

# INTELLIGENCE SERVICES OF THE CZECH REPUBLIC: CURRENT LEGAL STATUS AND ITS DEVELOPMENT

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**Abstract:** An adequate understanding of the nature of intelligence services within the Czech society—including professional circles—is still lacking. Although a large amount of factual data about intelligence and the current Czech intelligence services is available, it is widely dispersed. The primary purpose of this work is to collect and present the best available data about the institutional status and legal position of Czech intelligence services, with the aim of serving as an introduction to their detailed study. The second purpose of this work, therefore, is to provide a better foundation for knowledgeable evaluation of the Czech intelligence services by both the professionals and the general public. This study is opened with a general introduction to intelligence services, which is followed by a brief recapitulation of recent history concerning the transformation of the security system of Czechoslovakia (before the partition) and the Czech Republic after 1989. The paper deals exclusively with the Czech intelligence services, in the strict sense of the word, and not with military reconnaissance or specialized police units.

**Keywords:** Intelligence governance, Czechoslovakia, post-communist transition, Czech Republic

## Basic facts and categorization of intelligence services

Intelligence services are special state bodies, whose primary aim, effort, and mission are to protect the state and society by providing timely, objective, and quality intelligence information to elected state representatives and state administrative bodies. These institutions are special, as regards their methods of collecting information, as well as the spheres of interest on which they focus.

Intelligence services are vested with special powers. With respect to the topic of the current article, there is one important factor to be constantly kept in mind: the intelligence services of democratic states serve to protect the security of *civil society* against external and internal threats; similar services of authoritarian and totalitarian states serve to protect *regimes* (concrete power groups) and their potential expansionist goals. Totalitarian intelligence services, therefore, are tasked to control the

population and to persecute (to different extent in different times) opposition groups and individuals; they become a secret police. To define the differences between totalitarian and authoritarian countries (including various pseudodemocracies) on the one hand, and modern liberal democracies on the other, the most important criterion is the level of the rule of law.

The most frequent and the most “logical” categorization of the intelligence services is the categorization in accordance with the “direction” of their activity, namely counter-intelligence and intelligence.

Counter-intelligence services collect information about the intentions and activities on the territory of their own country that may endanger the sovereignty, territorial integrity, national security, constitutional order, classified information, and important economic interests of the state. They are primarily interested in terrorism, extremism, and other forms of politically and ideologically motivated violence. In some countries they are interested also in information related to organized crime. In short, their mission is defensive, i.e. protection against threats; prevention and reduction of risks; responses to something that has already happened.

The most accurate Czech term is “*služby s vnitřní působností*” (services with internal competences),<sup>1</sup> but the most common term is “*kontrarozvědné služby*.” Traditional, but disappearing quickly, is the Czech short term “*defenzivní služby*” (defensive services); the usual synonyms are: *vnitřní služby* (internal services), *obranné zpravodajské služby* (defensive intelligence services). In various countries the following English terms are used: *security (intelligence) services*, *internal services*, *domestic intelligence services*.<sup>2</sup>

The well-established Czech term “*kontrarozvědka*” is misleading in that it often leads one into thinking that the main, or even exclusive, mission of this type of services is to carry out “*counter-espionage*” (activity directed against foreign intelligence activities in its own country, as well as disclosing and thwarting espionage for a foreign power).<sup>3</sup> This is not so, as at present counter-espionage is only one of its many activities, and not even the prevailing one. The scope of its present activities is concerned with a wider scale of threats that have to be disclosed by intelligence activities. The usual term used around the world is security services (*bezpečnostní služby*). That is why the Czech service of this type is called *Bezpečnostní Informační Služba* (Security Information Service).

External intelligence services (called “*rozvědné*” in Czech) collect information on foreign countries or information originating abroad. These services strive to find out

the potential intentions of foreign countries, as well as non-state agents acting abroad. They are directed towards threats originating from abroad; their core task is to share in protecting the political, economic, or even defence interests of their country abroad.

The most accurate Czech term for these services is “*služby s vnější působností*” (services with external competences). Synonyms are: “*rozvědky, výzvědné služby, vnější služby.*” It can be said that they are espionage services in the narrow sense of the word. The author considers their designation as “information services” an incorrect and inaccurate euphemism. The terms usually used in English are: *external*, or (*foreign*) *intelligence services*. Summing it up: their mission is to a certain extent an offensive one, i.e., the collection of secret information relative to a foreign subject (or those acting abroad).

