



Anti-money laundering and counter-terrorist financing measures

Czech Republic

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating

November 2021

Follow-up report



The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 2nd Enhanced Follow-up Report and Compliance Re-Rating on Czech Republic was adopted by the MONEYVAL Committee at its 4th Intersessional consultation (Strasbourg, 8 October – 15 November 2021).

Czech Republic: 2nd Enhanced Follow-up Report

1. INTRODUCTION

1. The mutual evaluation report (MER) of the Czech Republic was adopted in December 2018 and its 1st Enhanced Follow-up Report in June 2020. The report analyses the progress of the Czech Republic in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT AND SUBSEQUENT FUR

2. The MER and the 1st Enhanced FUR rated the Czech Republic as follows for technical compliance:

Table 1. Technical compliance ratings, July 2020

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	C	LC	PC	PC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	C	PC	LC	LC	LC	LC	PC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
PC	PC	PC	LC						
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	PC	PC	LC	PC	LC	LC	LC	LC	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Source: Czech Republic Mutual Evaluation Report, December 2018, <https://rm.coe.int/czech-republic-5th-round-mer/168094b621>. Czech Republic 1st Enhanced Follow-up Report, June 2020, <https://rm.coe.int/moneyval-2020-8-sr-5th-round-fur-cz/1680a01d69>.

3. Given the results of the MER, the Czech Republic was placed in enhanced follow-up¹. The first enhanced follow-up report submitted by the Czech Republic was adopted via written procedure in June 2020 and the country was invited to submit its 2nd Enhanced FUR in one year's time.

4. The assessment of the Czech Republic's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Armenia
- Ukraine

5. Section III of this report summarises the Czech Republic progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by the Czech Republic to improve its technical compliance by:

- a) Addressing the technical compliance deficiencies identified in the MER and the 1st enhanced FUR for which the authorities have requested a re-rating (R. 8, 15, 20, 21, 22, 23 and 35).

7. For the rest of the Recommendations rated as PC (R.6, 7, 32, 33) the authorities did not request a re-rating.

8. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that the Czech Republic submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL².

3.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs

9. The Czech Republic has made progress to address the technical compliance deficiencies identified in the MER and in the 1st Enhanced FUR. As a result of this progress, the Czech Republic has been re-rated on Recommendations 8, 20, 21, 22, 23 and 35. The country asked for a re-rating for R.15 which is also analysed but no re-rating has been provided.

Recommendation 8 (Originally rated PC – re-rated to LC)

10. In its 5th round MER, the Czech Republic was rated PC with R.8. Following the adoption of the Czech 1st Enhanced FUR the remaining deficiencies were: apart from trainings no other measures (guidance, best practices) have been taken to assist the NPO sector (c.8.2(b)), no information was provided by the authorities on cooperation between state authorities and the NPO sector in developing and refining best practices to address terrorist financing risk and vulnerabilities (c.8.2(c)), no provision under the Czech legislation encouraging NPOs to conduct transactions via regulated financial channels (c.8.2(d)), no mechanisms of targeted risk-based supervision / monitoring of NPOs is in place (c.8.3), no further information is provided on how the accuracy of the provided BO information is checked (c.8.4(a)) and no specific mechanisms for reporting suspected FT-related activity in the NPO sector exists (c.8.5(d)).

11. Following the adoption of the 1st Enhanced FUR, to address the remaining deficiencies the Czech Republic has undertaken a number of steps.

12. The authorities have provided the NPOs with an awareness-raising material, i.e. guidance on factors increasing the risk of an NPO abuse, forms and methods of NPO abuse, prevention and good practice basics in the NPO sector and other important issues relevant for the NPO (c.8.2(b)).

13. This awareness-raising material is a comprehensive document, which addresses best practices in the field of countering TF through NPO sector. It also provides a set of steps to be undertaken by the NPO sector to reduce the risks of being misused for TF (c.8.2(c)).

14. In addition, one of the sections in this guidance is dedicated to encouragement of the NPO sector to use regulated channels for their transaction activities (c.8.2(d)).

² This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable, In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

15. The authorities have adopted the Act on BO Register and established the Register itself, which ensures the accuracy of the BO information. However, lack of risk-based approach (c.8.3) impedes the compliance of c.8.4(a).

