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Analysis of the mandatory publication of foundations' annual reports in the Czech Republic

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Abstract

The main objective of this paper is to analyse whether there has been some progress in the mandatory publication of annual reports of Czech foundations for the years 2001–2014. The foundations handle large financial amounts and should strive for transparency by providing information about their economic activities as stated in their annual reports. They are available in the Collection of Documents run by the Commercial Court, where annual reports are published. In the past, several researches have taken place to find out how many foundations do fulfill this duty, and have had quite different results. This article shows a conclusion to the current research, which was aimed at 2012–2014 and compares the current findings with previous results. Data for the research were gained from the Collection of Documents and subsequently analysed. Based on this analysis and a comparison with previous findings, it can be concluded that there was almost no improvement in terms of an increase in published annual reports; still less than 50% of foundations release their annual reports. Of these, less than one third of foundations meet their obligations regularly and, in addition, more than half of the foundations do not submit their annual reports at all.

Keywords

Annual report, financial statement, foundation, non-profit organisation.

JEL Classification: L31, M40

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1. Introduction

The development of non-profit organisations in the Czech Republic started after 1989. Their transparency, however, was not a subject of interest because of several reasons, such as a lack of concern, and because main focus was on business entities. Also, their growth was faster than the evolution of their legal frame. The year 1997 was important as the rules for the regulation of foundations changed. Afterwards, the years 2000 and 2004 influenced the non-profit sector in general because financial support was moved from the state to regional level which led to higher supervision and the entry of the Czech Republic to the European Union raised the standard for transparency as well (Bachman, 2014).

The transparency of non-profit organisations has become an interesting issue recently and has been researched and described in various articles and reports apart from those mentioned later in this paper. For example, Šplíchal (2007) published an analysis of information flow in public administration and associations in which it is pointed out that it is not possible to determine how many associations prepare and publish annual reports from any available sources. Rohrbacher (2007) examined internet pages of 344 associations and found out that only 7% of them publish annual reports. Bachmann (2013) studied internet pages of non-profit organisations as well and according to his survey, only 17.3% of checked foundations published annual reports. Ardielli and Vavrek (2015) tested the information availability on Czech municipal websites. They were testing several parameters and found out that there were no differences in individual years; that is, municipalities already publish established parameters annually. This survey has also shown different approaches—while some information is published by all, or almost all municipalities, other information is published only rarely.

This topic is investigated also within Europe. Baumüller and Haring (2014) focused on the financial reporting of non-profit organisations in German-speaking countries. They found that disclosure of information is avoided. One of reasons might be that non-profit organisations are afraid that these data will

be misinterpreted or some of the non-profit organisations want to obscure their financial situation.

Rey-Garcia et al. (2012) compared the foundations in the USA and Spain. According to their analysis, 74% of US foundations and 80% of Spanish fundraising foundations were publishing financial statements in 2009. On the other hand, only 8% of corporate foundations did so in the same year.

When it comes to foundations, they have a specific role because they should use their property and donations for beneficial use; that is why they have a duty to publish their annual report to protect the public interest concerning public knowledge. This legal duty is valid not only in the Czech Republic, but also in other European countries (apart from France and the Netherlands) (Rosenmayer, 2006).

However, there were no sanctions which would motivate foundations to publish their annual reports. Until the end of 2013 the Commercial Court could fine a foundation up to 50 000 CZK only in the case that the foundation did not submit its annual report after an appeal to do so. But the courts were so occupied that they did not check whether the foundation had published it. There were some cases when the Commercial Court asked for a missing annual report, but until April 2005 there had not been any known case of penalisation (Rosenmayer, 2006). The year 2014 and the Act no. 304/2013 Col., on public registers brought some news to this area. According to its paragraphs 104–107, the legal entity might receive a fine up to 100 000 CZK if the subject did not submit the prescribed documents. If the subject breached this duty repeatedly or this behavior might have a relevant consequence on other subjects, it might lead to the start of a cancellation of the legal entity.

