



COMMITTEE OF EXPERTS ON THE  
EVALUATION OF ANTI-MONEY  
LAUNDERING MEASURES AND THE  
FINANCING OF TERRORISM  
(MONEYVAL)

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# Report on Fourth Assessment Visit – *Executive Summary*

Anti-Money Laundering and Combating the  
Financing of Terrorism

## CZECH REPUBLIC

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## LIST OF ACRONYMS USED

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AML/CFT Law	Anti-Money Laundering Law “on some measures against the legalization of the proceeds of crime and on the amendment and supplementation of connected Acts” (Act N° 253/2008 Coll – as amended by Act N° 285/2009 Coll)
C	Compliant
CDD	Customer Due Diligence
CFT	Combating the financing of terrorism
CNB	Czech National Bank
DNFBP	Designated Non-Financial Businesses and Professions
EC	European Commission
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit (FAU: Financial Analytical Unit - Czech FIU)
FT	Financing of Terrorism
GRECO	Group of States against Corruption
IMF	International Monetary Fund
IIS	Act N° 69/2006 Coll. on Carrying Out of International Sanctions
LC	Largely compliant
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
ML	Money Laundering
ML/FT	Money Laundering and Financing of Terrorism
MLA	Mutual legal assistance
N/A	Not applicable
NC	Not compliant
NCCT	Non-cooperative countries and territories
NPO	Non-Profit Organisation
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
PC	Partially compliant
PEP	Politically Exposed Persons
SR	Special recommendation
STRs	Suspicious transaction reports
UN	United Nations
UNSCR	United Nations Security Council resolution

## EXECUTIVE SUMMARY

### Background Information

1. This report summarises the major anti-money laundering and counter-terrorist financing measures (AML/CFT) that were in place in the Czech Republic at the time of the 4<sup>th</sup> on-site visit (22 to 29 May 2010) and immediately thereafter. It describes and analyses these measures and offers recommendations on how to strengthen certain aspects of the system. The MONEYVAL 4<sup>th</sup> cycle of assessments is a follow-up round, in which Core and Key (and some other important) FATF Recommendations have been re-assessed, as well as all those for which the Czech Republic received non-compliant (NC) or partially compliant (PC) ratings in its 3<sup>rd</sup> round MER. This report is not, therefore, a full assessment against the FATF 40 Recommendations and 9 Special Recommendations but is intended to update readers on major issues in the AML/CFT system of the Czech Republic.

### Key findings

2. The evaluators were informed by the authorities that a specific AML/CFT risk assessment had not been undertaken since the last evaluation. From the authorities with whom the issue was discussed, it was clear that, like other countries, organised crime groups remain a continuing and serious risk and that they are operating significantly in white-collar crime and internet fraud and that the proceeds of their crimes are laundered in the Czech Republic. A comprehensive national risk assessment is essential to identify vulnerable sectors within the Czech financial system in terms of ML/FT.
3. The total damage from economic crime in 2009 was 1,068,230,000 Euros. None-the-less there is little evidence of significant money laundering cases being taken forward by the police and the prosecution, with a tendency noted in the previous evaluation to treat money laundering as subsidiary to the other offences. The Czech authorities need to analyse why there is such a major discrepancy between the types of money laundering cases being prosecuted and the incidence of money laundering in the country.
4. The Czech authorities consider the FT risk to be low.
5. The FIU is working effectively, and more reports are now being sent to law enforcement than in the earlier part of the period under review. The overall impact of FIU reports on law enforcement results is difficult to quantify in the absence of relevant statistics.
6. The lack of reliable and comprehensive ML/FT supervisory statistics hinders the full analysis and comprehension of the ML/FT risks within the Czech financial sector as well as the implementation of an effective risk based approach. The supervisory cycle for the financial sector is very extended and some of the riskier areas may not be covered for several years. In particular, exchange bureaux should be subject to more targeted ML/FT on-site inspection.
7. The lack of reliable statistics and information on the performance of the law enforcement and the judicial side in money laundering investigation, prosecutions and convictions, as well as in respect of confiscation orders also makes it very difficult for the evaluators to assess the overall impact of the law enforcement response to ML and for domestic authorities to analyse their own performance in these areas.

