

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

CZECH REPUBLIC

2023 (Second Round)

Global Forum on Transparency and Exchange of Information for Tax Purposes: Czech Republic 2023 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

This peer review report was approved by the Peer Review Group of the Global Forum on Transparency and Exchange of Information for Tax Purposes on 27 February 2023 and adopted by the Global Forum members on 27 March 2023. The report was prepared for publication by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Note by the Republic of Türkiye

The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union

The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Please cite this publication as:

OECD (2023), *Global Forum on Transparency and Exchange of Information for Tax Purposes: Czech Republic 2023 (Second Round): Peer Review Report on the Exchange of Information on Request*, Global Forum on Transparency and Exchange of Information for Tax Purposes, OECD Publishing, Paris, <https://doi.org/10.1787/366b187f-en>.

ISBN 978-92-64-49177-9 (print)

ISBN 978-92-64-59967-3 (pdf)

Global Forum on Transparency and Exchange of Information for Tax Purposes

ISSN 2219-4681 (print)

ISSN 2219-469X (online)

Photo credits: OECD with cover illustration by Renaud Madignier.

Corrigenda to publications may be found on line at: www.oecd.org/about/publishing/corrigenda.htm.

© OECD 2023

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <https://www.oecd.org/termsandconditions>.

Table of contents

Reader's guide	5
Abbreviations and acronyms	9
Executive summary	11
Summary of determinations, ratings and recommendations	15
Overview of the Czech Republic	21
Part A: Availability of information	29
A.1. Legal and beneficial ownership and identity information	29
A.2. Accounting records	85
A.3. Banking information	94
Part B: Access to information	103
B.1. Competent Authority's ability to obtain and provide information	103
B.2. Notification requirements, rights and safeguards	113
Part C: Exchange of information	117
C.1. Exchange of information mechanisms	117
C.2. Exchange of information mechanisms with all relevant partners	129
C.3. Confidentiality	129
C.4. Rights and safeguards of taxpayers and third parties	135
C.5. Requesting and providing information in an effective manner	137
Annex 1: List of in-text recommendations	147
Annex 2: List of the Czech Republic's EOI mechanisms	149
Annex 3: Methodology for the review	156
Annex 4: Czech Republic's response to the review report	159

Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 160 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, Annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and <http://dx.doi.org/10.1787/2219469x>.

Abbreviations and acronyms

2016 TOR	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015
AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Countering the Financing of Terrorism
BOR	Czech Beneficial Owners Register (<i>Evidenci Skutečných Majitelů</i>), as provided in Act no. 37/2021 Coll.
BRIS	Business Registers Interconnection System of European Union Member Countries
CDD	Customer Due Diligence
CNB	Czech National Bank (<i>Česká Národní Banka</i>)
CZK	Czech crown (<i>Czech koruna</i>), the official currency of the Czech Republic
DAC	EU Directive 2011/16/EU on Administrative Co-operation in the field of taxation
DLO	Direct Taxes International Co-operation Unit of the General Financial Directorate
DTC	Double Taxation Convention
EEIG	European Economic Interest Groupings
EOI	Exchange of information
EOIR	Exchange of Information on Request
EU	European Union
EUR	Euro, the official currency of the 20 EU Member States that are part of the European Economic and Monetary Union.

FAO	Financial Analytical Office (<i>Finanční Analytický Úřad</i>), the Czech Financial Intelligence Unit
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
ITA	Czech Income Tax Act
JSC	Czech Joint-Stock Company (<i>Akciová Společnost</i>)
LLC	Czech Limited Liability Company (<i>Společnost S Ručením Omezeným</i>)
Multilateral Convention	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
SE	European Joint-Stock Company (<i>Societas Europaea</i>)
TPC	Czech Tax Procedure Code (<i>Zákon daňový řád</i>)
TIEA	Tax Information Exchange Agreement

Executive summary

1. This report analyses the implementation of the standard of transparency and exchange of information on request in the Czech Republic on the second round of reviews conducted by the Global Forum. It assesses both the legal and regulatory framework in force as at 20 January 2023 and the practical implementation of this framework against the 2016 Terms of Reference, including in respect of EOI requests received and sent during the review period from 1 October 2018 to 30 September 2021 (the current review period). This report concludes that the Czech Republic is rated overall **Largely Compliant** with the standard. In 2015 the Global Forum evaluated the Czech Republic in a combined review against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The report of that evaluation (the 2015 Report) also concluded that the Czech Republic was rated Largely Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2015)	Second Round Report (2023)
A.1 Availability of ownership and identity information	Largely Compliant	Largely Compliant
A.2 Availability of accounting information	Compliant	Compliant
A.3 Availability of banking information	Compliant	Compliant
B.1 Access to information	Largely Compliant	Compliant
B.2 Rights and Safeguards	Compliant	Compliant
C.1 EOIR Mechanisms	Largely Compliant	Largely Compliant
C.2 Network of EOIR Mechanisms	Compliant	Compliant
C.3 Confidentiality	Compliant	Compliant
C.4 Rights and safeguards	Largely Compliant	Compliant
C.5 Quality and timeliness of responses	Compliant	Largely Compliant
OVERALL RATING	Largely Compliant	Largely Compliant

Note: the four-scale ratings are Compliant, Largely Compliant, Partially Compliant, and Non-Compliant.

Progress made since previous review

2. The 2015 Report rated the Czech Republic as Compliant with six Elements and Largely Compliant with four Elements of the 2010 Terms of Reference.
3. Since the publication of the 2015 Report, the Czech Republic has introduced a Register of Trust funds and a new procedure for the dissolution of inactive business corporations without liquidation, intended to ensure that the information present in the Commercial Register is up to date.
4. The access to information by the Competent Authority has also been improved and expanded, with the introduction of a Central Register of [bank and other financial] Accounts, and with the power to request information gathered for anti-money laundering (AML) purposes by AML-obliged persons.
5. The Czech Republic has also continued developing its EOI network, thanks to the conclusion of bilateral agreements and the fact that more jurisdictions joined the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Multilateral Convention).
6. Finally, the standard on transparency was strengthened in 2016 to require the availability of information on the beneficial owners of legal persons and legal arrangements. The Czech Republic has put in place a beneficial ownership register and has introduced related amendments to its AML Act and other acts.

Key recommendations on transparency

7. Some of the pre-existing recommendations remain to be fully addressed, on availability of information on ownership and identity information for foreign companies having a sufficient nexus with the Czech Republic and on appropriate sanctions on co-operatives that fail to maintain ownership information. The legal and beneficial ownership information is also not ensured in the case of nominee arrangements or silent partnerships.
8. The register of beneficial owners operational from 2021 is the key source of beneficial ownership information for the Czech Competent Authority. However, the methodology of identification of the beneficial owner has deficiencies, in particular in respect of the identification of the “default” position of the senior managing official. In addition, the register is currently not fully populated and there are doubts on the adequacy and accuracy of a substantial part of the information present therein, populated through an automatic transcriptions process. While the legal framework encompasses processes aimed at ensuring that the information in the register is complete, adequate and up to

date, the strengthening of the supervision and enforcement programme is recommended to achieve this aim and ensure that entities (and their beneficial owners) correctly perform their identification and reporting obligations. A complementary source of information is the information gathered by AML-obliged persons, which also has some limitations.

9. As for access to information, as the Czech Republic requires that the prior consent of its judicial authorities be obtained by the requesting jurisdiction before information exchanged under an EOI instrument may be used as evidence in criminal tax proceedings in the requesting jurisdiction, the Czech Republic should ensure that this requirement does not exceed the limitations on exchange of information and its use as provided under the standard.

Exchange of information in practice and related recommendations

10. The Czech Republic has substantial experience in EOI, and it is considered by its EOI partners as an important partner. During the current review period, the Czech Republic received 565 requests for information and sent 519 requests to its EOI partners. EOI partners are generally satisfied with the quality of the responses provided by the Czech Republic.

11. Finally, the Czech Republic has well established processes to deal with exchange of information and ensure the quality of responses. However, due to the limited direct access by the EOI Unit to the information available within the Tax Administration, most EOI requests are dealt with by the local branches of the regional tax offices and are subject to several steps to get to final answers. The whole process and its internal milestones generally considered until recently a six-month timeframe to respond to the request, including those not particularly complex. This affected the overall timeliness of the responses provided to EOI requests. Moreover, during the period under review status updates were generally not provided within a 90-day period when a substantive response could not be provided within that timeframe. Recently, the Czech Republic implemented measures to address these aspects. The Czech Republic is therefore recommended to monitor, and adjust where needed, the processes for dealing with incoming EOI requests, to answer them in a timely manner and provide status updates to its EOI partners within 90 days where applicable.

Overall rating

12. The Czech Republic has received a rating of Compliant for seven Elements (A.2, A.3, B.1, B.2, C.2, C.3 and C.4.) and a rating of Largely Compliant for three Elements (A.1, C.1 and C.5). The Czech Republic's overall rating is Largely Compliant based on a global consideration of its compliance with the individual Elements.

13. This report was approved at the Peer Review Group of the Global Forum on 27 February 2023 and was adopted by the Global Forum on 27 March 2023. A follow up report on the steps undertaken by The Czech Republic to address the recommendations made in this report should be provided to the Peer Review Group no later than 30 June 2024 and thereafter in accordance with the procedure set out under the 2016 Methodology, as amended.

Summary of determinations, ratings and recommendations

Determinations and ratings	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework is in place but needs improvement	Companies incorporated outside of the Czech Republic but having their place of effective management (and thus tax residency) therein are subject to clear requirements to maintain identity information concerning their owners. However, this information may not be available in limited cases where the ownership represents less than 20% of the voting rights in the company.	The Czech Republic should ensure that ownership and identity information is available in all cases for foreign companies having a sufficient nexus with the Czech Republic.
	The Czech legislation does not provide for sanctions in all cases for co-operatives that fail to maintain ownership information.	The Czech Republic should introduce appropriate enforcement measures to address the risk of co-operatives not complying with the requirement to maintain a register of their members.
	Nominee shareholders do not have to disclose the nominator information and/or their nominee status to the legal entity or to the Commercial Register. Without this disclosure, the legal entity would not know whether the shareholder is a nominee and this can prevent it from maintaining and reporting accurate information.	The Czech Republic is recommended to ensure that nominee shareholders disclose their nominee status to the company.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating Largely Compliant	The register of beneficial owners is the key source of beneficial ownership information. However, the information in the Register does not include all relevant entities and arrangements, and for those that are registered, there are doubts on the adequacy and accuracy of the information that was subject to automatic transcriptions, as the entities and arrangements subject to registration were not required on the onset to explicitly confirm the information automatically transcribed. Entities and arrangements are also not required to confirm on a periodic basis whether the information present in the register is up to date and there is no appropriate and comprehensive programme of supervision to ensure that the entities and arrangements (and their beneficial owners) have correctly performed and are performing when required their identification and reporting obligations. Relying only on discrepancy reports submitted by the financial institutions and other AML-obliged person might not be sufficient, as there is no obligation for the entities and arrangements to engage on ongoing basis with them and the frequency of customer due diligence updates can lead to cases where non-compliance is not timely detected.	The Czech Republic is recommended to strengthen the supervision and enforcement programme on the requirements of the Beneficial Ownership Register Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases in line with the standard.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
The legal and regulatory framework is in place.		
EOIR Rating Compliant		

Determinations and ratings	Factors underlying recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place but needs improvement	The Czech Republic requires that the prior consent of its judicial authorities be obtained by the requesting jurisdiction under a mutual legal assistance arrangement or on the basis of reciprocity before information exchanged under an EOI instrument (DTC, TIEA, the EU Directive on Administrative Co-operation or the Multilateral Convention) may be used as evidence in criminal tax proceedings in the requesting jurisdiction.	The Czech Republic should ensure that its legal requirements do not exceed the limitations on exchange of information as provided under the standard for the provision of the requested information and for the use of the information received by the requesting jurisdiction.

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating Largely Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place		
EOIR Rating Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	

Determinations and ratings	Factors underlying recommendations	Recommendations
EOIR Rating Largely Compliant	The Czech Republic has well established processes to deal with exchange of information and ensure the quality of responses. However, the EOI Unit has limited direct access to the information available within the Tax Administration and the great majority of the requests are dealt with by the local branches of the regional tax offices, and then undergo several layers of quality checks. The whole process and its internal milestones generally considered until recently a six-month timeframe to respond to the request, including those not particularly complex. This affected the overall timeliness of the responses provided to EOI requests. Recently, the Czech Republic implemented measures to address this issue.	The Czech Republic is recommended to monitor and adjust where needed the processes in place to ensure that all EOI requests are answered in a timely manner.
	During the review period a status update was generally not provided when the Czech Republic was not able to provide a substantive response within that timeframe. Recently, the Czech Republic implemented measures to address this issue.	The Czech Republic is recommended to provide status updates to its EOI partners within 90 days when it is not possible to provide a substantive response within that timeframe.

Overview of the Czech Republic

14. This overview provides some basic information about the Czech Republic that serves as context for understanding the analysis in the main body of the report.

15. The Czech Republic is located in central Europe with a total population of slightly less than 10.7 million inhabitants (30 September 2021). The capital and the largest city of the country is Prague with a population of about 1.3 million inhabitants.

16. The Czech Republic is a “High income” country according to the World Bank parameters, with a per capita Gross Domestic Product of 26 821 dollars of the United States (current dollars of the United States, 2021).¹ The economy is export-oriented, with the automotive being the largest industry sector, and the services sector amounting to over 60% of the Gross Domestic Product. The official currency of the Czech Republic is the Czech crown (*koruna česká*, CZK).²

Legal system

17. The Czech Republic is a parliamentary democratic republic with a civil law legal system based on the continental Romano-Germanic system. The Constitution, ratified on 12 December 1992, is the supreme law.

18. The head of state is the President, elected directly by the citizens for a five-year term (Constitution, art. 54 to 56). The legislative power is vested in the bicameral Parliament, which consists of the Chamber of Deputies and the Senate. The government is the highest body of executive power and consists of the Prime Minister, deputy prime ministers and ministers. The Prime Minister is the head of government and is appointed by the President on the basis of the general election results. The remainder of the

-
1. Source: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=CZ> (link checked on 24 February 2023).
 2. As of 25 May 2022: EUR 1 = CZK 24.65. Source: European Central Bank.

government is appointed by the President on the recommendation of the Prime Minister (Constitution, art. 67).

19. The country is divided into 14 administrative regions and several thousand municipalities.³ Administrative regions and municipalities are self-governing territorial bodies that can issue by-laws, regulations and decisions, but these cannot contravene any laws or the constitutional order of the Republic. Administrative regions and municipalities do not have competency on taxation or in the area of corporate governance. Taxes can be levied pursuant to national law. The administration of taxes is handled by the state.

20. Constitutional acts and other laws are adopted by the Parliament. Ministries, other administrative agencies and self-governing territorial bodies may issue regulations on the basis and within the scope of a law (art. 79 of the Constitution). A list of the relevant legislation and regulations is set out in Annex 3.

21. The basic rights and obligations of individuals and legal persons, ownership and certain types of contracts are laid down by the Civil Code. The Law on business corporations and co-operatives („Business Corporations Act) governs areas concerning companies and co-operatives. The matters related to the Commercial Register are governed by the Act on Public Registers of Legal Entities and Individuals (Act on Public Registers).

22. International treaties, such as Double taxation conventions (DTCs) and Tax Information Exchange Agreements (TIEAs), are passed by the Parliament and ratified by the President. Under the Constitution (art. 10), international treaties override any conflicting domestic laws.⁴ A complete list of the relevant agreements concluded by the Czech Republic is set out in Annex 2.

23. The judicial system has three components. The Constitutional Court protects fundamental rights and freedoms arising from the Constitution, the Charter of Fundamental Rights and Freedoms, and further constitutional acts of the Czech Republic, and guarantees the constitutional character of the exercise of state power. Further, there are superior, regional and district courts. The Supreme Court is the supreme judicial body with respect to matters which are under the jurisdiction of courts, save matters ruled on by the Constitutional Court or the Supreme Administrative Court. Tax cases are heard by specialised branches of the regional courts and the Supreme Administrative Court.

3. Act on Establishment of Regions and Act on Establishment of Municipalities.

4. Article 10 “Promulgated international agreements, the ratification of which has been approved by the Parliament and which are binding on the Czech Republic, shall constitute a part of the legal order; should an international agreement make provision contrary to a law, the international agreement shall be applied.”.

Tax system

24. Czech income tax is levied according to the Income Tax Act (ITA), that contains the rules for personal income tax and corporate income tax. The administrative aspects of taxation are mainly governed by the Tax Procedure Code (TPC).

25. For personal income tax, until the year 2021 a single 15% flat rate was applied. In addition, a special “tax solidarity surcharge” at rate of 7% applied on the annual gross income from dependent activity (i.e. income from employment, from work carried out for co-operatives, partnerships and similar and income from acting as member of a statutory body) and on income from business activity (e.g. income on independent business activity, income from capital or from copyrights) that exceeds the 48 multiple of the average salary as established for social security purposes.⁵ Since year 2022, personal income tax is levied with two brackets of 15% and 23%, with the upper bracket applied on the part of annual gross income that exceeds the 48 multiple of the average salary.

26. Corporate taxpayers in the Czech Republic are subject to a 19% income tax (a 5% corporate tax rate applies for pension and investment funds).

27. For both individual and corporate taxpayers, income tax is levied on the worldwide income for Czech tax residents and on Czech-source income for non-resident taxpayers. Individuals are Czech tax residents if they have their permanent home or habitual abode (for 183 days or more) in the Czech Republic. A company is considered resident if it has its legal seat or place of effective management in the Czech Republic (sec. 17(3) ITA). Permanent establishments of foreign companies are generally taxed on Czech-source income only, except for passive income. Income and gains derived by resident and non-resident individual owners in resident companies are generally included in the aggregate income subject to the 15% flat rate tax. Equally, capital gains on the sale of shares in a resident company by resident corporate shareholders are included in ordinary corporate income. As of 1 January 2023 and until the tax year 2025 a “windfall tax” is applied on energy and some extracting companies and banks, with a Corporate Income Tax surcharge of 60% on “excessive profits” of companies.

5. The average salary for social security purposes changes every year. For year 2023 it is CZK 40 324 (equivalent to EUR 1 635). The 48 multiple is therefore CZK 1 935 552 (equivalent to EUR 78 521).

28. Inheritance tax and gift tax are incorporated in the ITA and the income inherited is subsequently exempted from income tax. Donations and gifts among relatives are tax exempted.

29. The Czech Republic also applies a value added tax (VAT), whose system is harmonised with the European Union (EU) legislation. The government further levies various excise taxes, road tax, tax on the acquisition of immovable property and tax on immovable property. It also collects social security (pension and unemployment) and health insurance contributions on gross salaries. The rates are 11% for the employee (4.5% for health insurance and 6.5% for social security contribution with a cap of 48 times the average monthly salary). No local taxes have been introduced in the Czech Republic to date, but local fees for various purposes are levied.

30. The tax-to-Gross Domestic Product ratio in the Czech Republic was of 34.4% in 2020 (from the OECD's annual Revenue Statistics report).

Financial services sector

31. The Czech financial sector comprises the following types of entities:⁶

- domestic banks and Czech branches of foreign banks: 44
- credit unions: 6
- insurance companies and branches of foreign Insurance companies: 41
- pension management companies: 9
- investment firms, including branches of foreign investment firms: 75
- management companies: 47
- investment funds with legal personality: 235
- Pension management companies: 9

32. Banks take the form of joint-stock companies whereas credit unions are organised as co-operatives that carry out activities for their members (including the State and its organisational units). The largest share of the banking sector in the Czech Republic is represented by subsidiaries of banks from other EU Member States (primarily from France, Belgium, Germany and Austria). Only six banks are owned by Czech private entities

6. The numbers reported indicate the number of each type of registered entity as of 23 June 2022. The full list of entities regulated by the CNB can be found at: https://apl.cnb.cz/apljerrsdad/JERRS.WEB24.SUBJECTS_COUNTS_2 (link checked on 24 February 2023).

whereas two banks are state-owned. In addition, there are payment institutions and branches of foreign payment institutions (25) and non-bank foreign currency exchanges (982). The total assets held by banks as of 30 June 2021 amounted to CZK 8 758 825 million (EUR 343 686 million).

33. In the Czech Republic the financial sector operates mainly on a local and regional level. It is regulated, among others, by the AML/CFT law and is supervised for AML/CFT compliance by the Czech National Bank (CNB) and the Financial Analytical Office (FAO).

Anti Money Laundering Framework

34. The Czech Republic, being an EU Member State, has its domestic AML law harmonised with EU legislation. The essential piece of AML law is the Act on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism (the AML Act). Other relevant legal documents are the Act on Central Register of Accounts and the Act on Registration of Beneficial Owners.

35. Financial institutions, regulated and supervised by the CNB, are also subject to the CNB AML decree on selected requirements for the system of internal rules, procedures and control measures against legitimisation of proceeds of crime and financing of terrorism (CNB AML Decree).

36. Service providers as legal professions (attorneys and notaries), auditors, tax advisors, accountants and trust and company service providers (including professional trustees) are part of the non-financial sector. In particular, the following professions are subject to professional qualification and registration:

- Attorneys are authorised to provide legal services only if they are registered in the Register of Lawyers of the Czech Bar Association. As of 20 February 2023, the attorneys were 19 601.
- Notary offices are set up by the Ministry of Justice and registered in the register of notaries, kept by the relevant notarial chamber. As of 11 March 2022, the notaries were 428.
- Tax advisors are required to be registered in the register of tax advisors kept by the Chamber of Tax Advisors. As of 11 March 2022, the tax advisors were 6 323.
- A Register of Auditors is maintained by the Chamber of Auditors of the Czech Republic, that also issues auditors' licences. As of 11 March 2022, the auditors were 1 430.

37. The FAO supervises compliance with duties and obligations pursuant to the AML Act (sec. 35) of all obliged persons.

38. The respective professional chambers supervise attorneys, notaries, auditors and tax advisors on compliance with the AML obligations (sec. 35(1)(d) and sec. 37 of the AML Act) either on their own initiative or upon written request by the FAO. The FAO also has competence to oversee these AML-obliged persons in this area if the respective professional chamber fails to initiate supervision within 60 days after receiving a written request by the FAO. The respective professional chamber is obliged (sec. 37(6) of the AML Act) to submit FAO an overview of the number of received notifications of violations of the AML Act, performed inspections, detected violations and issued decisions in this respect in the given calendar year. Accountants and trust and company service providers (including professional trustees) are exclusively supervised by the FAO for AML purposes.

39. Following amendments to the TPC in 2018, an amendment was also made to the AML law concerning exemptions from the duty of confidentiality that has been extended to cover also the Tax Administration (sec. 39(1)(n) of the AML Act) as concerns information relating to the fulfilment of obligations imposed by the TPC on the AML-obliged person.

40. The Czech Republic is a member jurisdiction of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL). The Fifth Round Mutual Evaluation Report (MER) of the Czech Republic was adopted in 2018, with a rating of Largely Compliant for Recommendations 10 (Financial Institutions: Customer due diligence), 24 (Transparency and beneficial ownership of legal persons) and 25 (Transparency and beneficial ownership of legal arrangements), Partially Compliant for Recommendation 22 (Designated Non-Financial Businesses and Professions: Customer due diligence), and a moderate level of effectiveness for the Immediate Outcome 5 (Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments).⁷ Since then, the Czech Republic has been placed under enhanced follow-up. Enhanced Follow-up Reports were adopted in 2020, 2021 and 2022. As a result, the Czech Republic has been re-rated with upgrades on a number of Recommendations, including Recommendation 22 now Largely Compliant, but not the other abovementioned Recommendations 10, 24 and 25.

7. See https://www.coe.int/en/web/moneyval/jurisdictions/czech_republic (link consulted on 17 February 2023).

Recent developments

41. The main relevant developments occurred in the Czech Republic's legal and regulatory framework since the adoption of the 2015 Report are the following:

- amendments to the AML Act to implement the EU AML Directives (4th AML Directive no. EU 2015/849 and 5th AML Directive no. EU 2018/843), which also involved the introduction of a Register of Beneficial Owners (see paragraph 101 et seq.), and the CNB AML Decree (see paragraphs 35 and 143)
- the connection of the Czech Commercial Register to the EU Business Registers Interconnection System (see paragraph 61 et seq.)
- the introduction of a new procedure of dissolution of inactive business corporations without liquidation (see paragraph 95)
- the introduction of a Register of Trust funds (see paragraph 209 et seq.)
- the creation of the “Inactive Association” status
- the introduction of a Central Register of [bank and other financial] Accounts (see paragraph 303 et seq.)
- a new Act on Cyber Security (see paragraph 423)
- amendments to the Act on International Co-operation in Tax Administration (EOI Act) and on the amendment of certain related Acts, to transpose EU Directives on administrative co-operation in direct taxes (DAC, see Part C.1 and Annex 2).

Part A: Availability of information

42. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of banking information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

43. The 2015 Report concluded that the Czech Republic was rated as Largely Compliant with the standard on Element A.1. Its legislation ensured that up-to-date ownership information was generally available for relevant commercial entities, but improvements were needed in two areas:

- For companies incorporated outside of the Czech Republic but having their place of effective management (and thus tax residency), identity information concerning their owners should be available even where the ownership represented less than 20% of the voting rights in the company.
- Sanctions should be available in all cases for joint-stock companies and co-operatives failing to maintain ownership information.

44. In addition, as of 1 January 2014, bearer shares had to be immobilised, or registered at a central depository (in book entry form), but the 2015 Report found that the transitional provisions adopted did not fully ensure that information was available in practice in all cases on holders of bearer shares. Therefore, it was recommended that the Czech Republic monitored the practical implementation to ensure that all shareholders submitted their bearer shares to the company and shareholders information be available in all cases.

45. The current review concludes that the two recommendations on the legal framework have not been addressed and are therefore maintained,

but the recommendation on sanctions has been limited to co-operatives due to the self-executing nature of the provisions related to joint-stock companies, as shareholders are otherwise unable to enforce their rights and the company would be liable for damage in case of non-compliance. For the monitoring recommendation on the transitional provisions on bearer shares, the gap is much less material considering the time elapsed, as the existence of outstanding non-immobilised bearer shares is less likely (while it cannot be excluded). The recommendation has been therefore reclassified as “in-text” (see Annex 1).

46. The report also finds that nominee shareholders do not have to disclose their status and/or the nominator information to the legal entity or to the Commercial Register. Without this disclosure, the legal entity would not know whether the shareholder is a nominee and this can prevent it from maintaining and reporting accurate information. The Czech Republic is thus recommended to ensure that nominee shareholders disclose their nominee status to the company.

47. The standard of transparency was strengthened in 2016 to introduce the obligation of availability of beneficial ownership information (not reviewed in the 2015 Report). In the Czech Republic, the main mechanism for the availability of beneficial ownership information is the Beneficial Owners Register, introduced in June 2021. In practice, the information currently in the register does not include all companies, and for those that are registered, there are doubts on the adequacy and accuracy of the information subject to “automatic transcriptions”. For these reasons, the Czech Republic is recommended to strengthen the supervision and enforcement programme on the requirements of the Beneficial Owners Register (BOR) Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases in line with the standard.

48. During the peer review period, the Czech Republic received 35 requests regarding identity, legal and beneficial ownership information, mainly in relation to companies. Peers were generally satisfied with the responses provided by the Czech Republic.

49. The conclusions are as follows:

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/ Underlying factor	Recommendations
Companies incorporated outside of the Czech Republic but having their place of effective management (and thus tax residency) therein are subject to clear requirements to maintain identity information concerning their owners. However, this information may not be available in limited cases where the ownership represents less than 20% of the voting rights in the company.	The Czech Republic should ensure that ownership and identity information is available in all cases for foreign companies having a sufficient nexus with the Czech Republic.
The Czech legislation does not provide for sanctions in all cases for co-operatives that fail to maintain ownership information.	The Czech Republic should introduce appropriate enforcement measures to address the risk of co-operatives not complying with the requirement to maintain a register of their members.
Nominee shareholders do not have to disclose the nominator information and/or their nominee status to the legal entity or to the Commercial Register. Without this disclosure, the legal entity would not know whether the shareholder is a nominee and this can prevent it from maintaining and reporting accurate information.	The Czech Republic is recommended to ensure that nominee shareholders disclose their nominee status to the company.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying factor	Recommendations
The register of beneficial owners is the key source of beneficial ownership information. However, the information in the register does not include all relevant entities and arrangements, and for those that are registered there are doubts on the adequacy and accuracy of the information subject to automatic transcriptions, as the entities and arrangements subject to registration were not required on the onset to explicitly confirm the information automatically transcribed. Entities and arrangements are also not required to confirm on a periodic basis whether the information present in the register is up to date and there is no appropriate and comprehensive programme of supervision to ensure that the entities and beneficial (and their beneficial owners) have correctly performed and are performing when required their identification and reporting obligations. Relying only on discrepancy reports submitted by the financial institutions and other AML-obliged person might not be sufficient, as there is no obligation for the entities and arrangements to engage on an ongoing basis with them and the frequency of customer due diligence updates can lead to cases where non-compliance is not timely detected.	The Czech Republic is recommended to strengthen the supervision and enforcement programme on the requirements of the Beneficial Ownership Register Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available in all cases in line with the standard.

A.1.1. Availability of legal and beneficial ownership information for companies

50. The types of companies that can be incorporated in the Czech Republic and their incorporation procedures have not substantially changed from what was described in the 2015 Report (paragraph 58 et seq.). The Czech legislation recognises four types of companies:

- limited liability companies (“*společnost s ručením omezeným*”, LLCs, referred to in the 2015 Report as “Private LLCs”)
- joint-stock companies (“*akciová společnost*”, JSC, referred to in the 2015 Report as “Public LLCs”)
- European joint-stock companies (“*societas europaea*”, SE) and
- co-operatives (“*družstvo*”).

51. An LLC is a company with registered capital made up of contributions paid by its owners. There were 507 775 LLCs on 30 September 2021, which makes LLCs by far the most common type of company in the Czech Republic (92.3% of the total).

52. A JSC is a company in which assets are divided into shares, initially issued with a certain nominal or issue value; as the shares are traded, their market value fluctuates. The statutory representative is an elected board of directors (or management board). There were 26 947 JSCs on 30 September 2021.

53. A European joint-stock company is a company conceived within the framework of EU law.⁸ Its founders can choose between a dualistic (two-tier system with a management board and a supervisory board) or monistic (single-tier) management system. The former substantially corresponds to the system for JSCs under Czech law. The rules applicable to Czech JSCs on the maintenance and filing of ownership information to the Commercial Register equally apply to European joint-stock companies incorporated in the Czech Republic.⁹ Therefore, the rules applicable to JSCs referred to in the following of the report are also applicable to SEs, unless otherwise specified. There were 2 268 SEs in the Czech Republic on 30 September 2021.

54. A Co-operative is a community of an indefinite number of persons (there must be at least three members), established for the purpose of mutual support of its members or third parties or for the purpose of doing business (sec. 552 of the Business Corporation Act). The main differences between co-operatives and the other types of companies (commercial companies) lie, for co-operatives, in the equality of votes of members when voting (sec. 595), and on the variable share capital (common equity). There were 13 003 co-operatives on 30 September 2021.

8. SEs are regulated by the Council Regulation of the European Community (EC, now EU) no. 2157/2001 on the Statute for a European Company, transposed in the Czech Republic by Act no. 627/2004.

9. Art. 9(1)(c)(ii) of the Council Regulation (EC) No. 2157/2001 and sec. 7 of Act no. 627/2004.

55. LLCs, JSCs and co-operatives are governed by the Business Corporations Act.¹⁰ SEs are also governed by the provisions of the Business Corporations Act to the extent permitted by the directly applicable EU legislation (sec. 1 of the Business Corporation Act).