Another type of penalty may arise from Act no. 563/1991 Col, on accounting. Paragraph 37 says that not publishing financial statements and annual reports is considered an offence and can be fined up to 3% of the value of assets. This penalty has been valid since January 1st 2011.

The aim of this paper is to find out whether there has been some progress in terms of publishing annual

reports by foundations between the years 2001 and 2014. Foundations were chosen firstly because of the possibility of comparing current data about them with research done in previous years and secondly, foundations have a duty to publish their annual reports publicly since 1998 and this fact facilitates the proving of an actual status. Available data covers the period of the last fifteen years which makes the comparison both interesting and considerable.

The article is divided into three parts. The first part describes the basis upon which preconditions this research was done and how it was realised, i.e. what data were collected and how they were evaluated and compared. The second part shows the results and is finally followed by a discussion and conclusion that summarises the knowledge gained.

2. Research methods and data

The goal of this paper is to answer the following research question: *Was there an increase in published foundations' annual reports between the years 2001 and 2014?*

Several research methods were used for the purpose of this paper. First was an analysis of former and current legal acts related to foundations and their annual reports, followed by a comparison of both approaches. During this second phase, which was already aimed at gaining data (primary research) and their evaluation (secondary research), empirical and statistical methods were used. The final third phase was carried out using general theoretical methods again. The main one was a synthesis which enabled conclusions based on previous findings to be expressed. Apart from this one, a comparison and generalisation was also used to achieve desired results (Šíroký et al., 2011). A further description of the methods used is stated below in this paper. All of them were aimed at one target—to prove whether there was some progress in the publication of annual reports of Czech foundations during the last fourteen years or not.

The first phase of the research was focused on an analysis of legal background which should determine rules for foundations. There are three main law acts that are connected directly to foundations and their annual reports which were examined for their content. The first one is a former Act no. 227/1997 Col., on foundations and endowment funds which was valid in its old version until end of year 2013. According to § 24, a foundation's yearly financial statements must be verified by an auditor. Paragraphs § 25 and § 26 say that the foundation has to prepare an annual report at the latest within six months after the end of an assessed period (commonly a calendar year). This report has to be published by its assignment to the Collection of

Documents within 30 days after an approval by a board of directors and at least until the end of the following accounting period, even if it was not approved by the board. Financial statements are an attachment to the annual report.

The second one is Act no. 89/2012, on Civil Code which is valid from January 1st 2014. The § 341 mentions that the financial statements must be verified by an auditor in the case that the foundation's capital or turnover exceeded the limit of 5 mil. CZK in the last accounting period. This is a difference from the previous state when all foundations had to have an audit. According to § 358–§ 361, a foundation has to prepare an annual report which includes financial statements, at the latest within six months after the end of a preceding accounting period. The conditions for its publishing remained the same as they were in Act no. 227/1997 Col.

The year 2016 brought an amendment to Act no. 563/1991 Col., on accounting and this third legal act influenced also the topic of foundations. These changes are related mainly to wording. Firstly, there is no more mention about the commercial register, only about the register which can vary for different types of organisations. Secondly, instead of the deadline defined as the *end of following accounting period*, there is now a statement *till twelve months from the balance sheet date* of published financial statements. Temporary provisions also specify exact terms for these organisations which do not need an audit.

The second phase started with a decision regarding an examined sample of foundations. Because it was not possible to determine a representative random sample of all foundations (the register does not enable filtering foundations, for example, according to a region or turnover), it was decided to check all of them.

The list of existing foundations was obtained from the public register on a webpage www.justice.cz which is an official server of the Czech judiciary. Because every foundation has to have a word *nadace* in its name, all legal entities with a legal form of foundation and this above word in their name were filtered. In total 486 organisations were listed on 31st December 2015, but the list included also organisations which were set up during the year 2015 (19 foundations) and these were excluded then, because they could not submit any annual report so far.

