy experts, we prepared a list of suggestions for changes in the content as well as for correction of illegalities in the procedure of SEC adoption. Almost 4,000 people supported these proposals, and after this intervention some of the most controversial points, such as for instance a plan for hard coal mining in the protected area of the Beskydy mountains, were reconsidered. The ministry at the end decided to observe the requirements of the Strategic Environmental Assessment. The SEA procedure is to take place in the second half of 2013, and we will continue to monitor the process and provide legal support to engaged NGOs.

Prunéřov coal-fired powerplant

In 2012 we continued to be involved in legal actions against the project of a new 750 MW lignite fired power plant in Prunéřov pursued by CEZ group. The project has been criticized in the past for various reasons, among them that the investment does not comply with legal standards on energy efficiency, it is overpriced, and the company does not possess enough coal reserves to secure its recoverability. Evidence was also published by media that members of CEZ management are financially interested in the supplier chain to the investment. The CEZ group has been able to secure strong political support for this investment at the local as well as the national level. Thus the entire project, as well as concerns raised by members of the local civil society and local municipalities, has been ignored during the administrative process related to the investment. We challenged illegalities in the construction permit procedures issued for the Prunéřov project in court. The decision of the court on our action is expected in 2013.

Gubin

The project of a mammoth lignite mine in Gubin in western Poland is one of the largest mining projects in the CEE region and would lead to resettlement of several local towns. Although the project was already refused by local citizens in a referendum, the state administration does not respect the referendum's outcome and continues to push the project into spatial regulation at both national and local levels. By changing relevant spatial plans, local municipalities would be effectively excluded from decision making on the future mining in the region. In 2012 we helped concerned municipalities to challenge flawed spatial planning procedures in local (the regional spatial plan) and Constitutional courts (the State Spatial Conception). We expect the decisions to be made during 2013.

Developing a framework legislation for long-term GHG emission cuts

In 2012 we assisted the Friends of the Earth Czech Republic to develop a proposal for law inspired by the UK Climate Change Act of 2008. The UK legislation introduced an unprecedented legally binding long-term framework to cut the country's carbon emissions. Inspired by the UK example, we prepared a full legislative draft adjusted to Czech law that would provide a clear and stable environment for the long-term development of state policies and actions that would systematically support the vision of a low-carbon economy. The proposal was already endorsed by the majority of political parties, and we expect the regular legislative process to be started in coming years.

Responsible State

During the last decade, the bonds between the Czech politicians and private interests have become too tight. In fact, the public space has been privatized and the rejuvenating democracy has run straight into a solid wall. There is only one thing that citizens can rely on: that their elected representatives will not, in fact, work for their benefit but rather for the interests of strong economic players closely linked with political parties. Taxpayer money is used to ensure private revenues instead of being rationally invested for the benefit of the society. We are determined to change this catastrophic course that our democracy has taken.

In 2012 we set up an informal platform of Czech anticorruption organisations and started a process of developing a clear set of well-reasoned and publicly supported legal reforms that would limit space for corrupt practices and break systemic bonds between shady business, public procurement, and political parties. The platform brought together 21 anti-corruption organizations, identified and developed proposals for 9 necessary systemic changes, and established 11 workgroups with 51 people participating.

In addition, we have focused on several promising policy and legislative processes outlined below.

Government Anti-Corruption Strategy

ELS has coordinated the anti-corruption NGO group work that focused on providing feedback to the emerging Governmental anti-corruption strategy for 2013-14. The NGOs aimed to approach the Office of the Government with an ambitious version of the strategy that emphasizes three aspects. ELS created an initial position paper concerning the strategy, and organized a meeting (in August 2012) between NGO representatives and Karolína Peake, the Government's Vice-President responsible for curbing corruption. Following this meeting, some of the recommendations formulated by NGOs (an initial analysis, the anti-corruption agency, etc.) were incorporated into the draft strategy. ELS then organized two more rounds of giving feedback on the draft strategy.

Constitutional amendment empowering Supreme Audit Office

Since 2010, we have promoted a proposal for a Constitutional amendment that would grant the Supreme Audit Office (SAO) the authority to audit state- and municipality-owned companies and their procurement practices. In 2011, we opened a public discussion on this issue and promoted proposals to bridge these gaps. A first interim success of our efforts was a 2012 bill introduced and approved by Members of the Parliament changing the Constitution and relevant legislation to allow the Supreme Audit Office to monitor the State's assets in state-owned and municipal companies. This bill is now pending in the Senate.

Financing of political parties

In October 2012 we published together with the Transparency International CZ analysis of the Government's bill on political party financing. Subsequently the bill was improved, taking into

account some of our major recommendations, including greater transparency of political party funding, efficient independent auditing, and sanctions.

