

# Czech Republic

The Czech Republic has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2019 (year in review), and no recommendations are made.

In the prior year report, as well as in the 2016 and 2017 peer reviews, the Czech Republic had received one recommendation. The Czech Republic has resolved this issue and therefore the prior years' recommendation is now removed.

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:

- 48 past rulings;
- For the period 1 April 2016 - 31 December 2016: five future rulings;
- For the calendar year 2017: 11 future rulings,
- For the calendar year 2018: seven future rulings, and
- For the year in review: 19 future rulings.

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

## A. The information gathering process

304. 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

305. 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.

306. 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.

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

## B. The exchange of information

### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

308. 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.

309. The Czech Republic has international agreements permitting spontaneous exchange of information, including being a party to the (i) *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[4]</sup>) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 89 jurisdictions.<sup>1</sup>

### ***Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)***

310. In the prior years' peer review reports, it was determined that the Czech Republic's process for the completion and exchange of templates met all the ToR, except for ensuring that information to be exchanged is transmitted to the relevant jurisdictions in accordance with the agreed timelines (ToR II.5.6). With respect to past rulings, no further action was required. The Czech Republic applies the timelines set out in the EU Directive 2011/16/EU, i.e. the 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. As such, the Czech Republic experienced delays in the exchange of information on future rulings due to the application of the EU timelines. Therefore, the Czech Republic was recommended to ensure that all information on future rulings is exchanged as soon as possible.

311. Although no changes were made to the legislative framework for exchanges on tax rulings, the Czech Republic undertook its best efforts to meet the FHTP timelines (and to therefore exchange faster than the domestic legislation and EU Directive would require). Exchanges performed in 2019 were performed within the requested timelines. For the sake of completeness, on average, the 19 rulings issued

in 2019 were made available to the Competent Authority within 32 days from the date of their issuance (with 66 days as the longest period spent between the date of issuance and the date of submission to the Competent Authority) and were exchanged with relevant exchange jurisdictions within 72 days. Only in two circumstances, exchanges were performed after about four months after the tax ruling became available to the competent authority. However, this relates to exchanges performed in 2020 with regard to two rulings issued respectively in August and December 2019, and therefore this will be assessed in the next year's peer review.

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

Future rulings in 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
	58	0	N/A	N/A

  

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	2	1 to 3 months	0

### Conclusion on section B

313. The Czech Republic has the necessary legal basis for spontaneous exchange of information and a process for completing the templates in a timely way. Despite the fact that the Czech Republic's exchange on tax rulings regulatory framework is based on EU timelines, during the year in review the Czech Republic has enhanced its internal procedures to expedite the exchange of information on tax rulings in practice, in a timely manner that is consistent with the FHTP transparency framework standard. Therefore, the previous years' recommendation is now removed.

## C. Statistics (ToR IV)

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

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Cross-border unilateral advance pricing agreements (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	56	Austria, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Korea, Netherlands, Norway, Poland, Romania, Russia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom, Viet Nam
Permanent establishment rulings	<i>De minimis rule applies</i>	N/A
<i>De minimis rule</i>	2	
<b>Total</b>	58	

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

315. Czech Republic does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) 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
	No recommendations are made.

## References

- OECD (2017), *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/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

<sup>1</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://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, 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, Greece, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, 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, Syria, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela and Viet Nam.



From:

## Harmful Tax Practices – 2019 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/afd1bf8c-en>

### Please cite this chapter as:

OECD (2020), “Czech Republic”, in *Harmful Tax Practices – 2019 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/40bb6de1-en>

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