After this correction, the final list contained 467 organisations and represented a main data set. Apart from this exception, also organisations set up during the years 2013 (18 foundations) and 2014 (12 foundations) were checked only for respective years, if needed. The list also includes foundations that are now in the process of liquidation. Taking into consideration all these limits, the following number of foundations

displayed in Table 1, were considered to be obliged to publish their annual reports.

Table 1 Number of researched foundations in years

| Year | Number of foundations |
|------|-----------------------|
| 2014 | 467 |
| 2013 | 455 |
| 2012 | 437 |

These numbers do not match with official numbers of foundations released by the Czech Statistical Office. The reason is probably that data from the Czech Statistical Office were closed at the end of each year and some of the foundations were erased in the next years. The development of a number of foundations since 2005, based on statistical data and an overview available at neziskovky.cz, is described in the following Table 2.

Table 2 Number of foundations in the years 1999–2013

| Year | 1999 | 2000 | 2001 | 2002 | 2003 |
|-------------|------|------|------|------|------|
| Foundations | 272 | 282 | 299 | 330 | 350 |
| Year | 2004 | 2005 | 2006 | 2007 | 2008 |
| Foundations | 362 | 293 | 302 | 302 | 379 |
| Year | 2009 | 2010 | 2011 | 2012 | 2013 |
| Foundations | 413 | 434 | 435 | 444 | 511 |

In the next phase, which was focused already on an acquisition of data, foundations were checked for the availability of their annual reports in the Collection of Documents for the years 2012–2014. Apart from annual reports, also a publication of financial statements and auditors' reports were checked but these had rather a second-class significance. The following Table 3 summarises the examined documents.

Table 3 Examined documents

| | |
|----|---------------------|
| Y1 | Financial statement |
| Y2 | Annual report |
| Y3 | Auditor's report |

The availability of each document was marked either as 1 or 0 for availability/unavailability. This availability was considered as an alternative statistical characteristic which can be later measured as a relative frequency. Based on the law, annual reports for year 2014 were supposed to be published till end of a following accounting period, which means until the end of 2015. For simplification of the research, it is taken into consideration that the accounting period starts 1st January and end on 31st December. However, this simplification fits almost all foundations, because there was only one of these which published annual reports and which had the accounting period defined differently. The research was held within the last days

of the year so it is very likely that no more annual reports were submitted and that the data gained present the current status credibly.

The check was aimed at the availability of documents. But, for example, a file called an annual report may involve all three types of information, i.e. an annual report, financial statements and an auditor's report. In another case, an auditor's report included financial statements but an annual report was separate. Because the approach of each foundation is different, documents available in the register were examined for their presence, i.e. specific information which can be found. However, the research was not aimed at the content of the documents, for example on the requested information which should be stated in the annual report. Table 4 shows a summary of the data.

Table 4 Number of published documents in 2012–2014

| | 2012 | 2013 | 2014 |
|----|------|------|------|
| Y1 | 216 | 202 | 171 |
| Y2 | 203 | 189 | 145 |
| Y3 | 176 | 162 | 129 |

From these data, the relative frequency p_i was calculated using the following formula:

$$p_i = \frac{n_i}{n}. \quad (1)$$

The n_i stands for number of foundations with available documents Y1–Y3 and n for the total number of foundations. The time series analysis was not used to show the development in years because of missing data from available documents for the years 2007–2011.

Last, but not least, correlation analysis, specifically the correlation coefficient, was used to determine the dependency of published reports on the number of foundations using the following formula:

$$r_{xy} = \frac{n \sum x_i y_i - \sum x_i \sum y_i}{\sqrt{[n \sum x_i^2 - (\sum x_i)^2][n \sum y_i^2 - (\sum y_i)^2]}} \quad (2)$$

X represents the number of foundations and Y represents types of documents (Ramík et al., 2003).

The third and a last phase of the research contained two steps; firstly, data gained were compared and evaluated within themselves and matched with results from previous research and secondly, acquired results were judged and interpreted. To achieve the desired results, general theoretical methods as a comparison (in relation to results of previous researches) and generalisation (taking to consideration the current situation of publishing documents in registers) were used.