8. Progress has been made since the third evaluation with the adoption of the new AML/CFT Law implementing the 3<sup>rd</sup> EU Money Laundering Directive and many of the preventative recommendations in the 3<sup>rd</sup> round MER.

### **Legal Systems and Related Institutional Measures**

9. The Czech criminal substantive law, so far as criminalisation of ML and FT is concerned, is largely the same as it was at the time of the 3<sup>rd</sup> round evaluation. While a new Criminal Code has recently been adopted, the relevant offences remained largely the same. There are some notable improvements, such as a clear provision ensuring that ML can be prosecuted also where the predicate offence was committed abroad. However, the general structure of ML criminalisation still does not provide a proper and effective legal basis in line with R.1.
10. Equally, the Czech law still does not provide for the criminal liability of legal entities, though draft legislation, which is urgently needed, is under preparation. The Palermo Convention (signed 12 December 2000) has not been brought into force, largely because of this deficiency.
11. The evaluators noted that in spite of the structure of the criminal legislation a number of convictions for ML (i.e. the legalisation offence) had been achieved, though rarely in serious cases. The lack of adequate information and statistics has prevented the evaluators from drawing overall conclusions as to the quality of the ML cases being brought to the courts. The law enforcement authorities indicated that they had had no success with ML convictions so far in cases involving organised crime and that ML was usually treated as subsidiary to other offences and subsumed with the predicate offence, rather than being prosecuted separately. The evaluators were not provided with statistics showing the proportion of cases which relate to self laundering or the number of autonomous ML cases, including those involving the proceeds of organised crime. In practice it appears that most of the money laundering cases being taken forward, as at the time of the 3<sup>rd</sup> round MER, are basic cases involving stolen goods. The Czech authorities explained that they had experienced difficulties in prosecuting more serious ML cases and that this could result in very protracted proceedings. A number of indictments for ML, for example, had been referred back to the prosecution to provide further evidence, which implies that the standard of proof required by the courts may be overly high.
12. It is welcome that the TF offence in the Criminal Code has been enlarged so as to encompass those who support an individual terrorist or a member of a terrorist organisation. Without any actual case practice, however, it is hard to tell whether and to what extent this and other amendments remedy all deficiencies noted in the previous report.
13. On provisional measures and confiscation, the evaluators noted some promising signs of a growing awareness of the importance of financial investigation by the law enforcement authorities and the prosecution. Provisional measures are said to be taken quite regularly, and in urgent cases related to laundering offences. Without statistics on confiscation performance, however, the actual effectiveness of the regime could not be fully assessed. The evaluators are concerned about the imbalance between seized assets and those finally confiscated. The lack of statistics on confiscation negatively affects the performance of the system overall.
14. The implementation of SR.III relies upon importing EU procedures into national law and national primary and secondary legislation (an International Sanctions Act and a governmental decree) are in place, including coverage of EU internals (which is positive). The regime has been applied for the execution of international sanctions but these were not

based upon the UNSCRs referred to in SR.III. No freezing has occurred under SR. III. It appears nonetheless that the financial institutions are aware of the need to check the terrorist lists. The procedure for referral to the FIU of a match is covered by the suspicious transactions reporting obligation, of which the obliged entities were also aware. Though the confusion by some reporting authorities of the obligation in SR.III with SR. IV may mean that less emphasis is placed by some reporting entities on the disclosure of other suspicions related to TF.