16. As for other deficiencies some of the measures aimed at addressing them are in the pipeline and are not yet finalised. In this regard deficiencies under c.8.3 and 8.5(d) are still valid.

17. Overall, the Czech Republic has addressed most of the remaining deficiencies identified in the 5th round MER and the 1st enhanced FUR. The only remaining issues are criterion 8.3, which also negatively impacts the compliance with c.8.4(a), and sub-criterion 8.5(d). **Therefore, R.8 is upgraded to "LC".**

Recommendation 15 (Originally rated PC – no re-rating)

18. In its 5th round MER, the Czech Republic was rated LC with R.15. The FATF Methodology for assessing R.15 was amended in October 2019 to reflect amendments to the FATF Standards incorporating VA and VASP. Consequently, new criteria 15.3-15.11 were added. In the 1st enhanced FUR the Czech Republic was assessed against the revised requirements of R.15 and the rating was downgraded to "PC". Only requirements c.15.1, c.15.7 and c.15.9(a) were met at that time.

19. To address the deficiency identified in the 1st Enhanced FUR for c.15.2(a), the Czech Republic has introduced new requirements for obliged entities to undertake the risk assessment prior to the launch or use new technologies (Section 21a(a) of the AML/CFT Act).

20. In relation to c.15.3(a,b), requirements under these sub-criteria have not yet been addressed. The Czech authorities are taking steps to carry out the NRA, which will also cover the VASP sector and afterwards will apply risk-based measures to prevent and mitigate ML/TF risks. However, all these measures are in the pipeline and have not yet been finalised. Requirements under c.15.3(c) remain mostly met as the deficiency in relation to c.1.10(d) has not been remedied.

21. Natural and legal persons acting as VASPs are required to be registered according to Sections 28(1) and 45(1) of the Act on Trades (c.15.4(a)(i) and (ii)). Regarding c.15.4(b), the Czech authorities have introduced requirements to prevent criminal from being the BO of and holding a management function in VASPs. However, this provision is limited in scope covering only offences which are linked to the trade or line of trade. In addition, this is no requirement to prevent criminals from holding a significant or controlling interest in a VASP. Moreover, the provision does not preclude associates of criminals (c.15.4(b)).

22. Despite of having appropriate sanctions and available passive measures to identify natural or legal persons that carry out VASP activities without the requisite registration and apply appropriate sanctions to them, the authorities have not taken any actions to identify such illegal VASPs (c.15.5).

23. VASPs are subject to adequate regulation and risk-based supervision by the FAU, however there some minor deficiencies still remain, including lack of the risk assessment of the VASP sector, that impedes the full implementation of this requirement and the deficiency identified in the 5th round MER in relation to the FAU's model for determining the frequency and intensity of on-sites (c.15.6(a)).

24. Relevant AML/CFT provisions ensure that in case of violation of the AML/CFT requirements by a VASP, it will be prohibited from carry out a business activity (c.15.6(b)).

25. According to the amendments to the AML/CFT Act VASPs can be sanctioned for non-compliance with the AML/CFT requirements up to 1.2 million Euros. These sanctions could be considered proportionate and dissuasive (c.15.8(a)). Under Section 50a of the AML/CFT Act

directors and senior management can also be liable for violation of the AML/CFT requirements. However, available sanctions cannot be considered proportionate and dissuasive (c.15.8(b)).

26. VASPs are obliged to comply with requirement related to R.10-21. Deficiencies identified under R.10-13 and R.15-20 in the 5th round MER have been addressed by the Czech Republic to a large extent (c.15.9). However, deficiencies under sub-criterion 15.9(b) have not been addressed.

27. The only remaining deficiency in relation to c.7.4(d) has been addressed by publishing the relevant guidance (c.15.10). Minor deficiencies identified under R.37-39 still remain unaddressed impeding the compliance with this criterion (c.15.11).