3. Research

Following Figure 1 shows the development of a number of foundations based on their list from the public

register and number of foundations which published their financial statements and annual reports in 2012–2014.

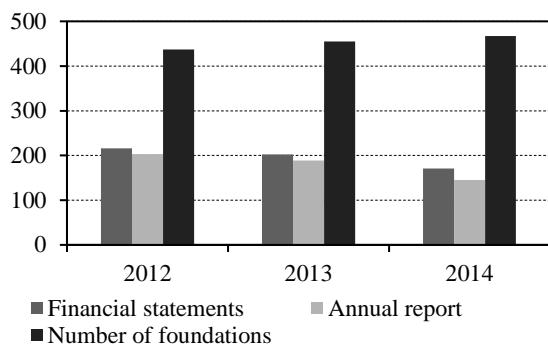


Figure 1 Documents published in the register in the years 2012–2014

The chart shows that less than half of the foundations submit their annual reports to the Collection of Documents. Despite the growing quantity of organisations, the amount of those who published their financial statements and annual reports is decreasing. Interesting is the fact that there are more financial statements submitted than annual reports. The financial statements are part of annual reports, so the fact that there are more of them means that some organisations submit only financial statements and do not add annual reports which should include other information.

The Table 5 below describes absolute values and percentages of submitted financial statements/annual reports compared to the number of foundations that were supposed to publish them.

Table 5 Published financial statements and annual reports in the years 2012–2014

| Year | | 2012 | 2013 | 2014 |
|-----------------------|------------------|------|------|------|
| Number of foundations | | 437 | 455 | 467 |
| Financial statements | absolute value | 216 | 202 | 171 |
| | % of foundations | 49% | 44% | 37% |
| Annual report | absolute value | 203 | 189 | 145 |
| | % of foundations | 46% | 42% | 31% |

There is quite a big difference between the years 2013 and 2014, when the quantity dropped from 44% to 37% for financial statements and from 42% to 31% for annual reports. Despite the fact that foundations should have submitted these documents until the end of 2015, probably not all of them have done it. Based on subjective impression which arose during the realisation of the research, foundations exceed the deadline and publish necessary documentation later than they should.

Next, Figure 2 displays how many foundations submitted their annual reports regularly for the years 2012–2014, which of them did that once or twice and which did not do that at all. It is shown that 53% of foundations have not fulfilled their duty generally and only 28% of foundations did it for all these three years and on time, i.e. until the end of 2015.

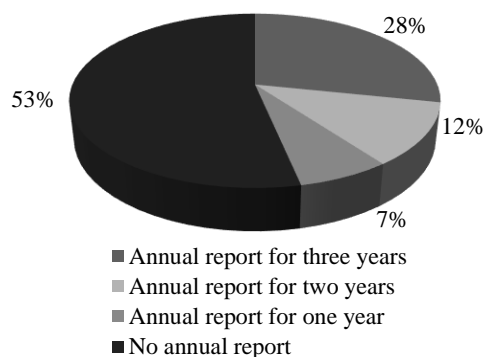


Figure 2 Percentage of foundations which published their annual reports in 2012–2014

With the usage of correlation analysis, the following coefficients were calculated for Y1, Y2 and Y3:

$$r_{xy1} = -0.9461$$

$$r_{xy2} = -0.9190$$

$$r_{xy3} = -0.9413$$

Based on these results, the correlation coefficient is close to -1 and it can be said that number of published documents is highly dependent on the number of foundations.

The annual report should also include an auditor's report in case a foundation has to have an audit. However, for the purpose of this research, this document was not deeply examined. There are two main reasons for that. Firstly, a mandatory audit was valid only till year 2013, so a comparison to year 2014 would not be meaningful. Secondly, foundations sometimes submit an auditor's report for a financial statement and not for whole annual report. An in-depth check of each auditor's report would be demanding and it is not really essential for this research. However, only for a brief idea, taking into consideration the limits of such information, the numbers are shown in Figure 4 in an appendix to this article.