### **Law Enforcement Issues**

15. Department 24 of the Ministry of Finance (that is the Financial Analytical Unit) is vested with the FIU core functions. There is no separate legislation as such for the FIU. The organisational rules of the Ministry of Finance govern the FIU's operational procedures. While other prudential regulators have AML/CFT supervisory functions, the FIU is also required to perform supervisory functions on all obliged parties. The FIU is also in charge of implementing the International Sanctions Act.
16. The staff is well trained and committed. The maximum time for the FIU analyses is two months (which is the target set by the Director). In 2009 the FIU suspended transactions in 47 cases though the impact of this on effective criminal asset recovery is unclear. The functions assigned to the FIU are quite wide compared with the FIU complement.
17. STRs are mainly from the banks. Other financial institutions and the DNFBP show a significantly lower level of reporting.
18. Within Law enforcement more seminars on AML/CFT investigations, prosecutions and judgements would be welcome to ensure that all key players are fully aware of the importance of financial investigation, confiscation and autonomous ML.
19. The number of STRs sent as criminal complaints to law enforcement (including non ML criminal infringements) rose from approximately 4% of STRs in 2005/6/7 to 8.6% of STRs in 2009. The examiners noted a more proactive approach to the follow up by the FIU of the notifications in 2009, including the copying of the referrals to the prosecution authority. It is commendable that the FIU is seeking to ensure that its referrals result in action. This is necessary as the effective impact of the FAU reports on overall law enforcement results appears not to have been substantial. Very few STR generated cases had become effective money laundering investigations during the earlier years covered by this evaluation. However, the present proactive approach of the FIU in following up cases with domestic authorities should assist the overall results in this sector.

### **Preventive Measures – financial institutions**

20. During the 3<sup>rd</sup> round evaluation a number of shortcomings were identified in relation to CDD measures, identification of the originator and the beneficiary of wire transfers and identification of the beneficial owner. Many of the recommendations were taken into account in the new 2008 AML/CFT Law. But at the time of the 4<sup>th</sup> round on site visit, the identification and verification of the beneficial owner still needed to be embedded, in practice within the CDD process.
21. In practice, the CDD process appears largely focused, in some of the obliged entities at least, on identification, rather than verification and in depth analysis of beneficial owners. The

existence of bearer shares is an additional problem for full identification of the beneficial owners. Understanding of the concept of enhanced customer due diligence is still limited for a number of obliged entities, even in respect of politically exposed persons. Some obliged entities indicated that they would appreciate more guidance from the authorities on AML/CFT concepts although satisfaction was expressed by the private sector on the technical assistance provided by the FIU on the completion of STRs.

22. Legislative improvements have been made by the Czech authorities in relation to politically exposed persons (rated NC in the 3<sup>rd</sup> round MER), which are now defined in the AML/CFT Law. Senior politicians (who may not be members of parliament), senior government officials and other important political officials, however, appear still not to be included within the national definition.
23. There is an evident increase in electronic record keeping within financial institutions, and the “Moneyweb” system (widely used by the larger banking institutions) enables electronic transfer of records. The Czech authorities indicated the ease with which they can obtain electronic records (photocopies of IDs, of contracts and account statements) from the domestic banks in response to foreign international cooperation requests. Nonetheless, in some smaller banks there was some evidence of paper based systems of record keeping, which could contribute to slight delays in reconstructing transactions. In addition, there are limitations in the scrutiny, and retention of information in respect of complex, unusual and large transactions which should be specifically addressed by the authorities.
24. Improvements have been made in respect of the attention given to business relationships and transactions with counterparties from countries which do not or insufficiently apply FATF Recommendations. However, only some of the basic requirements in this respect are implemented in the AML/CFT Law and to some extent in the banking regulations, and there is an over reliance on official lists of risky countries. A number of institutions, usually the smaller ones, do not carry out their own risk assessments in this regard.
25. The requirement to report suspicious transactions is prescribed in Section 18 of the AML/CFT Law, which provides a list of activities that shall be perceived as suspicious. The Czech authorities and the representatives of the financial industries indicated that the list is not to be considered as exhaustive and the circumstances in which a suspicious transaction is to be reported were not limited to those indicated. However, the fact that the AML/CFT Law contains a list of suspicious transactions could have a negative impact on the reporting system as the reporting entities may rely, exclusively or partially, on the listed transactions. It was also noted that the transactions listed are typical operations which correspond to the activities of the banking sector but not to the other obliged sectors (i.e. securities and insurance sectors, as well as professionals, casinos and other DNFBP).
26. Some representatives of the financial institutions and professional organisations advised that they received little general or case specific feedback from the FIU on STRs.
27. According to the AML/CFT Law, the FIU has overall responsibility to ensure that all obliged financial and non financial institutions comply with the obligations contained in the AML/CFT Law. In addition, various authorities and SROs have supervisory responsibilities in their specific industries. The Czech National Bank (CNB) is responsible for general supervision of the entire financial market in the Czech Republic. The Czech National Bank includes in on-site general inspections AML/CFT compliance checks. However, the resources allocated for this purpose by both the FIU (which began targeted on-site inspections for the