28. Overall, the Czech Republic has taken steps to address a significant number of deficiencies under new requirements of R.15. However, there are still strategic gaps, i.e. under c.15.3, 15.5, 15.6 and other, that do not allow meeting the requirements to a large extent. **In this regard R.15 remains “PC”.**

Recommendation 20 (Originally rated PC – re-rated to LC)

29. In its 5th round MER, the Czech Republic was rated PC with R.20 based on the following deficiencies: the definition of STR does not cover criminal activities that would constitute a predicate offence for ML, the reporting timeframe is not in line with the notion of “promptness”, some minor shortcomings under R. 3 and R. 5 might have had some influence on the scope of reporting under Recommendation 20

30. The Czech authorities have taken necessary measures to address these deficiencies. In particular, in relation to the definition of STR, Section 6(1) of the AML/CFT Act provides for a definition of an “STR”, which refers to “legitimisation of proceeds of crime”. Section 3(a) of the AML/CFT Act provide for a definition of “legitimisation of proceeds of crime” of the purpose of the AML/CFT Act, which clearly covers criminal activities (c.20.1).

31. In relation to the reporting timeframe, the Czech authorities have amended Section 18(1) of the AML/CFT Act to remove the timeframe previously identified in the 5th round MER. Now, this Section requires obliged entities to report STRs without unnecessary delay (c.20.1).

32. Shortcomings that have some influence on the scope of reporting under Recommendation 20, have only been addressed to a large extent under R.3. Deficiencies under R.5 still remain.

33. Overall, the Czech Republic has taken steps to address strategic deficiencies under R.20, i.e. the timeframe of STR reporting and its definition. Some minor deficiencies still remain, however they do not have a significant impact on the rating. **Therefore, R.20 is upgraded to “LC”.**

Recommendation 21 (Originally rated PC – re-rated to C)

34. In its 5th round MER, the Czech Republic was rated PC with R.21. The FATF Methodology for assessing R.21 was amended in February 2018 to clarify that anti-tipping-off provisions are not intended to inhibit information sharing under R.18. In the 1st enhanced FUR the Czech Republic was assessed against a new requirement of R.21. It was concluded that the Czech Republic has addressed this new requirement, however the deficiency under c.21.1 remained valid: insufficient provisions on protection of the directors, officers and employees of the REs from liability for the reporting of data in good faith to the FAU.. R.21 rating remained unchanged.

35. The authorities have amended the AML/CFT Act to ensure that directors, officers and employees of the REs are protected from liability for reporting of data in good faith to the FAU (Section 18(8) of the AML/CFT Act).

36. Overall, the Czech Republic has addressed all deficiencies under R.21. **R.21 is upgraded to “C”.**

Recommendation 22 (Originally rated PC – re-rated to LC)

37. In its 5th round MER the Czech Republic was rated PC with R.22 based on: some independent legal professionals are not covered by the AML/CFT obligations; the law does not specify that the services also include preparing for or carrying out transactions concerning the activities in R.22; insufficient definitions and obligations for TCSPs; no clear requirement in the AML/CFT Law for DNFBPs to maintain records on account files, business correspondence and/or results of any relevant analysis and it is not explicitly required to retain the records in a way suitable to reconstruct individual transactions; deficiencies with respect to information that should be obtained immediately and documents available without delay.

38. Even though the Czech Republic has taken some steps to address the identified deficiencies in the 5th round MER, some of the deficiencies remain valid. In particular, Section 2(1)(g) of the AML/CFT Act still does not specify that the services also include preparing for or carrying out transactions concerning the activities in R.22. Moreover, some independent legal professionals are not covered by the AML/CFT obligations (c.22.1(d)).

39. Section 2(1)(h) of the AML/CFT Act provides for a definition of “TCSPs”. However, the definition does not specify that the services include preparation for or carrying out transactions for a client concerning the activities in c.22.1(e). Moreover, the deficiency (c.22.1(e)) related to the TCSP definition as obliged entity in case when it prepares for or carries out transactions for a customer acting as a trustee of an express trust or performing the equivalent function for another form of legal arrangement is not remedied (c.22.1(e)).

40. The deficiency under c.22.2 with respect to R.11 has been addressed to a large extent as c.11.2 has not been fully addressed deficiencies in relation to account files and business correspondence.