56. Foreign legal persons have to register in the Commercial Register to do business in the Czech Republic (Act on Public Registers, sec. 44), if their registered office is outside of the EU. There were 4 120 foreign legal persons registered in the Commercial Register on 30 September 2021. The foreign companies with their place of effective management in the Czech Republic, regardless of their place of incorporation, and Czech branch of foreign companies must also register with the Tax Administration.

Legal Ownership and Identity Information Requirements

57. The legal ownership and identity information requirements for companies are found mainly in the company law, which provides for an obligation of registration in the Commercial Register (Act on Public Registers) and of record-keeping at the level of the companies (Business Corporation Act). The register contains identity information on the representatives of the entities and legal ownership of LLCs. Full legal ownership information is maintained by the companies themselves. These requirements are complemented by provisions of the tax law and the AML law.

Companies covered by legislation regulating legal ownership information¹¹

Type	Company law	Tax law	AML law
LLCs	All	Some	Some
JSCs	All	Some	Some
SEs	All	Some	Some
Co-operatives	All	Some	Some
Foreign companies (tax resident)	None	All	Some

10. LLC are regulated in Title IV (sec. 132 to 242), JSC are regulated in Title V (sec. 243 to 551) and co-operatives are regulated in Title VI (sec. 552 to 773) of the Business Corporation Act.

11. The table shows each type of entity and whether the various rules applicable require availability of information for “all” such entities, “some” or “none”. “All” means that the legislation, whether or not it meets the standard, contains requirements on the availability of ownership information for every entity of this type. “Some” means that an entity will be covered by these requirements if certain conditions are met.

Company Law requirements – Obligation of registration

58. In the Czech Republic, the Act on Public Registers provides for six Public Registers of legal and natural persons, including the Commercial Register,¹² collectively referred to as “the Public Register” (*Verejny Rejstrik*). Any Czech legal person is considered incorporated once it is registered in the relevant Public Register, unless otherwise provided by law (sec. 126 of the Civil Code).¹³

59. The Public Register is maintained by seven competent registrar courts, i.e. the Municipal Court of Prague and the six Regional Courts.¹⁴ The Public Register is operated using a single information system, which is managed by the Ministry of Justice and forms part of the broader information system of the public administration (e.g. Population Register, Register of territorial identification, addresses and real estates), sharing a range of identification data with other registers.

60. The Act on Public Registers (sec. 2(1)) states that registrar courts maintain a special inset record for each registered person, registered branch of its business enterprise, branch or registered branch or any other similar organisational unit of a foreign association operating on the territory of the Czech Republic. Besides the required information, registrar courts also maintain a collection of documents (“*sbírka listin*”, sec. 66 et seq. of the Act of Public Registers) for each registered entity (sec. 72). These legal documents include, for all legal persons (sec. 66):

- the founding juridical act (*zakladatelské právní jednání*), which must contain the name (and seat or address) of all initial owners
- the decision on the election or appointment, recall, or proof about another form of termination of the office of persons that are members of a statutory body, of a liquidator, insolvency administrator, or of the supervisor of a registered branch
- accounting information (see paragraph 253 below)
- documents concerning dissolution or conversion.

12. Pursuant to section 1 of the law, the other registers are the Register of Associations, the Register of Foundations, Register of Institutes, the Register of Associations of Unit Owners and the Register of Publicly Beneficial Associations.

13. Czech authorities explained that cases where the law does not provide for registration are for public law institutions created by special laws (e.g. Czech Television, Czech Radio, Czech Press Agency), public law corporations (e.g. Economic Chamber of the Czech Republic, Chamber of Notaries), the Czech Philharmonic Orchestra and other similar institutions out of the scope of the review.

14. Sec. 75 of the Act on Public Registers. The Regional Courts are located in the cities of Brno, České Budějovice, Hradec Králové, Ostrava, Plzeň, and Ústí nad Labem.

61. The Commercial Register, since March 2018, is also part of a system of interconnected business registers at EU level, called Business Registers Interconnection System (BRIS). Selected information on LLCs, on JSCs and on “branches” (*závod* and *odštěpný závod*) of foreign companies (*zahraniční kapitálové společnosti*) is automatically transferred from the (Czech) Commercial Register to the registers of the other EU Member States (and vice versa) via the BRIS (see paragraph 88).¹⁵ The selected information includes the data entered in the Commercial Register and the documents stored in the collection of documents published in a manner allowing remote access. To this end, the information must be published by the registrar court both in the Commercial Register and in the BRIS (sec. 3a of the Act on Public Registers). Through the BRIS, Czech authorities have access to corresponding information on LLCs and JSCs registered in another EU Member State. Furthermore, for branches of foreign companies registered in the Czech Commercial Register, if the companies themselves are registered in another EU Member State, changes in the data in the BRIS are automatically entered in the Czech Commercial Register (sec. 95a).

62. Pursuant to the Act on Public Registers, part of the information about the registered persons and the documents filed in the Public Register is available to the public free of charge via the web portal.¹⁶ It is also possible to obtain an officially certified electronic extract of the information present in the Public Register (sec. 4). The publicly available basic information includes (sec. 25(1)), for all types of registered persons (including companies):

- the name, identification number and residence address of the registered person
- the object of activities and purpose of the person, if required by law; legal form of the legal person
- the date of establishment and termination for legal persons
- the name of the statutory governing body, the number of its members, the name, residence address of each of the members of the statutory governing body, including the manner in which the member represents the legal person, the date of their appointment, the date of termination of their function
- if there is a control body (*kontrolní organ*, e.g. the supervisory board in the dualistic system, see paragraph 53), its name, number of members, name, residence address of each of its members

15. There are 27 Member States in the EU, they are listed in Annex 2.

16. <https://or.justice.cz/ias/ui/rejstrik> (link checked on 24 February 2023).

- name, residence address of the holder of commercial power of representation, the manner in which they act, including information on whether the commercial power of representation only concerns a specific branch of the company and, in this case, the identification of the branch.

63. The scope of the other information that has to be registered in the Public Register varies depending on the type of company. In the case of the Commercial Register, the additional information subject to registration includes (sec. 48):

- for LLCs, JSCs and SEs, the amount of the share capital and, in the case of a JSC or SE, to what extent the share capital has been paid-up
- for LLCs, the name and registered office or place of residence of its partners, the amount of the share of each partner, the type of the share if a partner may hold more than one share, the name of the type of share and a description of the rights and obligations attached thereto, at least by reference to the memorandum of association (*stanovy*) deposited in the collection of documents, and an indication that a share certificate has been issued
- for JSCs, the number, form and nominal value of the shares or an indication that the company issues shares which have no nominal value (lump shares) and in what number, an indication whether the shares will be issued as securities or book-entry (dematerialised) securities¹⁷ or will be immobilised bearer shares, the name of the class of shares and a description of the rights and obligations attached to them, at least by reference to the articles of association deposited in the collection of documents, and any restriction on the transferability of registered shares; where the company has a single shareholder, the name and registered office or the address of the place of residence or, if different, the domicile of that shareholder
- for co-operatives, its type (whether it is a co-operative, housing co-operative or social co-operative) and the amount of the basic membership contribution or, where applicable, the initial contribution.

17. Book-entry securities are rights to which the provisions on securities apply. The essential feature resulting from the definition of a dematerialised security is therefore the complete loss of the tangible substrate to which the rights would be attached. The definition of a book-entry security is contained in the provisions of Section 525 of the Civil Code. The first condition is the registration in the relevant register and the second is that the book-entry security cannot be transferred other than by changing the registration in that register. Both conditions must be satisfied cumulatively.

64. Based on the above provisions, information on the legal ownership of LLCs is available in the Commercial Register. Also, changes in legal ownership need to be reported to the Commercial Register (see paragraph 79). JSC shareholders do not have to be reported to the Commercial Register unless the company has a single shareholder; i.e. only where the company has a single shareholder is the name (as well as registered office or the address of the place of residence or, if different, the domicile) of the shareholder, reported to the Commercial Register. As of 11 April 2022 there were 12 248 JSCs (or about 45%) with a single shareholder.

65. In any case, companies issuing shares are required to keep a list of shareholders (sec. 264 on “Register of shareholders” of the Business Corporations Act) (see paragraphs 76 et seq.).

66. In the Czech Republic, a “principle of material publicity” applies to the Public Register (sec. 8 of the Act on Public Registers), meaning that information contained in the Register (e.g. identity of the owners or of the administrators) is valid and applicable towards all persons who are not aware that the actual state of affairs does not correspond with the information present in the Register. This also implies that the subjects present in the Register (e.g. those reported as owner or administrators of a company) are bound by the legal actions taken on the basis of the facts recorded in the Public Register, even if these facts do not correspond to the actual state of affairs, unless the subject proves that the third party has been aware of the actual state of affairs at the time the action occurred. Czech authorities explained that such principle is intended to protect the good faith of third parties. This principle does not appear to endorse the fact that it is acceptable for the information present in the Register not to correspond to the actual state of affairs; on the contrary it provides an incentive, especially for persons who no longer hold offices or capacities, to ensure that the information in the Public Register is kept up to date for them to be released from the responsibilities arising from such offices or capacities.

67. The information in the Public Register has to be kept up to date and the requirement to apply for registration as well as to provide updates (changes or deletions) when there is a factual change in the underlying facts has to take place “without undue delay” after the occurrence of the decisive (*rozhodné*) facts (sec. 11(2) and sec. 72 for documents to be submitted by foreign persons).

68. The expression “without undue delay” occurs in several instances in the provisions of the Act on Public Registers to regulate the processes connected with registration. There is no additional legal provision that specifies when a delay occurs or is to be considered “undue”. The Czech authorities explained that the delay has to be assessed on a case-by-case basis, in particular the possibility of/necessity to submit documents to prove

the fact to be recorded and other circumstances related to the persons to be recorded. This lack of defined time limits for compliance is justified, in the view of Czech authorities, by the principle of material publicity ensuring that it is in the interest of the registering (and de-registering) subjects for the registration of factual changes to take place as soon as possible. The Czech authorities usually interpret the expression “without undue delay” as 15 days, as supported by rulings of the Supreme Court which consider this term as “a period of days, weeks at the most”.¹⁸ Therefore, this lack of defined time limits would not impede the update of the information.

69. As regards the retention period, Czech Authorities have indicated that the data in the Public Register is kept indefinitely and remains publicly accessible, with the deregistered company reported as “deleted”.

Registration requirements – Implementation in practice

70. As indicated in paragraph 58, seven registrar courts are competent for the maintenance of the Public Register. Of these, the Municipal Court of the capital city, Prague, is by far the biggest, both in terms of number of entities of competence (47.6% of the total of the entities registered in the Public Register) and in terms of entities registered per year (56.3% of the total of the registrations made in the three calendar years from 2019 to 2021). The present peer review included an on-site visit to the Prague Municipal Court and an interview with its representatives (see Annex 3). While the practice may vary from registrar court to registrar court, it is considered that a review of the practice of the one that covers around 50% of the entities can provide a fair representation of the overall implementation in practice related to registration requirements and the availability of ownership information. Prague Municipal Court counts 13 Departments tasked with the administration of the Public Registers (of which 2 are specifically dedicated to dissolving inactive companies).

71. A form published on the website of the Ministry of Justice must be used for the application for registration (both for a new registration and for the change or deletion of the registered data). The completed form can be submitted either electronically using the Data Box¹⁹ or in paper format (sec. 22 of the Act on Public Registers). The entire process can be handled electronically.

18. resolution of the Supreme Court, Case No. 33 Cdo 3460/2019, dated 31 March 2020.

19. The Data Box (*Datová Schránka*), also mentioned in the 2015 Report (footnote 19 to paragraph 68), is a secure electronic storage tool, used for the submission of official documents and for communication with public authorities. All legal persons are required to have a data box.

72. Besides the procedure through application to the relevant court, the registration of a company in the Commercial Register can also occur by notarial registration (sec. 113-118 of the Act on Public Registers), in which a notary performs the registration through remote access to the information system of the Public Register. On average, the notarial registration covers 41.7% of the new registrations in the three calendar years from 2019 to 2021 (as opposed to 58.3% of registrations made by the courts) and it is increasing over time. The Czech authority expect that in 2022, approximately the same proportion of entities will be registered through notaries or by the courts. The main reasons for this increased reliance on notarial registration lies in the fact that to incorporate a company or other legal entity, there is the need to resort to a notary (business legal entities), so it is practical to also ask them to take care of the registration, which can be done on-line through a connection to the system.

73. The following table summarises the number of new registration of companies in the Commercial Register in the calendar years from 2018 to 2021:

Legal entity	2018	2019	2020	2021
LLCs	29 925	28 566	25 940	28 568
JSCs	864	964	956	1 025
SEs	123	97	76	95
Co-operatives	133	125	96	93
Registered branch of foreign legal entity	224	182	167	167

74. Czech authorities have indicated that when the court receives an application (for a new registration or for updates in the information already registered), this is assigned to an officer, who attributes a reference number and checks the documents submitted (presence of all documents required and whether their formal requirements are respected). The court officer also examines whether the information reported in the submission has a basis in the underlying documents (pursuant to sec. 90(1)). If the court officer considers that the application fulfils all the requirements, also in consideration of procedural matters (fees paid, submission made by a person competent for registration), the registration is made. If anything is missing or otherwise requires clarifications, the court officer asks the applicant to complement the application. The court has a five-day period from the receipt of the application to carry out these checks (sec. 96(1)). If no remarks are made within this timeframe, the registration is validated automatically.²⁰ In the event irregularities are detected after registration, the court officer has to follow up

20. The five-day period for the court to process a registration is established to give certainty to the timing of the process: the applicant knows that, within five days, the

ex post. Czech authorities indicated that ex post follow-ups are not frequent in practice, as most controls are carried out before registration.

75. The court also has to ensure that information in the Public Register is up to date (regardless of the registration method chosen by the companies). The court can start an *ex officio* procedure to request for updates and/or to remove an entry when it is ascertained that this is incorrect. The court, in such circumstances, can take action, which can also lead to the dissolution of the company. The most typical discrepancies identified in practice is that the company cannot be found at the address reported in the Register. As seen above (paragraph 59), the Public Register is also interconnected with other public administration information systems (e.g. the Population Register held by the Ministry of the Interior), so in some instances information is updated automatically without the need of intervention from the court or from the applicant. This is the case, for example, of the removal of an administrator in case of demise. In such a circumstance, the statutory body would be temporarily not registered or incomplete. Czech authorities note in this connection that, based on the “principle of material publicity” (see paragraph 66), it would be difficult for the entity to carry on business in the Czech Republic without a statutory body being registered in the Public Register.

Company Law requirements – company-level registers of owners

76. The legal requirements for companies themselves to maintain a register of shareholders has not changed since the 2015 Report (paragraph 75 et seq.).

77. JSCs are required to keep and maintain updated a Register of shareholders with a list of all holders of registered shares (sec. 264(1) of the Business Corporations Act). The list has to include the type of shares (if shares of different types are to be issued) and their nominal value, the name and residence or registered office of the shareholders, their bank account number, numerical reference of the paper share, and changes in the entered data (sec. 264(2)).²¹ The register of shareholders can be substituted by a book-entry securities register where a company issued book-entry shares and the articles of association so provide. In such a case, the book-entry (dematerialised) securities must be registered at the Central Securities Depository Prague (see paragraph 182 below).²²

application leads to a registration, to a request for clarification or to a motion being declined.

21. It is not specified in the Business Corporations Act that the bank account number must be with a Czech bank.
22. Czech authorities could not provide the number of JSCs that have book entry securities registered at the Central Securities Depository Prague but informed that the

78. There is a legal presumption (sec. 265(1)) that any person registered in the register of shareholders is a shareholder of the company, and the transfer of registered shares is not effective *vis-à-vis* the company until the change of shareholder is notified to the company and the registered shares are presented to the company (sec. 269(2)). A company has to include the new owners (sec. 265(2)) and remove those who are no longer owners (sec. 267(2)) in/from the register of shareholders without undue delay after a change has been evidenced to the company. Analogous provisions apply to book-entry shares (sec. 275), whose transfer is effective *vis-à-vis* the company if the change in the shareholder is evidenced to the company with an extract of the shareholder's account, or on the date of delivery or acceptance of an extract from the share issue Register (pursuant to the Capital Market Undertakings Act).

79. LLCs are required to keep and maintain updated a register of owners (sec. 139(1)). The register has to include the name and address of the owners, the amount corresponding to their share, the number of votes pertaining to the shares. If the memorandum of association governs different types of shares, their type must also be specified (sec. 139(2)). The transfer of shares takes effect *vis-à-vis* the company once a copy of the contract on share transfer, with authenticated signatures, is delivered to the company (sec. 209(2)). As soon as a change of ownership has been proven to the company, this change has to be entered into the register of owners (sec. 139) and submitted to the Company Register (sec. 120(3) of the Civil Code in connection with sec. 48(1)(j) of the Act on Public Registers).

80. As seen above (paragraph 60) the memorandum of association of an LLC has to include the name and seat or address of its initial owners (sec. 146 Business Corporations Act).

81. Membership in a co-operative can be established during its foundation or on a later date, by being admitted as a member after approval of a written membership application, transfer or passing of the co-operative share (sec. 577 of the Business Corporations Act). Co-operatives are under the obligation to keep a list of their members, including their names, addresses or seats (sec. 580). Furthermore, members are required to notify the co-operative and document any change in the information recorded in the register of members without undue delay after such circumstance has occurred. The co-operative in turn must register the circumstances to be recorded without undue delay after the change has been documented (sec. 580(3)).

latter publishes monthly statistics on the number and volume of exchanges, accessible at the following link: Statistics | Centrální depozitář cenných papírů (<https://www.cdcp.cz/dokumenty/statistiky-2/?lang=en>) (link checked on 24 February 2023).

82. There is no legal requirement specifying that the registers of shareholders/members have to be maintained in the territory of the Czech Republic. However, it is required that these registers are made available by the company to the shareholders to exercise their rights, so that their availability in the Czech Republic is ensured.

83. As regards the retention period, the Czech authorities advised that shareholder/member registers have to be kept according to rules regarding financial statements, i.e. for a minimum of ten years (sec. 31(2)(a) Accounting Act). In the event the company has ceased to exist, the liquidator of the company must keep for ten years the documents relevant for the liquidation process (sec. 205, Civil Code). Although this information does not explicitly include the register of members, the Czech authorities indicated that the legal ownership information, necessary for the liquidation process, is covered by this provision. In addition, the Archiving law (Act No. 499/2004) requires that some records and documents of all entities registered in the Commercial Register be archived after their liquidation (sec. 3(1)(a)), including the constituent documents of the entity and the documents relating to the management of the entity. Czech authorities indicated that these documents should include updated legal ownership information of the entities, although this information is not explicitly mentioned in the law. The Tax Administration confirmed that in practice the records of the liquidated entities are found available with the liquidator or the archives. In addition, in the case where the register of shareholders of JSC is substituted by a book-entry securities register, the up-to-date legal ownership information is maintained by the Central Securities Depository of Prague, even after the JSC has ceased to exist. Legal ownership information on liquidated LLCs is also kept in the Commercial Register.

Tax law requirements

84. Taxpayers with business income in the Czech Republic, including companies, have to register with the Tax Administration (TPC sec. 125) and to update any changes in the registration data within 15 days from their occurrence (sec. 127), as it was noted in the 2015 Report (paragraphs 70 et seq.). The data to be reported in the registration form (sec. 126) includes information on the individuals authorised to act on behalf of the entity, but not on legal owners.

85. Furthermore, entities resident for tax purposes in the Czech Republic (domestic and foreign legal entities, including companies, with place of effective management in the Czech Republic) are required to file with the Tax Administration the annual financial statements, which include in the notes the identification of any party exercising “significant or controlling influence over the entity” (sec. 39(1) of the Decree on double-entry

accounting). This information must be updated when changes occur (sec. 39(1)). Significant influence is defined as influence in the management or operation of an enterprise which is neither “decisive” nor “joint”, and it is assumed to correspond to 20% or more of the voting rights, unless the contrary is documented (sec. 22(5) of the Accounting Act). Controlling influence is defined as disposing, alone or acting in concert with other persons, of more than 40% of the entity (sec. 75(2) and (3) of the Business Corporations Act), unless other person(s) acting in concert control the same or a higher share. Thus the Tax Administration does not maintain full legal ownership information on all companies.

Anti-Money Laundering law requirements

86. AML-obliged persons in the Czech Republic (sec. 2 of the AML Act) include, *inter alia*, banks and other credit and financial institutions; legal professionals (including lawyers and notaries); tax advisors; auditors and accountants; trust and company service providers;²³ virtual assets service providers and trustees. Although no statistics are available to support it, Czech authorities consider that it would be unfeasible for a company to operate in the Czech Republic without engaging a notary, a lawyer and/or an accountant or to not have a Czech bank account. There is no requirement for domestic and foreign companies to engage an AML-obliged person on an ongoing basis and therefore it cannot be concluded that it is always the case.

87. As noted in the 2015 Report (paragraphs 86 et seq.) and further analysed below (paragraph 139 et seq.) the Czech AML law requires

23. Identified in sec. 2(1)h as persons other than a public notary and an attorney providing to another person services such as:
 1. incorporating legal persons or trust funds
 2. acting on behalf of a legal person or a trust, should such service be only temporary and related to establishing and managing such legal person or a trust fund
 3. providing a registered office, business address, and possibly other related services to another legal person
 4. acting as an appointed shareholder on behalf of another person, should this person not be a company, the securities of which are accepted for trading at European regulated markets and which is a subject to information disclosure requirements equal to those laid down by EU law
 5. acting on behalf of this person in respect of specified activities (buying or selling immovable property, business entities or their parts; managing customer assets; establishing, managing, or operating a business entity, business group; establishing or managing a trust fund or an entity of similar structure or functions as a trust under foreign legislation, etc.)

AML-obliged persons to perform customer due diligence (CDD), including the identification of the customer and, should the customer be a legal person, the identification of the beneficial owner(s) and taking reasonable steps to verify his/her identity. In cases of customers that are legal persons, the ownership and control structure would also be verified (sec.9(2)b of the AML Act). Information on legal (as well as beneficial) ownership is thus also available at AML-obliged persons with regard to their customers. On the other hand, verification of the ownership and control “structure” of the customer does not ensure that full legal ownership information is gathered by the AML-obliged person.

Foreign companies

88. Foreign legal entities can do business in the Czech Republic through their branch (“*závod*” and “*odštěpný závod*”), as defined in sections 502 and 503 of the Civil Code. For the foreign companies with registered office with the EU, the BRIS ensures, since 2018, that all changes made in the Commercial Registers of other European Member States are automatically transferred to the Czech Commercial Register (see paragraph 61). This ensures that the up-to-date legal ownership information is available for foreign EU companies only if the domestic law of the relevant EU Member States requires this information to be entered in its Commercial Register. For foreign legal entities with registered office outside of the EU, the Act on Public Registers (sec. 44) stipulates that they are required to register in the Commercial Register to do business in the Czech Republic. The information which must be provided upon registration (sec. 49 Act on Public Registers) does not include the legal ownership information of the foreign companies. However, it includes:

- the name of the foreign person and its identification number, the person's legal form, and the amount of subscribed registered capital in the relevant currency (lett. a and c)
- the national law governing the foreign person, and if this law mandates registration or if the person is entered in the register, also the register where this person is registered and the registration number (lett. d). Czech officials indicated that this would allow for the foreign legal entity to be found in foreign register.

89. In addition to this requirement under the company law, the branches of foreign companies and foreign companies that have their place of effective management in the Czech Republic (whatever their country of incorporation) are tax residents in the Czech Republic and must register with the Tax Administration. Consequently, they are subject to the requirement described in paragraph 85 to file with the Tax Administration the annual

financial statements, which include in the notes the identification of any party exercising “significant or controlling influence over the entity”, i.e. the identification of the persons holding at least 40% of the shares or 20% of the voting rights.

90. Therefore, as already noted in the 2015 Report, the legal requirements on foreign companies that are tax resident in Czech Republic do not ensure the availability of legal ownership information of those companies. Therefore, the recommendation that **Czech Republic should ensure that ownership and identity information is available in all cases for foreign companies having a sufficient nexus with the Czech Republic** continues to apply.

Legal ownership information – oversight and enforcement measures

91. The enforcement provisions to ensure availability of legal ownership information, as described in the 2015 Report (paragraph 174), continue to apply. They include:

- a fine of up to CZK 100 000 (about EUR 4 000) if the registered entity failed to comply with a request to submit documents that should be filed in the collection of documents (sec. 104 of the Act on Public Registers)
- a sanction of two-year imprisonment for presenting false or grossly distorted information to a Public Register, or concealing important facts in documents submitted to such Registers, or endangering or limiting another person's rights by not submitting required information without undue delay (sec. 254 Criminal Code)
- an administrative fine of up to CZK 500 000 (about EUR 20 000) for non-compliance with tax obligations of registering or reporting information (sec. 247a, TPC).

92. These provisions enable the authorities (see paragraph 163) to issue a sanction against the LLCs that fail to comply with their obligation to provide their legal ownership information to the Commercial Register and to update this information. However, for the companies that are not subject to such filing obligations, i.e. JSC and co-operatives (see paragraph 63), there are no specific sanctions applicable in relation to the availability of legal ownership information. In particular, there is no sanction in case such entities do not comply with the requirement to maintain a register of their shareholders and members. However, the Czech authorities explained that there are legal and practical consequences that necessitate availability of such information. In particular, as noted in the 2015 Report (paragraph 174), for a transfer of a registered share to be effective *vis-à-vis* the company, the change of the

shareholder must be notified to the company and the registered share must be presented to the company (sec. 269 (2) of the Business Corporations Act). The company is required to register a change in the list of shareholders without delay as soon as the change in the shareholder's person is proven (sec. 265 (2) of the Business Corporations Act) and it is liable for damage caused by non-compliance with this requirement. Thus, the obligation to keep a shareholder register for JSCs is self-executing, as shareholders are otherwise unable to enforce their rights and the company is liable for damage in case of inaction. Nevertheless, it remains the case, as noted in the 2015 Report, that **the Czech Republic should introduce appropriate enforcement measures to address the risk of co-operatives not complying with the requirement to maintain a register of their members.**

93. The Act on Public Registers contains provisions on consequences (*následky*) for companies that do not fulfil their reporting obligations to the Public Register. In particular, registrar courts issue call for submission of documents to companies.²⁴ If a company repeatedly does not comply with calls to submit documents that are supposed to be filed, or to provide information or documents related to court proceedings initiated ex-officio (sec. 105 of the Act on Public Registers), the competent registrar court must summon the registered person to comply with its obligation, give it a reasonable period of time to remedy the deficiencies and warn it of the possibility of instituting dissolution proceedings (with liquidation) if the summons of the court is not complied with. Furthermore, proceedings for the dissolution of the company can also be initiated in case a one-off failure to comply with the obligation may have serious consequences for third parties.

94. The deregistration of a company from the Public Register can occur pursuant to the Act on Special Court Proceedings (sec. 85(a)), which enables the registrar court to proceed with dissolution and liquidation (for cases of voluntary liquidation and for example, in cases where a company no longer serves the purpose for which it was established; does not reside at the registered address; does not hold a required trade licence; or does not have a statutory representative for a period of time).

95. Recently introduced provisions (sec. 105a of the Act on Public Registers, effective from 1 January 2021) provide that if a corporation fails to submit ordinary or extraordinary financial statements for at least two consecutive financial years, the registrar court will request the corporation to submit all missing financial statements within one month. In case of non-compliance, the sanction foreseen in section 104 of the Act on Public

24. The number of calls on companies to submit documents in recent years were: 2018: 4 975; 2019: 3 445, 2020: 3 802, 2021: 4 220, i.e. less than 1% of the overall number of companies each year required a call to submit documents.

Registers can be applied, with a fine up to CZK 100 000 (about EUR 4 000) applicable also repeatedly (in case of persistent non-compliance). If the request cannot be delivered to the company, for instance because it is no longer at the registered address, the registrar court will initiate proceedings for its dissolution. If during the dissolution proceedings the assets of the business corporation appear insufficient to cover at least the costs of liquidation, the registrar court proceeds with the dissolution of the business corporation without liquidation, unless the rights of third parties would be substantially affected thereby, but not before one year from the commencement of the proceeding. Once a legal entity is dissolved, it is deregistered from the Commercial Register and loses its legal personality. In this process of dissolution initiated by the court registrar, it is not possible for an entity to be restored after the deregistration.²⁵

96. The Czech Republic did not have available any statistics on the number of companies that were non-compliant with the requirement to submit ordinary or extraordinary financial statements or with the other filing obligations nor on the practical implementation of section 105a of the Act on Public Registers, where the provisions took effect only on 1 January 2021. It provided, on the other hand, data for companies which were deleted from the Commercial Register under the Act on Public Registers and under the Act on Special Court Proceedings, as summarised in the following table.

Type of company		2018	2019	2020
LLCs	Special Court Proceedings	11 136	12 971	11 304
	Act on Public Registers (sec. 105)	298	355	137
JSCs	Special Court Proceedings	348	300	393
	Act on Public Registers (sec. 105)	0	10	0
SEs	Special Court Proceedings	17	38	32
	Act on Public Registers (sec. 105)	0	1	0
Co-operatives	Special Court Proceedings	117	207	137
	Act on Public Registers (sec. 105)	0	0	0

97. It is observed, by comparing the tables under paragraphs 73 and 96, that a significant portion of companies, generally between one half and one third of the number of new registrations, are subject to dissolution

25. A possibility of restoration is offered if the company has been dissolved on its own initiative but only if it has not yet been deregistered. The time that elapsed between the dissolution and the deregistration will depend on the timeline of liquidation. No statistics were provided by the Czech authorities on the number of restorations and on the timing in which they occurred.

and deregistration every year, either because of voluntary dissolution (captured in the Special Court Proceedings) or for aspects that are related to the non-compliance with their reporting and other obligations vis a vis the Commercial Register. Thus, while not having a specific definition and monitoring activities for inactive companies, the underlying reporting requirements are being monitored by the registrar courts and action is being taken when non-compliance is detected and not addressed by the companies. Czech authorities indicated that, for operating companies that have merely neglected to fulfil their obligation, in the majority of cases, a call for submission of documents is a sufficient measure to address the non-compliance.

98. Compliance with the tax law requirements is ensured within the controls made by the Tax Administration in the area of corporate income tax. While there are not specific statistics on the controls made in relation to the notes to the annual financial statements, that includes information on parties exercising significant or controlling influence over the entity, the tax base for income tax is based on profit and loss calculations, determined on the basis of the financial statements, its mandatory attachments and underlying documentation. While these control activities involve only a small fraction of companies population every year (see paragraph 274), and it is expected that only in a very limited number of cases they would involve the verification of the information contained in the notes to the financial statements about legal ownership information. They provide nevertheless, to a certain extent, a secondary source of legal ownership information in the direct availability of, and supervised by, the Tax Administration.

99. Considering the practical implementation of the requirements, enforcement measures and oversight activities, the supervision and enforcement with respect to the availability of legal ownership information appears effective in practice.

Availability of beneficial ownership information

100. The standard was strengthened in 2016 to require that beneficial ownership information be available on companies. In the Czech Republic, this aspect of the standard is met through the establishment of a Register of Beneficial Owners maintained by the competent registrar courts. AML-obliged persons are also required to carry out and renew CDD that includes the identification of the beneficial owners, measures to verify their identity from reliable sources, including the Register of Beneficial Owners and another reliable source. If discrepancies in the sources are encountered, the AML-obliged person (and other subjects such as public authorities) has to file a report to the competent court. Both laws rely on the same definition of beneficial ownership. This system facilitates the synergy between the requirement of filing information to the register and AML-obligations.

These legal regimes are analysed below. There are no beneficial ownership requirements under the tax law.

Companies covered by legislation regulating beneficial ownership information

Type	Company law	Tax law	AML law
LLCs	All	None	Some
JSCs	All	None	Some
SEs	All	None	Some
Co-operatives	All	None	Some
Foreign companies (tax resident) ²⁶	All	None	All

Company Law requirements

101. The requirement on the availability of beneficial ownership information is mainly addressed by the Act on the Register of Beneficial Owners of 1 June 2021 (BOR Act). The BOR Act provides for the institution and maintenance of the Beneficial Owners Register (BOR), which records the details of the beneficial owners of Czech relevant legal entities and arrangements (sec. 12(1) and (2)), including companies.