Service for Citizens

In the course of 2012, we continued to develop our long-term activities at the grassroots level – empowering people by helping them to assert their rights and actively participate in public affairs by means of our Legal Counselling Centre, strategic support to grassroots organisations, and involving law students in providing legal help in cases of public interest. We also developed the Citizen 2.0 project: spreading the idea of active citizenship, attracting new Citizens 2.0, motivating them, and providing legal support to them.

Legal Counselling Centre

The Legal Counselling Centre focuses primarily on providing free legal help to citizens and communities in the matters of environmental protection, public maladministration, and corruption. A lot of cases we deal with are characterised by active unlawful efforts of public authorities and/or concrete officials to prevent the concerned public from participating in administrative proceedings and getting information relating to matters of public interest.

In the course of 2012, we provided 1,165 legal consultations to the public via email, phone, or in person, and we have been running the on-line counselling centre on our web pages – creating and updating manuals. We have updated all manuals (over 70 by the end of 2012) published on our web pages by 31/12/2012 as there were quite a lot of amendments of legal acts becoming effective since 1/1/2013.

Strategic support of grassroots organisations

We have been also working on strengthening grassroots initiatives by means of their deeper legal support (10 strategically supported cases, students involved in cases of grassroots NGOs) and building the network of grassroots organisations so that they may co-operate, share their know-how, and support each other's activities: for grassroots NGOs, we have organised several meetings/workshops (in May, June, November 2012), and we have been continuously running the communication platform for on-line communication (Facebook group; discussion forum – launched in July 2012).

We have also been closely working on interconnecting our local activities with our national anticorruption activities. First, we are generally trying to base the general solutions we introduce on the national level on the experience of our local partners. Further, as a part of the program of each meeting/workshop, the national activities have been introduced and the participants from local NGOs were offered the possibility to participate and get involved, or to support them by disseminating information about our proposals and looking for broader support from other citizens.

Engaging law students

23 of the law students from Brno, Prague, and Olomouc were engaged in our activities in 2012. Under the supervision of EPS lawyers, they were participating both in the Legal Counselling Centre activities (providing basis legal help to clients) and in deeper legal support provided to

local NGO partners (drafting legal strategies, writing legal submissions, participating in public hearings, etc.).

Citizen 2.0 project

In order to help change the common perception of various privations in public administration, with corruption and unaccountability at the top, we launched the project of the “Citizen 2.0” in June 2012. We promoted it during different occasions such as local actions organised by our local partners and discussions with students organised at the Faculty of Law, and involved it in all printed materials intended for the relevant focus groups, etc. Each Citizen 2.0 who registers himself or herself obtains the “Handbook of the Citizen 2.0” with basic tools and knowledge of the Citizen 2.0. Further, we have started to distribute an electronic newsletter to the Citizens 2.0. Once a month, each Citizen 2.0 obtains the “Newsletter of a Citizen 2.0” containing information about our national activities, positive examples of active citizenship (successes of our local partners in their cases), brief legal advice, tips as to what activities they may engage in, what workshops and trainings are available, etc.

We Thank our Donors

Czech - German Future Fund	Czech-German Exchange of Experts on Energy and Environmental Law
Embassy of the United States of America	Building a coalition for a joint advocacy of specific anti-corruption recommendations
Embassy of the United States of America	Joint NGO Anti-Corruption Platform Project
ESF, Ministry of Education, Youth and Sports	Incubator of Environmental Business Intentions
ESF, Ministry of Education, Youth and Sports	Life-Long Legal Education
ESF, Ministry of Education, Youth and Sports	Theory –Skills–Training: Innovations in the Study of Law
ESF, Ministry of Education, Youth and Sports	Long-Term Partnership of Research, Training, and Law Education
ESF, Ministry of Labour and Social Affairs	Education and Development of Professional Knowledge and Competencies of NGO Employees
European Climate Foundation	Legal Strategy Against the Thermal Power Plants in the Czech Republic, Slovenia and Poland
European Climate Foundation	Legal strategies to support a gradual transformation of energy sector in the Czech Republic and Poland towards less fossil intensive and more decentralized alternatives
European Commission – Europe for Citizens Programme	Accountability, Lobbying Transparency and Ethics Regulation: Citizens have a right to know (ALTER-Citizens)
European Commission – Europe for Citizens Programme	CEE partnership on grassroots empowerment: towards an active civil society through learning and practising
European Commission - Prevention of and Fight Against Crime Programme	Involving European civil society players into detection and prevention of political corruption and public money fraud: coalitions and capacity building in Czech Rep., Poland and Slovakia
Joseph Rowntree Charitable Trust	Plan for Systemic Reform of Corporate Accountability
Ministry of the Interior	Prevention of Corruption
National Agency for European Educational Programs -Grundtvig	Life-Long Learning Program – Project of the Grundtvig Partnership
Open Society Fund	“For a Clean Ostrava – A Year after the Elections”
Open Society Fund	Holešov Strategic Industry Zone – Strategic Mistake!
Open Society Fund	ELS Project Intention – Implementation of a Strategic Plan in 2012
Open Society Fund	Common Shadow Anti-corruption Strategy as a Tool for Building an Effective Anti-corruption NGO Platforms
Open Society Institute	Anti-Corruption project 2011-2013
Open Society Institute - Think Tank Fund	State-Owned Enterprises, clientele networks and financing of political parties: to solve the puzzle
Partnership Foundation	Civil Society Network
Partnership Foundation - Swiss Funds	Satellites of Legal Eco-Counseling
Partnership Foundation - Swiss Funds	Strengthening and Development of Environmental Legal Advice in Moravian-Silesian, Zlín and Olomouc Regions.
Sigrid Rausing Trust	Corporate accountability
We also thank to many others who in some way contributed to our work in 2012.	

