

# Czechia

Czechia has met all aspects of the terms of reference (OECD, 2021<sup>[1]</sup>) (ToR) for the calendar year 2022 (year in review), and no recommendations are made.

In the prior year report, as well as in the 2017-2020 peer reviews, Czechia had received a recommendation regarding the timely exchange of information on rulings (ToR II.B.6). Czechia has resolved this issue and therefore the recommendation is now removed.

Czechia can legally issue two types of rulings within the scope of the transparency framework.

In practice, Czechia 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 calendar year 2020	15
Future rulings in the calendar year 2021	25
Future rulings in the year in review	17

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

## Information gathering process (ToR I.A)

331. Czechia 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.

332. For Czechia, 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.

333. In the prior years' peer review reports, it was determined that Czechia'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 Czechia's review and supervision mechanism was sufficient to meet the minimum standard. Czechia's implementation remains unchanged, and therefore continues to meet the minimum standard.

334. Czechia has met all of the ToR for the information gathering process and no recommendations are made.

## Exchange of information (ToR II.B)

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

335. Czechia has the necessary domestic legal basis to exchange information spontaneously. Czechia 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.

336. Czechia has international agreements permitting spontaneous exchange of information, including: (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[2]</sup>) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 96 jurisdictions.<sup>1</sup>

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

337. In the prior years' peer review reports, it was determined that Czechia'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. In the prior year's and 2020 peer review reports, it was determined that Czechia continued 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 timelines under the Action 5 transparency framework (and to therefore exchange faster than the domestic legislation and EU Directive would require), in the prior year's report, Czechia continued to experience some delays in the exchange of information on future rulings and as a consequence, some exchanges were performed later than three months after the tax ruling became available to the Competent Authority. As noted in the prior year's peer review report, this delay was also a result of the limited activities carried out by the Czech Tax Authorities due to the Covid-19 pandemic.

338. To avoid delays, Czechia has held discussions with regional tax offices responsible regarding on the issuance of tax rulings. The staff members of the tax offices have been made aware of the timelines under the Action 5 transparency framework. Czechia has also strengthened its supervision mechanism. As the exchange process has now been following the FHTP timelines, Czechia is doing random check-

ups on the timeliness of the exchanges. As the measures of Czechia have been efficient and based on the statistics, no delays regarding the exchanges occurred in the year of review, the recommendation is now removed.

339. 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
	38	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
	0	N/A	N/A

### Conclusion on section B

340. Czechia has met all of the ToR for the exchange of information process. Czechia has implemented a process for completing the exchanges in a timely way and no delays occurred in the year of review. Therefore, no recommendations are made.

## Statistics (ToR IV.D)

341. 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	33	Austria, Belgium, Belize, Cyprus, Finland, France, Germany, Korea, Netherlands, Spain, Switzerland, United Kingdom, Switzerland, Poland, United States
Permanent establishment rulings	5	Austria, Belgium, Germany, Switzerland
<b>Total</b>	<b>38</b>	

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

342. Czechia does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[3]</sup>) were imposed.

## Summary of recommendations on implementation of the transparency framework

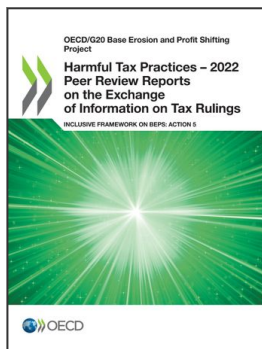
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations.

## 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, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- 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://doi.org/10.1787/9789264241190-en>. [3]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [2]

## Note

<sup>1</sup> 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](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Czechia also has bilateral agreements with Albania, Azerbaijan, Armenia, Australia, Austria, Bahrain, Bangladesh, 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, Qatar, Romania, Russia, San Marino, Saudi Arabia, Senegal, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Türkiye, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela and Viet Nam. Czechia has a tax information exchange agreement (TIEA) with Aruba.



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