102. The Czech authorities explained that the current BOR under the BOR Act is a continuation of a pre-existing non-public register of data on beneficial owners introduced under the Act on Public Registers and effective from 2018 (the data in the previous register was transferred in the new one). Such provisions of the Act on Public Registers transposed the 4th EU AML Directive (2015/849). Subsequently, for the transposition of the 5th EU AML Directive (2018/843) in relation to the issue of beneficial ownership registration, the Czech Republic issued the BOR Act which gathers in a dedicated Act the relevant provisions on beneficial owners of entities and trusts. In particular, the BOR Act includes new provisions, described below, on the definition of beneficial owner, the method of access to the data in the Register, the process of registration of data on beneficial owner, the automatic transmission of certain data from the Public Registers, the resolution of incorrect or missing data in the Register, and penalties for breach of obligations related to the registration of beneficial owners.

103. The BOR is an information system of public administration maintained electronically by the seven competent registrar courts that are also

26. Where a foreign company has a sufficient nexus, then the availability of beneficial ownership information is required to the extent the company has a relationship with an AML-obliged service provider that is relevant for the purposes of EOIR. (Terms of Reference A.1.1 Footnote 9).

competent for the Public Register (see paragraph 59). These registrar courts are also responsible for monitoring the compliance with obligations to register and update the information. The underlying information system is centrally managed by the Ministry of Justice.²⁷

104. Some information in the BOR is publicly available on the portal (sec. 14). Such information includes, for companies and other types of legal entities:

- partial extracts of the current information maintained, including:
 - the name, state of residence, year and month of birth and nationality of the beneficial owner
 - the grounds for meeting the definition of beneficial owner
 - the size of a beneficial owner's direct or indirect share, if that share establishes their position of beneficial owner
 - the date from which the subject is beneficial owner
 - the date until which the subject was a beneficial owner
- in case no information is present in the BOR for a given entity, an attestation of such circumstance.

Definition of beneficial ownership

105. The same definition of beneficial ownership in the BOR Act is referred to for both registration of beneficial ownership in the BOR and application of CDD measures by AML-obliged persons. The BOR Act defines “beneficial owner” as “every natural person who is an ultimate beneficiary or person with ultimate influence” (sec. 2 lett. e). In this connection, sections 2(c) and (d) respectively state that:

“Ultimate beneficiary” means a person who can, directly or indirectly through another person or legal arrangement, receive a significant part of the aggregate benefit generated by the operation or liquidation of a legal person or generated by the administration or termination of a legal arrangement and who does not further hand over this benefit.

“Person with ultimate influence” means a person who can, without the instruction of another person, exercise directly or indirectly decisive influence in a legal person.

27. See the web portal <https://or.justice.cz/ias/ui/rejstrik> (link verified on 12 January 2023).

106. The BOR Act (sec. 3) further clarifies the concept of ultimate beneficiary:

(1) Each person that can directly or indirectly obtain more than 25% of the total benefit generated by the operation or liquidation of a legal person and does not further hand over this benefit is the ultimate beneficiary of a legal person; it is presumed benefit is not handed over.

(2) Each person that directly or indirectly has a right to a share of profits, other internal resources or liquidation balance of a business corporation (hereinafter “share of benefit”) larger than 25% and does not further hand over this share of benefit is the ultimate beneficiary of a business corporation; it is presumed shares of benefit are not handed over.

(3) For the purposes of calculation of an indirect share of benefit

a) the shares of benefit to which linked persons or legal arrangements in a chain have a right are multiplied,

b) the products of shares of benefit from individual chains in a branching are summed up.

107. Therefore, the concept of “ultimate beneficiary” covers the situation of a natural person holding, directly or indirectly, more than 25% of the shares of a legal entity, i.e. the situation of a “control through ownership”, assuming a correlation between ownership and share or profits or benefits generated by the liquidation of the legal person.²⁸

108. In relation to the “ultimate influence” for a business corporation, the BOR Act provides that an indicator of its exercise by a natural person is his/her direct or indirect share of voting rights that significantly exceeds the shares of voting rights of other persons, especially if it is larger than 25% (sec. 4(3)). The BOR Act also determines specific rules for the purposes of calculation of the indirect share of voting (sec. 4(4)).²⁹ Considering that this provision only provides for an “indicator”, it follows that the concept of

28. This assumption is supported by the fact that while the definition of beneficial ownership refers to the benefit generated, the automatic transcriptions mechanism (see below) refers to the persons registered as shareholders or partners.

29. For the voting shares of linked persons or legal arrangements in a chain are multiplied, whereas, with the exception of the voting share in the entity subject to calculation,

1. voting shares which give rise to the presumption of control pursuant to the Act regulating business corporations are counted as equalling 100%

2. shares not referred to in subparagraph 1. are counted as equalling 0%.

The products of voting shares from individual chains in a branching are summed up.

“persons with ultimate influence” is not limited to holding significant voting rights. This interpretation is confirmed by Czech authorities, that indicated that ultimate influence is not considered merely a question of ability to exercise voting rights, but rather based on the fact that through such influence it is possible to act effectively and to promote a particular purpose. Furthermore, each natural person who is a “controlling person” pursuant to the Act regulating business corporations is a person with ultimate influence (sec. 4(1)).³⁰

109. The BOR Act also provides (sec. 5(1)), that each senior managing official³¹ of a corporation is irrefutably presumed to be its beneficial owner in the two following circumstances:

- no beneficial owner can be identified even after making every effort that can be reasonably required on the registering entity
- the person with ultimate influence in the corporation is a legal person that does not have a beneficial owner by definition (as provided in sec. 7 of the BOR Act, such as for public institutions, political party or movement, a church or religious community, and similar).

110. Registrants need to record the steps undertaken during the identification of the beneficial owner in cases where a senior managing official is registered as beneficial owner pursuant to the presumption in the first circumstance (sec. 8(2) of the BOR Act), and when a registration is made under such presumption, the registrant is also irrefutably presumed to have fulfilled its obligations *vis-à-vis* the BOR (sec. 9(3) of the BOR Act). This does not prevent the court from addressing a discrepancy (see paragraph 129), if information which the registrant could not have known even after making every effort that could have been reasonably required was ascertained in discrepancy proceedings (sec. 9(3) of the BOR Act).

111. These provisions of the BOR Act envisage a situation where the registering entity takes “every effort that can be reasonably required” to identify the beneficial owner but they do not result in the identification of the beneficial owners, and the senior managing official are “irrefutably

30. Sub-section 82(1) of the Act regulating business corporations provides that if one or more persons are subject to single management (controlled person) by another person or persons (controlling person), they form a group with the controlling person.

31. Section 2(e) of the BOR Act defines the senior managing official as each natural person overseeing the day-to-day or regular operations of a legal person, such as business management, who is:

- a member of the statutory body of the legal person or a person with similar capacity or who represents a legal person in this body, or
- directly subordinate to the statutory body of the legal person or to its member.

presumed” and reported as beneficial owners in the BOR. The BOR Act provides in this connection that the registrant has to indicate the circumstance that the request for registration is being made pursuant to Section 5 of the BOR Act. This circumstance is also subject to publication.

112. Czech authorities informed that, as of February 2023, 7 497 entities (or about 1%) had their beneficial owners registered pursuant section 5 of the BOR Act (under one of the two conditions listed under paragraph 109).

113. In conclusion, the definition of beneficial owner pursuant to the BOR Act is concise and the complementary provisions cover control through ownership (direct and indirect), through other means (within the ultimate influence) in line with the standard, even if the two concepts appear conflated, as the share of voting rights is identified as an indicator of ultimate influence, while the standard considers it under the “control through ownership”. In any case, since the “ultimate beneficiary” and the “persons with ultimate influence” must be identified in all cases and simultaneously (i.e. without applying a cascading approach in two different steps), this conflation would not lead to situations where the beneficial owners are not identified. The identification of the senior managing official is provided as a back stop option (or “substitutionary option”, as provided in the Czech guidance), but the irrefutable presumption that the senior managing official is the beneficial owner when the effort that can be reasonably required on the company does not lead to the identification of the beneficial owners is mitigated by the fact the registrar court (as well as the general public after publication in the BOR) is made aware of this circumstance and thus is in a position to take the appropriate actions were needed (see paragraph 179).

Obligations of the stakeholders in populating the Register

114. Pursuant to the BOR Act, the requirement for determining the beneficial owner is generally and primarily on the legal entity itself (and, consequently, on its governing bodies) as “registrants” (sec. 2 lett. j). Entities are required to obtain and record full, accurate and up-to-date information on their beneficial owners (sec. 8(1)) and to submit an application for registration to the BOR (sec. 26).

115. The beneficial owners of the entity, the persons through which an ultimate beneficiary can obtain benefit or through which a person with ultimate influence can exercise his/her influence, are in turn required to provide the entity with all the necessary co-operation to fulfil its obligation to record and submit full, accurate and up-to-date information (sec. 10), including announcing the emergence of his/her position. This provision is interpreted such as the necessary co-operation on the part of the beneficial owner of the entity (as well as the persons through which an ultimate beneficiary can obtain benefit or through which a person with ultimate influence can

exercise his/her influence) should not only take the form of a passive reaction to provide the necessary documents or information upon request, but also as pro-actively communicating to the registrant that their status has arisen (unless it is clear that the registrant must know that a new beneficial owner status has arisen) or changed. Failure to co-operate is covered by the penalty provided for in section 55 of the BOR Act (see paragraph 163). The imposition of the penalty is subject to a court decision in the irregularity proceedings (that the reason for the irregularity is the failure to co-operate; cf. section 48(3) of the BOR Act). While it can be assumed that it would prove difficult to apply effective penalties to non-resident beneficial owners (as well as persons through which an ultimate beneficiary can obtain benefit or through which a person with ultimate influence can exercise his/her influence), the system in place in the Czech Republic also provides for private law consequences in case a lack of co-operation leading to incorrect or incomplete information in the BOR occurs (see paragraph 164).

116. Sanctions are foreseen for the registrant entities, the beneficial owners themselves and the persons in-between, in case of non-compliance with the respective provisions (see paragraph 163 below).

117. As for the case of information filed in the Public Register (see paragraphs 72 et seq. above), an entity can carry out the registration in the BOR by applying either at the competent court itself (court registration, Title III, sec. 19 and subsequent, of the BOR Act) or through a notary (notarial registration, Title IV, sec. 34-36, of the BOR Act). Notaries and courts are equivalent authorities in terms of performing registration into the BOR. To this end, the courts allow notaries to access remotely to the applications for registration and to the documents which they maintain in electronic form.

118. The BOR Act specifies the documents that can be used to support the application or request for registration (sec. 23).³² Information that is available to registering authority (i.e. the court or the notary) from other public administration information systems (e.g. the Public Register) does not need to be documented. As part of the registration process, the registering authority checks whether the information submitted for registration is apparent from the documentary evidence (notarial registrations into the BOR are not subject to validation or review by the competent court).

-
32. These documents consist of an extract from the Public Register or from a foreign register equivalent to the Public Register or the BOR, a founding legal act, a list of shareholders, a decision of a body on the paying out of share of benefit, a declaration of partners acting in concert, a declaration of the registrant or beneficial owner on the status of the beneficial owner or on the structure of relations if it is based on a legal fact which cannot be attested even after making every effort that can be reasonably required, and a declaration by the registrant or beneficial owner on the status of the beneficial owner or the structure of relations if it is not based on a legal fact.

119. When the register became operational, 60% of its initial population was performed by the courts (25 509 entities) and 40% (16 806) by notaries. The trend reversed in the first quarter of 2022, with notaries carrying out about 70% of the new registrations. Czech authorities explained in this connection that notarial registration has several advantages from the user's perspective, as the process is generally more practical (on the basis of a duly documented request from the legal entity, the notary will issue a certificate for registration and subsequently carry out the registration remotely, without the requirement to fill in an application form). Notarial registration is also ten times cheaper, thus signalling the intention on the part of the legislator to encourage the use of this type of function.

Automatic (partial) population of the Register

120. The BOR Act also provides for a system of automatic transcriptions (Title V, sec. 37 et seq.), meaning a mechanism for the transfer (or replacement, or deletion from the current information) of specific data present in the Public Register or in another “basic” (*základním*) Public Register to (in/from) the BOR.³³ The automatic transcription is ensured by the information system itself. In particular, natural persons listed in the Public Register in certain positions are automatically proposed (i.e. reported in the BOR) as beneficial owners of a legal entity in view of the fulfilment of the legal conditions based on the definition of beneficial owner (“formal beneficial owners”).

121. Specifically, for LLCs the natural persons fulfilling one of the following conditions are automatically transcribed in the BOR as beneficial owners:

- a natural person registered in the Commercial Register as a member/partner with a share larger than 25%
- a natural person registered as a beneficial owner of a legal person registered in the Public Register that is a partner of an LLC with a share larger than 25%.

122. For JSC, the natural persons fulfilling one of the following conditions are automatically transcribed in the BOR as beneficial owners:

- a natural person registered in the Business Register as its sole owner
- a natural person registered as a beneficial owner of a legal person registered in the Public Register that is the sole owner of a JSC.

33. “Basic registers” include the Register of Inhabitants and the Cadastre (Register of Territorial Identification, Addresses and Real Estate Property).

123. Other criteria are applicable for automatic transcription in relation to other kind of entities and arrangements (see below). These criteria are applied in the case where the shareholder of the relevant company is another kind of entities and arrangements.

124. The automatic transcription is not a one-off process but represents a dynamic linking of the status of the entry in the Public Register (and in other “basic” registers) with the BOR (the filing/replacement/deletion of the data takes place within 24 hours).

125. When automatic transcription occurs, it is presumed that the entity has fulfilled the beneficial owner registration duty (sec. 9(2)). Czech authorities have indicated that this does not relieve the entity from the obligation to register any other individual that meets the definition of beneficial owner that was not automatically registered, or to correct the information in case the individuals identified as beneficial owners with automatic transcriptions are not the actual beneficial owners (e.g. in case a person holding 25% or more of voting rights does not actually exercise ultimate influence, or in case of nominee shareholders, see paragraph 153 et seq.).

126. The BOR Act came into effect on 1 June 2021. Pursuant to section 60(3), business corporations that had performed the registration in accordance with pre-existing provisions on beneficial ownership present in the Act on Public Registers had six months (i.e. until 1 December 2021) to ensure that the registered information was compliant with the provisions of the BOR Act. Indeed, as mentioned in paragraph 102, the BOR Act introduced changes in the definition of beneficial owner which could have required, for some entities, an update of the information previously entered in the previous system of beneficial owners register. The other business corporations had to fulfil their obligation “without undue delay”, which is usually interpreted as a reasonable timeline (see paragraph 68).

Updating and correction of the information in the Beneficial Owner Register

127. In practice, the automatic transcription mechanism has contributed to a great extent to the initial population of the BOR with the required data and to the update of this data. While registrants remain responsible for the accuracy of the information in the BOR also in cases of automatic transcriptions, they are not required to confirm whether the information in the BOR as a result of automatic transcriptions is correct (see paragraph 125), so in case no action has been/is taken by the registrant, it is not immediate to distinguish cases where the data in the BOR is accurate and up to date and cases where the registrant is not fulfilling its obligations.

128. The request for registering an update in the BOR must be initiated by the entity representatives “without undue delay after the occurrence of the relevant fact” (see paragraph 68 as regards the interpretation of “undue delay”). The BOR Act also provides (sec. 26(3)) that if the requested registrant does not apply for registration within 15 days from the day upon which the duty arose, the application may be submitted by anyone who proves a legal interest (e.g. the beneficial owners themselves, based on their legal obligation to contribute to their identification, or other shareholders).

129. For the proper fulfilment of reporting obligations in the BOR, the BOR Act also includes provisions for resolving discrepancies, meaning a mismatch between the current information in the BOR and the actual situation, or the absence of relevant information in the BOR (sec. 2 lett. n of the BOR Act). In particular, the BOR requires (sec. 42) that if a public body (including the Tax Administration) has reasonable belief that it uncovered a discrepancy during the performance of its duties, it must report the discrepancy to the competent registrar court (except for cases where reporting a discrepancy might jeopardise the activities of the public body), substantiated by facts or documents attesting the discrepancy. In this connection, the TPC has been amended to provide that it is not considered a breach of tax confidentiality where the Tax Administration notifies a discrepancy report to the registrar court (sec. 53(1)c)(4)). In practice, the Tax Authority has not yet notified any discrepancy, as the circumstance has not yet arisen.

130. AML-obliged persons are also required to consult the BOR when conducting their CDD (sec. 9(2)(b), AML Act), as well as at least one other reliable source. They must also report discrepancies with information in the BOR, should they encounter them (sec. 42(3) of the BOR Act and sec. 15a of the AML Act, see paragraph 152). During the onsite visit, it emerged that the AML-obliged persons were aware of these obligations. Nevertheless, there is no legal requirement for the relevant entities and arrangements to enter into an ongoing relationship with an AML-obliged and there is no specified frequency of updates for the CDD by these persons (see paragraph 142).

131. When a discrepancy report is received, the competent registrar court carries out a discrepancy proceeding. The proceeding can also be initiated *ex officio*, where appropriate to protect the rights of third parties (sec. 44 of the BOR Act). The court will first invite the registrant to remedy the discrepancy or to refute it (sec. 43 of the BOR Act). The court decides on a time limit appropriate to the remedy (the registrar court interviewed during the on-site visit informed that it usually gives a time limit of a month). The court then decides on a discrepancy (sec. 48), also based on evidence other than that proposed by the registrant (sec. 47). The aim of the discrepancy proceeding is for the registrar court to decide whether the information

in the BOR corresponds to the underlying facts. If it does not, the registrar court only records the discrepancy, and the registrants themselves must remedy the situation and record the correct person (to avoid being sanctioned). The discrepancy procedure may lead to the imposition of a fine by the competent municipality (see paragraph 163).

132. Along with the commencement of the discrepancy proceeding, the competent registrar court publishes a “discrepancy notice” in the BOR, recording the nature of the discrepancy and the date on which the discrepancy procedure was initiated (sec. 45 of the BOR Act). Once the discrepancy is resolved, the court deletes the discrepancy notice from the BOR if the discrepancy was refuted, whereas it maintains it, registering how the proceedings was decided, in cases where the discrepancy was confirmed (i.e. the information about the occurrence of the discrepancy remains in the BOR public records even after the information is corrected). Czech authority specified that the purpose of this record is to convey doubts about the accuracy of the data in the BOR records to the users in a timely manner while the proceeding is ongoing, and to keep track of the discrepancies that have occurred.

133. The information about beneficial owners in the BOR is publicly accessible for five years after the termination of a legal person or legal arrangement (sec. 18), but it is indefinitely kept (while no longer being publicly accessible) in the BOR.³⁴ As regards the retention period, companies themselves are required to keep the information “as long as a natural person is a beneficial owner and a further 10 years after the end of his/her status as a beneficial owner” (BOR Act, section 8(3)). If a registrant was terminated with a legal successor, this duty is transferred upon the successor.

Implementation in practice

134. The overall compliance of all legal entities with the registering obligations is rather high, considering the automatic transcription: as of 1 December 2021, beneficial owners were registered for 577 188 legal entities, out of a population of 644 070 legal entities subject to the registration obligation, meaning that 89.6% of the total of legal entities are considered having complied with the obligation. However, if only the registrations into the BOR upon application (i.e. excluding the automatic transcription) are considered, the proportion is significantly lower, amounting to 42 315 entities, or 7% of the total of entities as of 1 December 2021.

34. Czech authorities explained that, in practice, also the Tax Administration and the other authorities would no longer have access to the data after five years from the deletion, but this does not mean that the data is lost, as it will still be recorded in the BO Register in case, for example the data needs to be retrieved in criminal proceedings.

135. Similar figures emerge when considering only companies, as detailed in the following table providing data on the number of companies for which beneficial ownership information is registered in the BOR:

Companies registered in the BOR
Data as of December 2021

	A. Number of entities with information registered in the BOR	B. Total number of entities	C. Number of entities with no information registered in the BOR (B-A)	% of entities registered in the BOR at the end of the review period
LLCs	461 410	507 775	46 365	91%
JSCs	18 808	26 947	8 139	70%
SEs	1 190	2 268	1 078	52%
Co-operatives	12 874	13 003	129	99%
Total for companies	494 282 ^a	550 020	55 738	90%

Note: a. Data as of March 2022.

136. Czech authorities indicated that during the initial population period of the BOR, from 1 June to 1 December 2021, the registrar courts received at least 436 discrepancy reports (pursuant to section 42 of the BOR Act). In most cases the reports were submitted by AML-obliged persons (banks, leasing companies, tax advisers) and, less frequently, by public authorities or by the public by means of complaints. Discrepancy reports concerned less than 0.1% of entities.

137. During the same period, the courts issued at least 361 invitations to the registrants to remedy discrepancies (under sec. 43 of the BOR Act). The number of invitations is lower than the number of notices of discrepancy report received because in one case out of five the registrants had corrected the information before the court invited them to correct it. According to the courts, following a court notification, most registrants immediately corrected the data in their records.

138. Ultimately, registrar courts initiated proceedings with entities not complying with their obligations *vis-à-vis* the BOR from 1 December 2021. As of mid-March 2022 there were 94 discrepancy proceedings ongoing and 25 proceedings that were already concluded.

Anti-Money Laundering Law requirements

139. AML-obliged persons (see paragraph 86) are required to carry out CDD, that includes the requirement to identify the beneficial owners of the client and take measures to verify their identity from reliable sources

(sec. 9(2)(b)). If the customer has to be registered in the BOR or a similar database (e.g. corresponding registers on beneficial ownership in other EU Member States), the AML-obliged person has to verify the beneficial owner at least from this register or database and from one more reliable source. The AML-obliged person, in the course of CDD, also has to collect and record data verifying the identity of the beneficial owner and the process of collecting such data (sec. 9(6)(a)).

140. For the purposes of the AML Act, “beneficial owner” means (sec. 4(4)):

- the beneficial owner pursuant to the BOR Act (see paragraph 105) or
- a natural person on whose behalf a transaction is being conducted.

141. The AML Act provides for the requirement to carry out enhanced identification and CDD in case the customer, the transaction or the business relationship pose increased risk of legitimisation of proceeds of crime or terrorist financing (sec. 9a) and, conversely, for the possibility under certain conditions to carry out simplified CDD when they pose lower risk of such abuse (sec. 13(1)). In case of simplified CDD, the AML-obliged person must in any case gather and take record of the data necessary to verify the identity of the customer’s beneficial owner, including the process of collecting such data (sec. 13(2)), but allows that other CDD tasks are performed “to the extent necessary to efficiently manage risks”.

142. Throughout the period of a business relationship, AML-obliged persons must verify the validity and completeness of the information collected in the course of the customer identification and CDD procedures and record any changes thereto (sec. 8(9) of the AML Act). The checks themselves, as well as their extent and frequency, are based on the customer’s risk profile, which must be based on the risks factors stipulated in the AML-obliged person risk assessment (sec. 9(4)), that in turn take into consideration results of the risk assessment performed at the level of the Czech Republic and results of supranational risk assessments (sec. 21a).

143. In addition to the general provisions in the AML Act, the AML Decree issued by the CNB provides details on the manner of performing CDD by AML-obliged persons subject to the CNB supervision, i.e. financial institutions.³⁵ The CNB AML decree (art. 7(3)) requires financial institutions to regularly check the validity and completeness of the information about the customer to update the customer’s risk profile if appropriate, and to determine, within their system of internal rules, the maximum periodic intervals for updating the customer’s risk profile depending on the risk profile itself. In addition, the CNB AML decree requires financial institutions to verify,

35. Decree no. 67/2018 Coll., issued in 2018, and amended in 2021.

always and without undue delay, the information available about a customer if there are doubts about the veracity or accuracy of information obtained (art. 10(1)).

144. The CNB AML decree also requires financial institutions to implement and apply procedures regarding the performance of CDD, in particular the scope and frequency of the measures taken to ensure effective risk management (art. 8(1)). As part of these measures, financial institutions must implement and apply procedures regarding the performance of CDD, in particular the scope and frequency of the measures taken (art. 8(2)).

145. The CNB AML Decree stipulates that the ownership and management structure (members of the statutory body) of the customer legal person should be assessed and understood (sec. 11(4) and (5)) and provides that enhanced CDD must always be performed for high-risk customers. One of the risk factors that leads to determine the profile of the customer as high risk is the opaque ownership structure of the customer (art. 9(3)d)),³⁶ which refers to a situation where it is not possible to establish the beneficial owner, or the ownership and management structure of the customer, from (art. 3(1)(c)):

- the BOR or other Czech Public Register
- a similar register from another country
- other sources or combination of sources that the institution justifiably considers as reliable (in particular if they are issued by a public authority or are officially certified; an affidavit alone cannot be considered a trustworthy source).

146. In summary, the AML framework mainly targets the need for updating the risk profile of the client and to carry out checks whose extent and frequency corresponds to such risk profile. As regards the need to update specifically CDD information, the AML Act, only refers to the obligation to “record any change thereto”. The CNB AML Decree (applicable to financial institutions) is more specific and requires to “regularly” check the validity and completeness of the information about the customer and verify “always and without undue delay” the information available about a customer if there are doubts about the veracity or accuracy of information obtained. Neither the AML Act nor the CNB AML Decree specify any frequency for the updates to CCD information (including beneficial ownership information).

36. An ownership structure is not opaque if the customer is a legal person whose securities have been accepted for trading on a European regulated market or a foreign market subject to requirements similar to those of a European regulated market (art. 9(3)d) CNB AML Decree).

147. Representatives of the CNB (for the financial institutions) and of the FAO (also in relation to the other AML-obliged persons that maintain business relationship with clients on an ongoing basis) indicated that the activities of supervision in practice require certain standards for the internal AML policy of AML-obliged persons, and in particular a benchmark (maximum tolerance) for the frequency of updates to CDD information, consisting of one, three and five years for the cases respectively of enhanced, ordinary and simplified CDD. This benchmark is communicated orally by the CNB to the supervised financial institutions in the framework of its supervisory activities, and is thought to be accepted and followed throughout the supervised entities with possible minor motivated exemptions. However, based on the interviews carried out during the on-site visit, this benchmark is not reflected in the internal policy of all AML-obliged persons, as at least one of the major banks reported its internal policy foreseeing a minimum frequency of CDD update for low-risk clients of seven years. Czech authorities highlighted that low-risk clients generally consist of natural persons and of entities with a simple ownership structure.

148. Based on the above, there are uncertainties in practice on the interval(s) of time for the updates of CDD information determined by AML-obliged persons. The lack of a frequency of updates for CDD information specified in the AML legal and regulatory framework could lead to circumstances where beneficial ownership information gathered by the AML-obliged subject is not up to date. In addition, doubts on the veracity of the available information are mentioned as a trigger for updates only in the CNB AML Decree.

149. The AML Act allows AML-obliged persons to rely for some aspects on CDD previously conducted by credit or financial institutions, either domestic or foreign, operating within the Czech Republic and applying similar obligations of CDD and record keeping. In this case, the AML-obliged person must gather the information on the customer and its beneficial owners at the latest prior to entering into a business relationship and ensure that the third party on which it relies will submit the copies of the relevant documents upon request and without any unnecessary delay (sec. 11(3)). In line with the standard, the AML-obliged person remains ultimately responsible for compliance with CDD obligations, as if it had performed CDD itself (sec. 11(4)).

150. Under section 16 (on Record Keeping) of the AML Act, AML-obliged persons must keep (among other things):

- identification and other data, including copies of documents, obtained upon customer identification
- information and copies of documents received as part of the customer due diligence (CDD)

- information about all steps taken in the course of customer identification and CDD.

151. This information must be kept for ten years after the termination of the relationship with the customer or the execution of the transaction made outside a business relationship (sec. 16 of the AML Act).

152. As seen above (paragraph 129) AML-obliged persons must apply the “procedure in case of discrepancy” when “discrepancies” with information in the Register of Beneficial Owners are detected. The procedure requires first the AML-obliged person to notify the customer of such facts, indicating the nature of the discrepancy and allowing the customer to provide comments. In case the customer fails to address or explain the discrepancy “without unnecessary delay”, the AML-obliged person must report the discrepancy to the competent registrar court, accompanied by a description of facts and relevant written material explaining the discrepancy as well as the customer’s comments (where provided) (sec. 15a(2) of the AML law and sec. 42 of the BOR Act).³⁷

Nominees and Silent partnerships

153. In the Czech Republic, the business of providing nominee shareholding is regulated under the AML Act (sec. 2(1)(h)(4)) as well as in the Capital Market Undertakings Act (sec. 4 and 4a). As AML-obliged persons, nominee shareholders are required to identify their customers (i.e. the person on whose behalf they hold these shares), perform CDD at the moment of establishing the business relationship (sec. 9(1)) and report any detected discrepancy with the information in the BOR (when the client is a legal entity subject to registration in the BOR). Persons who hold shares on behalf of another person as a nominee or under a (disclosed or undisclosed) mandate are also subject to tax obligation, unless they can prove (through a written agreements or otherwise) that they are not the beneficial owners of the assets.

154. Nevertheless, the nominee shareholders do not have to disclose their status or the nominator information to the legal entity or to the Commercial Register. Without this disclosure, the legal entity would not know whether the shareholder is a nominee, and this can prevent it from maintaining and report accurate information.

155. This deficiency is mitigated as the beneficial owners of the legal entity must provide it with all the necessary co-operation to fulfil

37. The FAO may order the obliged entity to abstain from the discrepancy reporting should such procedure threaten to impede or hinder an investigation of suspicious transaction or ongoing criminal proceedings.

its obligation to record and submit full, accurate and up-to-date information, including announcing the emergence of his/her position (see paragraph 115). It means that if the nominator is a beneficial owner of the company or, in the case of the nominator being a legal entity, knows that one or some of its members are beneficial owners of the entity, it must disclose this information to the relevant entity. However, a deficiency remains in respect of the availability of information, for the cases where the nominator or the other persons in the ownership chain do not qualify as a beneficial owner of the entity.

156. Therefore, to ensure the availability of the accurate legal and beneficial ownership information of legal entities with shareholdings involving nominee arrangements **the Czech Republic is recommended to ensure that nominee shareholders disclose their nominee status to the company.**

157. The Czech legislation also recognises silent partnerships (*tichá společnost*). A silent partnership is a contractual relationship between two parties by which the silent partners make an equity contribution into another person's (the entrepreneur) business and participates for the time of existence of the silent partnership in the results of the business. In turn, the entrepreneur is bound to pay to the silent partner part of the profit (sec. 2747 of the Civil Code). The existence of the silent partnership is typically not disclosed to the public and is not registered with any authority or third party.

158. If the contribution made by the silent partner is not an immovable property, the entrepreneur is presumed to have acquired the right of ownership in the subject upon the creation of the silent partnership (sec. 2748(2), Civil Code). Consequently, if the contribution are shares or securities of a legal entity, the entrepreneur is identified as the owner of the shares in place of the silent partners, without disclosing to the relevant legal entities the existence of the silent partnership.

159. Nevertheless, contrary to a nominee arrangement, the transfer of ownership from the silent partner to the entrepreneur is definitive, i.e. the silent partnership does not contain any clause for transferring back the ownership of the shares at the end of the silent partnership. In addition, the silent partner has no influence on the decision taken by the entrepreneur in respect of the exercise of the ownership rights. Moreover, the mere ownership of shares cannot constitute the business of an entrepreneur, so the part of the profits of the entrepreneur's business paid to the silent partner does not consist of only the profits resulting from the ownership of the shares that are the object of the silent partnership. The silent partner's portion of profit the entrepreneur is recorded in the accounting books of the latter, with the identification of the silent partner, and taxed through withholding tax at rate of 15%. (sec. 36(2)d) of the ITA).