It is not sometimes possible to differentiate accurately the relations between intelligence and counter-intelligence/security activities, either in theory or practice. The defensive and offensive may touch, overlap, or sometimes even merge.

Another way to view intelligence services is to divide them according to their military or civilian functions. Military intelligence services deal with military matters: defence capabilities, defence industry, various aspects of military affairs (numbers, organization, state of preparedness, deployment, and armament of the army, or the terrain and the environment where it is or might become necessary for the military to act).

The intelligence services could also be categorized on the basis of whether the results of the service’s activities are important for the whole state, or whether they are intended for one of its institutions. According to this criterion, intelligence services may be divided into: central services – dealing with strategic tasks at a national level (protecting national security); and departmental intelligence agencies, which serve as information and intelligence services supporting the function of their departments.

The latter may be applied to a large extent to military intelligence services. These are integral and essential parts of the armed forces of their countries. Their mission, especially at the tactical and operational levels, is to directly support combat activities and other operations; they are incorporated into a set of related activities, designated in NATO countries as C4ISR.<sup>4</sup> Therefore, in some countries alongside an “umbrella” strategic military intelligence service (mostly under the Ministry of Defence; when it is a part of the General Staff, it is usually designated as the 2<sup>nd</sup> Department or J2) that manages other departments methodologically, there are independent intelligence ser-

vices at “lower” organisational levels, attached for example to individual branches of armed forces (army, air force, navy, or marines).<sup>5</sup>

### **Situation in the world since 1990s**

Traditional images of intelligence services as “cloak and dagger” organizations largely disappeared in the last quarter of the 20<sup>th</sup> century. Democratic states came to accept as their central concept the idea of fundamental human and civil rights, which has altered the behaviour of the state towards its citizens. It includes a principle that individual civil rights may be violated only as an exception, when necessary to protect some other safeguarded interest (e.g., national security), and exclusively in accordance with law.<sup>6</sup>

The idea of constitutionally guaranteed human and civil rights means, essentially, that all the basic pillars and organs of state authority must be subjected to publicly apparent feedback and mutual control. Intelligence services, which are by nature subordinated to the executive branch, must be controlled by an external non-executive factor. It is evident that even if an intelligence agency has zero repressive or decision-making powers, it has at its disposal another powerful instrument – information.

In the sphere of intelligence services these concepts have been projected into unprecedented requirements:

- the determination of the position, mandate and powers of services by parliamentary legislation;
- continuous external oversight of services, by either parliamentary, or other bodies, independent of the executive;
- consistent de-politization of services in order to guarantee non-partisanship;
- transparency (even towards the public), albeit limited, and accountability;
- separation of information activities from repressive activities.

The legal and political alterations become apparent when contrasted to, for example, the former State Security of the previous Czechoslovak regime (Státní Bezpečnost – StB) in which the status of its intelligence elements was only vaguely stipulated by legislation.<sup>7</sup> Their competences and powers, including the use of specific intelligence means, were not primarily defined by law, or other legal sources, but only by internal (ministerial) regulations. Obviously, these could be rather flexible and changed in a way that fits the needs of the ruling elite, underlining the nature of intelligence services as instruments, not to mention the exclusion of any independent and impartial oversight, or authorization mechanisms.

## Czechoslovakia and the Czech Republic – the situation in 1989 and consequent development

As stated above, there are four basic tasks of intelligence activities:

- offensive military intelligence,
- offensive foreign intelligence, the so-called “civilian intelligence service”,
- defensive military counter-intelligence,
- defensive internal security service, or the so-called “civilian counter-intelligence service.”

Prior to November 1989, the above-mentioned roles were fulfilled in Czechoslovakia by the following organizations, respectively:

- Intelligence Service of the General Staff (Zpravodajská Služba Generálního Stábu – ZSGŠ);
- 1<sup>st</sup> Directorate of the Federal Ministry of Interior (I. Správa Federálního Ministerstva Vnitra – I. S FMV);
- 3<sup>rd</sup> Directorate of the Federal Ministry of Interior (III. Správa Federálního Ministerstva vnitra (III. S FMV) – Vojenská Kontrarozvědka – VKR);
- 2<sup>nd</sup> Directorate of the Federal Ministry of Interior (II. Správa Federálního Ministerstva Vnitra – II. S FMV, which was the true State Security (Státní bezpečnost – StB) in the strict sense of the word).