first time in the second half of 2010) and the CNB seem to be insufficient for effective supervision and monitoring. The CNB does not have power to sanction for infringements of the AML/CFT law. This lies exclusively with the FIU.

28. From discussions with various interlocutors, the low number of findings of sanctionable infringements in respect of AML/CFT, the lack of any financial sanctions since 2008 and the call by a number of obliged entities for the issue of guidance in respect of AML/CFT responsibilities, it appeared to the evaluators that a very light touch risk based supervisory approach is taken overall in respect of AML/CFT.

### **Preventive Measures – Designated Non-Financial Businesses and Professions (DNFBP)**

29. The AML/CFT law explicitly applies to all of the designated non-financial businesses and professions, which are defined in the FATF Glossary, with the exception of dealers in precious metals and dealers in precious stones, when they engage in any cash transaction with a customer equal to or above the applicable designated threshold. The Czech AML/CFT Law also explicitly mentions as reporting entities the persons licensed to trade in items of cultural heritage, items of cultural value, or to act as intermediaries in such services.
30. The professional chambers of the lawyers etc. are primarily responsible for AML/CFT supervision and any sanctioning, though the evaluators were concerned that the professional chambers did not routinely share the results with the FIU. No ML sanctions had been taken. The FIU has the possibility to require the professional chambers to conduct inspections and share the results with the FIU, but this seems to be an exceptional procedure.
31. The supervisory weaknesses identified for the financial sector are also relevant for the DNFBP. In addition, no Czech authority performs inspections on some DNFBP. Others do not inspect exclusively AML/CFT and there is a lack of guidance and practical knowledge across the sector.
32. The number of reports from this sector is very low (0.22 % and 0.13 % of STRs in 2008 and 2009). There are also concerns that the DNFBP are not always in a position to identify persons listed on terrorist lists.
33. The evaluators consider that more formal cooperation agreements need to be instituted by the FIU and the professional chambers in order to ensure a more coordinated and consistent level of AML/CFT supervision of these professionals. The AML/CFT risks in the casinos and the real estate sectors require continuing active AML/CFT supervision and sanctioning.

### **Legal Persons and Arrangements & Non-Profit Organisations**

34. Though there have been improvements in the transparency and ownership structures through computerisation and acceleration of the company registration procedure, this still does not ensure an adequate level of reliability of information registered, and on beneficial ownership.
35. While a research project in respect of the NPO sector has been undertaken, there is still not a clear picture of all the legal entities that perform as NPOs, especially ones of high risk. Equally there remains insufficient targeted supervision or monitoring of NPOs that control significant portions of the financial resources of the sector and substantial shares of the sector's international activities.