160. In the 2015 Report (paragraphs 123), these arrangements were analysed under section A.1.3 and it was concluded they were out of the scope of the 2010 Terms of Reference because they do not carry out business, they do not have any income, credits or deductions for tax purposes, and they cannot be compared to a limited partnership. For the reason described in the paragraphs above, the silent partnerships are still considered as not relevant for the purpose of this EOIR review.

Beneficial ownership information – Enforcement measures and oversight

161. The legal and regulatory framework of the Czech Republic contains relevant penalties and enforcement measures for breach of obligations related to the registration of beneficial owners and AML obligations. This framework is implemented in practice through controls and application of penalties where relevant.

Penalties and consequences for breach of obligations related to the registration of beneficial owners

162. The Czech legal framework contains several provisions to trigger compliance with the requirement of registration in the BOR, with both direct and indirect enforcement measures:

- Direct measures include infringements process related to the breach of the registration obligation, and the private law consequences of not registering the beneficial owner.
- Indirect measures are the negative consequences of non-compliance, which affect legal persons in the context of specific processes (e.g. public procurement).

163. Failure to comply with the registration obligation is subject to a fine of up to CZK 500 000 (EUR 20 284, sec. 55 of the BOR Act). The infringement giving rise to the sanction originates from an initiative by the competent registrar court requesting the registration/update, not from the absence of registration or update itself (e.g. when the beneficial owner has changed). These fines are foreseen for the case of non-fulfilment of both the requirement to apply for registration in the BOR (sec. 9(1)) and the requirement to provide the necessary co-operation (sec. 10, e.g. the beneficial owner themselves or persons through which their position is established). Once the competent registrar court has determined the infringement, the imposition of sanction is carried out by the relevant municipality (pursuant to the Act on liability for administrative offences and the procedure thereon). The municipality has

administrative discretion on the assessment of the seriousness of the offence and on the corresponding determination of the amount of the fine.

164. Negative private law consequences for not registering beneficial owners concern both the failure to register the correct person as beneficial owner and the failure to register any information at all (sec. 52 et seq. of the BOR Act), namely:

- The unenforceability of the so-called “shielding contracts” intended to conceal the beneficial owners of an entity (sec. 52).³⁸ Czech Authorities have explained that the purpose of this provision is to prevent or hinder the activities of professional fictitious owners who aim to circumvent legal obligations or to facilitate property crime.
- The prohibition from distributing profits (sec. 53) to the beneficial owners of entities who are not registered in the BOR.³⁹
- The prohibition from voting (sec. 54) in the highest body (general meeting, membership meeting) of the entity to the beneficial owner who is not registered in the register of beneficial owners.

165. These consequences arise directly from the law and are therefore not dependent on a judicial or administrative decision. The Czech Authorities expect these consequences to have a major impact on the contractual relations between business corporations and their shareholders, as the assumption is that these negative consequences are more effective and at the same time do not constitute a significant interference with the rights of registrants, whereas financial sanctions have only a very limited deterrent effect, especially when information about the actual beneficial owner is hidden in order to carry out property crime. They explained that the prohibition of distributing profits and to exercise voting rights, in practice, are typically challenged by other (minority) shareholders, or by insolvency administrators in the event of a company’s bankruptcy. In civil proceedings, the courts may declare ex post certain acts as invalid or, for example, declare a member of the statutory body liable for any damage caused to the corporation by the unlawful payment of profits. According to the Czech authorities,

38. Section 52 of the BOR Act provides that “rights and duties which arose from a juridical act concealing beneficial ownership and which came into existence within the time period during which the beneficial owner was not registered in the Register of Beneficial Owners cannot be enforced; this applies regardless of the governing law of the juridical act.”

39. Czech authorities explained that this provision is applicable to anyone who has not been registered as beneficial owner. Payment would constitute a breach of the duty of care (fiduciary duty) under section 159 Civil Code and section 51 of the Business Corporations Act, which would render the members of the statutory body liable for damages. This can then be actionable by the other shareholders.

this regime intends to create proportionate measures that preserve legal certainty and are both effective and dissuasive. There are, however, no statistics or indicators available on the number of cases where these private law consequences occurred.

166. Other negative consequences of the non-compliance with the obligation to register/update beneficial owners in the BOR include the exclusion of the contractor from the public procurement (pursuant to the Act on Public Procurement), and the impossibility to receive a public subvention (pursuant to Act on Budgetary Rules).

167. A similar effect is exerted by the pressure from AML-obliged persons which identify the beneficial owners of their customers and need to consult the BOR before entering into a business relationship with them. For a customer to obtain the services they require (e.g. a bank loan), they must have their beneficial owners duly registered in the BOR.

168. The fact that the access to the BOR by the public (part of the data) is free of charge and publicly available also serves as an incentive to compliance. Legal entities are thus under the permanent scrutiny of civil society, their members or contractors that can report to the competent registrar court cases where the beneficial ownership information in the BOR appears incorrect.

169. In conclusion, the BOR Act provides for a structured system for registration, updates and controls, that involves responsibilities on the entities subject to registration (identify and report their beneficial owners, see paragraph 114), on the beneficial owners (provide the respective entity with the necessary co-operation, see paragraph 115), on the registrar courts (registration and discrepancy proceedings, see paragraphs 118 and 131), on the notaries in their capacity of registering authorities (see paragraph 118), on AML-obliged persons (CDD and discrepancy reports, see paragraph 129 et seq.) and on public authorities in general (discrepancy reports, see paragraph 129). The system also includes provisions aimed at facilitating the obligations of the entities subject to registration (automatic transcription and the presumption that when it occurs the entity has fulfilled the beneficial owners registration requirement, see paragraph 120 et seq.) and a flexible identification of the term by which a registration or update submission has to occur (“without undue delay”, see paragraph 128). While the overall legal framework appears capable of ensuring the availability of beneficial ownership information in line with the standard, for it to function properly and ensure that the information is adequate, accurate and up to date, it is necessary that a comprehensive monitoring and supervision is applied. Conclusions about the implementation in practice are reported in the section dedicated on Enforcement and Oversight below (see paragraph 179).

Sanctions for breach of AML obligations

170. The organisation of the supervisory functions is stipulated in Chapter II on “Administrative Supervision” of the AML Act (sec. 35-37), with changes that became effective on 1 January 2021 on the harmonisation of sanctions for all AML-obliged persons and the designation of the professional chambers as supervisory bodies responsible for conducting administrative proceedings (instead of disciplinary proceedings).

171. Non-compliance with the obligation to perform Customer Identification and CDD can be sanctioned with a fine of up to CZK 10 000 000 (about EUR 405 680, sec. 44(1)(1)).

172. In case the violation is committed under serious circumstances, repeatedly or systematically, sanctions are higher (sec. 44(3)).⁴⁰

173. Specifically for financial institution, the pecuniary sanction for a violation committed under serious circumstances is the higher amount the following:

- up to twice the value of the unlawfully gained proceeds
- up to CZK 130 000 000 (about EUR 5.3 million)
- up to 10% of the net annual turnover of the perpetrator according to the last regular financial statements.

Controls and sanctions in practice

174. Compliance by legal entities of the obligations in the BOR Act, including the assessment of the quality of the data, is monitored and enforced by the registrar courts.

175. Czech authorities indicated that no fines pursuant to the BOR Act (see paragraph 163) were applied until the end of 2022, due to the relative novelty of the procedures. Overall, in the Czech Republic there is a wide array of pecuniary sanctions and other negative consequences for the non-compliance with the beneficial owner identification and reporting obligations, but there is no evidence to date – besides the discrepancy proceedings and, in general, the liquidation of inactive companies – of monitoring actions.

176. As regards the AML-obliged persons, the FAO is active in the field of AML education with preventive programmes, routinely organising training to them and their professional organisations, who can also consult the FAO for written opinions. Selected views on the most frequently asked questions

40. a pecuniary sanction of twice unlawfully gained proceeds or up to CZK 30 000 000 (about EUR 1.2 million) whichever is higher; prohibition of business activity/disqualification; publication of the decision on the administrative offence.

are published on the FAO website.⁴¹ The FAO has issued several methodological guidelines providing interpretation of the AML/CFT Act (including on the identification of the beneficial owner), which are updated regularly. Similarly to the FAO, the CNB, undertakes awareness-raising activities, issues guidance and replies to questions from the private sector.

177. During each AML-related on-site inspection, the CNB verifies compliance with the obligation to keep and maintain updated all records pertaining to the accounts, as well as to related financial and transactional information, including information on beneficial owners of their clients. Out of the seven AML on-site inspections carried out by the CNB in banks during the period 2019-21, six of them have revealed deficiencies in the implementation of the obligation to keep and maintain updated all records pertaining to the accounts (including, in two cases, information on beneficial owners). Banks have swiftly drawn up action plans to remedy the identified deficiencies and took steps to address them. In addition, a fine was imposed in the case of two banks (Czech authorities indicated that the exact amount of the fine for breach of this obligation cannot be specified as the fine was imposed cumulatively for several deficiencies).

178. The Czech Bar Association, the Notarial Chamber, the Chamber of Auditors, the Chamber of Tax Advisors have all issued AML methodologies approved by the FAO, conducted preventive programmes (including training activities), on-site inspections and carried out administrative proceedings or disciplinary actions. The representatives that participated in the on-site visits presented a high level of awareness and understanding of the requirement to carry out discrepancy procedures. It was indicated that controls performed by the respective chambers focusing on AML requirements always include control of compliance with the record keeping obligations concerning the customer identification and CDD. However, statistics on the application of sanctions were not available.

179. In conclusion, the BOR is the key source of beneficial ownership information. The rate of compliance with the obligation to register beneficial ownership information is quite high but varies among the different type of companies, and for those that are registered, there are doubts on the accuracy or adequacy of the information subject to automatic transcriptions, as for the entities subject to registration there was no requirement on the onset to explicitly confirm the information automatically transcribed. In addition, entities are also not required to confirm on a periodic basis whether the information present in the BOR remains up to date and there is no

41. <https://www.financnianalytickyrad.cz/> (link checked on 24 February 2023). An English version of the website is available but contains more limited information than the one in Czech.

appropriate and comprehensive programme of supervision to ensure that the entities (and their beneficial owners) correctly perform their obligations of identification of beneficial owners and reporting to the BOR. Relying only on discrepancy reports might not be sufficient, as there is no obligation for the entities to engage on ongoing basis with AML-obliged persons and the lack of a specified frequency for CDD updates can lead to cases where non-compliance with obligations set in the BOR Act is not timely detected by AML-obliged persons. For these reasons, **the Czech Republic is recommended to strengthen the supervision and enforcement programme on the requirements of the BOR Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all companies in line with the standard.**

Availability of legal and beneficial ownership information of companies in EOIR practice

180. During the peer review period, the Czech Republic received 35 requests regarding ownership information. The Czech Republic indicated that there are no separated statistics per type of entity or arrangement nor distinction between legal and beneficial ownership.

181. Peers were generally satisfied with the responses provided by the Czech Republic with respect to legal and beneficial ownership information and no concern was raised by peers regarding the availability of information nor was any detected during the peer review.

A.1.2. Bearer shares

182. Czech JSCs can issue shares in registered or bearer form, that can be fully transferable without restrictions. Bearer shares, however, may only be issued as book-entry (dematerialised) securities or as immobilised securities, i.e. they have to be registered at the Central Securities Depository Prague⁴² in the name of their owners, or immobilised through physical custody at a bank that provides securities custody services.⁴³ The shareholders

42. The Central Securities Depository Prague is a legal person authorised by the CNB pursuant to the European Central Securities Depositories Regulation to maintain the Central Register of Securities in the Czech Republic, assign identification numbers to securities according to the international securities identification numbering system (ISIN) and to operate a settlement system (sub-sec. 100 and 103 Act on Business Activities in the Capital Market).

43. Pursuant to Section 2412(2) of the Civil Code, the conditions for the custody of immobilised securities are governed by the “rules for keeping separate records of investment instruments” under the Capital Market Undertakings Act. It is also possible to have secondary depositaries.

cannot demand that their immobilised shares be released from custody (sec. 274(2) of the Business Corporations Act).

183. Pursuant to Section 2409(2) of the Civil Code, the custodian must keep a record of the securities deposited in custody which includes the identification of the custodian and the place of deposit of the securities. For a transfer of ownership of bearer shares, it is necessary to change the owner in the Central Securities Depository Prague or in the custodian bank (sec. 1104 of the Civil Code). This allows for the identification of the holders of bearer shares in all cases (see also paragraph 119 of the 2015 Report).

184. In particular, the safekeeping of bearer shares and their immobilisation is regulated by section 2409 et seq. of the Civil Code. Pursuant to sections 2413 and 2414, if the issuer places securities in custody, the security is issued on the date on which the issuer delivers the security to the custodian for the benefit of its owner as the initial acquirer (sec. 2413(1)).

185. The transfer of book-entry shares is effective *vis-à-vis* the company when the change in the shareholder is shown to the company with an extract of the shareholders' account, or on the date of delivery or acceptance of an extract from the share issue register (Central Securities Depository Prague) pursuant to the Capital Market Undertakings Act (sec. 275 of the Business Corporations Act and sec. 94 of the Capital Market Undertakings Act)

186. Prior to 31 December 2013, there was no requirement for bearer shares to be only issued in dematerialised or immobilised form. The legal provisions required that bearer shares which had not been immobilised prior to 1 January 2014 be automatically transformed to certified registered shares with effect from that same date. As a consequence of this transformation, shareholders lost all rights attached to these bearer shares for the period that these shares were not immobilised, dematerialised or repealed and had until 30 March 2014 to submit their shares to the company for the necessary changes to apply. A material change to the Memorandum of Association occurred, by direct operation of law and the Boards of Directors of the companies, in turn, were required to formally incorporate the change and submit an updated Memorandum of Association to the Commercial Register by 30 June 2014. Because the law provided for an automatic transformation of the nature of the shares, the change was effective on 1 January 2014, even if the formal amendment was submitted afterwards to the Commercial Register by the Board of Directors. The Business Corporations Act also provides for companies that did not meet this requirement to be dissolved and liquidated, on the basis of a petition of the competent court or of a person having a legal interest (in this respect shareholders that were in default did not have a right in the liquidation balance). The registrar courts could grant an additional "reasonable period" for the fulfilment of these obligations.

187. As there were no statistics available on the number of companies that had complied with the requirements and the level of oversight was not clear, the 2015 Report observed that the transitional provisions did not fully ensure in practice that information was available on holders of bearer shares in all cases. Therefore, the Czech Republic was recommended to monitor the practical implementation including the enforcement of the requirement regarding bearer shares, to ensure that all shareholders submitted their bearer shares to the company so that shareholders information was available in all cases.

188. During the current review, the Czech Republic confirmed that no monitoring was carried out on the level of compliance and did not provide any information on whether any companies were dissolved and liquidated for not meeting the obligations. It was further highlighted that shareholders that did not fulfil their obligations to co-operate with the company would be unable to exercise their rights for all the period they are in default. Based on the fact that, as the system was designed, it would not be in the shareholder's interest not to comply with the conversion provisions, Czech Authorities indicated that in their view there should be no longer any case of non-immobilised bearer shares. This was also confirmed by all persons questioned during the onsite visit. No request was received by the Czech Republic involving bearer shares during the review period.

189. In this connection, while it is observed that based on the sole system of incentives it cannot be demonstrated that all shareholders complied with the conversion provisions, it is also taken into account that, given the time that has elapsed, it is unlikely that there are still outstanding non-immobilised bearer shares, and the gap is thus much less material. The recommendation in the box is thus removed, but the Czech Republic should nevertheless monitor the practical implementation of the requirements regarding bearer shares introduced on 1 January 2014 to ensure that all bearer shares have either been submitted for the necessary changes into registered or book-entry shares or been immobilised (see Annex 1).

A.1.3. Partnerships

Types of partnerships

190. There are three types of partnerships in the Czech Republic, as noted in the 2015 Report (paragraph 122), all with legal personality:

- General partnerships (*veřejná obchodní společnost*), with two or more partners undertaking business activities under a common business name. Partners can be either natural or legal persons, but when the partner is a legal entity, the member's rights and duties are exercised by its agent, who may only be a natural person (sec. 95(1) of the Business Corporations Act). All partners are entitled to act on

behalf of the partnership and are jointly and severally liable for the debts/obligations of the partnership, including after its dissolution. There were 5 734 General partnerships on 30 September 2021.

- Limited partnerships (*komanditní společnost*), with one or more partners with full liability for the obligations of the partnership (general partners – *komplementář*) and one or more partners with limited liability for the obligations of the partnership up to the amount of the pledged but unpaid contributions (limited partners – *komanditista*) (sec. 122 of the Business Corporations Act). The statutory body of the limited partnership is comprised of all general partners, except if the memorandum of associations limits this statutory body to some or only one general partner (sec. 125). Partners can be either natural or legal persons. Also in this case, when the partner is a legal person, the member's rights and duties are exercised by its agent, who may only be a natural person. There were 636 limited partnerships on 30 September 2021.
- European Economic Interest Groupings (EEIGs), a European form of partnership in which companies or partnerships from different EU countries (the partners in the EEIG) can co-operate. It must be registered in the EU State in which it has its official address.⁴⁴ There were 11 EEIGs in the Czech Republic on 30 September 2021.

Identity information

191. The 2015 Report observed that Czech legislation ensure that up-to-date identity information is available for all relevant types of Czech partnerships. In particular, partnerships are considered incorporated at the moment of registration in the Commercial Register and they are subject to filing requirements that allow for the identification of partners. The agreement of association of a general or limited partnership has to include the corporate name and purpose of the partnership as well as the names and addresses or seats of all the members. For limited partnerships, this document also has to identify general and limited partners and include the amount of each limited partner's investment contribution, and the liability limit of each of the partners (sec. 97 and 124 of the Business Corporations Act). This information, including any changes, is registered in the Commercial Register (sect. 48(1)(i) of the Act on Public Registers).⁴⁵ Similar to companies, this information is kept

44. The Czech Act no. 360/2004 implemented Council Regulation (EEC) no. 2137/85 of 25 July 1985 on the European Economic Interest Grouping.

45. EEIGs are subject to the same requirements as general partnerships (Council Regulation (EEC) No. 2137/85 of 25 July 1985 on the European Economic Interest Grouping and Czech Implementation Act No. 360/2004).

permanently in the Commercial Register, even after the liquidation of the partnership.

192. Foreign partnerships doing business in the Czech Republic are subject to the same registration requirements under commercial law as foreign companies (see paragraph 88). They are therefore required to register with the Company Register and file their agreement of association. The names of the partners will therefore be submitted to the Commercial Register to the extent the jurisdiction of incorporation requires such information to be included in the partnership agreement.

193. The provisions of dissolution initiated by the court in case of non-compliance with certain filing requirements are also applicable to partnerships (sec. 105a of the Act on Public Registers, see paragraph 95).

194. In addition, there are registration and filing requirements with the Tax Administration as described in the 2015 Report (paragraphs 128-129) that continue to apply, irrespective of distribution of profits. In particular, while partnerships or partners are not required to provide information on the partners or the partnership respectively, the financial statement of a partnership is a mandatory annex to the tax return and must include information on owners who hold voting rights of at least 20% or ownership of at least 40% of the shares, so that partial information on owners is available with the Tax Administration.

195. The legislation further ensures that ownership information is available on all general partners of foreign partnerships carrying on business in the Czech Republic as well as any limited partners who make contributions or receive profits from the partnership (2015 Report, paragraph 136). In particular, the contribution of assets from and distribution of profit to general or limited partners is a transaction that needs to be accounted for and the parties of this transaction have to be identified in the underlying documentation (sec. 11(1) Accounting Act).

Beneficial ownership

196. As seen above (paragraph 101), the BOR Act provides that the details of the beneficial owners of entities with registered office in the Czech Republic, including partnerships, are recorded in the BOR.

197. The definition of beneficial owner applicable to partnerships is the same as the one applicable to companies (see paragraphs 105-109 above), also in consideration that partnerships are considered companies (*společnost*) in the domestic law. The definition of beneficial owner substantially refers in its specifications to benefits and voting rights, both for the case of “ultimate beneficiary” (receiving a significant part of the aggregate benefit generated) and of “person with ultimate influence” (as an indicator

of ultimate influence is the holding of voting rights exceeding 25%). Given the specificities of partnerships (presence of unlimited and limited partners, decisions in all partnership matters that require the consent of all members, pursuant to sec. 105 and 119 of the Business Corporations Act), benefits and voting rights might not always be the parameters through which beneficial ownership is determined. Nevertheless, the concept of “ultimate influence” applies simultaneously with the one of “ultimate beneficiary” (i.e. there is no cascading approach for these two steps) and it does not cover only the controlling shareholding interest. Therefore, all partners that have a decisional influence would be identified as a beneficial owner, in accordance with this concept.

Oversight and enforcement

198. In the field of oversight and enforcement measures to partnerships, the same provisions reported for companies (see paragraph 161 et seq.) are applicable.

199. The following table provides the number of partnerships for which beneficial ownership information is registered in the BOR, grouped by legal form:

Partnerships registered in the BOR

	Number of partnerships with information registered in the BOR	Total number of partnerships	Compliance rate
General partnerships	642	5 734	11%
Limited partnerships	201	636	32%
European Economic Interest Groupings	2	11	18%

200. The rate of compliance is much lower than that observed for companies (see table under paragraph 135). This might be an indicator that there are technical difficulties in identifying beneficial owners of partnerships or that the partnerships are not aware of their obligations to report their beneficial ownership information in the BOR. This may also be explained by the fact that there is no automatic transcription in the BOR Act for partnerships. Czech authorities have also explained that, automatic transcription could not be realised in practice, as the relevant documents in the Public Register are generally not machine readable.

201. In any case, the same conclusion reached for companies (see paragraph 179) applies to partnerships. Therefore, the Czech Republic **is recommended to strengthen the supervision and**

enforcement programme on the requirements of the Beneficial Owners Register Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all partnerships in line with the standard.

Availability of partnership information in EOIR practice

202. Two peers indicated having sent requests related to partnerships to the Czech Republic and reported that they were generally satisfied with the responses received. No concern was raised by peers regarding the availability of information on partnerships nor was any detected during the peer review.

A.1.4. Trusts

203. The Civil Code introduced in 2014 the concept of trust fund (*svěřenský fond*) in the Czech law. Trust funds are arrangements without legal personality that can be established during a person's life or based on a bequest (last will) (sec. 1448 to 1474). It can have a public benefit or a private purpose (sec. 1449 Civil Code).

- A trust with a public benefit purpose cannot have profit-making or the operation of an enterprise as a primary purpose.
- A private trust may be for the benefit of a particular person and may make a profit.

204. As of December 2021, there were 3 657 trusts funds registered in the Czech Republic, of which 2 with public benefit purpose. For corporate income tax purposes, 3 487 trusts were registered. Czech authorities explain the difference between these two figures (170 trusts not registered for tax purposes, or 4.6%) as temporary differences likely caused by delays.

205. There are no legal restraints in the laws of the Czech Republic for a subject resident in the jurisdiction to act as a trustee, protector or administrator of a trust formed under foreign law.

Requirements to maintain identity information in relation to trusts and implementation in practice

Czech trust funds

206. The Civil Code sets out several requirements for the establishment of a trust fund. Every trust fund must have by-laws (sec. 1452). The trust fund by-laws require the form of a public deed; the by-laws are the basic document determining, in detail, the assets to be allocated, the purpose

and the conditions for the performance of the trust fund. Several parties are identified in the administration of a trust fund and its supervision, with different rights and obligations. These are the settlor, the trustee (sec. 1453), the beneficiaries (sec. 1457-1462) and, where appropriate, the other person authorised to supervise the administration of the trust fund, i.e. the protector (sec. 1463 and 1464 of the Civil Code).

207. The settlor may be a natural or legal person. There may be more than one settlor.

208. Only a person with full legal capacity can be a trustee (sec. 1543 of the Civil Code). The trustee exercises ownership rights to the assets in the trust fund in their own name on behalf of the trust fund (sec. 1448 Civil Code). Any natural person may be a trustee if they have the full legal capacity. The possibility for legal persons to act as trustees is conditional on being explicitly allowed to do so by law. Only the Act on Investment Companies and Investment Funds contains such authorisation and allows investment companies to perform this activity under certain conditions.

209. At the time of the 2015 Report (paragraph 142), trust funds were not subject to any formal registration requirements under the Civil Code. A revision of the Act on Public Registers (Sections 65a-65g and 118a) established the Register of trust funds with effect from 1 January 2018. In this connection, while a trust fund is established once the assets are allocated by the settlor and the trustee accepts its obligation to keep and manage the assets, the trust fund “comes into existence” on the day of registration into the Register of trust funds (sec. 1451(2) of the Civil Code).⁴⁶

210. All trusts funds and similar arrangements operating in the territory of the Czech Republic are obliged to register themselves in the Register of Trust Funds.⁴⁷

46. The Civil Code binds the effects of the creation of a trust fund *inter vivos* to the registration of the trust fund in the trust fund register. The effects of the constitutive acts of the settlor (the statute and the agreement on the creation of the trust fund) and of the trustee (the agreement on the creation of the trust fund, or other form of acceptance of the mandate to administer) are therefore postponed by law to the moment of such registration. It is only with the actual coming into existence (by registering) of the trust fund that the creation of “independent ownership” occurs.

47. With the exception of trust fund established by a death grant, created by the death of the settlor, are entered in the Register of Trust Funds after its creation.

A foreign trust is considered to operate in the territory of the Czech Republic, in particular if (sec. 65a of the Act on Public Registers): it is administered from the territory of the Czech Republic; it consists of assets which are predominantly located in the territory of the Czech Republic; it administers immovable property situated in the territory of the Czech Republic; its trustee or a person in a similar capacity

211. The Register of Trust Funds is an information system of public administration that records statutorily defined data on Czech trust funds and foreign trusts operating in the Czech Republic. The Register is maintained by the seven competent registrar courts (see paragraph 59). The Register also includes a collection of documents. The information in the Register is partly publicly accessible (e.g. the identity of the trustee).

212. The application for registration of a trust fund in the Register of Trust Funds, as well as the application for the amendments or deletions of the relevant data has to be made by the trustee (sec. 65a(3)). Changes to the facts entered in the register must be initiated “without undue delay after the occurrence of the relevant fact”, but there is no requirement to confirm with a specified frequency whether the information in the register is up to date. The information to be filed with the Register includes (sec. 65d):

- the name of the trust fund and identification number assigned to it by the registrar court
- its date of establishment and termination
- the number of trustees and the manner in which they act.

213. The information to be registered also includes, for the trustees, settlor, beneficiaries (if the trust fund has a private purpose) and protector:

- their name and registered office, permanent address or residential address
- if they are natural persons, the date of birth, citizenship and personal number (if assigned).

214. While the information on the trust funds and on the trustees is publicly available, information regarding the settlors, beneficiaries and protectors is not publicly available. Copies of an entry in the Register of Trust Funds are available only to the trustee, to a person who proves legal interest and to several public authorities, including the Tax Administration and all other authorities and obliged persons carrying out activities in relation to the AML Act. The registration of trusts fund enables public authorities to obtain information about the persons involved in the trust fund.

is domiciled or has his/her registered office in the Czech Republic; its trustee or a person in a similar position in relation to the property administered has established a business relationship in the Czech Republic; the purpose pursued by its creation is to be achieved in the territory of the Czech Republic.

Foreign trusts with domestic trustee

215. Besides domestic trust funds, the Czech law recognises foreign trusts. The Act on Public Registers requires the registration of foreign trusts (institutions similar in structure or function to trust funds governed by the law of another state) operating in the Czech Republic (sec. 7 and 65a). The Act provides a non-exhaustive list of cases where a foreign trust is considered to operate in the Czech Republic, “in particular if” the trust:

- is administered from the territory of the Czech Republic
- consists of property which is predominantly located in the territory of the Czech Republic
- it administers immovable property situated in the territory of the Czech Republic
- its trustee or a person in a similar capacity is domiciled or has his/her registered office in the Czech Republic
- has a trustee (or a person in a similar position in relation to the property administered) which has established a business relationship in the Czech Republic or
- has a purpose to be achieved in the territory of the Czech Republic.

216. Thus, all foreign trusts that have a nexus with the Czech Republic have to be registered in the Register of Trust Funds, with the same details to be registered as for Czech trust funds (see above). There are four foreign trusts registered in the BOR (as of beginning of January 2023).

Tax Legislation

217. Trust funds themselves are considered taxpayers and are liable to corporate income tax with related registration and filing obligations as legal entities. The registration procedure requires the provision of the statutes of the trust fund and the annex to the registration form includes the information on settlors, trustees and beneficiaries. This information must be updated if changes occur (sec. 127, TPC). The same registration requirements apply to foreign trusts with a Czech trustee.

Beneficial ownership information

218. In addition to information available in the Register of Trust Funds, identity and beneficial ownership information on trust funds is also available with trustees, based on their AML obligations, and with the BOR. Moreover, as the trust deed is a public document that must be notarised, thus a notary is always engaged upon establishment of a trust fund in the Czech Republic.

219. From 1 January 2021, a new provision (sec. 2(1)(m) of the AML Act) came into effect which makes all professional trustees (or a person in a similar position in a trust or an entity having similar structure or functions as a trust under foreign legislation) obliged persons under the AML Act.

220. Under the AML Act, the following obliged persons may establish or manage a trust fund:

- legal professionals – Section 2(1)(g)(4) of the AML Act
- trust and company service providers – Section 2(1)(h)) and Section 2(1)(m) of the AML Act.

221. This means that all professional trustees in the Czech Republic are AML-obliged persons. For legal persons, the activity of trustee can be exercised only by investment companies (see paragraph 208).

222. There is also a new obligation (applicable from 1 January 2021) for Trust and Company Service Providers to register with the Trade Licensing Office.

223. Under the AML Act, the AML-obliged persons must *inter alia* identify beneficial owners of the trust funds for which they operate as a trustee or have business relationship with.

224. Pursuant to Section 12 of the BOR Act, the BOR records the details of the beneficial owners of trust funds and legal arrangements whose trustee is domiciled or has a branch in the territory of the Czech Republic, or outside the territory of an EU Member State and at the same time there is a close relationship between the legal arrangement and the territory of the Czech Republic (administration, immovable property, predominant location of the assets, objective to be achieved in the territory).

225. The registering persons are, in the case of trust funds, the trustee, or a person with a similar role in a foreign trust (sec. 2 lett. j). As seen for the case of companies, the registration can occur either proactively (by a motion to the court or a request to a notary) or through the automatic transcription.

226. As regards the definition of beneficial owner, the BOR Act does not provide a specific definition for trust funds. However, it establishes (sec. 6(3)) a presumption that the following natural persons are also the beneficial owners of a legal arrangement:

- its settlor
- its trustee
- a person entitled to exercise supervision over the legal arrangement and who can nominate or recall a trustee or a beneficiary (*protector*)
- its beneficiary(ies)

- a person within the circle of persons in whose main interest the legal arrangement was founded or is administered, if he/she isn't a beneficiary.

227. There is a look-through requirement (sec. 6(4)), so that if any of the subject listed above is a legal person, the beneficial owner of such legal person is irrefutably presumed to be a beneficial owner of the trust fund.

228. The definition of beneficial owner, in conjunction with the above specification, is in line with the standard, to the extent that any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership) would be captured by the general definition through the concept of “ultimate beneficiary” and of “person with the ultimate influence” (see paragraph 105).

Oversight and enforcement

229. Pursuant to the Act on Public Registers (sec. 118a), the provisions relating to registration of companies apply *mutatis mutandis* to the registration of trust funds. This also involves that the sanctions for non-compliance for trusts are the same as for companies (see paragraphs 91 and 92).