41. Deficiencies under c.22.4 are addressed as requirements under c.15.1 and c.15.2 equally apply to all DNFBPs.

42. Deficiencies under c.22.5 with respect to R.17 have been addressed.

43. Overall, the Czech Republic has addressed most of the deficiencies identified by the assessment team in the 5th round MER. Some minor deficiencies under 22.1(d), 22.1(e) and 22.2 are valid. Moreover, the remaining minor deficiencies under R.10 also negatively impact on the compliance with R.22. **R.22 is upgraded to “LC”.**

Recommendation 23 (Originally rated PC –re-rated to LC)

44. In its 5th round MER, the Czech Republic was rated PC with R.23 based on the following deficiencies: deficiencies identified under R.18, R.19 and 21 also applied to DNFBPs, lawyers, notaries and accountants are not obliged to have written system of internal rules, procedures and control measures

45. Only one deficiency has been addressed under sub-criterion 18.1(a). Deficiencies under Criteria 18.1(b), 18.2(b) and 18.3 have not been addressed (c.23.2).

46. Section 21(12) of the AML/CFT Act stipulates that the respective professional chamber (Supervisory authority) elaborates written guidelines to introduce and enforce the relevant procedures strategies and of internal control in the operations of its members. These guidelines include the relevant written risk assessments. Considering that the guidelines are still in the pipeline there is no requirement for lawyers, notaries and accountants to have a written system of internal rules, procedures and control measures has been enforced (c.23.2).

47. The deficiency concerning c.19.2 has not been addressed, i.e. remain mostly met (c.23.3). On the contrary, the deficiency identified under R.21 has been remedied (see the analysis under R.21 (c.23.4)).

48. Overall, the Czech Republic has taken measures and adopted relevant amendments, but there are still several remaining deficiencies. In particular, under c.23.2 deficiencies under Criteria 18.1(b), 18.2(b) and 18.3 are valid. Moreover, even though lawyers, notaries and accountants have to introduce and apply adequate policies and procedures of internal control and communication to mitigate and effectively manage ML/FT risks as identified in the risk assessment, there is still not requirement to have a written system of internal rules, procedures and control measures. Measures are still in the pipeline. In relation to c.23.3 the deficiency concerning c.19.2 remains. **R.23 is upgraded to "LC"**.

Recommendation 35 (Originally rated PC – re-rated to LC)

49. In its 5th round MER, the Czech Republic was rated PC with R.35 based on: not all the requirements of R.17 are such sanctionable, the maximum level of sanctions is not dissuasive enough, limited applicability of sanctions for natural persons.

50. Some deficiencies remain in relation to R.17, namely, non-compliance with obligations under c.17.1(c) are still not sanctionable (c.35.1).

51. The Czech Republic has adopted amendments to the AML/CFT Act which increases the volume of fines up to 5 million Euros for the violation of the AML/CFT requirements. In addition, obliged entities might also be sanctioned up to 10 % of the net annual turnover. These fines can be considered dissuasive (c.35.1).

52. Under Section 50a of the AML/CFT Act a natural person that commits administrative offence by making an obliged entity commit administrative offence may be fined up to 100 000 CZK (~4 000 EUR) or receive a ban on activity. The level of sanctions applied for administrative violations against natural persons seems to be not fully proportionate and dissuasive (c.35.1).

53. Overall, the Czech Republic has taken significant measures to address most of the deficiencies identified in the 5th round MER. E.g., fines are increased for legal persons, which now make them proportionate and dissuasive. Nevertheless, there are still remaining deficiencies in relation to sanctions for natural persons and obligations under c.17.1(c). **Therefore, R.35 is upgraded to "LC"**.

4. CONCLUSION

54. Overall, the Czech Republic has made progress in addressing the TC deficiencies identified in its 5th Round MER and the 1st enhanced FUR and has been re-rated on 6 Recommendations (6 upgrades). Recommendations 8, 20, 22, 23 and 35 initially rated as PC are re-rated as LC. Recommendation 21 initially rated as PC is re-rated as C.

55. The Czech Republic is encouraged to continue its efforts to address the remaining deficiencies.

56. Overall, in light of the progress made by the Czech Republic since its MER and the 1st Enhanced FUR was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, October 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	C	LC	PC	PC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	C	PC	LC	LC	LC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	LC	LC	LC	LC	LC	LC	LC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	PC	PC	LC	LC	LC	LC	LC	LC	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

57. The Czech Republic will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. The Czech Republic is expected to report back in one year's time.

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Anti-money laundering and counter-terrorist financing measures -
Czech Republic
**2nd Enhanced Follow-up Report &
Technical Compliance Re-Rating**

This report analyses Czech Republic's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of December 2018.

The report also looks at whether Czech Republic has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2018 assessment.