

## Czech Republic

1. The Czech Republic was first reviewed during the 2017/2018 peer review. This report is supplementary to the Czech Republic’s 2017/2018 peer review report (OECD, 2018<sup>[1]</sup>). The first filing obligation for a CbC report in the Czech Republic applies to reporting fiscal years commencing on or after 1 January 2016.

### Summary of key findings

2. The Czech Republic’s implementation of the Action 13 minimum standard meets all applicable terms of reference (OECD, 2017<sup>[2]</sup>).

3. The Czech Republic’s 2017/2018 peer review included a recommendation that the Czech Republic i) amend or otherwise clarify that the annual consolidated group revenue threshold calculation rule applies without prejudice of the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than the Czech Republic and ii) take steps to ensure that local filing is only required in the circumstances contained in the terms of reference. The Czech Republic has amended its legislation to clarify that the annual revenue threshold calculation rule would apply in accordance with the OECD guidance and that local filing would be triggered in circumstances contained in the terms of reference. Both recommendations from the 2017/2018 peer review are removed.

4. The Czech Republic’s 2017/2018 peer review included a recommendation that the Czech Republic take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. The Czech Republic now has measures in place to ensure the appropriate use of information in all six areas identified in the OECD Guidance on the appropriate use of information contained in CbC Reports (OECD, 2017<sup>[4]</sup>). The recommendation with respect to appropriate use issued in the 2017/2018 peer review is removed.

### Part A: The domestic legal and administrative framework

5. The Czech Republic has primary law (hereafter the “Act on International Cooperation”) and secondary law (hereafter the “regulations”) in place to implement the BEPS Action 13 minimum standard, establishing the necessary requirements including the filing and reporting obligations.<sup>1</sup>

#### *(a) Parent entity filing obligation*

6. The Czech Republic’s 2017/2018 peer review included a recommendation that the Czech Republic amend or otherwise clarify its rule for the calculation of the annual consolidated group revenue threshold calculation so that it applies in a manner consistent with the OECD guidance on currency fluctuations in respect of an MNE Group whose Ultimate Parent Entity is located in a jurisdiction other than the Czech Republic, when local filing requirements are applicable.

7. The Czech Republic has published amended legislation to address this recommendation. It is noted in the amended legislation<sup>2</sup> with respect to the threshold calculation that “*If law of the state or jurisdiction of the Ultimate Parent Entity of a Group contains rules, according to which the Group is not a MNE Group, which are based on comparison of total consolidated group revenue and EUR 750 000 000 or an amount in local currency approximately equivalent to EUR 750 000 000 as of January 2015, these rules will be used instead of subsection 2*”.<sup>3</sup> This is consistent with the intention of guidance on the impact of currency fluctuations on the threshold, published by the OECD in June 2016.<sup>4</sup> The recommendation with respect to the threshold calculation is removed.

***(b) Scope and timing of parent entity filing***

8. The Czech Republic’s 2017/2018 peer review noted that published CbCR guidance was in the process of being amended to reflect updated OECD guidance and this would be monitored. Updated guidance has now been published<sup>5</sup> and therefore, this monitoring point is removed.

***(c) Limitation on local filing obligation***

9. The Czech Republic’s 2017/2018 peer review included a recommendation that the Czech Republic amend its legislation or otherwise take steps to ensure that local filing is only required in the circumstances contained in the terms of reference. This recommendation remains in place. The Czech Republic has issued amended legislation to address to clarify that local filing would apply in circumstances contained in the terms of reference<sup>6</sup> and as such, this recommendation is removed.<sup>7</sup>

***(d) Limitation on local filing in case of surrogate filing***

10. No changes were identified with respect to the limitation on local filing in case of surrogate filing.

***(e) Effective implementation***

11. No changes were identified with respect to the effective implementation.

***Conclusion***

12. The Czech Republic’s 2017/2018 peer review contained two recommendations in relation to the domestic legal and administration framework for the Czech Republic: (i) the annual consolidated group revenue threshold (paragraphs 8(a) ii. of the terms of reference) and (ii) the local filing conditions (paragraphs 8(c) iv. b) of the terms of reference). The Czech Republic has issued amended legislation to address these recommendations and so the recommendations in relation to the legal and administrative framework are removed. The Czech Republic meets all the terms of reference relating to the domestic legal and administrative framework.

## **Part B: The exchange of information framework**

***(a) Exchange of information framework***

13. As of 31 May 2019, the Czech Republic has 68 bilateral relationships in place for the exchange of CbC reports, including those activated under the CbC MCAA, under bilateral CAAs and under the EU Council Directive (2016/881/EU). Within the context of its international exchange of information agreements that allow automatic exchange of tax information, the Czech Republic has taken steps to have qualifying competent authority agreements in effect with jurisdictions of the Inclusive Framework that currently meet the

confidentiality, consistency and appropriate use conditions. Regarding the Czech Republic's exchange of information framework, no inconsistencies with the terms of reference were identified.<sup>8</sup>

***(b) Content of information exchanged***

14. The Czech Republic has written procedures in place that are intended to ensure that each of the mandatory fields of information as required in the CbC template are present in the information exchanged. It has provided details in relation to these written procedures.

***(c) Completeness of exchanges***

15. The Czech Republic has written procedures in place that are intended to ensure that CbC reports are exchanged with all tax jurisdictions listed in Table 1 of a CbC reporting template with which it should exchange information as per the relevant QCAAs. It has provided details in relation to these written procedures.