230. The competent Registrar court is the monitoring authority in respect of the Register of Trust Funds. Registrar courts carry out checks at the time of registration and ongoing checks after the trust fund is registered. For example, if the court becomes aware, in its official capacity, that there has been a change in the data, it will notify the registered trust fund of the discrepancy between the information registered and the facts. Courts carry out such checks on an ongoing basis, most often at the initiative of other public authorities or on the basis of public complaints. Alternatively, it may apply the sanction mechanism.

231. The tax authority (local office in Prague) is responsible for trust funds' registration and compliance with other obligations under the tax law. The same enforcement measures and sanctions apply to trust funds as in the case of other taxpayers (see details in Section A.2. – paragraph 271 and seq.). In the years 2019 to 2021, the tax authorities issued 4 128 fines for non-submitted corporate income tax return, however the available statistics show the overall number of fines not sorted out by the legal form of the affected taxpayers.

232. The following table provides the number of Czech trust funds and foreign trusts for which beneficial ownership information is registered in the BOR.

	A. Number of arrangements with information registered in the BOR	B. Total number of arrangements	Compliance rate
Trust funds	3 652	3 657	99.9%
Foreign trusts	4	4	100%

233. The enforcement measures carried out in respect of the obligations of the trustees under the AML Act are similar as described under section A.1.1. The same conclusion reached for companies (see paragraph 179) applies to trusts. Therefore, the Czech Republic **is recommended to strengthen the supervision and enforcement programme on the requirements of the BOR Act, to ensure that adequate, accurate and up-to-date beneficial ownership information is available for all trusts in line with the standard.**

Availability of trust information in EOIR practice

234. No EOI request received by the Czech Republic during the peer review period related to trusts.

A.1.5. Foundations

235. The Czech Republic allows for the creation of foundations, endowment funds and institutes, but these entities can only be established for certain specified beneficial purposes, cannot carry out business activities as their main activity and must register in Public Registers, which implies that the establishment requirements will be reviewed *a priori*. Therefore, considering the specific context of the Czech Republic, foundations, endowment funds and institutes are not relevant for purposes of the Peer Review.

236. Foundations and endowment funds are legal persons that consist of property assigned to social or economic beneficial purposes, either publicly beneficial or for charitable purposes. The profit of foundations can also benefit to named individuals or entities. Whereas for the foundations these purposes have to be permanent, endowment funds are considered as temporary. Czech Foundations and endowment funds are regulated by the Civil Code (sec. 306-401) and their legal existence begins upon registration in the Foundation Register (sec. 315(1) of the Civil Code) which is maintained by the registrar courts. Institutes are legal persons established to carry out socially or economically useful activities, while making use of their personal and material assets (sec. 402-418 of the Civil Code) The results of institute's activities must be equally available to anyone under certain previously defined conditions (sec. 402 of the Civil Code). The legal existence of an institute begins upon its registration in the Institute Registry.

237. The Czech Republic's legal and regulatory framework ensures the availability of information on foundations', endowment funds' and institutes' statutory bodies (founders, members of the board of directors, supervisory board and comptroller) and beneficiaries. Further details about the establishment, administration and legal requirements of foundations, endowment funds and institutes can be found in the 2015 Report (paragraphs 158-163).

238. Foundations, endowment funds and institutes must also register beneficial ownership information in the BOR. The Czech Republic indicated that information was available for 98% of them (2 437 of them were registered by June 2022).

Availability of information in EOIR practice

239. No EOI requests received by the Czech Republic during the peer review period related to foundations.

Other relevant entities and arrangements

240. In the Czech Republic, associations are legal person regulated by the Civil Code (sec. 214 et seq.). An association is a self-governing and voluntary group of members formed by at least three persons (both natural and legal persons may be members of the association) driven by a common interest (sec. 214). Considering the rules described below, the associations in the Czech Republic must pursue a non-profit principal activity and have no business purpose, they do not make distribution of profit to their members or founders and, although not subject to government approval, they must be registered in a Public Register. Therefore, and to that extent, the associations in the Czech Republic are not covered in the scope of the Terms of Reference for this peer review and only a brief overview of their functioning and identity information requirements is given here.

241. The primary activity of an association cannot involve business or other gainful activities. The Civil Code (sec. 217) indicates in this connection that in addition to the primary activity, an association may also pursue secondary economic activity consisting in business or other gainful activities, if their purpose is to support the primary activity or for the economical use of the association's property. Possible gainful activities within the core business include the organisation of amateur theatre performances, a summer camp or a firemen's ball.

242. Profits may only be used by the association for its activities, including its own administration. Czech authorities indicated that this implies that profits cannot be distributed among the members. An association statute may state that the eventual liquidation balance is to be distributed among

the members in a certain proportion. If the liquidation balance cannot be disposed of in the manner specified in the statutes, the liquidator must offer it to another association with a similar purpose.

243. An association is incorporated upon registration in a Public Register (sec. 226 of the Civil Code), namely the Register of Associations. Afterwards, membership in the association may be triggered by being accepted as a member or otherwise as provided by the articles of association (sec. 233).

244. Associations were obliged to bring their registration status into compliance with the requirements of the Registration Act by 1 January 2017. As of November 2021 there were 44 546 associations which have been attributed the inactivity status out of 101 135 associations.⁴⁸

245. Associations are also covered by the requirements to keep and submit their beneficial ownership information described in paragraph 114. The definition of the beneficial owner of an association includes the natural persons who are its founders, and its director or members of its administrative board, or any other natural person in an equivalent position (Section 6(2) of the BOR Act). If these persons are legal persons, their beneficial owners must be identified as the beneficial owners of the association (Section 6(4), BOR Act).

246. No EOI requests received by the Czech Republic during the peer review period related to associations.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

247. The 2015 Report concluded that all relevant Czech entities, as well as foreign entities involved in business activities in the Czech Republic, were required to keep accounting records that correctly explain the entity's transactions, enable it to determine the entity's financial position with reasonable accuracy at any time and allow financial statements to be prepared. There was also a sound control and enforcement system in place. The legal and regulatory framework was considered to be in place and the Czech Republic was rated as Compliant with the standard.

248. This remains the case in the current review. The Czech Republic regularly exchanges accounting information with its EOIR partners, which are generally satisfied with the responses provided by the Czech Republic. No issue was identified in practice.

48. Data is from Czech information system of public registers.

249. The conclusions remain as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of the Czech Republic in relation to the availability of accounting information.

Practical implementation of the Standard: Compliant

The availability of accounting information in the Czech Republic is effective.

A.2.1. General requirements

250. The standard is met by the requirements under the laws governing the relevant types of entities and in the accounting law, complemented by provisions in the tax law and in the AML law. The various legal regimes and their implementation in practice are summarised below.

251. The main obligations to keep accounting records are stipulated in the Accounting Act and related regulations.

252. As noted in the 2015 Report (para. 177), all legal entities, including companies and partnerships having their “seat” (i.e. the registered office) in the Czech Republic as well as all foreign persons carrying out business or other regulated activities in the Czech Republic and trustees acting in a professional capacity are subject to the Accounting Act (sec. 1(2)). Czech accounting law also applies to all foreign partnerships with branches in the Czech Republic and foreign companies which are resident for tax purposes based on the place of effective management, due to the requirement within Czech tax law to provide financial statements in accordance with Czech accounting standards.

253. The Accounting Act states that an “accounting entity”⁴⁹ has to keep accounting records that show the position of, and movements in, their assets, liabilities, equity, as well as costs (expenditures) and revenues, and their profits and losses (trading result) (sec. 2). Further, it has to keep accounting records in a manner which will enable it to draw up financial statements giving a true and fair view of its financial position (sec. 7). Accounting records have to be complete, i.e. record all relevant transactions (sec. 8(3)) and properly documented (sec. 8(4)). For all accounting entities,

49. “Accounting entities” include all legal Czech entities, all foreign persons with business activities in the Czech Republic, i.e. branches of foreign entities, sole proprietors and other entities with a statutory obligation to apply accounting (Accounting Act, sec. 1(2)).

accounting systems must allow preparation of financial statements which include, as a minimum, a balance sheet, profit and loss account as well as notes explaining and supplementing the information contained in the aforementioned financial statements (sec. 18). The accounting entity must also keep depreciation plans, inventory lists, etc. (sec. 31(2)(b)).

254. In the Public Register, the collections of documents that the registrar courts maintain (sec. 66 and 72 of the Act of Public Registers, see paragraph 63) include:

- the annual reports, ordinary, extraordinary, and consolidated final accounts if they do not form a part of the annual report, if the obligation of their filing in the collection of documents is stipulated by the Accounting Act, i.e. if the company must have its financial statements audited (sec. 21(1)(a) – see paragraph 283)
- if their drawing up is required by another Act, the profit sharing or loss settlement proposal and its final form if it is not a part of the final accounts
- the auditor's report on the examination of the final accounts.

255. Obligations under the accounting law and regulations are supplemented by obligations in the tax law. The Income Tax Act requires taxpayers to keep records evidencing income and expenses as well as assets and liabilities in line with the Accounting Act. Certain accounting documentation (documentary evidence) is also required to be kept under the Value Added Tax Act.

256. As noted in the 2015 Report (paragraphs 71 and 189) for accounting entities the annual financial statement (or Summaries of Assets and Liabilities and of Income and Expenditure) and their annexes are an integral part of the Czech tax return.

257. A recent amendment to the Accounting Law (sec. 21(b)) allows, on an optional basis and for tax returns filed from 2022 onwards, corporations to fulfil the requirements of filing their financial statements to the Public Register and to the Tax Administration by filing them only with the latter, i.e. with the competent tax office. The tax office then transmits the financial statements, “without undue delay”, to the competent registrar court, in electronic form through the interconnection of public administration information systems. Some formal checks are carried out by the tax office before sending the financial statements to the competent registrar court, in particular to ensure that the statements are “in the format, structure and under the conditions established in the TPC” (sec. 21b(3) a) and (5)). These conditions are set in the format prescribed for the income tax return form and its attachments.

258. Documentation of the relevant transactions undertaken within a business relationship must also be kept by AML-obliged persons primarily based on the AML Act. AML-obliged persons must determine the potential ML/FT risk based on the type of customer, business relationship, product or transaction, which in some cases may involve obtaining accounting records of the customer.

259. The AML Act qualifies trustees (of domestic and foreign trusts) as AML-obliged persons (see paragraph 86 and 218), so that the accounting records are kept by the trustees for all domestic trust funds and foreign trusts with a trustee in Czech Republic. In addition, trusts are accounting entities pursuant to the Accounting Act (sec. 1)2)i), and the trustee is responsible for keeping the accounts of the trusts including the preparation of the financial statements (sec. 4a). Trusts are also subject to corporate income tax in the Czech Republic (section 17(1) letter f) of the ITA) and thus subject to the tax requirements.

Companies that ceased to exist, relocating abroad and retention period

260. Data in the Public Register, including annual financial statements and their annexes, is kept indefinitely and remains publicly accessible (see paragraph 69 above).

261. The accounting law requires that all Czech accounting entities keep their annual financial statements as well as annual reports for a period of ten years. Other accounting records, including vouchers and other underlying documentation, must be kept for a period of five years (Accounting Act, sec. 31). For details, see the 2015 Report (paragraphs 193 to 195). In the case where a company has ceased to exist, the availability of the accounting information is required as the obligations connected with the retention of the accounting records pass from the accounting entities to the legal successor, liquidator, insolvency administrator or another person pursuant other legal provisions (Accounting Act, sec. 31(3)).

262. Czech authorities explained that generally all companies are dissolved through liquidation. Only companies that do not have any assets or obligations (therefore also very limited of any accounting events and documents) can be dissolved without liquidation. When liquidating a company, the liquidator is obliged to contact the relevant State Archive and provide to it a selection of archival documents outside the shredding proceedings (documents to be selected are listed in Annex 1 of Act on Archives). The State Archive must decide on the documents to be taken over by the State Archive and determine how to deal with the documents not selected as archival material. In practice, the requirement to keep the documents will usually pass to the liquidator of the dissolved company so that the selected

accounting records are transferred to the State Archive for safekeeping, whereas the remaining accounting records and underlying documents have to be kept by the liquidator.

263. The relocation of Czech business companies and co-operatives abroad is possible only within in the framework of the EU under the Act on cross-border conversions, mergers and divisions of business corporations and co-operatives. Czech companies which are to be converted, merged or divided prepare financial statements as part of the cross-border conversion (merger or division) project. The Accounting Act (sec. 31) stipulates that the requirements related to retention of accounting records are transferred to the “legal successor”, which in the case of a transformation is the successor legal entity.⁵⁰ It is questionable however whether a cross-border transformation fits in the framework of a legal succession pursuant to the Czech Civil Code, especially in case the successor company will be a foreign entity (an entity established in another EU Member State). In such a case, the Czech law does not specifically require to retain the accounting records in Czech Republic after the transformation. In practice, in the event of a relocation of a company from the Czech Republic to another EU Member State as part of a transformation, only the information that is stored in the Public Register or with the Tax Administration (usually the financial statements) will be available. The Czech authorities assure that these events are of limited frequency. The information would be available in another EU Member States, where accounting requirements are in place. The Czech Republic should ensure the availability of accounting information, including underlying documentation, for a period of at least five years, for companies that undergo a cross-border conversion, merger or division (see Annex 1).

264. Accounting information is never deleted from the Czech Public Registers.

265. Due to the statute of limitations in Czech tax law, accounting information relevant for tax purposes has to be kept for a minimum of three years and three months after the end of the tax period (sec. 148(1) and 136(1) TPC) unless the tax for the year in question is subject to tax proceedings (sec. 14(2) et seq.). To the extent this information is also required to be kept in accordance with provisions of the Accounting Act, it has to be maintained for at least five years.

266. Finally, where Czech AML legislation requires obliged persons to keep records and documents of transactions, these have to be kept for ten years (sec. 16(2)).

50. Sec. 176 of the Civil Code provides that in the event of a transformation, the “decisive date” of the transformation is the date in which the acts of the terminating legal person, for accounting purposes, are considered to be made on the account of the successor legal person.

A.2.2. Underlying documentation

267. The 2015 Report (paragraph 191) noted that Czech accounting law requires all accounting entities to base their accounting records on underlying accounting vouchers (Accounting Act, sec. 6(1)). These vouchers are documents that have to be dated and include information on the content of the underlying transaction, the parties involved, the amount of the transaction and date issued (sec. 11(1)).

268. There is no explicit requirement within the Czech accounting law to keep copies of original invoices, contracts, etc., but the Czech accounting law states that an accounting entity must be able to prove each event or transaction for which there has to be an accounting record (sec. 33a(1)). The Czech authorities advised that this requires keeping originals of documents underlying the transaction or event, such as invoices and contracts. Furthermore, the Act states that an accounting entity can use payroll lists (wage sheets), documents used for tax purposes (such as invoices) and other documents pursuant to other statutory provisions as its accounting records (sec. 32(2)); in which case these documents have to be kept for a minimum of five years.

269. The Czech tax law requires that relevant entities keep evidence providing information regarding income and expenses as well as assets and liabilities. This generally requires such entities to keep underlying copies of original documents, including invoices and contracts (see the 2015 Report, para. 192).

270. Further, Czech AML legislation requires AML-obliged persons to keep underlying documentation for transactions that exceed EUR 1 000 and all transactions conducted within a business relationship.

Oversight and enforcement of requirements to maintain accounting records

271. The obligations to keep accounting records under the Accounting Act and the tax law are primarily controlled and enforced by the Tax Administration.

272. In general, for tax controls the Tax Administration adopts a risk-based approach, attributing a risk level calculated from risk models. The risk level is used for setting priorities and determining the order in which the taxpayers are checked. Low-risk taxpayers are selected for “desk audit”, using standard indicators and using local knowledge of the taxpayer.

273. The tax control activities carried out by the Czech Tax Administration can be divided into:

- tax audits, typically involving on-site controls. These can span over several weeks and involve a detailed analysis of the taxpayer’s tax position and of its records. Tax audits are the most intensive tool to verify taxpayers’ compliance with tax obligations

- local investigations (desk audits), typically focused on specific aspects of the taxpayer's tax obligations
- information gathering, instrumental for tax investigations
- checks on claims, typically desk based, to substantiate its claims made in tax return ("Procedures to eliminate doubts").

274. The table below reports the activities carried out in the four calendar years 2018 to 2021 towards entities subject to corporate income tax:

Tax year	Tax audits	Other tax controls	
		(local investigations, information gathering)	Procedures to eliminate doubts
2018	2 147	3 645	1 516
2019	2 007	4 960	1 340
2020	1 292	3 029	942
2021	1 178	4 750	1 084

275. The Tax Administration uses various measures to verify the compliance with accounting and other record keeping obligations, including filing obligations (in particular tax return filing obligation for corporate income tax that requires certain accounting information to be provided to the tax authority); requests for further information; tax audits, other tax controls (e.g. for Value Added Tax purposes) and local investigations.

276. In 2020, the filing rate for the corporate income tax return was 75% and sanctions were issued in cases of no or late filing. The following table provides the number of sanctions issued for non-submission or delayed submission of corporate income tax returns for the years 2018 to 2020.

Type of infraction		2018	2019	2020
Non-submission or delayed submission of corporate income tax returns	No. of cases	291 802	248 281	357 148
	Total amount of sanctions (CZK)	443 112 423	394 820 474	978 880 112
	EUR equivalent	17 976 163	16 017 058	39 711 161

277. The data for 2020 consists in part of remitted sanctions which were never enforced. Czech authorities indicated that the year 2020 was influenced by the Covid-19 pandemic and related special measures taken by the Ministry of Finance. Based on a special measure, taxpayers were allowed to submit tax returns and pay taxes at a later date without repercussion (by 18 August 2020 instead of 1 April 2020). However, the deadlines set by law

remained unchanged and the Tax Administration had to issue sanctions for late submission, but later remitted (pardoned) them if the taxpayer filed tax returns by the postponed deadline. If they did not, the sanctions were calculated from the original (lawful) deadline and enforced. Czech authorities did not provide statistics about the actual collection of sanctions for non-submission or delayed submission of corporate income tax returns.

278. If a taxpayer fails to submit a tax return, the Tax Administration can assess the taxpayer's tax based on available information regarding the business operations of the taxpayer. This possibility serves as a deterrent for the taxpayer as the taxpayer typically wants to avoid being assessed based on the tax authority's own conclusion.

279. Over the last years, the number of tax audits carried out was 2 147 in 2018, 2 007 in 2019, 1 292 in 2020 and 1 178 in 2021. The application of sanctions applied by the Czech Tax Administration are recorded per type of legal provision applied and not per type of specific misconduct. The relevant sanctions applied for the four years 2018 to 2021 are reported in the table below.

Type of infraction		2018	2019	2020	2021
Non-compliance with registration, notification or other reporting obligation set by tax laws or tax administrator	No. of cases	221	326	949	536
	Total amount of sanctions (CZK)	1 299 900	1 586 300	3 085 400	2 007 500
	EUR equivalent	52 734	64 353	125 168	81 440
Non-compliance with record keeping of other evidentiary obligation set by tax laws or tax administrator	No. of cases	1	5	4	2
	Total amount of sanctions (CZK)	5 000	16 000	20 000	16 000
	EUR equivalent	203	649	811	649
Not removing imperfections of submissions (base amount of CZK 2 000 until 31 December 2020 and of CZK 1 000 from 1 January 2021)	No. of cases	2 158	783	356	272
	Total amount of sanctions (CZK)	4 316 000	1 566 000	712 000	278 000
	EUR equivalent	175 091	63 529	28 884	11 278
Not removing imperfections of submissions (increased up to CZK 50 000 in cases when this inaction severely hinders the administration of taxes)	No. of cases	15	12	3	9
	Total amount of sanctions (CZK)	30 000	24 000	8 000	9 000
	EUR equivalent	1 217	974	325	365
Sanctions imposed on legal persons for breach of obligations arising from the Accounting Act	No. of cases	186	403	216	469
	Total amount of sanctions (CZK)	4 542 394	5 027 286	1 968 861	4 891 112
	EUR equivalent	184 276	203 947	79 873	198 422

280. It results that, both in terms of number of cases and in terms of monetary amounts, the great majority of sanctions are related to the obligations to file the corporate income tax returns. This also resulted in the large increase in the application of sanctions that occurred in 2020. Also sanctions related to requirement under the Accounting Act play a significant role, at least in terms of number of sanctions applied, whereas the amount of the penalties is limited (EUR 523 on average over the four years).

281. In accordance with the Accounting Act, sanctions are specifically applicable in case of failure to keep accounting records within the statutory period. Failure to keep accounting records in accordance with the Accounting Act is considered an administrative infraction, for which a fine up to 3% of the total assets' value may be imposed. The administrative fine is imposed directly by the Tax Administration. In the four years from 2018 to 2021 the Tax Administration imposed sanctions on 1 274 legal persons on the basis of breach of obligations arising from the Accounting Act, for a total amount of CZK 16 429 653 (EUR 666 518).

282. In addition to sanctions directly targeting failure to keep accounting in accordance with the Accounting Act, there are tax consequences for a taxpayer that fails to bear the burden of proof and substantiate its tax base. In severe cases, these failures can lead to criminal penalties under sections 240 (tax evasion) or 254 (misrepresenting economic affairs and wealth) and others of the Criminal Code. The overall number of criminal complaints filed by the Tax Administration (not necessarily related to failure to keep accounting in accordance with the Accounting Act) is reported below.

Number of criminal complaints filed by the Tax Administration	2018	2019	2020	2021
under para. 240 of the Criminal Code	2 088	1 159	904	734
under para. 254 of the Criminal Code (para. 241 in 2018)	445	122	85	46

283. Accounting records are compulsorily verified by an accounting auditor in cases stipulated by the Accounting Law (sec. 20(1)(a)).⁵¹ The purpose is to verify that the financial statements give a true and fair view of the subject matter of the accounts in accordance with the law and financial reporting. Finally, some checks are also carried out by the registrar courts,

51. If at least two out of the three requirements reported below are met for a period of two consecutive years: net turnover exceeds CZK 80 million (circa EUR 3.2 million); balance sheet total amount exceeds CZK 40 million (circa EUR 1.6 million); and the average number of employees exceeds 50 persons.

tasked to ensure that auditors' reports are duly notified and entered in the Public Register. Czech authorities reported that the number of entities required to have their accounts compulsorily verified in the years 2018 to 2021 was about 18 400, or about 3.2% of the entities subject to corporate income tax.

284. Considering the results of the oversight and enforcement activity carried out by the Tax Administration, the implementation of the accounting record keeping obligations and of the corresponding enforcement measures in the case of breach of these obligations appears appropriate.

Availability of accounting information in EOIR practice

285. During the peer review period, the Czech Republic received 88 requests for accounting information, such as information on commercial transactions, assets held, and payments received by the legal entity and transfer pricing information. Peers were generally satisfied with the responses provided by the Czech Republic and no problems in practice were identified.

A.3. Banking information

Banking information and beneficial ownership information should be available for all account holders.

286. The 2015 Report concluded that banking information was available in the Czech Republic for all account holders thanks to the customer identification obligations and record keeping obligations applicable on all transactions. The report noted, however, that while the opening of bearer passbooks was prohibited since 2002, some pre-existing passbooks were still in existence and identity information on their holders would not be available unless a withdrawal took place. The Czech Republic was therefore recommended to strengthen measures so that information on the holders of bearer passbooks was available to its Competent Authority. On the practical implementation of the standard, the 2015 Report observed that compliance by banks with their relevant legal obligations was supervised by the CNB as well as the FAO, ensuring that banks kept the required information on their clients and transactions. The legal and regulatory framework was considered to be in place but certain aspects of the legal implementation of the element needed improvement and the Czech Republic was rated as Largely Compliant with the standard.

287. It remains the case in the current report that banking information was available in the Czech Republic for all account holders, and as of 31 December 2016, all bearer passbooks in the Czech Republic have been cancelled. The pre-existing recommendation has therefore been removed.

288. The standard was strengthened in 2016 to introduce the obligation of availability of beneficial ownership information (not reviewed in the 2015 Report). The Czech Republic covers this requirement through the AML requirements.

289. In practice, the Czech Republic regularly exchange banking information with its EOIR partners.

290. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of the Czech Republic in relation to the availability of banking information.

Practical implementation of the Standard: Compliant

No issues have been identified in the implementation of the existing legal framework on the availability of banking information.

A.3.1. Record-keeping requirements

Availability of banking information

End of the legacy issue of anonymous savings books

291. Czech law prohibits anonymous accounts (sec. 41c (3) and (4) of the Act on Banks) and anonymous savings books (sec. 41c(3) and (4) of the Act on Banks and sec. 2676 of the Civil Code). Further, according to the AML law (sec. 7(2)(c)) an entry into business relationship is subject to identification. This was noted in the 2015 Report (paragraph 204) and continues to be the case.

292. In relation to anonymous savings books (bearer passbooks), the 2015 Report reported (paragraph 205), however, that they were once allowed in the Czech Republic and abolished in December 2002 by way of amendment of the Act on Banks. This amendment established that only withdrawals, but no deposits, could be made on these passbooks, unless they were re-issued as bank books in nominative form. Further, when a withdrawal was made, the banks were required to identify the customer (current sec. 7(2)(c) of the AML Act). Also, after 2012, banks were no longer obliged to honour the bearer passbooks, but were neither prohibited to do so. As approximately CZK 1.6 billion (EUR 65 million), distributed over 249 million passbooks, were still outstanding in August 2014, the 2015 Report recommended the Czech Republic to strengthen the measures already put in place so that information on the owners of these passbooks was available.

293. As of 31 December 2016, the validity of all bearer passbooks in the Czech Republic has been cancelled. Between 2002 and 2016, clients had withdrawn more than 98% of funds from bearer passbooks whereas all non-withdrawn deposits, amounting to about CZK 1.5 billion (EUR 61 million), were irrevocably transferred to the “Depositum Bonum” foundation founded in 2013 by the bank Česká Spořitelna (that in practice the only bank that had issued bearer passbooks due to the market structure during socialism). This foundation applies such resources exclusively for purposes of financing science, research and education. The recommendation is considered therefore addressed following the termination of the bearer passbooks.

Identification of all clients

294. All banks are subject to the Czech AML Act (sec. 2(1)(a) and (b)). Accordingly, they must identify their customers prior to establishing business relationships with, or carrying out transactions for, the customers (sec. 8 and 9).

295. The CDD measures to be undertaken include the identification of the customers and verification of their identity as well as ongoing monitoring of the business relationship, including ensuring that the information held on the customer is kept up to date (sec. 8(6)). All data and documents gathered when identifying customers and performing CDD (including all information and documents obtained throughout the relationship, amongst other with regard to individual transactions) have to be kept for a minimum of ten years after termination of a business relationship or after the execution of a transaction made outside a business relationship (sec. 16(2)).

296. Identification by a substitute (third-party reliance and outsourcing) is described in section 11 of AML Act.

- The bank may decide to rely on a third party for undertaking certain specified aspects of CDD, if these were undertaken by a (Czech) credit or financial institution or by a foreign credit or financial institution operating within the territory of a state applying similar obligations of customer identification, due diligence and record keeping and requiring obligatory professional licences. The foreign credit or financial institution must also be subject to supervision including control of compliance with these conditions, including the possibility to check individual transactions and of on-site visits.
- The bank may also outsource some parts of CDD to another person acting on its behalf and bound by its internal rules and procedures.

297. In any case, the relying bank remains responsible for compliance with the applicable CDD obligations as if it carried them out itself (see paragraph 149).

298. The identification of a natural person (customer or acting on behalf of a customer) can be done by means of electronic identification (sec. 8a and 11 of the AML Act) complying with the rules established by the relevant EU regulation, including a qualified electronic signature, or by the Czech Bank Act. These electronic procedures do not appear to pose a risk to the identification of a customer under the standard.

299. The retention period provided under the AML Act is 10 years after having terminated the relationship with the customer or after a transaction outside of a business relationship is undertaken. Czech authorities indicated that based on the AML/CFT Act and the Act on Banks the obligation to retain information would apply also in case a Bank ceases to exist or its branch ceases to operate in the Czech Republic. As parts of the duties of the liquidators, the bank or branch before its dissolution has to ensure to put in place arrangements for the maintenance of the information subject to record-keeping requirements in appropriate archives.

300. The AML Act (sec. 44) imposes penalties on banks that fail to comply with their CDD and record keeping requirements. Banks that fail to conduct appropriate CDD commit an administrative offence and are liable to a fine of up to CZK 10 million (about EUR 360 000). Furthermore, if the offence is committed under serious circumstances, repeatedly, or systematically, it may be fined with:

- up to twice the value of the unlawfully gained proceeds, up to CZK 130 million (about EUR 5.3 million) or up to 10% of the net annual turnover according to the last regular financial statements, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person
- up to twice the value of the unlawfully gained proceeds, up to CZK 130 million (about EUR 5.3 million), or up to 10% of the net annual turnover of the perpetrator according to the last consolidated financial statements of a consolidated entity the perpetrator is a member of, whichever is higher, should the perpetrator be a credit or a financial institution which is a legal person incorporated in a consolidated entity
- a prohibition of business activity
- publication of the respective decision on administrative offence.

Financial and transactional information

301. Czech banks and Czech branches of foreign banks are also subject to the Accounting Act (pursuant to sec. 21(1) Banking Act), as noted in the 2015 Report (paragraph 209). Banks must therefore keep accounting information as described in Section A.2 above. Further, this legislation requires banks to keep separate records in their accounts of transactions made for a client's account and keep these records for a period of ten years (sec. 21(2) Banking Act). Non-compliance can be sanctioned with fines of up to CZK 50 000 000 (about EUR 1 800 000) (sec. 36e(4)(c)).

302. Finally, payment system institutions and investment firms are required to maintain documents and records pertaining to transactions and services rendered to customer for a minimum of five years (sec. 28(1) of the Payment Systems Act and sec. 17 of the Capital Market Undertakings Act). Non-compliance can be sanctioned with CZK 10 000 000 (about EUR 360 000) and CZK 20 000 000 (about EUR 722 000) respectively (sec. 125 of the Payment System Act and sec. 157 of the Capital Markets Undertakings Act).

303. Act no. 300/2016 established as of 21 September 2016 the Central Register of Accounts. This register provides a centralised access to information on client accounts maintained by credit institutions in the Czech Republic (including any domestic bank and any foreign bank operating in the Czech Republic via its branch). The Register is administered by the CNB. The information that banks (and other institutions) are required to provide to the Central Register of Accounts, including their changes or updates within a working day (sec. 5), comprises (sec. 4):

- identification data of the institution maintaining the account
- the opening day and the date of closure (where applicable) of the account
- the account number and International Bank Account Number (IBAN, if issued)
- identification data of the client maintained by the institution:
 - legal persons or natural persons who are an entrepreneur: name, including its appendices or other identification features, business identification number, standardised Legal Entity Identifier or similar business identification number given under foreign law (where appropriate), and person's registered office
 - natural persons: all names and surnames used in connection with the account, date of birth, birth identification number (if issued), permanent residence and, where appropriate, an address for service

- trust funds (i.e. account established for the purpose of holding assets for a trust fund or any other similar legal arrangement governed by foreign law): appropriate identification of the arrangement and identification data of its trustee, administrator or any person in a similar position
- identification data of the client's beneficial owner(s) (see below) with same information as for individuals above, if such data are held by the institution maintaining the account⁵²
- the date of establishment and the date of termination of an authorisation of persons authorised to dispose of assets on the account.

304. Information on transactions and balances is not reported in the Central Register of Accounts. However, authorised persons (including the Tax Administration) may request this information directly from the bank. Specified state authorities, including the Tax Administration (sec. 6(1)c)), can request information from the Register. Access to the information in the Register is described in para. 336 (Section B.1). The retention period for information in the Central Register of Accounts is of ten years after the account was closed (sec. 10(2)a).

Beneficial ownership information on account holders

305. The standard was strengthened in 2016 to specifically require that beneficial ownership information be available in respect of all account holders.

306. As seen under Section A.1 (paragraph 139 et seq., 197 and 226), the CDD process includes the identification and verification of identity of the beneficial owner(s) of clients, including measures to verify their identity from reliable sources (for customers that are legal persons or arrangements) (sec. 9(2) of the AML Act). In the case of a client which is a foreign legal entity or arrangement, the banks apply the same definition of beneficial owners, after determining in which category, between legal entity and legal arrangement, this client falls.