The following Table 6 compares values which were recorded for the years 2001–2003 with the years 2012–2014. Data for the years 2001–2003 are taken from a study described in the article which dealt with annual reports of non-profit organisations (Rosenmayer, 2006). This study took data from the register on March 5th 2005. It is visible that there was no progress between the years; there is probably even a small decrease in the annual reports submitted.

Table 6 Number of foundations and published annual reports in the years 2001–2003 and 2012–2014

| Year | | 2001 | 2002 | 2003 |
|-----------------------|------------------|------|------|------|
| Number of foundations | | 325 | 348 | 362 |
| Annual report | Absolute value | 110 | 170 | 172 |
| | % of foundations | 34% | 49% | 48% |
| Year | | 2012 | 2013 | 2014 |
| Number of foundations | | 437 | 455 | 467 |
| Annual report | Absolute value | 203 | 189 | 145 |
| | % of foundations | 46% | 42% | 31% |

Another study was aimed directly at foundations, but results of this research (Stránský, 2008) are quite different. This study examined annual reports for the years 2004–2006 not only for their availability but also content of the documents. This research includes a list of various examined requirements and six of them are connected to the presence of annual reports and financial statements in the three years stated. The sample should have included foundations registered at courts on 28th March 2008. However, the size of the sample is only 164 foundations and this is a much lower number than is officially stated by the Czech Statistical Office. There were 302 foundations in 2006 and 2007 and 379 foundations in 2008. The research took place in 2008 to give foundations enough time to submit their documents. Whether the required document was available in the stated year was checked. Table 7 below describes the results of this research.

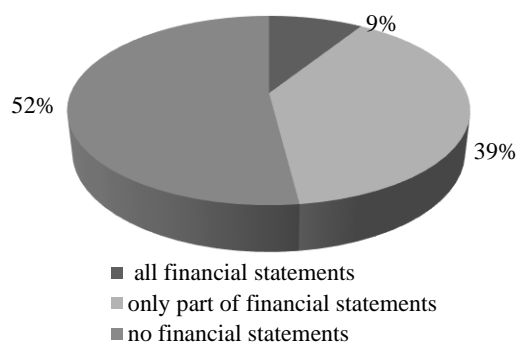
Table 7 Percentage of foundations which submitted the stated document

| Year | 2004 | 2005 | 2006 |
|----------------------|------|------|------|
| Annual report | 74% | 80% | 80% |
| Financial statements | 62% | 76% | 78% |

According to these numbers, most of the foundations fulfilled their obligation almost every year and this finding is in conflict with previous discoveries. Taking into consideration at least the curious number of checked registered foundations, this result is probably not trustworthy. However, to avoid possible poor judgement, findings of this paper can be compared also with the general approach of organisations in the Czech Republic to publishing their financial statements in the Collection of Documents.

This research (Varvažovský, 2012) investigated how many organisations submitted financial statements during the years 1996–2010. The term *organisations* means, in this case, business entities listed in the commercial register and other legal entities listed in other public registers. Foundations were included in the division N. None of them had submitted financial statements in all stated years. The Collection of

Documents was loaded with 46% of all financial statements which should have been published by foundations. This number responds with the results of this paper. The following chart shows shares of financial statements based on the number of financial statements which they have published in the Collection of Documents. It is visible in Figure 3 that 52% of organisations have not uploaded even one of their financial statements and only 9% have done it in all these years.

**Figure 3** Percentage of organisations which published their financial statements in the years 1996–2010

4. Discussion

This paper compares data from three successive years 2012–2014. It shows that 53% of foundations had not published their annual reports at all, 19% of them presented them rather randomly and 28% of foundations presented them regularly. Also, this finding responds to a general approach of Czech organisations towards publishing their documents in the Collection of Documents.