After the revolution of 1989, the intelligence roles were divided among three institutions in Czechoslovakia and the Czech Republic as follows:

- ZSGŠ, since 1994 – Military Intelligence Service (Vojenská Zpravodajská Služba – VZS);
- Office for Foreign Relations and Information (Úřad pro Zahraniční Styky a Informace – ÚZSI FMV), since 1994 – ÚZSI;
- Military Defensive Intelligence (Vojenské Obranné Zpravodajství – VOZ);
- ÚOÚD FMV, since December 1990 – FIS FMV, since July 1991 – FBIS, since 1993 – BIS ČR, since 1994 – Security Information Service (Bezpečnostní Informační Služba – BIS).<sup>8</sup>

Since August 2005, as Acts No. 289 and 290/2005 Coll. came into force, the VOZ and VZS were merged into the unified Military Intelligence (Vojenské zpravodajství – VZ).

## Legal framework for the Czech intelligence services

The legal framework for the Czech intelligence community is provided by three laws. The most important of the three is Act No. 153/1994 Coll. on Intelligence Services of the Czech Republic, as it lists all three existing Czech intelligence services, namely BIS, VZ, and ÚZSI, and specifies their positions within the state apparatus; it is usually called the “umbrella” law.

The law defines the competencies of the services, the mechanisms for appointment of their directors, as well as the issues of coordination, control, national and international cooperation, of tasking the services and submission of information by the services, and of providing information to the services.

The law assumes the existence of internal statutes of the individual intelligence services approved by the government.

In addition to the umbrella law, there are special laws on the Security Information Service (BIS) and the Military Intelligence, namely Act No. 154/1994 Coll. on the Security Information Service, and Act No. 289/2005 Coll. on the Military Intelligence. The third Czech intelligence service—the Office for Foreign Relations and Information (ÚZSI)—does not yet have a law “of its own,” and its status is defined only within the umbrella law.

There is an asymmetry in the institutional and legal status of individual Czech intelligence services. BIS is entirely independent of ministries; ÚZSI is a state institution, attached by its budget and property to the Ministry of Interior; VZ is explicitly a *part* of the Ministry of Defence. The position of the BIS within the Czech security establishment to a certain extent may be attributed to the concern of abuse of intelligence service powers, and the civilian counter-intelligence is the most logical “candidate” to embody this concern. However, it is mostly a product of the historical development of the legislative amendments and of the political atmosphere in the period in which the service originated.

### Security Information Service (BIS)

BIS is a civilian counter-intelligence service, whose income and expenditures represent a separate chapter of the state budget.<sup>9</sup> The BIS director is appointed and removed by the government. Here it is necessary to stress the frequently discussed legal fact that BIS does not report to only one minister, but to the whole cabinet, consisting of 15 to 19 members.

BIS (§ 5 paragraph 1 of the Act No.153/1994) is required to provide information about: intentions and activities directed against foundations of democracy, sovereignty and territorial integrity of the Czech Republic; intelligence services of foreign powers; activities threatening the protection of classified information; activities whose consequences may threaten the security or important economic interests of the Czech Republic; organized crime and terrorism.

BIS does not have any executive powers, i.e. the powers typical for repressive, law-enforcement agencies. BIS operatives may not arrest, interrogate, or carry out a house search, etc.; such actions are exclusively in the realm of police work. Within the international context, the Czech Republic is one of those countries that have chosen, similarly to the United Kingdom, Germany, Slovakia, and the Netherlands, a model of total separation of counter-intelligence activities from repressive powers and criminal proceedings.

BIS applies “specific means of acquiring information” that include “intelligence means” and the “use of services of persons acting for the benefit of BIS” (§ 6).

“Intelligence means” include (§ 7):

- electronic means,
- cover instruments and documentation,
- surveillance.

Electronic means (§ 8) include technical means and devices, especially electronic, photographic and other appliances, used in a covert way, when contravening the fundamental rights and freedoms of citizens by:

- searching, opening, examining or evaluating postal deliveries;
- interception or registration of telecommunication, radio communication or a similar traffic, or acquiring data about this traffic.