307. If the customer must register in the BOR, the bank always verifies the beneficial owner at least from this register and from another reliable source. As part of the CDD, if the customer is a legal person or a trust fund,

52. Czech authorities explained that “if such data are held by the institution maintaining the account” refers to situations where the bank does not hold beneficial ownership information on a bank account, in addition to the information of account holder, for instance if the client is a natural person who is not acting on behalf of another person.

the bank has to verify its entire ownership and control structure (sec. 9(2)c of the AML Act).

308. Pursuant to the Czech AML Act (sec. 8 and 9) and the CNB AML Decree (art. 7(2)), all identification and CDD information must be regularly updated, based on the customer's risk profile (see paragraphs 139-148 above). In case of a customer that is a legal entity or legal arrangement, beneficial ownership information is a required part of the CDD information to be updated if there are doubts about the veracity or accuracy of information obtained (art. 10(1)). The CNB AML Decree also requires banks to implement and apply procedures regarding the performance of CDD, in particular the scope and frequency of the measures taken (art. 8(2)).

309. In practice, CNB representatives indicated that supervision activities require certain standards for the internal AML policy of AML-obliged persons, and in particular a benchmark (maximum tolerance) for the frequency of CDD updates consisting of one, three and five years respectively for the cases of enhanced, ordinary and simplified CDD. This benchmark is communicated by the CNB to each bank in the framework of its supervisory activities. The CNB collects information from all banks with a yearly report that includes data on their renewal intervals for CDD information and remedial measures are requested in case of unjustified deviations from the CNB benchmark.⁵³

310. This approach was generally confirmed from the interviews carried out during the on-site visit. In just one case the representative of one of the major banks reported that its bank's internal policy minimum frequency of CDD update for low-risk clients was seven years, but the data reported is the bank's yearly report to the CNB confirmed the benchmark required by the CNB. While it appears that the policy, as reflected in the supervisory activities, by the CNB ensures a specified frequency for CDD information updates by banks. Nevertheless, since there is no explicit guidance in any binding text on the frequency of ongoing CDD, the Czech Republic should clarify in the legal or regulatory framework the rules for updating the information obtained by banks during the CDD process (see Annex 1).

53. Examples of justified deviations where a one-four-six-year or a two-three-eight-year frequency for CDD information updates that were considered adequate for banks that held less than 0.01% of customers legal persons. Czech authorities explained that these cases are related to building saving institutions which only provide mortgages or house-related savings account, with long-term and low-risk mainly connected with natural persons.

Oversight and enforcement

311. The CNB is responsible for the general supervision of banks' compliance with the relevant record-keeping obligations, including AML obligations. In addition, AML obligations are supervised also by the FAO, which closely co-operates with the CNB. Both authorities indicated they carry out regularly controlling activities, informed by risk analysis, focused on banks compliance with their AML and other record keeping obligations. The CNB and the FAO are in regular contact with banks through meetings, seminars or consultations to ensure appropriate implementation of the regulatory framework.

312. The CNB collects annual returns from all banks and uses a set of supervisory tools, many of which also include checks on the gathering of customer data and the identification of the beneficial owners of the clients. There are in particular on-site (full-scope) inspections, off-site inspections, horizontal reviews, requirements to undertake an external audit, reviews of internal audit reports and other controls ("deep-dives" and reviews of procedures), based on a risk-based approach to supervision. Czech authorities indicated that with a limited number of reasoned exemptions (such as no factual activity) all banks were subject to an on-site inspection in the past seven years, whereas banks presenting a high or medium-high risk undergo a much higher frequency (every two or three years) full scope on-site inspections, often followed by an on-site follow-up inspection. The CNB has the power to request any information and document to banks depending on the case (internal procedures, internal control documents, information on specific types of customers, information on a specific customer, etc.).

313. In an AML on-site inspection the CNB verifies compliance with the obligation to keep and maintain updated all records pertaining to the accounts, as well as to related financial and transactional information, including information on beneficial owners of their clients. If during an on-site inspection non-compliance with the obligation to keep banking information is found, the CNB orders the bank to remedy this deficiency, and in the event of a more serious misconduct, it imposes a fine.

314. After every inspection (or other type of control where a deficiency identified) an action plan is drafted and monitored by the CNB. The incidence of the follow-up depends on the institution and the findings. The CNB undertakes range of follow up measures spanning from off-site reviews, meetings with the relevant staff to on-site follow-up inspections.

315. Seven AML on-site inspections of banks were carried out by the CNB in the period 2019-21 (out of 44 banks as at the end of the current review period, see paragraph 31). Six on-site inspections highlighted deficiencies in the implementation of the obligation to keep and maintain

updated all records pertaining to the accounts (including, in some cases, information on beneficial owners). In all these cases, the CNB indicated that the banks involved have swiftly drawn up action plans to remedy the deficiencies identified and took steps to address such deficiencies. In addition, fines were imposed in the case of two banks as a result of the on-site inspections. The CNB indicated that the fines were imposed cumulatively for several deficiencies, but it cannot be determined the amount of the fine for the breach of CDD obligations.

316. In addition to on-site inspection, the CNB carry out offsite inspections on an ongoing basis, during which potential deficiency can be identified. The CNB representatives indicated during the onsite visit that the offsite inspections did not result in the identification of deficiency in respect of obligations on beneficial ownership information.

317. The CNB can also request external auditors to review specific parts of the internal AML procedures of the banks. Czech authorities reported that external auditors have reviewed 16 banks for 2021 for the full scope AML/CFT obligations, including beneficial ownership obligations, with no serious or systemic shortcomings were identified in this respect.

318. The FAO also carries out checks on bank's internal procedures and when deficiencies are identified it provides a deadline for their removal. In particular, the FAO carried out the following control on internal procedures of banks in the most recent years: 32 in 2020, 38 in 2021 and 17 in 2022.

Availability of banking information in EOIR practice

319. During the peer review period, the Czech Republic received 148 requests for banking information. The peers who provided input in the framework of the present review referred about a total of 49 requests for banking information (e.g. bank statements, account opening and/or closure date, account holder(s), person who is authorised to operate the bank accounts) sent to the Czech Republic, in relation to which they reported satisfactory responses for the great majority of cases. Only one peer reported one unsatisfactory response. After the explanations from the Czech authorities, the problem resulted not linked to the inability or unwillingness of the bank to provide the information, but rather to the fact that the Competent Authority erroneously omitted to include some of the questions in the standard templates that is uses for requesting the information from the banks. The requested information was eventually provided by the Czech Republic (see paragraph 467).

Part B: Access to information

320. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards are compatible with effective EOI.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

321. The 2015 Report observed that the Czech Tax Administration has broad powers to access information relevant for its tasks, from any person and from public authorities, that can be applied for the purpose of answering EOI requests, including in cases where it does not have an interest in the information for Czech tax purposes. The report noted, however, that the scope of information subject to the professional privilege for lawyers and tax advisors was very broad and went beyond the standard. As this could have limited the access to the information a recommendation was made.

322. In the current report, it is noted that for the powers of the Competent Authorities have remained the same for the substantial part and broadened with the power to access, for EOIR purposes only, information gathered pursuant to AML obligations by all AML-obliged persons.

323. Due to this extension of the access powers to information held by AML-obliged persons for AML purposes, the materiality of the issue appears to be rather limited in practice. Therefore, the recommendation issued in the 2015 Report is removed, while the Czech Republic should monitor the scope of professional privilege in relation to EOI to ensure it is consistent with the standard.

324. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the legislation of the Czech Republic in relation to access powers of the Competent Authority.

Practical implementation of the Standard: Compliant

No issues in the implementation of access powers have been identified that would affect EOIR in practice

B.1.1 and B.1.2 Ownership, identity, accounting and banking information

Accessing information generally

325. The Minister of Finance (Ministry of Finance) is the designated Competent Authority for exchanging information for tax purposes under all Czech Republic's EOI instruments. The General Financial Directorate (central body of the Tax Administration) is authorised pursuant to section 6 of the Act on International Co-operation in Tax Administration and on the Amendment of Certain Related Acts (EOI Act), to act as a Central Liaison Office, i.e. as Competent Authority by delegation.

326. Within the General Financial Directorate, the powers to exchange information on direct tax matters (including income taxes) are further delegated to the Direct Taxes International Co-operation Unit (DLO), which thus carries out the functions of EOI Unit. The DLO acts in conjunction with 14 regional Financial Offices (plus a Specialised Tax Office for large taxpayers) of the General Financial Directorate. In most cases, the DLO requests to the regional offices and their local branches to gather the information requested in the context of EOIR. Eight regional offices are also authorised to conduct direct international co-operation with Germany and the Slovak Republic.⁵⁴

54. Exchange of information in the border regions with Germany and Slovak Republic is handled directly by eight regional tax offices and their local offices, authorised for this at domestic level. Cross-border co-operation is based on the respective Memoranda of Understanding with Germany and the Slovak Republic. For cross-border co-operation with Germany the appointed offices are offices for regions Jihočesky, Plzeňský, Karlovarský, Ústecký, Liberecký; for cross border co-operation with Slovakia the appointed offices are offices for regions Jihomoravský, Zlínský, Moravskoslezský.

327. The Tax Administration keeps information on taxpayers, such as information reported in tax returns. The TPC also provides broad powers to the Tax Administration to obtain a wide variety of information for domestic tax purposes. These access powers can also be used for EOIR purpose without any special administrative, judicial or other procedure (see paragraph 341), regardless of whether the information is gathered for civil or criminal tax matters.

328. A description of the general access powers of the Tax Administration (paragraph 79 of the TPC and following) is made in the 2015 Report (paragraph 223 et seq.). Although these powers have not substantially changed meanwhile, they have been broadened by the introduction of paragraph 57a of the TPC. This new provision enables the Tax Administration to access, for EOIR purposes only, information gathered pursuant to AML obligations from all AML-obliged persons, including from legal professionals such as lawyers and tax advisors.⁵⁵ The Central Register of Accounts which has been set up since the 2015 Report (see paragraph 303) also facilitates the process of gathering banking information (see below Accessing banking information).

329. During the period under review, the most commonly used powers for EOIR gathering purposes were:

- internal databases and resources directly accessible, such as the Public Register
- information received from other public administration bodies (e.g. the Czech Social Security Administration), based on bilateral agreements
- official call for information pursuant to sections 79 and following in connection with sections 57 and 57a of the TPC, which enable the Tax Administration to obtain information from all public authorities (including the FAO) and persons which/who keep records or other information necessary for the administration of taxes. The Czech authorities confirm that this access power can be used (and were used in practice) even though the information holder has no legal obligation to keep the relevant information. However, in such a case, no sanction would be issued if the information holder eventually does not hold the requested information
- onsite checks (visiting the taxpayer's premises to collect information and documents), pursuant to section 80 of the TPC.

330. If the information cannot be directly obtained from the internal databases or from other public authorities, the regional office or its local branch usually requests the information to the taxpayer involved in Czech Republic.

55. This change is then reflected in the AML Act (Section 39(1) letter n)) and in the relevant legal acts governing obligated persons.

Nevertheless, when the EOIR request relates only to banking information held by a bank (i.e. the information is not available in the Central Register of Accounts), the information is directly requested from the bank. In practice, the Tax Administration prefers to gather this information through an onsite inspection at the taxpayer's premises, under section 80 of the TPC, if specific explanations are required as it considers it more efficient than exchanging correspondence. This onsite investigation does not have to be announced in advance to the taxpayer, although it is usually done in practice for the person to prepare the relevant information or documents. During this inspection, the Tax Administration can go through all the available documents and can request for further information or documents.

331. If the Tax Administration needs to obtain further documents or explanations after the onsite investigation, it sends a call for information (sec. 57 and 57a of the TPC) to the information holder (taxpayer or third-party), setting a time limit for the answer, usually of 15 days (8 days at the minimum). If justified, the requested subject can ask for the time limit to be prolonged. This might be the case, for instance, when the request concerns a high number of taxpayers/periods, but Czech authorities have indicated that these cases rarely occur. A period shorter than eight days for obtaining of required data may be set only exceptionally for simple and especially urgent acts, but Czech authorities indicated that it very rarely happens in practice.

Accessing legal and beneficial ownership information

332. To reply to an EOI request on legal and beneficial ownership information, the Tax Administration first consults the Public Register or the BOR. The Tax Administration is granted remote access to the BOR for a full extract of current information as well as to old information which was deleted without substitution or with substitution by new information (sec. 16(2)(d) of the BOR Act). If the BOR does not contain the beneficial ownership information of the relevant entity or arrangement, the Tax Administration will report a discrepancy to the relevant Court. This has not yet happened in practice.

333. If the information is not in the Public Register or the BOR or if the information in the BOR is labelled as containing a “discrepancy”, the Czech Competent Authority would use its powers of call for information or onsite investigation to request the relevant information either to the relevant entity or arrangement or to a relevant AML-obliged person. In accordance with section 39(1) letter n) of the AML Act the duty of confidentiality pursuant to section 38 may not be invoked against the Tax Administration in respect of information submitted by the AML-obliged person pursuant to the TPC. All representatives of AML-obliged persons met during the onsite visit confirmed that they would provide the relevant information, if requested by the Tax Administration.

Accessing accounting records

334. The access to accounting records follows the same general process to access information. Therefore, the Czech Competent Authority first consults its internal databases, containing the financial statements of the relevant entities and arrangements. If the requested accounting information is not there, the Tax Administration requests it to the relevant entity or arrangement, its legal representative or its accountant using the call for information or through an onsite check at the business premises.

Accessing banking information

335. The Czech Competent Authority can access banking information through a request to the Central Register of Accounts or a call for information to the bank or to the taxpayer. In practice, it decides how to gather the information depending on the information requested and the most efficient way to obtain it.

336. When the information contained in the EOI request does not allow to identify the relevant bank and/or when the information requested is contained in the Central Register of Accounts, the Tax Administration sends a request to this Register. The Central Register of Accounts contains a wide range of information on all bank accounts held in the Czech Republic (see paragraph 303). If the Tax Administration needs to access information contained in this Register, it sends a request to the CNB which provides an answer within 24 hours after such a request. The ability to access this information through the CNB enables the Tax Administration to identify either all account holders and beneficial owners associated to a specific bank account number, or the list of the bank accounts held by a specific person. Therefore, although Czech authorities generally expect that incoming EOI requests for banking information allow the identification of the account holder and/or of the bank that holds the information, they can deal with requests for banking information, even though the name of the account holder, the name of the bank or the bank account number are not provided by the requesting jurisdiction. In the case where the information is searched by the name of the account holder (or beneficial owner), elements allowing unique identification of this person is necessary: in the case of a natural person, it would require at least his/her name and date of birth and in the case of a legal person or arrangement, an identification number in Czech Republic would facilitate the search. Queries in the Central Register of Accounts can also be done based only on the bank account number/International Bank Account Number.

337. When detailed banking information is requested (e.g. in relation to the enforcement of outstanding liabilities, the identification of certain payments or the correctness of declared and paid tax liability), the Competent Authority

requests it either to the relevant taxpayer involved in Czech Republic, if other type of information is requested, or to the bank, if only banking information is requested.

338. The requests to obtain information from a bank rely on section 57(3) of the TPC that provides that banks are required, upon a call for information, to provide data on:

- account numbers and other unique identifiers
- account holders and agents authorised to dispose of funds on accounts
- the amounts of funds on the accounts and their movements, and the details of the persons who deposited the funds and the recipients of the payments
- loans and credits, custodial contracts and rentals of safety deposit boxes.

339. Czech Authorities indicated that requests for banking information do not need to follow special procedure and that they do not take longer than other types of requests as the usual timeline of 15 days is given to the banks to reply to these requests. With major banks, the Tax Administration agreed on receiving the information in an electronic way, in which case it takes less time to receive the information.

B.1.3. Use of information gathering measures absent domestic tax interest

340. The concept of “domestic tax interest” describes a situation where a jurisdiction can only provide information to another jurisdiction if it has an interest in the requested information for its own tax purposes.

341. Under the EOI Act, the Czech Competent Authority can co-operate with foreign authorities and apply the same procedures provided for in the TPC for domestic purposes (sec. 3). The EOI Act further explicitly states that the Competent Authority cannot refuse to provide information for the reason that such information is not relevant for the purposes of Tax Administration in the Czech Republic (sec. 12(3)). Based on these provisions, a request made under an EOI agreement pertaining to a foreign tax matter is processed in the same way as a domestic tax matter and is fulfilled using all the domestic tax information gathering powers available in the Czech Republic.

342. No issue regarding domestic tax interest arose in practice nor was there any issue indicated by peers, although Czech Republic received EOI requests that did not involve any Czech taxpayers during the period under review.

B.1.4. Effective enforcement provisions to compel the production of information

343. The legal framework on enforcement provisions by the Tax Administration is described in paragraphs 240-242 of the 2015 Report and has not changed in the meantime. This includes fines of up to CZK 500 000 (EUR 20 284) that can be imposed based on section 247 of the TPC (failure to comply) if the taxpayer does not comply with the request in an official notice (including call for information or onsite investigations) or submits incomplete information. Fines can also be applied by the Tax Administration pursuant to the Accounting Act for failure to keep books (para. 37-37ab). Czech officials explain that if the taxpayer would still not respond, they would summon the taxpayer. Where a summoned person fails to appear without a good reason, a ruling can be issued for the Police to bring that person before the Tax Administration (sec. 100(2), TPC).

344. Tax officials are authorised to search and seize evidence as part of access powers in the scope necessary for achievement of Tax Administration's aims (sec. 81, 83 and 86, TPC). However, these powers require a certain level of co-operation by the taxpayer because the Tax Administration has administrative powers to compel production of the requested information but does not have enforcement powers comparable to those of the Czech Police or other enforcement authorities. This may limit the possibility to use these search and seizure powers efficiently, in the case where the information holder does not co-operate. Nevertheless, in such cases, the Tax Administration can request assistance from the Police or General Customs Directorate (customs service). Tax administrators can request assistance from officers of the customs service, for their greater enforcement powers, also in other circumstances, for example with the aim of preservation of evidence, if there is a risk of it being destroyed.

345. In practice, Czech authorities informed that none of such measures were used for EOIR purposes during the period, as the Tax Administration did not encounter any reluctance from taxpayers or information holders to provide the requested information. For the same reason, during the period under review no sanction under section 247 of the TPC was applied in respect of the calls for information sent and onsite investigations carried out when the information was requested for EOIR purposes.

B.1.5. Secrecy provisions

Bank secrecy

346. The Czech Republic has statutory bank secrecy: pursuant to section 38(1) of the Banking Act, all bank transactions and financial services of banks, including account balances and deposits, are subject to banking

secrecy. However, information regarding customers and their transactions may be submitted by a bank to the Tax Administration without the client's consent upon the written request of the Tax Administration under the conditions laid down by the TPC (sec. 38(3)(c) Banking Act and sec. 57(3) of the TPC, see paragraph 337 above). On the practical side, the representatives of the banking sectors confirmed that relevant exceptions to the bank secrecy apply for the requests from the Tax Administration.

347. The Czech Republic reported that there were no cases where bank secrecy was an impediment to obtaining information in the 148 requests for banking information received during the current review period.

Professional secrecy

348. The 2015 Report observed (paragraphs 247-253) that the privileges attached to certain information held by legal advisors and tax advisors were more extensive than what the standard prescribes and could impede effective exchange of information. The Czech Republic was thus recommended to ensure that domestic provisions on professional privileges allow exchange of information in line with the standard.

349. In particular, it was observed that:

- Members of the Czech Bar Association were obliged to maintain confidentiality on any information obtained in the course of providing legal services, unless the privilege was waived by the client (sec. 21(1) Legal Professions Act), with the term “legal services” defined as representation in courts, legal counselling and legal drafting.
- Members of the Czech Chamber of Tax Advisors were obliged to maintain confidentiality on all the facts they had learnt in connection with the provision of tax advisory services, unless released from such obligation by the client.⁵⁶ Even in case of release, though, the tax advisers were obliged to maintain confidentiality, if it was in the client's interest. The obligation of confidentiality would not apply to cases where the law provisions impose an obligation to report the commitment of a criminal offence or if the matter concerned the fulfilment of obligations towards authorities according to the AML Act (sec. 6(9) of the Tax Consultancy Act).

350. In both cases, the 2015 Report observed that professional privilege included communication produced for purposes other than that of seeking or providing legal advice or use in existing or contemplated legal proceedings. Both privileges cover working papers or documents executed in the

56. Tax advisors can represent their client in proceedings before an administrative court.

course of a transaction or the evidence of the fact of a transaction (including contracts, deeds or other documents). It was further observed that the legal privilege covered not only information enclosed within a communication between a professional and a client but also between a client and another person who was not a professional.

351. Since the 2015 Report, legislative changes have been introduced with the new section 57a of the TPC, which provides that lawyers and tax advisors (as well as other AML-obliged legal professionals) can no longer invoke the duty of confidentiality (attorney-client privilege) for information gathered in the performance of duties under the AML Act, if the information is requested by the DLO under the EOI Act to carry out international co-operation in Tax Administration (thus including EOIR). The provision implements – and, in its first paragraph, expressly refers to – the EU Council Directive 2011/16/EU (see Annex 2) as amended in 2016. The provision is, however, interpreted to allow the gathering by the DLO of the same information when requested by a partner jurisdiction that is not an EU Member State and/or an EOI instrument other than the EU Council Directive 2011/16/EU (the second paragraph refers in general to “the sole purpose of carrying out international co-operation in tax administration”). This interpretation is confirmed in the official Interpretative Notes accompanying the amendment. However, it has not yet been tested in practice. Therefore, the Czech Republic should monitor the implementation of the recently introduced section 57a for handling EOI requests received from non-EU Member States to ensure an effective EOI (see Annex 1).

352. Information and documents that have to be provided involve in particular:

- information obtained in client identification
- information obtained in client checks
- information on the manner of obtaining information pursuant to the first two points
- documents obtained in client identification and checks.

353. The obligation to provide AML information, where requested in accordance with the TPC, is also reflected in section 39 of the AML Act concerning exemptions from the duty of confidentiality. In accordance with Section 39(1) letter n), the duty of confidentiality (as foreseen in sec. 38) cannot be invoked against the Tax Administration in respect of information required from the AML-obliged person pursuant to the TPC. Corresponding provisions are also included in laws governing legal professionals, including lawyers (Act on Legal Profession, sec. 21 paragraph 6), notaries (Notarial Procedures, sec. 56 paragraph 6) and tax advisors (Act on Tax Advisors, sec. 6 paragraph 9).

354. The above provisions appear to limit the scope of the legal gap identified in the 2015 Report – as it is now clarified that the professional secrecy no longer covers the information listed in paragraph 352 – but they do not directly address the overall scope of professional secrecy and the fact that it could impede effective exchange of information in the case where a lawyer or a tax advisor would be the only person holding the requested information.

355. However, as it was already noted in the 2015 Report (paragraphs 249 and 253), the Czech Competent Authority has the powers to require such information from the client of the legal professional or other persons, not covered by a professional privilege, which/who hold such information. Cases where the relevant information is held only by a tax advisor or a lawyer are, according to the Czech authorities, not frequent in practice, and there were no cases during the review period covered in the 2015 Report, nor during the current review period where the Czech Republic requested information from legal professionals, despite having received 431 and 565 EOI requests, respectively. No peer indicated an issue in this respect.

356. Representatives of the Czech Chamber of Tax Advisors have indicated, during the on-site visit, that while in the past doubts existed on whether providing information to the Tax Administration would constitute a breach of the confidentiality requirements, the changes introduced with section 57a of the TPC, in conjunction with those introduced in section 21(3) of the EOI Act,⁵⁷ provide adequate certainty on the fact that information has to be provided to the Tax Administration, when this is required in order to respond to an EOIR request, with the exception of cases where the information was obtained for the purposes of seeking or providing legal advice or for the purposes of use in existing or contemplated legal proceedings.

357. Based on the above, the materiality of the issue appears to be rather limited in practice and the recommendation issued in the 2015 Report can be removed. However, as it remains unclear what would be the outcome in the event professional privilege is claimed by a legal professional, the Czech Republic should monitor the scope of professional privilege in relation to EOIR to ensure it is consistent with the standard. In the event that the Czech Republic identifies that the scope goes beyond the standard, it is recommended that the Czech Republic take measures to ensure that it does not unduly restrict EOIR (see Annex 1).

57. When requested by a Liaison Point [i.e. the Competent Authority or other delegated authority for EOI purposes], the [third-party] information holder is obliged to provide the requested information to the Liaison Point for the purpose of international co-operation in tax administration; this does not apply in respect of information that is subject to secrecy obligations imposed or recognised by law and that was obtained by the information holder in connection with the provision of legal assistance during proceedings before a court or other state or public administration authority.

B.2. Notification requirements, rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

358. The Terms of Reference provide that rights and safeguards should not unduly prevent or delay effective exchange of information. For instance, notification rules should permit exceptions from prior notification (notably, in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction) and time-specific post-exchange notification (e.g. when such notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

359. The 2015 Report observed that, with a minor exception that now appears justified, there was no rule on rights and safeguards which could unduly prevent or delay effective exchange of information. This remains the case in the current review. The determination and rating for the element remain as follows:

Legal and Regulatory Framework: in place

The rights and safeguards that apply to persons in the Czech Republic are compatible with effective exchange of information.

Practical implementation of the Standard: Compliant

The application of the rights and safeguards in the Czech Republic is compatible with effective exchange of information.

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

Notification

360. There is no requirement under the Czech domestic law that would require prior or post exchange notification of the person who is the object of a request for information. This person is also not notified in practice, when an EOI request is received.

361. The 2015 Report included an in-text recommendation (paragraphs 228 and 255) regarding a specific notification procedure related to witness statements: when the Tax Administration requests a third party to provide a witness statement, the concerned Czech taxpayer must be

notified unless there is a risk of delay (sec. 96(5) of the TPC). This notification has to include the identification of the subject-matter in which the witness will give the evidence and the name of the witness (this latter information will not be included in case there is a danger it could frustrate the purpose of the statement). The taxpayer subject to the investigation has the right to attend when the Tax Administration is taking witness statement and may ask questions.

362. The Czech authorities advise that the right of a taxpayer to be present at a witness statement pursuant to the TPC is mainly applied in the context of domestic tax proceedings. In EOIR practice, if the requesting jurisdiction asked for the subject involved in the request not being notified and this subject is a Czech taxpayer, the information would not be gathered by a witness statement, but from other sources.

363. Situations where a Czech taxpayer is subject of an EOI request and the information must be obtained through a witness hearing are rare in EOI practice. The procedure would only be applied where the EOI partner requests a formal witness statement. It is also noted that Element C.1.7 of the 2016 ToR provide that EOI mechanisms should allow for the provision of information in specific form requested, including depositions of witnesses, to the extent possible under the jurisdiction's domestic laws and practices, implying that for such forms the domestic practices might have an influence in the way the information is accessed. Therefore, the legal framework and practice of the Czech Republic is in line with the standard and the in-text recommendation can be removed.

364. Where information must be obtained from a taxpayer or third-party information holder, the notice to the information holder must contain description of the information to be provided and a justification of the request through reference to the provisions of the TPC. It is not necessary to notify the holder of information about the fact that information is required in the framework of an EOI request. In those cases where the information holder is not notified of the EOI purpose of the information gathering, the risk that the taxpayer be informed of the existence of the EOI request by the information holder is very low.

365. A possible exception is the gathering of information relating to the performance of duties under the AML Act from legal professionals (see paragraph 351), as in this case information can be gathered only for the purposes of international co-operation in tax administration (section 57a of the TPC). Therefore, it would be manifest that the request originates from the co-operation with another jurisdiction. In such a case, there is no legal provision in the Czech legal framework that prevents the third party requested to inform the person concerned by the EOI request. Nevertheless, if the requesting jurisdiction asks for the EOI request to be kept fully confidential,

the Czech Competent Authority would try to obtain the requested information from internal sources. If the information, or part of it, is not otherwise available, the Czech Competent Authority will check with the requesting jurisdiction if it wants to reconsider its request or if it prefers the Czech Tax Administration to proceed to obtain the additional information from the information holder. The Czech Authority has also indicated in this connection that the name of the requesting jurisdiction is not disclosed in the request to the legal professionals. In addition, considering the other sources of beneficial ownership information (including the BOR), the situation where the Tax Administration must use its access power provided by section 57a of the TPC should not be frequent. Therefore, this specific access power does not appear to unduly prevent the effective exchange of information by the Czech Republic.

Appeal rights

366. Pursuant to the TPC (section 109(2)), an appeal cannot be filed against the Tax Administration's call for information by the person who/which is the object of a request for information or of the person who/which holds the information. As a consequence, the person in Czech Republic involved in an EOI request cannot oppose and challenge such request and exchange. An appeal can only be filed against the application of sanctions after they are imposed by the Tax Administration for not complying with the call.

367. During the current review period, there were no cases of appeals to the court in connection with EOIR.

Part C: Exchange of information

368. Sections C.1 to C.5 evaluate the effectiveness of the Czech Republic's network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all the Czech Republic's relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether the Czech Republic's network of EOI mechanisms respects the rights and safeguards of taxpayers and whether the Czech Republic can provide the information requested in an effective manner.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

369. In the 2015 Report, most of the Czech Republic's EOI instruments met the standard. The Czech Republic was nevertheless rated as “Largely Compliant” with this Element of the standard due to a recommendation on the procedure applicable for the exchange of information in criminal tax matters (sub-Element C.1.6). This issue remains outstanding.

370. At present, the Czech Republic's EOI network comprises 160 jurisdictions through the Multilateral Convention on Mutual Administrative Assistance on Tax Matters (the Multilateral Convention), 98 DTCs, 11 TIEAs, and the EU Council Directive 2011/16/EU on Administrative Co-operation in the field of taxation (DAC) (see Annex 2).

371. Since the 2015 Report, the Czech Republic has been very active in entering into new agreements and in the effort to renegotiate or update older agreements, and Czech authorities have indicated that steps have been taken with those jurisdictions that have shown a corresponding interest. In particular, the Czech Republic has signed 12 new DTCs (with Andorra, Bangladesh, Botswana, Chile, Ghana, Iran, Republic of Korea, Kyrgyzstan, Qatar, San Marino, Senegal and Turkmenistan), 11 of which

have also entered into force.⁵⁸ Three already signed DTCs (with Colombia, Liechtenstein and Pakistan) and three TIEAs (with Bahamas, Cook Islands and Monaco) have entered into force and one existing DTC has been revised by means of an amending protocol (with Kazakhstan). Since the 2015 Report, the Multilateral Convention has also entered into force in respect of new jurisdictions.

372. The Multilateral Convention covers the vast majority of the EOIR network of the Czech Republic (145 jurisdictions or 91% of the exchange partners), and the instrument is in accordance with the standard. With respect to the bilateral EOIR relationships not supplemented by the Multilateral Convention, only one (with Egypt) is not consistent with the standard. None of the new EOIR relationships of the Czech Republic is non-consistent with the standard. Fifteen DTCs represent the only EOIR instrument with the respective contracting party,⁵⁹ of which four (with Bangladesh, Iran, Kyrgyzstan and Turkmenistan) entered into force after the 2015 Report.

373. In practice, as a general rule, the Czech Republic interprets and apply the Multilateral Convention in accordance with its Commentaries, and its DTCs in accordance with the Commentary on Article 26 of the OECD Model Tax Convention on Income and Capital.