The ratio annual reports/foundations for the year 2014 is lower than for the previous two years despite the fact that the number of foundations grows. The reason might be the fact that foundations do not adhere to the law which says that annual reports must be submitted before the end of following accounting period, in this case, December 31st 2015, or that they had already taken into consideration temporary provisions stated in Act no. 563/1991 Col. on accounting. According to this provision, organisations which do not have to have an audit and which started their accounting period in 2014, can submit their financial statements and annual reports until March 31st 2016. So, if their documents are sent to the Collection of Documents during 2016, the number would increase then from 31% to a range between 40%–50%. This assumption is supported by the fact that giving foundations more time for their duties leads to a higher number of submitted annual reports.

Another interesting point arises from a comparison of the publishing of financial statement and annual

reports. The quantity of financial statements is slightly higher than the number of annual reports. The reason might be that foundations are not aware of the necessity publishing an annual report, do not see the difference between these two terms, or in their opinion financial statements meet the requirements of the law and are sufficient.

It is clear that there is a development in the legislation related to foundations and their annual reports which should lead to an improvement. Apart from these changes which should ensure a clarification and a simplification, there are also other possibilities for how to increase the number of annual reports submitted to the Collection of Documents. For example, Rosenmayer (2006) suggests changes to the system of providing subsidies and improving the system of sanctions. However, as also Varvařovský (2012) mentions, the courts do not provide control in a sufficient way; they also have a different approach in terms of consistency, and last but not least they do not have sufficient legal instruments to claim these deficiencies.

From the perspective of other European countries, Rey-Garcia et al. (2012) came up with a framework which includes six initiatives that shall improve transparency and accountability of foundations:

1. regulatory pressures,
2. self-regulation,
3. demands for information from donors and other key stakeholders,
4. societal pressure derived from scandals,
5. emulation,
6. third-party assessment and information services.

However, Baumüller and Haring (2014) point out that apart from an insufficient regulatory framework in terms of accounting, non-profit organisations seem not to be eager to improve the situation.

It can be said that a request which arises from legislation does not make foundations fulfil their duty and most likely, the courts will be not able to enforce it. Secondly, the self-regulation mentioned by Rey-Garcia et al. (2012) is undermined by the argument stated by Baumüller and Haring (2014), that if the foundations want to publish their statements they have the possibility to do so; thus, it rather looks like they are not interested in this topic. Based on this, it can be assumed that now the public, mainly the donors, have the greatest power to change something. The donors will be interested in knowing what is going on with their donations.

5. Conclusion

Based on the data gained in the previous survey and on the data collected for 2012–2014 for this research, it

can be said that the ratio of foundations which publish their annual reports has remained almost the same; it is still slightly below 50% and there has been no improvement for more than ten years. The answer to the research question is that there has been no increase in published reports. Despite the fact that another research shows a significantly higher number, it is much more likely that the data gained in this paper are correct because they correspond to the general state of publishing documents in the Collection of Documents, as the research focused on all organizations in the Czech Republic proves.

The number of published reports depends also on the time gap between the official deadline and real date when documents arrive at the Collection of Documents. The longer the period is, the more reports are submitted. The research has also shown that for some foundations, the financial statements are the same as the annual report and that they probably are not aware of the difference, or they are, but do not consider them important.

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Appendix

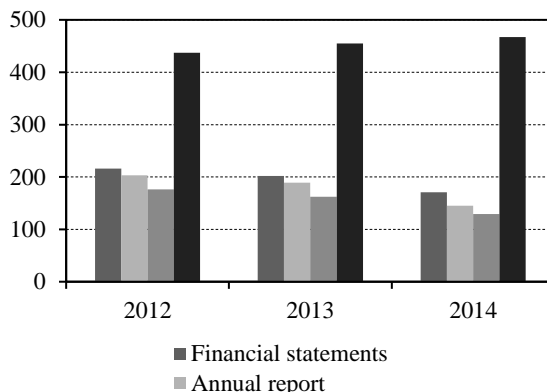


Figure 4 Documents published for the years 2012–2014