### **National and International Co-operation**

36. Mutual assistance can be provided upon a treaty basis, such as the 1959 European Convention on Mutual Assistance in Criminal Matters or the 1990 Strasbourg Convention or, in EU relations, the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the EU and also on a reciprocity basis.
37. The Czech Republic has ratified the UN Convention for the Suppression of Financing of terrorism but has still not ratified the Palermo Convention. Some legislation has been amended in order to implement the Conventions, but existing legislation does not cover the full scope of these Conventions. Furthermore, measures still need to be taken in order to properly implement UNSCRs 1267 and 1373. The full implementation of these Conventions in the Czech Republic legal framework is only possible when criminal liability of legal persons is enforced and when a definition of “funds” is included in the relevant legislation.
38. The statistics show a good level of cooperation of the Czech FIU with foreign FIUs. However more detailed data relating, for instance, to the average time and quality of responses would be a useful instrument to assess effectiveness. Also, efficiency and effectiveness on international cooperation for Supervisory authorities and the Police is difficult to assess due to the lack of statistics.
39. Despite the important role played by the FAU to coordinate national competent authorities and to conduct consultations with the private sector, there are not regular institutionalised mechanisms of operational coordination, and such mechanisms should be established. Equally it is important, at the policy level, to create a national mechanism which collectively reviews the effectiveness of national AML/CFT policies and begins to prepare some agreed performance indicators for the system as a whole.

### **Resources and statistics**

40. Overall, all supervisors and law enforcement agencies appeared to be adequately structured, and resourced. However, more resources should be applied for on-site inspections targeted on AML/CFT issues, both by the Czech National Bank and the FIU.
41. The Police units, responsible for investigating FIU disclosures, are not equipped with sufficient staff qualified in financial investigation. The lack of education and training in tracing the funds in major proceeds generating cases limits law enforcement capability.
42. The absence of authoritative statistics to demonstrate effectiveness of implementation of many of the FATF Recommendations remains a major deficiency.

**Table 1. Ratings of Compliance with FATF Recommendations**

The rating of compliance vis-à-vis the FATF 40 + 9 Recommendations is made according to the four levels of compliance mentioned in the AML/CFT assessment Methodology 2004 (Compliant (C), Largely Compliant (LC), Partially Compliant (PC), Non-Compliant (NC)), or could, in exceptional cases, be marked as not applicable (N/A).

<p>The following table sets out the ratings of Compliance with FATF Recommendations which apply to the Czech Republic. <i>It includes ratings for FATF Recommendations from the 3<sup>rd</sup> round evaluation report that were not considered during the 4<sup>th</sup> assessment visit. These ratings are set out in italics and shaded.</i></p>		
Forty Recommendations	Rating	Summary of factors underlying rating <sup>1</sup>
<b>Legal systems</b>		
1. Money laundering offence	<b>PC</b>	<ul style="list-style-type: none"> <li>• The criminalisation mechanism still needs to be brought in line with the international requirements prescribed by the relevant Conventions particularly as regards to:                             <ul style="list-style-type: none"> <li>○ the conversion and transfer of property;</li> <li>○ the possession of property;</li> <li>○ and all aspects of concealment and disguise need to be explicitly provided;</li> </ul> </li> <li>• Conspiracy to commit all types of money laundering is not covered by criminalisation;</li> <li>• There is insufficient evidence of effective implementation.</li> </ul>
2. Money laundering offence Mental element and corporate liability	<b>PC</b>	<ul style="list-style-type: none"> <li>• No corporate criminal liability has been established;</li> <li>• The sanctioning regime is not sufficiently dissuasive and effective and therefore the level of punishment needs to be increased.</li> </ul>
3. Confiscation and provisional measures	<b>PC</b>	<ul style="list-style-type: none"> <li>• The confiscation of property that has been laundered is not expressly addressed by law and in autonomous ML cases the practical applicability of the existing provisions is unclear;</li> <li>• There is an effectiveness issue with regard to confiscation;</li> <li>• The lack of statistics on confiscation negatively affects the system.</li> </ul>

<sup>1</sup> These factors are only required to be set out when the rating is less than Compliant.