Another text in § 8 specifies that the implementation of electronic means, when there is no violation of the fundamental rights and freedoms of citizens, does not include:

- recording, listening, monitoring, and evaluating information, distributed in a way that allows an access of a group of people, not specified beforehand;<sup>10</sup>
- using safety and guard systems;<sup>11</sup>
- monitoring telecommunications, radio communications and similar traffic *without* intercepting its content, or acquiring data about this traffic.

The use of electronic means (in practice the interception of telephone conversations

or intrusive surveillance with eavesdropping are used most frequently) is distinctly understood by the law as a significant penetration of the private zone protected by the constitutional system.<sup>12</sup> The exceptional nature of the implementation of this authority by intelligence services is specified in the law, apart from other things, by requiring a fulfilment of certain conditions, followed by a written permit issued by a non-executive independent state authority, i.e., judiciary.

This permit is issued by the Chairman of the Senate of the Supreme Court in Prague. It is issued on the condition that the exposure or documentation of activities to be covered by electronic means would be ineffective or substantially hindered or even impossible by using other means, and that the use of intelligence means does not violate the rights and freedoms of citizens beyond a necessary and inevitable limit. It must be said that the use of such a tool is allowed by the law only as *ultima ratio*, i.e. as a last resort.

Interestingly, the law defines the category of a “person acting for the benefit of BIS” (§ 15). The legal specification of the most popular “intelligence tool” is very brief: A person acting for the benefit of BIS is a physical person, older than 18, who voluntarily and in a secret way provides services, meaning primarily provision of information.

## History of BIS predecessors

The 2<sup>nd</sup> Directorate of the FMV was abolished by the 2<sup>nd</sup> order of the federal Minister of Interior of 15 February 1990. On the very next day, in accordance with this order, the Office for Protection of the Constitution and Democracy (Úřad pro Ochranu Ústavy a Demokracie – ÚOÚD) was established as *part* of the Federal Ministry of Interior. It existed from 16 February 1990 to 18 December 1990. It should be stressed that during the existence of ÚOÚD and in the following stages (FIS, FBIS, BIS ČR), the majority of the former members of StB’s executive branches was gradually dismissed in several waves of vetting and reorganizations, and replaced by new personnel.

In December 1990, according to the order of the then federal Minister of Interior the ÚOÚD was transformed into the Federal Information Service of the Federal Ministry of Interior (Federální Informační Služba FMV – FIS FMV). It existed from December to the end of June. FIS was deprived of the ÚOÚD surveillance and interception sections, which were attached to the federal police. The new service had to build these sections anew.

In the first half of 1991, intensive work was put into a bill to specify the status of a civilian counter-intelligence. Memories of the methods of the former StB, as well as

concerns about potential abuses by the new institution, led many important politicians (including newly recruited FIS members from the former dissent movement) to a political conviction that it was necessary to place the new service somewhere between the executive and legislative powers, at any rate, *as far as possible* from the Federal Ministry of Interior. The implementation of this idea was accompanied by further conceptual clashes, as well as by excitement concerning the introduction of lustration laws.

In May 1991 the Federal Assembly of the Federal Republic passed Act No. 244/1991 Coll. on Federal Security Information Service (Federální Bezpečnostní Informační Služba – FBIS). The act came into effect and the new institution was established on 1 July 1991; however, the split of the Czechoslovak federation gave it only a year and a half of life until November 1993, when it was abolished.

In accordance with § 4 of the Act, the FBIS director answered to the Federal Assembly. This responsibility was not, however, complemented by the authority of the Parliament to appoint the director – he was appointed and removed by the President at the Government’s recommendation. In practice, FBIS had to cope with the complexities of the Czechoslovak federal constitutional system and to submit its reports to three governments (federal, i.e., Czechoslovak, then Czech and Slovak) and three parliaments.

On 22 October 1992 the Czech National Council (ČNR) approved Act No. 527/1992 on the Establishment of Security Information Service of the Czech Republic (Bezpečnostní Informační Služba České Republiky – BIS ČR). It was a hastily drafted bill and the deputies were not satisfied with the law,<sup>13</sup> and so they limited the legal existence of the new BIS ČR to a limited period ending 31 December 1993 (later it was prolonged till 29 July 1994).

Act No. 527/1992 defined BIS ČR for the first time as a *state institution*, then as an *armed security service*, and as a government agency with an independent relation to the state budget. In accordance with § 7 of the Act, BIS ČR director should have been appointed by the ČNR Presidium at the government’s recommendation.<sup>14</sup> BIS ČR was to be tasked by the government through its Prime Minister. The BIS ČR director had the right to take part in government’s sessions.<sup>15</sup>

Oversight powers are vested to a permanent oversight commission and are almost identical with those stipulated by previous as well as by current legislation, with one important exception: service members were entitled to complain to the oversight body

in case they thought that they were being ordered to act beyond the service's competences, or even illegally.