***(d) Timeliness of exchanges***

16. The Czech Republic has written procedures in place that are intended to ensure that the information to be exchanged is transmitted to the relevant jurisdictions in accordance with the timelines provided for in the relevant QCAAs and terms of reference. It has provided details in relation to these written procedures.

17. Despite these processes, Czech Republic indicates that a number of CbC reports were exchanged late. These late exchanges were due to an automated system error. The cause of these late exchanges has since been addressed and therefore no recommendation is required.

***(e) Temporary suspension of exchange or termination of QCAA***

18. The Czech Republic has processes in place that are intended to ensure that a temporary suspension of the exchange of information or termination of a relevant QCAA be carried out only as per the conditions set out in the QCAA. It has provided details in relation to those processes.

***(f) Consultation with other Competent Authority before determining systemic failure or significant non-compliance***

19. The Czech Republic has processes in place that are intended to ensure that the Competent Authority consults with the other Competent Authority prior to making a determination that there is or has been significant non-compliance with the terms of the relevant QCAA or that the other Competent Authority has caused a systemic failure. It has provided details in relation to those processes.

***(g) Format for information exchange***

The Czech Republic confirms that it uses the OECD XML Schema and User Guide (OECD, 2017<sup>[3]</sup>) for the international exchange of CbC reports.

***(h) Method for transmission***

20. The Czech Republic indicates that it uses the Common Transmission System to exchange CbC reports.

***Conclusion***

21. The Czech Republic has in place the necessary processes to ensure that the exchange of information is conducted in a manner consistent with the terms of reference

relating to the exchange of information framework. The Czech Republic meets all the terms of reference regarding the exchange of information.

### Part C: Appropriate use

22. The 2017/2018 peer review included a recommendation that the Czech Republic take steps to ensure that the appropriate use condition is met ahead of the first exchanges of information. The Czech Republic now has measures in place to ensure the appropriate use of information in all six areas identified in the OECD *Guidance on the Appropriate use of Information contained in CbC Reports*. not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. Since the 2017/2018 peer review, the Czech Republic has provided details in relation to these measures, enabling it to answer “yes” to the additional questions on appropriate use. In light of the update provided by the Czech Republic, the recommendation on appropriate use is removed. There are no concerns to be reported for the Czech Republic in respect of the appropriate use condition.

#### **Conclusion**

23. The Czech Republic meets all the terms of reference relating to the appropriate use of CbC reports.

## Summary of recommendations on the implementation of country-by-country reporting

Aspect of the implementation that should be improved		Recommendation for improvement
Part A	Domestic legal and administrative framework - Parent entity filing obligation annual consolidated group revenue threshold	-
Part B	Exchange of information framework	-
Part C	Appropriate use	-

### Notes

<sup>1</sup> The primary law with respect to Country-by-Country Reporting (CbCR) consists of Division 5 “Automatic Exchange of Information Reported by Multinational Enterprise Groups” under amended Act no. 164/2013 Sb. on international tax cooperation, as amended by the Senate Act No. 344 /2013, Act No. 105/2016 Coll., Act No. 188 /2016 Coll., Act No. 92/2017 Coll. and Law No. 305. Division 5 consists of Sections 13za – 13zq (the “amended International Cooperation Act”). See the amended Act on International Cooperation (item no.37). Secondary law (hereafter the “regulations”) consists of a ministerial decree for a local version of Annex III to Chapter V - Transfer Pricing Documentation – Country-By-Country along with an explanatory statement.

<sup>2</sup> See Article 2(3) of Section 13zd of the amended International Cooperation Act.

<sup>3</sup> See Article 2(c) of Section 13zd of the amended International Cooperation Act.

<sup>4</sup> The Czech Republic confirms that Article 2(a) of Section 13zd of the amended legislation would only apply when there is no CbC legislation in place in the other jurisdiction.

<sup>5</sup> The Czech Republic indicates that updated practical CbCR guidance (issued on website of the Czech tax administration in the form of Q&A) is available at [www.financnisprava.cz/cs/mezinarodni-spoluprace/mezinarodni-zdanovani-prime-dane/country-by-country-reporting](http://www.financnisprava.cz/cs/mezinarodni-spoluprace/mezinarodni-zdanovani-prime-dane/country-by-country-reporting)).

<sup>6</sup> See Article 2(a.2) of Section 13zl of the amended International Cooperation Act.

<sup>7</sup> The Czech Republic confirms that Article 2(a.2) of Section 13zl limits the application of local filing under paragraphs 8(c) iv. b) of the terms of reference to only those jurisdictions with which the Czech Republic has an existing international agreement, defined as “contractual states” in Section 1 paragraph 1 of the International Cooperation Act.

<sup>8</sup> No inconsistency with the terms of reference will be identified where a QCAA is not in effect with one or more jurisdictions of the Inclusive Framework that meet the confidentiality, consistency and appropriate use conditions, but this is due to circumstances that are not under the control of the reviewed jurisdiction. This may include, for example, where the other jurisdiction intends to exchange CbC reports using the MCAA but it does not have the Convention in effect for the relevant fiscal period, or where the other jurisdiction has declined to have a QCAA in effect with the reviewed jurisdiction.



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