Our Team 2012

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Law students that helped us in 2012:

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Petr Suchánek

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Alena Švaříčková

Tomáš Vrtiška

Tomáš Všetečka

Jana Výchopňová

Zuzana Zagarová

Donika Zůbková

Financial Report

EXPENDITURES	IN EUR
office supplies (incl. copier operation)	9 560
literature and periodicals	471
working expenses (energy and repairs)	0
travel costs	18 158
communication costs (incl. postage)	7 271
printing, copying, promotion	10 284
rental	19 263
legal services and fees	15 725
expert opinions and reports	5 078
translations and interpreting	3 318
schools and seminars	8 362
software	3 823
wages	213 248
taxes, social and health insurance	74 057
donations	663
bank charges	440
other (exchange-rate loss, sanctions, representation)	5 053
EXPENDITURES TOTAL	394 772
INCOME	IN EUR
own activities	22 681
<i>grants from public budgets and EU budget</i>	
- European Social Fund + Ministry of Labour and Social Affairs – HREOP	28 582
- European Social Fund + Ministry of Education, Youth and Sports – ECOP	28 756
-EACEA	26 265
- Ministry of the Interior of the CR	12 800
<i>grants from foundations and civic associations</i>	
- European Climate Foundation	49 262
- Open Society Fund Prague	41 061
- Open Society Institute	22 485
-Open Society Institute Think Tank Fund	23 170
- Partnerství Foundation – Swiss funds	35 321
-Partnerství Foundation	10 275
- Grundtvig	315
- Embassy of the United States in Prague	13 856
- Sigrid Rausing Trust	32 499
- The Joseph Rowntree Charitable Trust	33 540
- Czech – German Future Fund	4 773
donations from natural and legal persons	14 689
credit interest	1 104
other (exchange-rate profit, re-invoicing, funds)	40
INCOME TOTAL	401 476
ECONOMIC RESULT - PROFIT	6 703

Auditor's Report

Independent Auditor's Report

addressed to the member meeting of the civic association **Ekologický právní servis**

Report on the Financial Statements

We have audited the accompanying financial statements of Ekologický právní servis, civic association, which is composed of the balance sheet as of December 31, 2012, the Profit and Loss Account as of December 31, 2012 and the Notes on Financial Statements, including a description of significant accounting policies and other explaining information. Information about Ekologický právní servis is presented in the Annex of this Financial Statements.

Statutory Body's Responsibility for the Financial Statements

The statutory body of Ekologický právní servis is responsible for the preparation and fair presentation of accounting and financial situation in these financial statements in accordance with the Czech accounting regulations. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of accounting and financial situation in these financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with the Act on Auditors and International Standards on Auditing and related application guidelines issued by the Chamber of Auditors of the Czech Republic. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the financial statements preparation and fair presentation of accounting and financial situation in the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements **give a true and fair view of the financial position of Ekologický právní servis, civic association, as of December 31, 2012, and of its expenditures, income and financial performance for 2012** in accordance with Czech accounting regulations.

BMV Audit s.r.o

Member of the international association of independent professional companies

MSI Global Alliance, Legal & Accounting Firms

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Certificate of KAČR no. 277

Ing. Miroslava Nebuželská

KAČR Certificate No. 2092

Prague, dated July 26th, 2013

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We fight for rights of those, whose protection is being forgotten by the governments. We are a group of lawyers who believe that in a democratic society it is not possible to satisfy needs and wishes of some by encroaching on the rights of others. Equality before the law is the public interest we protect. Healthy and favorable living conditions of people are prerequisites of a healthy society we strive for.

Many thanks to those who have supported us. We are a non-governmental, non-profit organization, and our activities depend on the support of the public. If you find our work useful, please consider supporting us.

Branches: Brno / Prague / Ostrava / Tábor / Kraków / Brussels

Bank details:

Fio banka, a.s., Branch Address: V Celnici 1028/10, Prague, Czech Republic

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