According to the umbrella law of 1994, the BIS director is appointed by the Government, following discussion by the respective Committee of the House of Deputies responsible for security matters. In comparison with the previous situation, the powers of the Permanent Commission on Oversight over the work of the Security Information Service have been slightly weakened.

### **Military Intelligence (VZ)**

The Military Intelligence Service (Vojenské Zpravodajství – VZ) is defined by Act No. 153/1994 Coll., and Act No. 289/2005 Coll., as a part of the Ministry of Defence. Following a debate in the relevant committee of the Chamber of Deputies of the Parliament responsible for security matters, the VZ director is appointed by the Minister of Defence, subject to the Government's consent. The law does not specify the VZ's budget, as VZ is not an independent organizational unit of the state. The use of "specific means for collecting information" is defined in Act No. 289/2005 almost identically<sup>16</sup> with that on BIS. Also the provisions on parliamentary oversight are similar (with an important exception dealt with below). The tasks of VZ are fulfilled by VZ members, with terms of employment of military professionals.

VZ (§ 5 paragraph 3, Act. No. 153/1994) provides information:

- originating abroad and pertaining to the defence and security<sup>17</sup> of the Czech Republic;
- on intelligence services of foreign powers in the defence sphere;
- on intentions and activities against the defence of the Czech Republic;
- on intentions and activities threatening classified information within the sphere of the defence of the Czech Republic.

The present legislation has merged the military counterintelligence and intelligence services without differentiating the powers, tools, and means used in these different activities. There are no provisions, specifying the circumstances and conditions under which VZ can fulfil the tasks listed above on the territory of the Czech Republic; and, in fulfilling those tasks, what means it can use, and against what phenomena.

There exists a Permanent Commission on Oversight over the work of Military Intelligence. However, in practice, the VZ is exempt from the parliamentary oversight to a significant extent, due to somewhat contradicting provisions of Act 153/1994 and Act 289/2005.

## *A Special Body*

At present, a unit subordinated to Military Intelligence is the in-depth reconnaissance unit – the 601st Special Forces Group. According to the websites of VZ and the 601<sup>st</sup> group, it is directly subordinated to the Minister of Defence represented by the director of the Military Intelligence. Until the autumn of 2001, the existence of this unit had been kept secret. The mission of the 601<sup>st</sup> Special Forces Group emerges from generally defined tasks of special forces according to NATO documents, as well as from the definition of the Highest National Command, including special reconnaissance, assault actions, and other special tasks.

## **History of VZ predecessors**

In 1950s, in line with the Soviet security doctrine, the military counter-intelligence service was subordinated to the Ministry of Interior and became a part of StB, later known as the 3rd Directorate of the FMV – VKR (Vojenská kontrarozvědka). The Intelligence Service of the General Staff (ZSGŠ), also patterned on the Soviet system, was under the Ministry of Defence.

Following the November 1989 revolution, in April 1990 the VKR was transferred to the Ministry of Defence (MNO) and was renamed “Main Directorate of the Military Counter-intelligence of Ministry of Defence.” As of 1 July 1990 it was renamed the Directorate of the Military Defensive Intelligence of the Czechoslovak Army (in Czech – Vojenské Obranné Zpravodajství, VOZ).

On 25 October 1990 the subsequent Minister of Defence reviewed VOZ’s activities, and ordered vetting (re-attestations) of its personnel, among other things, with the participation of Federal Assembly deputies. Since 1 January 1991, part of the personnel remained in VOZ, while the rest of the personnel went over to the newly established Military Police (Vojenská Policie – VP).

On January 29, 1992, the Federal Assembly of the federal republic passed Act No. 67/1992 Coll., on Military Defensive Intelligence. It included parliamentary oversight of VOZ activities. At the same time, the Intelligence Service of the General Staff (under untouched original name) remained below the political radar.