374. The network of EOI instruments of the Czech Republic continues to provide for effective exchange of information and the Czech Republic's authorities implement it in compliance with the standard. On the other hand, limitations persist in the specific procedure imposed in the context of exchange of information in criminal tax matters. While this issue was covered in the 2015 Report in consideration of the practical implementation of the standard, further analysis identified a legal deficiency in this respect. Element C.1 is determined in place, but this aspect of the legal implementation of the element needs improvement and the rating remains Largely Compliant. The conclusions are as follows:

58. The DTC of Andorra, signed on 23 November 2022, has not yet entered into force.

59. With Bangladesh, Belarus, Egypt, Ethiopia, Iran, Democratic People's Republic of Korea, Kosovo,* Kyrgyzstan, Sri Lanka, Syria, Tajikistan, Turkmenistan, Uzbekistan, Venezuela, and Viet Nam.

*This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

Legal and Regulatory Framework: in place, but certain aspects of the legal implementation of the element need improvement

Deficiencies identified/Underlying factor	Recommendation
The Czech Republic requires that the prior consent of its judicial authorities be obtained by the requesting jurisdiction under a mutual legal assistance arrangement or on the basis of reciprocity before information exchanged under an EOI instrument (DTC, TIEA, the EU Directive on Administrative Co-operation or the Multilateral Convention) may be used as evidence in criminal tax proceedings in the requesting jurisdiction.	The Czech Republic should ensure that its legal requirements do not exceed the limitations on exchange of information as provided under the standard for the provision of the requested information and for the use of the information received by the requesting jurisdiction.

Practical implementation of the Standard: Largely Compliant

No issues have been identified in the implementation of the existing EOI instruments of the Czech Republic. However, once the recommendation on the legal framework is addressed, the Czech Republic should ensure that it is applied in practice.

Other forms of exchange of information

375. Besides EOIR, the Czech Republic participates in Automatic Exchange of Financial Account Information (Common Reporting Standard, CRS); in Automatic Exchange of Country-by-Country Reports (CbCR) in line with the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action 13; in the Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures; in the Spontaneous Exchange of Information of tax rulings within the framework of BEPS Action 5; spontaneous exchange of information and in other forms of international co-operation for tax purposes such as the service of documents and joint audits.

C.1.1. Standard of foreseeable relevance

376. The 2015 Report found that the EOI instruments concluded by the Czech Republic generally complied with the standard of “foreseeable relevance”, including in cases where the text of the treaty used the term “necessary” or “relevant”. The Czech authorities indicate that they interpret

these alternative formulations as equivalent to the term “foreseeable relevance”. The only exceptions were the DTCs with Brazil and Germany, that did not meet the standard as they only permitted EOI for the purposes of enforcing the provisions of the DTC itself. The Czech Republic informed that it started the renegotiation of the DTCs with Brazil and Germany. In any case, both relationship with Brazil and Germany are covered by multilateral and regional instruments (the Multilateral Convention and both the Multilateral Convention and the DAC respectively) which are in line with the standard. All new EOI instruments also refer to “foreseeably relevant” information. Therefore, all the Czech Republic’s EOI relationships meet the standard of “foreseeable relevance”.

Clarifications and foreseeable relevance in practice

377. In applying the standard on foreseeable relevance, the Czech Competent Authority expects the requests to contain an explanation of the purpose of requested information and of its expected relevance for the requesting jurisdiction. In case these elements are considered lacking or insufficient, a request for clarification is sent to the requesting jurisdiction.

378. The Czech Competent Authority requested clarifications on the foreseeable relevance of the information in 15 of the 565 requests received during the period under review (2.7% of cases). Cases where clarifications were sought included:

- bank account information, while the bank account was owned by a person that was not listed in the request and who was resident in a jurisdiction other than the requesting one
- personal identification of all employees of a Czech company, without providing any explanation of the relevance of such information for the requesting jurisdiction
- all activities in the Czech Republic of a taxpayer, without specifying the grounds for requesting such information
- requests for which foreseeable relevance was clear only for part of the requested information.

379. In the case of banking information, the requests for clarifications occurred after the information was gathered and explained the findings, so that the identification of the account holder could be provided where relevant. In five of these cases, including the cases on banking information, no clarification was provided by the requesting jurisdictions and therefore the Czech Competent Authority considered the cases as closed after waiting for approximately six months. In the cases where some of the requested documents were considered as foreseeably relevant, they were exchanged, but not the ones for which foreseeable relevance was not established.

380. No peer reported issues connected with the interpretation of foreseeable relevance applied by the Czech Republic on incoming requests.

Group requests

381. All Czech EOI mechanisms contain a wording compatible with group requests and the Czech authorities interpret those EOI mechanisms as allowing group requests.

382. There are no domestic rules or practices in the Czech Republic that prescribe what information must be specifically included in a group request. The administration of such requests follows rules common to other types of EOIR requests.

383. In practice, the Czech Competent Authority has received one group request to date. The request wanted to ascertain whether a group of non-resident taxpayers with specified characteristics had any activities in the Czech Republic. The request was sent to a specialised unit (Risk Analytical Unit within the General Financial Directorate) to determine whether these taxpayers were registered in the Czech Republic and/or whether they performed any activity. This information was gathered and exchanged with the requesting jurisdiction in a timely manner (within two months from the date of receipt).

384. The Czech Competent Authority intends to process future group requests in the same way as described above, i.e. deferring the treatment, where applicable, to a specialised central unit. The Czech Competent Authority considers that it is key to identify to the maximum extent possible the Czech taxpayer who/which should hold the requested information. Once the information holder is identified, the request matter will be submitted to a local tax office who administrates the taxpayer/information holder. Then the local tax office requests the relevant information to the taxpayer/information holder by using the usual access powers as described under Section B.1 of this report.

385. The Czech Republic has not received, so far, any group request concerning banking information. In such a case, the same access powers, including the call for information, would be used to obtain the information. However, during the on-site visit, the representative of the Czech Banking Association indicated that a request (call for information) from the Tax Administration concerning a group of taxpayers not individually identified would not fulfil the conditions set in section 57(3) of the TPC (see paragraph 338), and/or it would not fulfil the condition on foreseeable relevance if the request originated from an EOI request. While it appears that the legal framework (section 57(3) of the TPC) does not prevent the Tax Administration to gather banking information to respond to a group request,

the Czech Republic should ensure that sufficient guidance is provided to the banks so that group requests concerning banking information are fulfilled in line with the standard (see Annex 1).

C.1.2. Provide for exchange of information in respect of all persons

386. All of the Czech Republic's DTCs, TIEAs as well as the Multilateral Convention and the DAC provide for EOI in respect of all persons.

387. In practice, Czech authorities indicated that, while there are no statistics available based on the residence or nationality of the person involved in the EOI request, there might have been practical cases where the request involved a person not resident in the Czech Republic nor in the requesting jurisdiction. In any case, no issue restricting exchange of information in respect of the residence or nationality of the person to whom the information relates or of the holder of information has been indicated by Czech authorities or peers.

C.1.3. Obligation to exchange all types of information

388. Jurisdictions cannot engage in effective exchange of information if they cannot exchange information held by financial institutions, nominees or persons acting in an agency or a fiduciary capacity (see Article 26(5) of the OECD Model Tax Convention). The 2015 Report observed that some of the Czech Republic DTCs did not contain a wording equivalent to Article 26(5). The absence of this paragraph does not automatically create restrictions on exchange of such information. The Czech authorities indicated that they could exchange banking information in the absence of Article 26(5), subject to reciprocity (sec. 10(5), EOI Act). There could be, however, domestic limitations in the laws of the EOI partners of the Czech Republic.

389. For ten instruments not containing an equivalent of Article 26(5),⁶⁰ it is unknown whether the partner jurisdiction has domestic limitations in the exchange of banking information, either because they are not Global Forum members or because they have not yet been reviewed.

390. In practice, during the review period the Czech Republic received 148 requests for banking information and has not declined any request due to the fact that the information was held by a bank, other financial institution, nominees or persons acting in an agency or fiduciary capacity or because the information related to an ownership interest. Czech authorities

60. Egypt, Ethiopia, Iran, Democratic People's Republic of Korea, Kosovo, Sri Lanka, Syria, Tajikistan, Venezuela and Viet Nam.

indicated, while this is an aspect that is checked when an EOI request is received, they have no recollection of cases where requests for banking information were made under an instrument not containing an equivalent of Article 26(5). Czech authorities also observed that, in general, partners with instrument not containing an equivalent of Article 26(5) have low volumes of EOI requests (or no requests at all) *vis-à-vis* the Czech Republic. No peer raised any issue in this connection, but Egypt indicated that it does not expect to receive bank information under EOIR from the Czech Republic under reciprocity, due to the bank secrecy in the Egyptian law. Therefore, the Czech Republic should work with partners with which the underlying agreements do not contain a language akin Article 26(5) of the OECD Model Tax Convention in case the domestic laws of the partner jurisdiction do not allow for exchange of all types of information to ensure that these EOI relationships are in line with the standard (see Annex 1).

C.1.4. Absence of domestic tax interest

391. An inability to provide information based on a domestic tax interest requirement is not consistent with the standard. Contracting parties must use their information gathering measures even though invoked solely to obtain and provide information to the other contracting party.

392. As observed in the 2015 Report (paragraph 238), under the EOI Act (sec. 3) the Czech Competent Authority can co-operate with the foreign requesting authority and apply all the access powers provided for in the TPC. The EOI Act further explicitly states that the Competent Authority cannot refuse to provide information for the reason that such information is not relevant for the purposes of Tax Administration in the Czech Republic (sec. 12(3)). Based on these provisions, a request made under an EOI agreement pertaining to a foreign tax matter is treated in the same way as a Czech tax matter and is fulfilled using all the domestic tax information gathering powers available, regardless of whether the relevant EOI agreement explicitly excludes the domestic tax interest and of whether the requesting jurisdiction applies itself the domestic tax interest principle.

393. No issue regarding domestic tax interest was indicated by peers nor arose in practice during the review period, although Czech Republic did receive EOI requests that did not involve any Czech taxpayers and/or for which the Czech Republic did not have any domestic tax interest in gathering the information.

C.1.5 and C.1.6 Civil and criminal tax matters

394. All of the Czech Republic's EOI agreements provide for exchange of information in both civil and criminal tax matters. There are no dual criminality conditions in any of them. Accordingly, there has been no case when the Czech Republic declined a request because of a dual criminality requirement.

395. However, as analysed in the 2015 Report (paragraphs 293-297), before information exchanged under a tax information exchange agreement (DTC, TIEA or the Multilateral Convention) may be used as evidence in criminal tax proceedings in the requesting jurisdiction, the Czech Republic requires that the consent of its judicial authorities be obtained by the requesting jurisdiction under Mutual Legal Assistance (MLA) arrangements.

396. In this connection, the Czech Republic submitted an interpretative declaration to the instrument of ratification of the Multilateral Convention, deposited on 11 October 2013, stating that

The Czech Republic [...] interprets Article 22, paragraph 2, of the Convention as amended by the 2010 Protocol, as not establishing any automatic right of the requesting State to use information received in accordance with the Convention as amended by the Protocol as evidence in criminal proceedings, but information received in accordance with the Convention as amended by the Protocol may be used by the requesting State in criminal proceeding as evidence only if judicial authorities of the requested State or any other authorities of the requested State competent under the laws of the requested State give consent to it in accordance with applicable international treaties on mutual legal assistance in criminal matters and the domestic law of the requested State concerning providing mutual legal assistance in criminal matters.

397. The Czech authorities advised that this interpretation applies to all EOI requests, regardless of the EOI instrument applied and of any specific language contained in it, and it is applicable both for case of requests concerning criminal tax matters (in this case an authorisation is expected upfront) and for cases concerning civil tax matters, in case the information is to be used as evidence in a subsequent criminal tax case. In this latter circumstance, the request for authorisation would be expected ex-post, after the requesting jurisdiction received the information. In both cases, if the information is intended to be used as evidence in criminal tax proceedings, the authorisation of the Czech Republic must be requested and provided under an MLA arrangement. If such a treaty does not exist between the parties, the

Czech Republic is still able to provide an authorisation on the (non-treaty) basis of reciprocity.

398. However, an authorisation by the Czech Authorities is not needed in cases where the information gathered by the Tax Administration may be used for criminal charges according to the Czech domestic regulations, namely:

- in case of misreporting/manipulation with data on economic results and equity/assets (corresponding to distortion in accounting books)
- in case of fraud offences, where the amount of damage is at least CZK 5 million (about EUR 202 840), i.e. a fraud resulting in extensive damage.

399. As observed in the 2015 Report, there would be in principle only two reasons for not granting the authorisation to use the information as evidence (sec. 20 of Act on International Judicial Co-operation in Criminal Matters):

- if such use would be inadmissible for the purposes of criminal prosecution in the Czech Republic (this regards in particular human rights such as the right to life, non-discrimination regarding political opinions, religion, sex, contained in the European Convention on Human Rights, as also included in the Czech Constitution (Charter of Fundamental Rights and Freedoms))
- if there is a risk that using such information as evidence would frustrate criminal proceedings conducted in the Czech Republic or seriously imperil another significant interest (sec. 20(3) of the Act on International Judicial Co-operation in Criminal Matters).

400. During the onsite visit, Czech officials confirmed that a statement consistent with the above-reported declaration is included in response letters to all EOI requests provided by the Czech Republic to non-EU Member States, irrespective of the EOI instrument used and of the presence of specific language in this connection. The wording is not included in the responses to EOI requests to EU Member State, because the specific formularies used in EOIR within EU Member States (“eForms”) do not provide for a clear collocation for such a statement, but the Czech authorities consider that the same limitations on the use of information apply.

401. In practice, during the current review period, the Czech Republic received 16 EOI requests connected with criminal tax investigations, and it responded to all of them, with the responses containing a statement on the fact that the information provided can be used as an evidence in criminal proceedings only upon authorisation in the framework of judicial co-operation (unless the information is used only as operational information) and

indicating the exceptions from the authorisation obligation mentioned above (paragraph 398).

402. On this issue, the 2015 Report concluded that the above-described requirement may prevent effective exchange of information or the use thereof and was therefore not in line with the standard. For this reason, the Czech Republic was recommended to monitor that its procedures did not exceed the limitations on exchange of information as provided under the standard. Czech authorities informed in this regard that according to the Supreme Public Prosecutor's Office of the Czech Republic (which monitors the application of consent procedure under sec. 20 of the Act on international judicial co-operation in criminal matters) there is no known case during the current review period where the (prior to the exchange or post exchange) consent of judicial authorities was requested in relation to an EOI request.

403. While it is recognised that the Czech Republic has monitored the procedures, and that, during the current review period, these did not pose additional limitations on the exchange of information in practice, such a monitoring does not allow to conclude on what would occur if an authorisation was requested (processing times, outcomes, admissibility on the basis of reciprocity in case there is no MLA instrument between the parties), and what would occur in case the Czech Republic becomes aware that information has been used as evidence without prior judicial authorisation by the competent Czech authorities. Furthermore, the interpretation per se exceeds the limitations on exchange of information as provided under the standard.

404. In conclusion, while it had limited repercussion in the EOI practice so far, the issue is unresolved and the statement included by the Czech Competent Authorities to all the EOI responses provided (except those provided with e-Forms to other EU Member States) poses limitations that are not foreseen by the standard. Although this deficiency was covered in the 2015 Report in consideration of the practical implementation of the standard, a legal deficiency persists in this respect, as it results from an official interpretation of the Czech authorities. Therefore, **the Czech Republic should ensure that its legal requirements do not exceed the limitations on exchange of information as provided under the standard for the provision of the requested information and for the use of the information received by the requesting jurisdiction.**

C.1.7. Provide information in specific form requested

405. According to the standard, exchange of information mechanisms should allow for the provision of information in specific form requested (including depositions of witnesses and production of authenticated copies of original documents) to the extent possible under the jurisdiction's domestic laws and practices.

406. There are no restrictions in the Czech Republic's domestic laws that would prevent it from providing information in a specific form, so long as this is consistent with its own administrative practices. As mentioned under section B.2, the Tax Administration can request a third party to provide a witness statement. This procedure requires the notification of the taxpayer. If the requesting jurisdiction asks for the taxpayer not to be notified, the Tax Administration will not use a witness statement to gather the information (see paragraph 362). This is in line with the standard which requires the provision of information in specific form requested only to the extent possible under the jurisdiction's domestic laws and practices.

407. No peer reported any issue with the form of information exchanged by the Czech Republic during the review period.

C.1.8 and C.1.9. Signed agreements should be in force and be given effect through domestic law

408. For information exchange to be effective, the parties to an EOI arrangement need to enact any legislation necessary to comply with the terms of the arrangement.

409. Double taxation conventions (DTCs) and tax information exchange agreements (TIEAs) are negotiated by the Ministry of Finance. After an approval process involving all government ministries and other interested parties the agreement is approved by the Cabinet of Ministers and after its formal signature it is sent for approval to the Parliament by the Cabinet. Once approved by the Parliament, the agreement is then ratified by the President. The agreement comes into force on the day of its publication in the Official Journal for International Treaties, which occurs after the exchange of diplomatic notes on ratification. The Czech Constitution provides that the provisions of its EOI agreements override domestic laws (Art. 10). EOI provisions of an international agreement are in addition incorporated through the EOI Act which states that the rules of this act regulate the procedures and conditions under which the Czech authorities provide information based on an international treaty.

410. The normal period to conclude the ratification procedure (between the signature and its full ratification) in the Czech Republic is within one year

and a half. Parliamentary and presidential elections are among the factor that can bring delays in the ratification procedure.

411. The only two agreements that have been signed but not yet ratified by the Czech Republic are the DTC with Andorra, signed on 23 November 2022 and the DTC with Kosovo, signed on 26 November 2013, which is still under discussion in the Parliament, and to date more than nine years have passed after the signature. Czech authorities informed that there are different positions on this latter DTC by members of the Parliament due to political sensitivity; discussions on this DTC were several times postponed and a final decision was not yet taken. This clearly represents an outlier in the length of the ratification procedure by the Czech Republic and, from the explanations provided by the Czech authorities, the provisions on exchange of information are not the factor determining the delay. The Czech Republic should nevertheless ensure that signed agreements are brought into force expeditiously (see Annex 1).

412. A summary of the treaty network of the Czech Republic is presented below.

EOI mechanisms

Total EOI relationships, including bilateral and multilateral or regional mechanisms	160
In force	152
In line with the standard	143
Not in line with the standard	9 ^a
Signed but not in force	8 ^b
In line with the standard	7
Not in line with the standard	1
Total bilateral EOI relationships not supplemented with multilateral or regional mechanisms	15
In force	14
In line with the standard	5
Not in line with the standard	9 ^a
Signed but not in force	1 ^c
In line with the standard	-
Not in line with the standard	1

Notes: a. Egypt, Ethiopia, Iran, Democratic People's Republic of Korea, Sri Lanka, Syria, Tajikistan, Venezuela and Viet Nam

b. Benin, Burkina Faso, Gabon, Honduras, Madagascar, Papua New Guinea and Togo (signatories of the Multilateral Convention) and Kosovo (DTC)

c. Kosovo

C.2. Exchange of information mechanisms with all relevant partners

The jurisdiction's network of information exchange should cover all relevant partners, meaning those jurisdictions who are interested in entering into an information exchange arrangement.

413. The Czech Republic has a large EOI network that comprises 160 partner jurisdictions.

414. The Czech Republic indicated that no jurisdiction approached it for the purpose of entering into or amending an (existing) agreement for EOIR (see however paragraph 371). No Global Forum members indicated, in the preparation of this report, that the Czech Republic refused to negotiate or sign an EOI instrument with it. As the standard ultimately requires that jurisdictions establish an EOI relationship up to the standard with all partners who are interested in entering into such relationship, the Czech Republic should continue to conclude EOI agreements with any new relevant partner who would so require (see Annex 1).

415. The conclusions remain as follows:

Legal and Regulatory Framework: in place

The network of information exchange mechanisms of the Czech Republic covers all relevant partners.

Practical implementation of the Standard: Compliant

The network of information exchange mechanisms of the Czech Republic covers all relevant partners.

C.3. Confidentiality

The jurisdiction's information exchange mechanisms should have adequate provisions to ensure the confidentiality of information received.

416. The 2015 Report concluded that the confidentiality provisions contained in the Czech Republic's EOI instruments, and its administrative framework to ensure confidentiality in practice, were in line with the standard. The legal and regulatory framework was considered to be in place and the Czech Republic was rated as Compliant to this element of the standard.

417. The new EOI instruments adopted since then also contain provisions ensuring the confidentiality of information exchanged and limiting the disclosure and use of information received. As the provisions in the

Czech Republic's EOI instruments would override any contradicting domestic legislation, Czech authorities are required to keep confidential all information received as part of a request or as part of a response to a request regardless of any provisions in other laws.

418. The confidentiality legal obligations continue to be applied and enforced in practice.

419. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified in the EOI mechanisms and legislation of the Czech Republic concerning confidentiality.

Practical implementation of the Standard: Compliant

No material deficiencies have been identified and the confidentiality of information exchanged is effective.

C.3.1. Information received: disclosure, use and safeguards

420. All the Czech Republic's EOI agreements, including those concluded after the 2015 Report, have confidentiality provisions to ensure that the information exchanged will be disclosed only to persons authorised by the agreements. While each of the articles in the Czech DTCs might vary slightly in wording, these provisions contain all of the essential aspects of Article 26(2) of the OECD Model Tax Convention. The domestic tax law contains exceptions to tax confidentiality (sec. 53 of the TPC), such as the possibility for the Tax Administration to notify the court of a discrepancy in the BOR, or sharing information with the FAO and health insurance institutions. However, as the provisions in the Czech Republic's EOI agreements would override any contradicting domestic legislation, Czech authorities are required to keep confidential all information received as part of a request or as part of a response to a request regardless of any provisions in other laws.

421. The Terms of Reference, as amended in 2016, clarified that although it remains the rule that information exchanged cannot be used for purposes other than tax purposes, an exception applies where the EOI agreement provides that the information may be used for such other purposes under the laws of both contracting parties and the Competent Authority supplying the information authorises the use of information for purposes other than tax purposes. In the period under review, the Czech Republic informed that there were no requests wherein the requesting partner sought the Czech Republic's consent to utilise the information for non-tax purposes and

similarly the Czech Republic did not request its partners to use information received for non-tax purposes. The Czech Competent Authority indicated that it would authorise the use of information for purposes other than tax purposes if the EOI agreement provides for such circumstance and the information may be used for the requested other purposes under the laws of both the Czech Republic and the other jurisdiction.

422. Czech tax law requires officials, taxpayers and third parties to keep confidential all information concerning other persons which they learned in the course of the tax procedure (sec. 52(1) of the TPC). This confidentiality obligation covers all types of information obtained in connection with Tax Administration, including information obtained from EOI, and it does not cease with the termination of employment of the tax official (sec. 55(4), TPC). Penalties for breaches of confidentiality are stipulated in the Tax Procedure Code, sec. 246. A person who breaches confidentiality is subject to a fine of up to CZK 500 000 (EUR 20 284), including in the case where a person uses the information received for non-tax purposes without the prior authorisation of the supplying jurisdiction.

423. The Act on Cyber Security regulates measures and processes to prevent and minimise the impact of cyber-attacks on information and communication systems of the national “Critical Information Infrastructure”, or of “significant information systems”, including the systems of the Tax Administration. The Decree on Cyber Security provides details on practical, day-to-day issues and also contains a list of data destruction methods, or vulnerabilities and threats, or sophisticated content rules regarding contracts concluded with major Information Technology suppliers. The Czech Tax Administration has a tax information system designated as an element of “Critical Information Infrastructure”. The requirements of the Act and the Decree on Cyber Security are implemented in internal management acts of the Czech Tax Administration.

C.3.2. Confidentiality of other information

424. Jurisdictions should treat as confidential in the same manner as information directly provided by the requested to the requesting jurisdiction, all requests for such information, background documents to such requests, and any other document reflecting such information, including communications between the requesting and requested jurisdictions and communications within the tax authorities of either jurisdiction.

425. The confidentiality provisions in the Czech Republic’s agreements do not draw a distinction between information received in response to requests and information forming part of the requests themselves.

426. As described in the 2015 Report (paragraph 316), the Czech taxpayers have the right to inspect information held by the Tax Administration on them. However, the Czech authorities confirmed that the EOI requests and related correspondence are part of the operational (“not public”) part of the taxpayer’s file that is not accessible to either the taxpayer or the information holder. Only when it is necessary to obtain the information from the taxpayers, information concerning the taxpayers may be disclosed to them, or to a person authorised by the taxpayer under taxpayer’s request. Other information (e.g. the Competent Authority, the foreign taxpayer’s data, and third person’s data) is not disclosed.

427. In addition, when the Tax Administration needs to gather information from the taxpayer or a third party-information holder, it discloses only the minimum necessary information to enable the collection of the information. The EOI purpose of the “call for information” is indicated only in specific circumstances (i.e. when the Tax Administration used its access power of section 57a – see paragraph 365) and the name of the requesting jurisdiction is not disclosed in this process of gathering the requested information.

Confidentiality in practice

Human resources

428. The administration-wide process prior to a person’s employment in the Tax Administration includes checks of the criminal record.

429. In accordance with the Act on Cyber Security, the Security Awareness Development Plan of the Tax Administration contains specific training for security roles in the Information security management system, their specific duties and how to perform them correctly, updated according to the development of cyber threats. The Plan also includes an e-learning course that includes instructions on how to handle confidential information.

Labelling and handling of confidential information within the Tax Administration

430. Information obtained in relation to an EOI request is kept in the respective taxpayer’s file, which can be accessed only by the assessing officer responsible for the respective taxpayer’s assessment. Each document received through EOIR – but not its attachments (see paragraph 435) – receives a unique identification number (*číslo jednací*) by the database/system that allows at any time to identify its EOIR origin and it can be distinguished from information obtained from domestic sources, even when printed (as the string contains letters referring to EOIR).

431. Access to the internal system of the Tax Administration is tracked so that every activity is monitored and can be traced. The system also tracks the origin and movement of documents across the administration. Thus, each person handling the document is tracked together with the respective administrative procedure and the steps taken.

432. EOI correspondence from foreign Competent Authorities is firstly received at the DLO level, where it is uploaded to the internal system/database and its source is marked in the system. The system is accessible only to officials who deal with EOI, on a need-to-know basis. Moreover, when the record in the system is created, an officer is appointed to process the request and obtain the requested information. So the EOI request is accessible only to the DLO and to the appointed tax office gathering the requested information. Corresponding rules apply to outgoing EOI requests.

433. Accordingly, access to the information received through EOIR is limited to the tax officials who requested it and needs the information for the specific tax case. The source of information in EOIR is the system that tracks access and contains all the warnings. Therefore, there are no physical documents with information originating in EOIR that would be circulating across the Tax Administration.

434. In addition, Czech authorities explained that EOIR cases are typically handled in close co-operation between the tax official carrying out the investigation and the designated EOI officials who are regularly in contact with the DLO and aware of EOIR requirements. In this connection, the international confidentiality requirements are also included in the notice sent by the DLO to the contact person of the relevant regional office in charge of handling the foreign request or which initiated the Czech request. Then, this contact person is responsible for spreading the awareness of this requirement among the relevant tax auditors.

435. In conclusion, while documents and information received under EOI instruments are not tax-treaty labelled, the processing rules significantly limit the risks of any breach of confidentiality obligations. Czech Republic should in any case ensure that in practice, all documents obtained from EOIR exchange partners, sent to the competent regional office as attachments to the notice by the DLO, are clearly identified as subject to confidentiality provisions under the EOI Instrument (see Annex 1).

Physical security and access

436. The requests that are received by DLO are stored at shared data storage, which is accessible only by DLO's officials and the paper documents are safely stored in lockers. The same rules are followed at tax offices.

437. The offices of the DLO are located within the General Financial Directorate. The access to the premises where the DLO is situated is restricted, with entrance barrier including security guards and turnstiles at the entrance. The Head of DLO has a separate office, while the other offices are shared by two to four persons. All offices can be locked separately. The whole building is not open to the public. Third persons are only allowed to enter the premises of the DLO with an accompaniment of a responsible official and the materials concerning the EOI cannot be taken out of the premises of the DLO. For e-mail communications related to EOIR, only secured channels are used.

IT security

438. The confidentiality safeguards in the use of electronic tools include encrypted access to databases and applications/systems, lists of users, secured applications and communication channels and agreement on confidentiality maintenance with every employee involved.

439. Incoming requests in physical form are delivered directly to the DLO, and only the DLO staff and the Director will see the request. Requests from other EU member states are received via the secure intra-EU structure “e-Forms Central Application” (e-FCA) and are accessible only to the DLO staff. All requests are entered onto the central DLO database.

440. Most EOI requests are received and responded with regard to EOI partners within the EU and communication with them takes place via the e-FCA. For exchange partners that are not EU Member States, encrypted emails or registered post is used.

441. Correspondence between the DLO and the regional and local tax offices is sent as secured Tax Administration’s email. In the regional and local offices, taxpayer files can be accessed only by the authorised assessing officer responsible for the respective taxpayer’s assessment.

Incident/breach management

442. In the Tax Administration, Directive 39/2013 of the Director-general on “Principles of data protection and access to personal computers” provides guidelines that any suspicious activity that could impact the informational security should be reported according to the internal processes. Whether an event constitutes an incident is determined by the evaluation of Information. The Tax Administration also monitors publicly available information (for example news) for notices of breaches. Furthermore, the National Cyber and Information Security Agency would report to the Tax Administration

any confidentiality breach which would be handled according to the incident response procedures.

443. If a breach of confidentiality occurs, an investigation process begins immediately with the goal of receiving as much data as possible to understand how the incident happened, what security measures have failed, what kind of information was the subject of the breach, who, above the intended respondents, have come into contact with the information, whether the breach is ongoing or has stopped. Depending on the nature of the breach, data gathered are shared with other departments/parties (Information security Unit, Police, National Cyber and Information Security Agency, contractors and others). After the investigations, measures are implemented so such breaches will not occur again.

444. Any such breaches would be classified as security incidents and be subject to the processes in the Incident Management process, including

- notification to the personnel required to be informed, such as the information security unit the Director General, and others.
- Necessary steps are taken to ensure the collection of all relevant data to find out what security measures failed which resulted in the breach and who was responsible for said breach. If a user was responsible for the breach, necessary steps are taken (for example restricting user's access for the duration of the investigation, and possibly even after the investigation, termination of the employee).
- depending on the nature of the incident, it might be required to contact external bodies such as the National Cyber and Information Security Agency (if the incident affected Critical information infrastructure or a significant information system in accordance with the Act on Cyber Security and Change of Related acts), the Office for personal data protection (when the incident affected personal data), the National Police (when the incident was a criminal act in nature).

445. Czech authorities indicated that no data breach is known to have occurred in connection with EOIR.

C.4. Rights and safeguards of taxpayers and third parties

The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

446. Czech Republic's EOI instruments, including the new ones concluded after the adoption of the 2015 Report, are generally in line with the standard on the rights and safeguards of taxpayers and third parties, and provide that

the contracting parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.⁶¹

447. The conclusions are as follows:

Legal and Regulatory Framework: in place

No material deficiencies have been identified.
--

Practical implementation of the Standard: Compliant

No material deficiencies have been identified in respect of the rights and safeguards of taxpayers and third parties.

C.4.1. Exceptions to the requirement to provide information

448. The 2015 Report found that the Czech Republic's DTC with Sri Lanka was the only DTC which did not contain express safeguards that allow the contracting parties to decline to supply information when doing so is contrary to public policy. Czech authorities have informed that a new DTC with Sri Lanka has been negotiated and is waiting for the signature, with legislative procedures for signature are already finished in both contracting states.

449. All other Czech Republic's EOI instruments ensure that the contracting parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information which is subject to legal professional privilege. However, the terms "professional secret" or "legal professional privilege" are not defined in the DTCs and therefore, they would derive its meaning from the Czech Republic's domestic laws (see Article 3(2) of the OECD Model DTCs).

450. As noted in Part B of this report (see paragraph 357), the Czech Republic should monitor the scope of professional privilege of the lawyers and tax advisors in relation to EOIR to ensure that it is consistent with the standard. In the event that the Czech Republic identifies that the scope goes beyond the standard, it is recommended that take measures to ensure that it does not unduly restrict EOIR (see Annex 1).

