

Czech Republic

The Czech Republic has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review), except for the timely exchange of information on rulings (ToR II.B.6). The Czech Republic receives one recommendation on this point for the year in review.

In the prior year report, no recommendations were made. However, in the 2017 and 2018 peer reviews, the Czech Republic had received the same recommendation. As the issue has now recurred, the recommendation has been reinstated.

The Czech Republic can legally issue two types of rulings within the scope of the transparency framework.

In practice, the Czech Republic issued rulings within the scope of the transparency framework as follows:

Type of ruling	Number of rulings
Past rulings	48
Future rulings in the period 1 April 2016 – 31 December 2016	5
Future rulings in the calendar year 2017	11
Future rulings in the calendar year 2018	7
Future rulings in the calendar year 2019	19
Future rulings in the year in review	15

Peer input was received from one jurisdiction in respect of the exchanges of information on rulings received from the Czech Republic. The input was positive, noting that information was complete, in a correct format and received in a timely manner.

A. The information gathering process (ToR I.A)

325. The Czech Republic can legally issue the following two types of rulings within the scope of the transparency framework: (i) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles and (ii) permanent establishment rulings.

326. For the Czech Republic, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2014 but before 1 April 2016; or (ii) on or after 1 January 2010 but before 1 January 2014, provided they were still in effect as at 1 January 2014. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

327. In the prior years' peer review reports, it was determined that the Czech Republic's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that the Czech Republic's review and supervision mechanism was sufficient to meet the minimum standard. The Czech Republic's implementation remains unchanged, and therefore continues to meet the minimum standard.

328. The Czech Republic has met all of the ToR for the information gathering process and no recommendations are made.

B. The exchange of information (ToR II.B)

Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)

329. The Czech Republic has the necessary domestic legal basis to exchange information spontaneously. The Czech Republic notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

330. The Czech Republic has international agreements permitting spontaneous exchange of information, including being a party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 92 jurisdictions.¹

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

331. In the prior years' peer review reports, it was determined that the Czech Republic's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no further action was required. The Czech Republic continues to apply the European Union (EU) timelines for the exchange of information on future rulings (EU Directive 2011/16/EU), i.e. exchanges of information on future rulings are carried out within three months after the end of the calendar half-year in which these rulings were issued, regardless of whether the exchange is transmitted to EU Member States or other jurisdictions. Despite the best efforts to meet the FHTP timelines (and to therefore exchange faster than the domestic legislation and EU Directive would require), during the year in review the Czech Republic experienced delays in the exchange of information on future rulings and as a consequence, exchanges were performed later than three months after the tax ruling became available to the competent authority. The Czech Republic noted that this delay was also a result of the limited activities carried out by the Czech Tax Authorities due to the COVID-19 pandemic. The issue will be reviewed again in the subsequent year's peer review to monitor whether the Czech Republic meets the FHTP timelines despite the obligation to comply with the EU Directive.

332. For the year in review, the timeliness of exchanges is as follows:

Future rulings within the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	0	30	Application of the EU DAC3 timelines and constraints due to the COVID-19 pandemic	N/A

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	N/A

Conclusion on section B

333. The Czech Republic has met all of the ToR for the exchange of information process except for ensuring that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the agreed timelines. The Czech Republic is recommended to ensure that all information on future rulings is exchanged as soon as possible (ToR II.B.6).

C. Statistics (ToR IV)

334. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles	24	Albania, Belgium, Bosnia and Herzegovina, France, Germany, Hungary, Italy, Liechtenstein, Luxembourg, Morocco, North Macedonia, Romania, Serbia, Slovak Republic, Spain, Switzerland, United Kingdom
Permanent establishment rulings	6	Belgium, Germany, Japan, Malta, Mauritius
Total	30	

D. Matters related to intellectual property regimes (ToR I.A.1.3)

335. Czech Republic does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) were imposed.

Summary of recommendations on implementation of the transparency framework

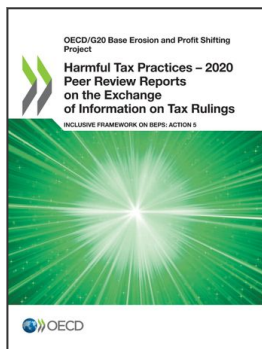
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
The Czech Republic experienced delays in the exchange of information on future rulings due to the application of the timelines set out in the EU Directive 2011/16/EU.	The Czech Republic is recommended to ensure that all information on future rulings is exchanged as soon as possible. The Czech Republic also received a recommendation on timely exchange of information on rulings in the 2017 and 2018 peer review reports.

References

- OECD (2021), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]
- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-en>. [2]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]

Notes

¹ Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. The Czech Republic also has bilateral agreements with Albania, Azerbaijan, Armenia, Australia, Austria, Bahrain, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Colombia, Croatia, Cyprus, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela and Viet Nam.



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