A decisive measure concerning the existence of military intelligence services was the adoption of Act No. 153/1994 Coll. The law intended to combine military defensive and offensive intelligence services into the VZ, as one of the three intelligence services of the state. However, Act No. 153/1994 in its original wording (i.e. from 1994

to 2005) stated that “Military Intelligence (VZ) is formed by the Military Intelligence Service (VZS) and the Military Defensive Intelligence (VOZ).” In the years 1994 – 2005, VZ was headed by one, more or less formal, director with a small team, accountable to the Minister of Defence. The directors of VZS and VOZ were subordinated to him only “from a methodical point of view, and in the line of command.” This absurd managerial situation was further complicated by the fact that the VZS director was *simultaneously* subordinated in professional matters to the Chief of the General Staff of AČR (Army of the Czech Republic), and the VOZ director was subordinated directly to the Minister of Defence.

It is necessary to note that the merger of both services was not based on professional reasons only, but also on political party campaigns, always intensified before elections, in which many politicians declared that there were too many services for such a small country,<sup>18</sup> adding that they were going to reorganize intelligence services, some to be abolished, some merged. These campaigns did not add much stability to the intelligence community.

Since 2002 the Ministry of Defence had been trying to reorganize the VZ to achieve a real merger of VOZ and VZS. This process culminated in the adoption of Acts No. 289 and 290/2005 (amending Act No. 153/1994), the result of which is the present state of affairs. The intended goal of this legislation was “to use effectively the possibilities of both of its traditional components, i.e. intelligence and counter-intelligence, so that information output would be unified, resulting from the coordination of both mentioned constituents.”<sup>19</sup> As of 2004, the military intelligence had been undergoing a crucial change of personnel; VZ members, serving before November 1989, had to leave the service, with a delay of 10-12 years in comparison to civilian services.

### **Office for Foreign Relations and Information (ÚZSI)**

The Office for Foreign Relations and Information (ÚZSI) is a civilian intelligence service. Its legal status is defined by Act No. 153/1994 Coll.; there is no other specific act on ÚZSI.

ÚZSI’s competence is to provide information originating abroad which may be important for the security and protection of the foreign policy and economic interests of the Czech Republic. ÚZSI’s budget is a part of the budget of the Ministry of Interior. The ÚZSI Director is appointed and removed by the Minister of Interior, subject to the Government’s consent.

Although the umbrella law provides for parliamentary oversight of all intelligence services, including ÚZSI,<sup>20</sup> no special act has been passed on the supervision of the service that would have specified its scope and methods, i.e. this general provision of the umbrella law has not been implemented in practice.

According to Act 153/1994, the terms of service employment of ÚZSI members are the same as those for members of the Police of the Czech Republic.<sup>21</sup> The fact that ÚZSI members are under the terms of employment of police officers, defines only their position pertaining to labour law, but does not concern their competences. It means that they did not and do not fulfil any tasks of the police, they deal exclusively with intelligence tasks.

## History of ÚZSI

All FMV security agencies of the former Czechoslovak Socialist Republic were disbanded by 15 February 1990, and their successor institutions established. The Communist foreign intelligence service, the 1<sup>st</sup> Directorate of the FMV, was replaced by a transitional Intelligence Service of FMV.

Later, in 1990, the Office for Foreign Relations and Information of FMV was established with a very limited number of employees, and with new goals. In the following years, most members of executive components of the former 1<sup>st</sup> Directorate were gradually dismissed in several waves.

After 1990 there was a thorough dismantling of the old intelligence service and the simultaneous development of a new service, together with a search for what its position might be, and how it might be most beneficial for the state. The scope of this process had no match in other post-communist countries. All officers of the former Communist intelligence service, acting abroad under diplomatic cover, were recalled from all Czechoslovak embassies. The liquidation of these stations resulted also in the discontinuation of their agent network. In the same way, the network of the illegal agents, operating abroad without diplomatic cover under a foreign identity, was dismantled.

After the split of the Czecho-Slovak federation, the federal ÚZSI was dissolved and divided into a Czech and a Slovak part. Thus, in January 1993, the Office of the Ministry of Interior of ČR for Foreign Relations and Information appeared. The currently valid Act No. 163/1994 established a successor organization – the Office for Foreign Relations and Information as an independent state institution, now outside the Ministry of Interior.