61. Though "Ordre public" is not specifically mentioned in the DTC with Sri Lanka See further below.

451. According to the Czech EOI Act, the Competent Authority is entitled to decline to provide information if the tax confidentiality rules in the relevant Czech legislation are stricter than those of the requesting jurisdiction and that jurisdiction fails to observe such stricter conditions (sec. 21(1)). The Act further states that providing information can be declined if it would give rise to a disclosure of a business secret, violation of secrecy imposed by the special legal act (including attorney-client privilege) or in case of information whose disclosure would contradict the interest of the Czech Republic and public order. In any case, if conditions in the domestic law were not compatible with those contained in the applicable EOI instrument, the latter provisions would prevail (Constitution, Article 10).

452. Czech authorities indicated that no issues have been encountered with regards to legal professional privilege *vis-à-vis* the Tax Administration access powers described under section B.1, that no requests were declined due to tax confidentiality rules and that there were no practical difficulties or delays in responding to EOI requests due to the application of rights and safeguards. No peer has raised an issue concerning professional secrecy.

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

453. The Czech Republic has an extended EOIR practice and structured processes to deal with incoming requests, gather the information requested and ensure its completeness and quality. Responses to EOI requests are however not always provided in a timely manner, and there are not well established procedures for the provisions of status updates when required. The quality of outgoing requests is generally good and additional clarifications on their foreseeable relevance, in the limited cases where the partner jurisdiction requested it, was provided in an effective manner.

454. The conclusions are as follows:

Legal and Regulatory Framework

This element involves issues of practice. Accordingly, no determination has been made.

Practical implementation of the Standard: Largely Compliant

Deficiencies identified/ Underlying factor	Recommendations
The Czech Republic has well established processes to deal with exchange of information and ensure the quality of responses. However, the EOI Unit has limited direct access to the information available within the Tax Administration and the great majority of the requests are dealt with by the local branches of the regional tax offices, and then undergo several layers of quality checks. The whole process and its internal milestones generally considered until recently a six-month timeframe to respond to the request, including those not particularly complex. This affected the overall timeliness of the responses provided to EOI requests. Recently, the Czech Republic implemented measures to address this issue.	The Czech Republic is recommended to monitor and adjust where needed the processes in place to ensure that all EOI requests are answered in a timely manner.
During the review period a status update was generally not provided when the Czech Republic was not able to provide a substantive response within that timeframe. Recently, the Czech Republic implemented measures to address this issue.	The Czech Republic is recommended to provide status updates to its EOI partners within 90 days when it is not possible to provide a substantive response within that timeframe.

C.5.1. Timeliness of responses to requests for information

455. The EOI Act states that the Competent Authority shall provide the requested information without undue delay, but no later than within two months from the day of receipt of the request, or no later than within six months if the Competent Authority is not in possession of such information, unless a longer time limit is agreed with the liaison office of the other state. These provisions are not in contradiction with the standard as it requires the provision of the information requested “without undue delay” (see the 2015 Report, paragraph 338).

456. During the current review period (from 1 October 2018 to 30 September 2021), the Czech Republic received 565 requests for information and answered 26% of them within 90 days, 70% within 180 days and 94% of them within one year. Of those incoming requests, 35 included ownership information, 88 to accounting information and 148 to banking information. The other requests were related only to other types of

information, such as requests on the current address or the employment situation (wage) of the taxpayer. The requests were related to companies, partnerships or individuals, with no request concerning trusts or foundations. The Czech Republic's most significant EOIR partners (considering incoming and outgoing requests) were the Slovak Republic, Germany, Austria, the United States and the United Kingdom.

457. The following table provides a summary of the EOI requests received by the Czech Republic during the period under review and the corresponding response times.

Statistics on response time and other relevant factors

		1.10.2018- 30.9.2019		1.10.2019- 30.9.2020		1.10.2020- 30.9.2021		Total	
		Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received	[A+B+C+D+E]	213	100	183	100	169	100	565	100
Full response: ≤ 90 days		61	29	44	24	43	25	148	26
≤ 180 days (cumulative)		174	82	117	64	108	64	399	70
≤ 1 year (cumulative)	[A]	206	97	173	95	154	91	533	94
> 1 year	[B]	7	3	9	5	7	4	23	4
Declined for valid reasons		1	0	3	2	3	2	7	1
Outstanding cases after 90 days		152	71	139	76	126	75	418	74
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)		1	0	1	1	3	2	5	1
Requests withdrawn by requesting jurisdiction	[C]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	[D]	0	0	0	0	0	0	0	0
Requests still pending at date of review	[E]	0	0	1	1	8	5	9	2

Notes: The Czech Republic generally counts one letter as one request. However, if a request contains more taxpayers, especially if it identifies two or more Czech taxpayers that may hold the information, then the request is counted per the number of Czech taxpayers involved.

In case of further request for information on the same matter where the original request has not yet been fully satisfied, the count depends on whether the case on the original request is closed or not. If the request was not fully replied then the additional request for EOI is counted under the original request. In the case that the full response was sent and the case is closed then the additional request is counted as a new request. In the case that the requesting jurisdiction would like to add a new taxpayer within the additional request it is also counted as a new request.

The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

458. The Czech authorities indicated that the requests that take longer to respond are not related to any particular type of information. Rather, they pointed the overall complexity of some of these requests and the type of action needed for obtaining the requested information.

459. In comparison with the previous assessed period, considered in the 2015 Report, the part of EOI requests answered within 90 days has significantly decreased, from 45% to 26%, and the part of EOI requests answered within 180 days has slightly decreased, from 80% to 70%. Part of the delays during the review period are explained by the disruptions caused by the measures taken to address the COVID-19 pandemic situation. However, the internal practice to processes incoming EOI requests, as further detailed below (see paragraph 470), also affect the time needed to provide responses to the requesting jurisdictions, considering the DLO can rarely reply directly to an EOI request. In addition, as mentioned in paragraph 455, the EOI Act provided for time limits of 2 months for answering to EOI requests when the DLO have the requested information at its disposal, which are rare cases, and of 6 months in the other cases (Section 10). The internal tracking system of the EOIR activity monitored the response time only in consideration to the 6-month timeline, even when the EOI request does not relate to complex cases (see paragraph 463). Therefore, the EOIR processes may result, in some cases, in extensive response times.

460. Since the on-site visit, the Czech Republic has taken steps to improve timeliness of its responses. These measures include an amendment in the timeliness to provide responses in the EOI Act (sec. 10(2)) adopted in November 2022 (Act no. 373/2022) and corresponding changes in the internal tracking system for monitoring response times. It is now required to ordinarily handle incoming EOI requests within three months rather than six months from receipt. Based on these changes it is now foreseen that responses to EOI requests will be provided within three months, and a status update is provided when this is not possible.⁶² **The Czech Republic is recommended to monitor and adjust where needed the processes in place to ensure that all EOI requests are answered in a timely manner.**

461. There were no cases during the period under review in which the Czech Competent Authority failed to provide the information requested. Czech authorities specified that in 28 instances the person involved in the request (an individual in all such cases) was not identifiable (i.e. no such person was registered in the tax database in the Czech Republic) or not

62. Each step in the process at all levels (i.e. DLO, regional offices and local branches) is monitored and automatic reminders are generated for persons handling the request. When the three-month period is approaching, the database/system automatically issues a status update to the DLO officer to be fully completed and sent.

contactable (typically, while the requests contained name, surname and address, the individual had already moved abroad and did not update contact details). In cases where the person was not contactable, the local tax office sent to the person notifications to provide the information, initiated onsite investigation at the person's domicile, but without positive results. These requests did not involve ownership, accounting or banking information. No peer reported concerns about failures to provide information by the Czech Competent Authority.

Status updates and communication with partners

462. The Czech Republic provided status updates within 90 days from the receipt of the request in 1% of the cases where it should have been provided. Peers provided uneven input: some reported that in most cases status updates were not provided by the Czech Republic, but the three most significant EOIR partners generally indicated that status updates were provided most of the time.

463. From the explanation provided by the Czech Authorities, the lack of provision of status updates in most cases is mainly due to the fact that the internal system was not tracking a 90-day time period, with internal alerts only flagging when the six-month time limit from the date of receipt of the request was approaching. Since the on-site visit, the Czech authorities have worked on revising the internal system to increase availability of statistical data and to provide for sending status updates as required under the standard. However, during the period under review, the recommendation in the 2015 Report on the issue remained unaddressed. **The Czech Republic should provide status updates to its EOI partners within 90 days when a substantive response is not provided within that timeframe.**

C.5.2. Organisational processes and resources

Organisation of the Competent Authority

464. In the area of direct taxes, the exchange of information is performed by the DLO, that comprises the head of Unit, the deputy head of Unit and nine officials. The DLO is involved in EOIR, spontaneous EOI (including on tax rulings), automatic EOI (see paragraph 375), and in all other forms of international co-operation on direct taxes (service of documents, joint audits, etc).

465. The officers of the DLO do not have direct access to most of the databases of the Tax Administration (e.g. they do not have access to the tax returns filed by the Czech taxpayers), so that they can respond directly only to simplest types of EOI requests, such as requesting the updated

residence/domiciliation address of the taxpayer. The DLO also carries out directly the procedure to gather information from legal professionals about AML information (including on identification of the client and CDD, see paragraph 351). For all the other types of requests, the gathering of the information is dealt by the regional offices and their local branches, based on the competency in relation to the taxpayer or information holder involved in the request.

466. At the regional tax offices and their local branches, designated officials deal with EOI. These officials have authorised access to the internal system for EOI, as well as to the Central Application of the European Commission that is in use for EOIR e-forms among EU Member States (officials at the local offices are granted authorisation to draft a request in the Central Application, but they cannot send it to the Competent Authority of the requested EU Member State using the built-in sending facility, see paragraph 473).

467. During the onsite visit, the representative of a regional office was aware of the process and organisational aspects of EOI as well as of the requirements of the standard. Nevertheless (as mentioned in paragraph 319), one peer reported one unsatisfactory response, which included only part of the information requested, whereas for the remainder (nature and purpose of the transferring funds and wiring instructions) the response stated that the information was not held by the bank. Czech Authorities, after internal analysis, clarified that this issue arose in practice because the local office in charge of the treatment of the case sent a request to the relevant bank based on a standard format that did not include some of the questions of the requesting jurisdiction. The response was provided by the DLO to the requesting jurisdiction without ensuring that all the information requested was included. Due to this, the answers to those questions were not gathered and not communicated to the requesting jurisdiction. The Czech authorities have indicated that they have followed up on the issue to providing the remainder of the information to the requesting jurisdiction. The Czech Republic also informed that it is taking steps to prevent it from happening again, notably by raising awareness at the level of regional tax offices and branches as well as at the level of the DLO on the importance of verifying that all questions in a request are responded properly.

Resources and training

468. The Competent Authority has developed internal instructions/guidelines for EOI-related processes. They reflect provisions of the EOI Act, of the Directive 2011/16/EU and of the other EOI mechanisms. The instructions are divided in general EOI guidance and specific guidance for EOI based on TIEAs. There is also a technical manual for use of e-Forms among the EU member states. These instruments are periodically updated.

469. Officials of the DLO regularly participate in seminars, workshops, and trainings held by the European Commission, the OECD and other international bodies. Officials dealing with EOI also receive internal training, especially focused on the criteria and requirements to be fulfilled in EOI requests (including foreseeable relevance). The DLO also offers internal assistance and consultation to officials of the regional offices and their branches dealing with EOIR, e.g. to discuss difficulties, questions or doubts that might arise in dealing with inbound or outbound EOI requests.

Incoming requests

470. EOIR requests are processed via an internal system for EOI. When a request is received, it is assigned to an official within the DLO, who records it in the internal system, also attributing a unique reference number. The DLO official then checks whether the request fulfils the requirements and translates it into Czech. The request with its translation and all attachments is uploaded to the internal system and is forwarded to the head of DLO for approval. If the request fulfils the requirements and the translation made is correct, the head of DLO approves the request and forwards it via the internal system to the relevant regional office. The relevant regional office, in turn, forwards it to its branch to gather the information requested. When the information is gathered by the local branch official, the response to the request follows the reverse path (regional office, DLO official, head of the DLO), with subsequent quality checks to ensure its completeness and the translation into English (or other working language in use with the requesting jurisdiction) made by the DLO official, before being sent to the requesting jurisdiction. Every response is finally checked and approved by the head of DLO.

471. Interim partial responses are provided sometimes to the requesting jurisdiction, but it is not the most frequent case. In most cases, the request is handled by the local branches (through the regional offices) and a draft response is sent to the DLO only when the local branch has gathered all the information requested.

472. All these activities and the status of each request are monitored in the internal system. All officials dealing with EOI are responsible for the cases assigned to them. Statistical overviews on EOIR are made at the end of each year, with the data sorted per responsible official (within the DLO), per competent regional office and per requesting jurisdiction (but not per type of information requested).

Outgoing requests

473. For outgoing requests, the local branch official drafts the request in the Central Application (also for requests that are directed to non-EU

jurisdictions) and uploads it (xml file) in the internal system for EOI. Through the internal system, the request is forwarded to the regional office. The designated official for EOI at the regional tax office checks and corrects (where necessary) the draft request. If major corrections are needed, the request is sent back to the local branch for revision via internal system for EOI. If the request appears complete, it is forwarded (also in this case through the internal system for EOI) from the regional tax office to the DLO.

474. At the DLO, the request is assigned to an official, who checks again whether it fulfils all the requirements (such as taxpayers' identification, background information, foreseeable relevance, tax purpose) and then translates it into English. The translated version is uploaded to the internal system and is forwarded to the Head of DLO for checks and final approval. After the approval, the request is sent to the requested jurisdiction (in the case of EU via the Central Application).

475. The Czech authorities explained that the approach to always use the Central Application for drafting requests, also in case they are directed to non-EU jurisdictions, is because the use of the template contained in it ensures that no substantial element is missing. The Czech Competent Authority would nevertheless also use the requested jurisdictions template for EOI requests, in case there is one.

476. Other means of transmission are used in this circumstance, such as: encrypted emails, emails with PGP encryption, postal mail. From 2022 the Czech Competent Authority is also ready to exchange non-xml messages (including EOIR requests) via the system used for the Common Reporting Standard automatic exchanges (CTS 2.0).

477. The table below provides for the total number of requests sent by the Czech Republic during the peer review period, and the number of requests sent that were subject to request(s) for clarification received from requested jurisdictions.

	1.10.2018- 30.09.2019	1.10.2019- 30.09.2020	1.10.2020- 30.09.2021	Total
Number of requests sent	213	207	99	519
Number of requests for clarifications received	13	14	2	29
Acknowledgement of receipt for clarification sent	13	13	2	28

478. When a request for clarification is received on outbound EOI requests, in some cases it can be replied directly at DLO level, and the timeline of such reply would be within 1-2 weeks. However, in most cases the request for clarification requires additional elements from the relevant local office and must therefore be forwarded to it. In such a case, the time

needed to provide the clarification sought depends on the complexity of the information expected. Czech authorities explained that the main reason of requests for clarification on outbound EOI requests was to clarify the foreseeable relevance of the information requested.

479. Input from peers has confirmed that EOI requests from the Czech Republic generally meet the requirement of foreseeable relevance.

C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI

480. Exchange of information should not be subject to unreasonable, disproportionate, or unduly restrictive conditions.

481. Other than what is identified earlier in this report, there are no aspects of the Czech Republic's domestic laws and practice that appear to impose restrictive conditions on exchange of information.

Annex 1: List of in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, it should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be stated in the text of the report. A list of such recommendations is reproduced below for convenience:

- **Element A.1.2:** The Czech Republic should monitor the practical implementation of the requirements introduced on 1 January 2014 regarding bearer shares, to ensure that all non-immobilised bearer shares have submitted for the necessary changes and shareholders information is available in all cases (see paragraph 45 and 189).
- **Element A.2:** the Czech Republic should ensure the availability of accounting information, including underlying documentation, for a period of at least five years, for companies that undergo a cross-border conversion, merged or division (see paragraph 263).
- **Element A.3:** The Czech Republic should clarify in the legal or regulatory framework the rules for updating the information obtained by banks during the CDD process (see paragraph 310)
- **Element B.1:** The Czech Republic should monitor the implementation of the recently introduced section 57a for handling EOI requests received from non-EU Member States to ensure an effective EOI (see paragraph 351).
- **Elements B.1 and C.4:** The Czech Republic should monitor the scope of legal professional privilege in relation to EOIR to ensure it is consistent with the international standard. In the event that the Czech Republic identifies that the scope goes beyond the standard, it is recommended that the Czech Republic take measures to ensure that it does not unduly restrict EOIR (see paragraphs 357 and 450).

- **Element C.1.1:** The Czech Republic should ensure that sufficient guidance is provided to the banks so that group requests concerning banking information are fulfilled in line with the standard (see paragraph 385).
- **Element C.1:** The Czech Republic should work with partners with which the underlying agreements do not contain a language akin Article 26(5) of the OECD Model Tax Convention in case the domestic laws of the partner jurisdiction do not allow for exchange of all types of information to ensure that these EOI relationships are in line with the standard (see paragraph 390).
- **Element C.1:** The Czech Republic should ensure that signed agreements are brought into force expeditiously (see paragraph 411).
- **Element C.2:** The Czech Republic should continue to conclude EOI agreements with any new relevant partner who would so require (see paragraph 414).
- **Element C.3:** The Czech Republic should ensure that in practice, all documents obtained from EOIR exchange partners, sent to the competent regional office as attachments to the note by the DLO, are clearly identified as subject to confidentiality provisions under the EOI Instrument (see paragraph 435).

Annex 2: List of the Czech Republic's EOI mechanisms

Bilateral international agreements for the exchange of information

	EOI Partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	22/06/1995	10/09/1996
2	Andorra	TIEA	11/06/2013	05/06/2014
		DTC	23/11/2022	not in force
3	Armenia	DTC	06/07/2008	15/07/2009
4	Australia	DTC	28/03/1995	27/11/1995
5	Austria	DTC	26/10/2012	01/02/2014
		Protocol	08/06/2006	22/03/2007
6	Azerbaijan	DTC	09/03/2012	26/11/2012
7	Bahamas	TIEA	06/03/2014	02/04/2015
8	Bahrain	DTC	24/05/2011	10/04/2012
9	Bangladesh	DTC	11/12/2019	15/01/2021
10	Barbados	DTC	26/10/2011	06/06/2012
11	Belarus	DTC	14/10/1996	15/01/1998
		Protocol	11/08/2010	31/05/2011
12	Belgium	DTC	16/12/1996	24/07/2000
		Protocol	15/03/2010	13/01/2015
13	Bermuda	TIEA	15/08/2011	14/03/2012
14	Bosnia and Herzegovina	DTC	20/11/2007	12/05/2010
15	Botswana	DTC	29/10/2019	26/11/2020
16	Brazil	DTC	26/08/1986	14/11/1990
17	British Virgin Islands	TIEA	13/06/2011	19/12/2012
18	Bulgaria	DTC	09/04/1998	02/07/1999
19	Canada	DTC	25/05/2001	28/05/2002

	EOI Partner	Type of agreement	Signature	Entry into force
20	Cayman Islands	TIEA	26/10/2012	20/09/2013
21	Chile	DTC	02/12/2015	21/12/2016
22	China (People's Republic of)	DTC	28/08/2009	04/05/2011
23	Colombia	DTC	22/03/2012	06/05/2015
24	Co-oc Islands	TIEA	04/02/2015	10/05/2016
25	Croatia	DTC	22/01/1999	28/12/1999
		Protocol	04/10/2011	30/07/2012
26	Cyprus ⁶³	DTC	28/04/2009	26/11/2009
27	Denmark	DTC	25/08/2011	17/12/2012
28	Egypt	DTC	19/01/1995	04/10/1995
29	Estonia	DTC	24/10/1994	26/05/1995
30	Ethiopia	DTC	25/07/2007	30/05/2008
31	Finland	DTC	02/12/1994	12/12/1995
32	France	DTC	28/04/2003	01/07/2005
33	Georgia	DTC	23/05/2006	04/05/2007
34	Germany	DTC	19/12/1980	17/11/1983
35	Ghana	DTC	11/04/2017	11/08/2020
36	Greece	DTC	23/10/1986	23/05/1989
37	Guernsey	TIEA	15/09/2011	09/07/2012
38	Hong Kong (China)	DTC	06/06/2011	24/01/2012
39	Hungary	DTC	14/01/1993	27/12/1994
40	Iceland	DTC	18/01/2000	28/12/2000
41	India	DTC	01/10/1998	27/09/1999
42	Indonesia	DTC	04/10/1994	26/01/1996

63. Note by Türkiye: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Türkiye recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Türkiye shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Türkiye. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

	EOI Partner	Type of agreement	Signature	Entry into force
43	Iran	DTC	30/04/2015	04/08/2016
44	Ireland	DTC	14/11/1995	21/04/1996
45	Isle of Man	TIEA	18/07/2011	18/05/2012
46	Israel	DTC	12/12/1993	23/12/1994
47	Italy	DTC	05/05/1981	26/06/1984
48	Japan	DTC	11/10/1977	25/11/1978
49	Jersey	TIEA	12/07/2011	14/03/2012
50	Jordan	DTC	10/04/2006	07/11/2007
51	Kazakhstan	DTC	09/04/1998	29/10/1999
		Protocol	24/11/2014	28/06/2016
52	Korea, Democratic People's Republic of	DTC	02/03/2005	07/12/2005
53	Korea, Republic of	DTC	12/01/2018	20/12/2019
54	Kosovo	DTC	26/11/2013	not in force
55	Kuwait	DTC	05/06/2001	03/03/2004
56	Kyrgyzstan	DTC	09/04/2019	30/11/2020
57	Latvia	DTC	25/10/1994	22/05/1995
58	Lebanon	DTC	28/08/1997	24/01/2000
59	Liechtenstein	DTC	25/09/2014	22/12/2015
60	Lithuania	DTC	27/10/1994	08/08/1995
61	Luxembourg	DTC	05/03/2013	31/07/2014
62	Malaysia	DTC	08/03/1996	09/03/1998
63	Malta	DTC	21/06/1996	06/06/1997
64	Mexico	DTC	04/04/2002	27/12/2002
65	Moldova	DTC	12/05/1999	26/04/2000
		Protocol	14/10/2004	13/07/2005
66	Monaco	TIEA	31/07/2014	02/03/2016
67	Mongolia	DTC	27/02/1997	22/06/1998
68	Montenegro	DTC	11/11/2004	27/06/2005
69	Morocco	DTC	11/06/2001	18/07/2006
70	Netherlands	DTC	04/03/1974	05/11/1974
		Protocol	26/06/1996	11/04/1997
		Protocol	15/10/2012	31/05/2013
71	New Zealand	DTC	26/10/2007	29/08/2008

	EOI Partner	Type of agreement	Signature	Entry into force
72	Nigeria	DTC	31/08/1989	02/12/1990
73	North Macedonia	DTC	21/06/2001	17/06/2002
74	Norway	DTC	19/10/2004	09/09/2005
75	Pakistan	DTC	02/05/2014	30/10/2015
76	Panama	DTC	04/07/2012	25/02/2013
77	Philippines	DTC	13/11/2000	23/09/2003
78	Poland	DTC	13/09/2011	11/06/2012
79	Portugal	DTC	24/05/1994	01/10/1997
80	Qatar	DTC	21/06/2022	25/10/2022
81	Romania	DTC	08/11/1993	10/08/1994
82	Russian Federation	DTC	17/11/1995	18/07/1997
		Protocol	27/04/2007	17/04/2009
83	San Marino	DTC	27/01/2021	19/07/2022
		TIEA	25/11/2011	06/09/2012
84	Saudi Arabia	DTC	25/04/2012	01/05/2013
85	Senegal	DTC	22/01/2020	29/08/2022
86	Serbia	DTC	11/11/2004	27/06/2005
		Protocol	08/09/2009	28/02/2011
87	Singapore	DTC	21/11/1997	21/08/1998
		Protocol	12/09/2014	26/06/2013
88	Slovak Republic	DTC	26/03/2002	14/07/2003
89	Slovenia	DTC	13/06/1997	28/04/1998
90	South Africa	DTC	11/11/1996	03/12/1997
91	Spain	DTC	08/05/1980	05/06/1981
92	Sri Lanka	DTC	26/07/1978	19/06/1979
93	Sweden	DTC	16/02/1979	08/10/1980
94	Switzerland	DTC	04/12/1995	23/10/1996
		Protocol	11/09/2012	11/10/2013
95	Syria	DTC	18/05/2008	12/11/2009
96	Tajikistan	DTC	07/11/2006	19/10/2007
97	Thailand	DTC	12/02/1994	14/08/1995
98	Tunisia	DTC	14/03/1990	25/10/1991
99	Türkiye	DTC	12/11/1999	16/12/2003

	EOI Partner	Type of agreement	Signature	Entry into force
100	Turkmenistan	DTC	18/03/2016	27/03/2018
101	Ukraine	DTC	30/06/1997	20/04/1999
		Protocol	21/10/2013	09/12/2015
102	United Arab Emirates	DTC	30/09/1996	09/08/1997
103	United Kingdom	DTC	05/11/1990	20/12/1991
104	United States	DTC	16/09/1993	23/12/1993
105	Uzbekistan	DTC	02/03/2000	15/01/2001
		Protocol	08/12/2011	15/06/2012
106	Venezuela	DTC	26/04/1996	12/11/1997
107	Viet Nam	DTC	23/05/1997	03/02/1998

Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).⁶⁴ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by the Czech Republic on 26 October 2012 and entered into force on 1 February 2014 in the Czech Republic. The Czech Republic can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Armenia, Aruba (extension by the Netherlands),

64. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cabo Verde, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Estonia, Eswatini, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Jordan, Kazakhstan, Kenya, Korea, Kuwait, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), North Macedonia, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Montserrat (extension by the United Kingdom), Morocco, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Benin (entry into force on 1 May 2023), Burkina Faso (entry into force on 1 April 2023), Gabon, Honduras, Madagascar, Papua New Guinea, Philippines, Togo, United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

EU Directive on Mutual Administrative Assistance in Tax Matters

The Czech Republic can exchange information relevant for direct taxes upon request with EU member states under the EU Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation (as amended). The Directive came into force on 1 January 2013. All EU members were required to transpose it into their domestic legislation by 1 January 2013, i.e. Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France,

Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Slovenia, Spain and Sweden. The United Kingdom left the EU on 31 January 2020 and hence this directive is no longer binding on the United Kingdom.

Annex 3: Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and last amended in November 2021, and the Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 20 January 2023, Czech Republic's EOIR practice in respect of EOI requests made and received during the three year period from 1 October 2018 to 30 September 2021, Czech Republic's responses to the EOIR questionnaire, inputs from partner jurisdictions, as well as information provided by the Czech Republic's authorities during the on-site visit that took place on 26, 27 and 28 April 2022 in Prague.

List of laws, regulations and other materials consulted

Name	Reference
AML Act	no. 253/2008 Coll. on Selected Measures against Legitimisation of Proceeds of Crime and Financing of Terrorism
Act on Banks	no. 21/1992 Coll.
Act on Legal Professions	no. 85/1996 Coll.
Act on Public Registers	no. 304/2013 Coll., on the Public Registers of Legal and Natural Persons and on the Register of Trust Funds
Act on the Beneficial Owners Register	no. 37/2021 Coll., on the Register of Beneficial Owners
Act on the Central Register of Accounts	no. 300/2016 Coll.
Administrative Co-operation Act	no. 164/2013 Coll., on international co-operation in Tax Administration and on the amendment of further related Acts
Business Corporations Act	no. 90/2012 Coll. on Commercial Companies and Co-operatives (Business Corporations Act)
Civil Code	no. 89/2012 Coll.
CNB AML Decree	no. 67/2018 Coll. on selected requirements for the system of internal rules, procedures and control measures against legitimisation of proceeds of crime and financing of terrorism
EOI Act	no. 164/2013 Coll on International Co-operation in Tax Administration and on the Amendment of Certain Related Acts

Name	Reference
Income Tax Act	no. 586/1992
Law Enforcement Act – Extract	no. 120/2001 Coll. on Executors and Enforcement Proceedings (Law Enforcement Act), as amended – Extract (Section 31)
Notarial Procedures	no. 358/1992 on Notaries and their Work Activities
Tax Procedure Code	no. 280/2009 Coll., Tax Procedure Code
Act on Cyber Security	no. 181/2014 Coll.
Decree on Cyber Security	no. 82/2018 Coll.
Decree on double-entry accounting	no. 500/2002 Coll.
Act on Special Court Proceedings	no. 292/2013 Coll.
Act on liability for administrative offences and the procedure thereon	no. 250/2016 Coll.
Act on Public Procurement	no. 134/2016 Coll.
Act on Budgetary Rules	no. 218/2000 Coll.
Capital Market Undertakings Act	no. 256/2004 Coll.
Act on Investment Companies and Investment Funds	no. 240/2013 Coll.
Accounting Act	no. 563/1991 Coll., as amended
Act on Banks	no. 21/1992 Coll.
Act on International Judicial Co-operation in Criminal Matters	no. 104/2013 Coll.
Act on Regions (Establishment of Regions)	no. 129/2000 Coll.
Act on Municipalities (Establishment of Municipalities)	no. 128/2000 Coll.
Payment Systems Act	no. 284/2009
Tax Consultancy Act	no. 523/1992
Act on cross-border conversions, mergers and divisions of business corporations and co-operatives	no. 125/2008 Coll.

Authorities interviewed during on-site visit

Ministry of Finance

Tax Administration (General Financial Directorate)

- EOI Unit
- Security department in charge of confidentiality
- Tax Audit Department
- Regional Tax Office

Ministry of Justice

Registrar Court in Prague

Financial Intelligence Unit
 Czech National Bank
 Czech Banking Association
 Czech Insurance Association
 Notarial Chamber
 Chamber of Tax Advisors
 Lawyers Association

Current and previous reviews

This report is the third review of the Czech Republic conducted by the Global Forum. The Czech Republic previously underwent a review of its legal and regulatory framework (Phase 1) in 2012. The implementation of that framework in practice (Phase 2) was reviewed in 2015.

The first-round Phase 1 and Phase 2 reviews were conducted according to the Terms of Reference approved by the Global Forum in February 2010 (2010 ToR) and the Methodology used in the first round of reviews.

Summary of reviews

Review	Assessment team	Period under review	Legal framework as of	Date of adoption by Global Forum
Round 1 Phase 1	Ms Heidi-Lynn Sutton, Financial Services Counsel, Ministry of Finance, Nevis Island Administration, Saint Kitts and Nevis; Mr Natsuki Arai, Deputy Director, International Operations Division, National Tax Agency, Japan; and Mr Beat Gisler from the Global Forum Secretariat	n.a.	December 2011	March 2012
Round 1 Phase 2	Ms Heidi-Lynn Sutton, Financial Services Counsel, Ministry of Finance, Nevis Island Administration, Saint Kitts and Nevis; Ms Miki Masaki, Assistant Chief, International Operations Division, National Tax Agency, Japan; and Mr Boudewijn van Looij from the Global Forum Secretariat	1 January 2011- 31 December 2013	26 February 2015	May 2015
Round 2 combined Phase 1 and Phase 2	Ms Mary Nalubega, Officer on Exchange of Information at the Uganda Revenue Authority; Ms Mette Katrin Øien, Senior Legal Adviser from the Legal Department of the Directorate of Taxes of Norway; and Ms Carine Kokar and Mr Fabio Giuseppone from the Global Forum Secretariat	1 October 2018- 30 September 2021	20 January 2023	27 March 2023

Annex 4: Czech Republic's response to the review report

The Czech Republic has not provided a response to the report.

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information on Request CZECH REPUBLIC 2023 (Second Round)

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 160 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This publication presents the results of the Second Round Peer Review on the Exchange of Information on Request for the Czech Republic.



PRINT ISBN 978-92-64-49177-9

PDF ISBN 978-92-64-59967-3



9 789264 491779