## ÚZSI and the Ministry of Interior

It is often stated that ÚZSI falls under the Ministry of Interior. However, this statement would only be adequate until Act No. 153/1994 Coll came into effect. The present position of ÚZSI cannot be specified in this way. On the one hand, the ÚZSI Director is only accountable to the Minister of Interior – a government member, while the Ministry of Interior, as an institution, provides certain services to ÚZSI. In accordance with § 51 of the Act 219/2000 Coll. on Property of the Czech Republic and its Conduct in Legal Relations, ÚZSI is an independent organizational state unit,<sup>22</sup> which is not generally known. Another link to the Ministry of Interior is the fact that ÚZSI budget is part of the Ministry's budget.

With only a slight exaggeration, the current legal status could be described as follows: the Czech Interior Minister is politically accountable for the Ministry of Interior (including the Police, and Fire and Rescue Corps, subordinated to him) and, *in addition to that*, for ÚZSI. But the Interior Minister himself cannot task ÚZSI; this can be done only by the government as a whole.

ÚZSI's position and its relation to the Ministry of Interior has evolved as the result of both political and administrative factors, and of the personal visions of important elected state representatives in the early 1990s. At that time, the service was not in the focus of attention of the political elite, and then Minister of Interior wanted to keep control over the service. After the establishment of the independent Czech Republic, these conditions did not significantly change, and this situation was solidified during the drafting of the Act No. 163/1994.

Partial steps towards creating a more natural connection to the complex system of the Czech Republic's foreign relations<sup>23</sup> are the provisions of the ÚZSI statute, approved by the government, and the provisions of several inter-departmental agreements on the enhancement of the Foreign Minister's (and the Ministry's) influence on the formulation of tasks for ÚZSI. In practice, the provision on the submission of ÚZSI's information (in line with the Act No. 153/1994) is implemented in such a way that the information is immediately submitted to those who have required it, need it, or may need it. Obviously, the Minister of Interior is informed about the submission of this information.

In spite of this, the link of ÚZSI to the Ministry of Interior is a peculiar one, as the ÚZSI competences clearly do not correspond with the competences of the Ministry of Interior according to the competences law (Act No. 2/1969 Coll., as amended). Though at first glance existing legislation is unusual, it has not been detrimental to

the functioning or legitimacy of ÚZSI that acts in practice as an independent state institution.

## **Management and Coordination of the System**

The government and the prime minister play the most important role in the system of intelligence in the Czech Republic. The umbrella organisation is the National Security Council, which is the government's body responsible for coordinating the Czech Republic's security issues. The Council is headed by the prime minister and its members include deputy prime ministers, ministers, the governor of the Czech National Bank, the chairman of the Administration of the State Material Reserves and the head of the Office of the Government of the Czech Republic.

For its part, the Committee for Intelligence Activities is a standing body of the Council, in charge of intelligence services. Its task is to coordinate the activities of Czech intelligence services and to draw measures with respect to intelligence activity and cooperation of respective state bodies. The chairman of the Committee is the prime minister; its deputy chairman is the minister of the interior. Its members include deputy prime ministers, ministers, the directors of the intelligence services of the Czech Republic and the head of the Office of the Government of the Czech Republic.

## **Conclusion**

The change of the status and placement of all Czech intelligence services has been a subject of deliberations of politicians and state officials since 1997. There have been repeated debates about whether BIS should be subordinated to the Minister of Interior, who is responsible for internal security and order. In this case, BIS would be institutionally separated from the Ministry of Interior, without any police powers (patterned on the status of counter-intelligence services in, for example, Germany and the United Kingdom). However, in such a model, ÚZSI should be subordinated to another member of the government – whether patterned after the United Kingdom and attached under the Foreign Secretary, or under the Prime Minister, as in Germany. These might seem petty details to politicians, but they hide a cloven hoof. Any modification must not worsen the position of a service by ill-considered measures. The reform of the system of intelligence services is a subject of occasional debates but, since it would require major modifications (the so-called big amendment), no political consensus has yet been achieved. Several detailed proposals have been drafted, but never submitted to Parliament. This has been caused by disputes among government departments, but primarily among various political parties and their factions.

In the author's strong opinion and in line with the politological recommendations, it

is optimal to separate the tasks of intelligence and internal security services by institutions. Each should act in a different legal regime and without being merged into one organization. The merger of military organizations is more acceptable than the merger of civilian services.<sup>24</sup> There are, however, opposite examples even in democratic countries (The Netherlands, Slovakia).

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### **Abbreviations of current intelligence services**

BIS	Security Information Service of the Czech Republic (internal civilian service)
ÚOÚD	Office for Protection of the Constitution and Democracy (internal civilian service, part of the Ministry of Interior)
ÚZSI	Office for Foreign Relations and Information (civilian foreign intelligence agency)
VOZ	Military Defensive Intelligence (internal military service)
VZ	Military Intelligence

### **Notes:**

- <sup>1</sup> The term is used in texts on legislation and political science.
- <sup>2</sup> The literal translation of “kontrarozvědná služba” from Czech into English as “*counter-intelligence service*” is incorrect because of a specific meaning of the term “counter-intelligence” in English.
- <sup>3</sup> Certain attractiveness of the term “kontrarozvědka” in a wider sense of the word (to counter, i.e. to oppose, contradict, parry, make a countermove) can be documented in its use in the Czech Republic in 1990s. A police unit, called “Service for the Exposure of Corruption and Serious Economic Crime,” as well as its predecessor (Service for the Protection of Economic Interests) was routinely named by the media “economic counter-intelligence.”

- <sup>4</sup> This is a U.S. designation, used in some countries. The four Cs stand for “command, control, communication, computers,” then “intelligence, surveillance, reconnaissance.” The term commonly used in NATO to designate the latter activities is ISTAR, i.e. Intelligence, Surveillance, Target Acquisition, and Reconnaissance.
- <sup>5</sup> Including intelligence and counter-intelligence services.
- <sup>6</sup> Fundamental rights and freedoms may be violated when it is necessary to protect other vital interests, only if the latter are considered as prevailing over the inviolability of fundamental rights and freedoms.
- <sup>7</sup> See, for example, § 4 (a) of the Act No. 40/1974 Coll. on the National Security Corps, as well as § 3, paragraph 1 (a) of the Act No.70/1965 Coll. on the National Security Corps.
- <sup>8</sup> The abbreviations of BIS’ predecessors are explained later in the text and their full names are given as well.
- <sup>9</sup> This also means that the *total* sum, including the BIS’ income and some other items (capital expenditure, etc.), is not classified, as is the case with the other two services, and it is possible to find the figures in the state budget; the total sum is also published at the BIS’ website.
- <sup>10</sup> For example, by a radio transmitter.
- <sup>11</sup> For example, sensors registering entries into guarded premises, as well as CCTV systems in buildings.
- <sup>12</sup> The Czech Charter of Fundamental Rights and Basic Freedoms defines the inviolability of privacy (Article 7), home (Article 12), post privacy and privacy of other documents and records, kept privately or sent by post or by a similar way, as well as privacy of messages transmitted by telephone, telegraph, or other similar facility (Article 13), [www.wipo.int/wipolex/en/text.jsp?file\\_id=190580](http://www.wipo.int/wipolex/en/text.jsp?file_id=190580).
- <sup>13</sup> It is interesting that Slovakia established its civilian intelligence service (SIS) as late as March 1993 – in the beginning of the year there was a legal and, to some extent, also personnel vacuum.
- <sup>14</sup> The construction of the Constitution of the Czech Republic, as well as real political and power circumstances surrounding its formulation, practically annulled the role of President of the Republic in this matter.
- <sup>15</sup> The provision granted the director a right, similar to that currently enjoyed by the Czech National Bank governor, and took him from the position of a high-ranking state official almost to the level of an elected state representative. This situation (including the level of the director’s salary) still preserves the current position of the service under collective control.
- <sup>16</sup> The only exception being surveillance, defined as “surveillance of persons and things.”
- <sup>17</sup> The present diction of this section now allows for a certain overlapping of the ÚZSI’s and VZ’s competences (“security of the Czech Republic”), which in the future may cause some problems in the coordination of both services.
- <sup>18</sup> Hungary, a country of a similar size, has five intelligence services with clearly defined tasks.
- <sup>19</sup> “History of Military Intelligence – After the Year 1990,” *Military Intelligence*, <http://vzcr.cz/en/about-us/history>.
- <sup>20</sup> See § 12, Act No. 153/1994 Coll.

<sup>21</sup> See § 17, Act No. 153/1994 Coll.

<sup>22</sup> For example, the Police, or the Fire and Rescue Corps are not independent organizational units of the state.

<sup>23</sup> ÚZSI has repeatedly proclaimed that about 60 to 70 % of its information output is primarily intended for the Ministry of Foreign Affairs.

<sup>24</sup> In case they do not delve in political intelligence and do not replicate the activities of other services.

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