<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is fully implemented.</li> </ul>
5. Customer Due Diligence	<b>PC</b>	<ul style="list-style-type: none"> <li>• Czech measures in relation to identification and verification of the beneficial ownership are below FATF standards;</li> <li>• The identification and verification of beneficial owners is not always determined;</li> <li>• Silent partners are not registered and therefore cannot be identified during the CDD/ECDD process;</li> <li>• Certain categories of low risk business can be exempted from CDD and/or ECDD instead of requiring simplified or reduced measures;</li> <li>• Low risk customers/circumstances not subject to a risk analysis to decide the criteria for determining whether and when to grant exemption;</li> <li>• Legal uncertainty in relation to the implementation of Criteria 5.2 (e);</li> <li>• The overall level of effectiveness appears limited in the identification/customer due diligence process in respect of beneficial ownership as well as with regard to the verification process including that related to safety deposit boxes. The required risk-based approach is not supplemented by adequate guidance to enhance effectiveness.</li> </ul>
6. Politically Exposed Persons	<b>PC</b>	<ul style="list-style-type: none"> <li>• The regime do not cover certain types of PEPs included in the Glossary of definitions in the Methodology;</li> <li>• No requirement to consider whether a beneficial owner may also be a PEP;</li> <li>• Lack of comprehension in some cases of what constitutes a politically exposed person;</li> <li>• Approval is not specified to be at the level of senior management;</li> <li>• Limited effectiveness and implementation.</li> </ul>
7. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>• <i>Some basic requirements are provided for in the banking regulations, complemented by individual initiatives guided by the banking association. The banking regulation needs to better reflect the various requirements of R.7 and the scope of requirements need to be broadened beyond banks (although the latter, which are most importantly concerned are covered).</i></li> </ul>
8. New technologies and non face-to-face business	<b>PC</b>	<ul style="list-style-type: none"> <li>• No specific requirement in the AML/CFT Law requiring financial institutions to have policies</li> </ul>

		<p>in place or to take measures as may be needed to prevent the misuse of technological developments in MLFT;</p> <ul style="list-style-type: none"> <li>• Consequently, there is no requirement for policies and procedures in place;</li> <li>• No general requirement for additional documentation to verify the authenticity of the primary identification;</li> <li>• There was low perception of the threats that may arise from the misuse of technological developments in AML/CFT.</li> </ul>
9. <i>Third parties and introducers</i>	<i>N/A</i>	
10. Record Keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement that the retention period for maintaining records could be extended for a longer period if requested to do so by the FIU in specific cases and upon proper authority;</li> <li>• There are no clear requirements in the Czech primary and secondary legislation obliging institutions to maintain records in such a way as to permit the reconstruction of individual transactions so as to provide evidence for prosecution of criminal activity;</li> <li>• There are no explicit requirements in the AML/CFT Law to retain the identification data concerning business correspondence for at least five years following the termination of an account or business relationship.</li> </ul>
11. Unusual transactions	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no clear requirement for all financial institutions to pay special attention to all complex, unusual large transactions, or unusual pattern of transactions, that have no apparent or visible economic or lawful purpose;</li> <li>• The requirement to retain information documents for amounts in excess of €15,000 (Section 9 (1)) is not mandatory;</li> <li>• There is no enforceable requirement that the background, purpose and findings of complex, unusual and large transactions are set forth in writing;</li> <li>• There is no specific requirement to keep the background and findings of complex, unusual and large transactions available for competent authorities and auditors for at least five years;</li> <li>• Limited appreciation of such risk by a number of interviewed institutions. There is some lack of clarity within institutions on the terminology and requirement in respect of complex, unusual large transactions as no guidance has been</li> </ul>

		issued.
12. DNFBP – R.5, R.6, R.8 – R. 11 <sup>2</sup>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The same concerns in the implementation of Recommendations 5, 6, 8 and 10 apply equally to DNFBP (see section 3.2 and 3.4 of the report);</li> <li>• Lower level of awareness of requirements relating to PEPs and CFT amongst DNFBP than in the financial sector.</li> </ul>
13. Suspicious transaction reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• The efficiency of the reporting requirement is negatively affected by the listing of (suspicious reporting) transactions prescribed by AML/CFT Law (which are mainly banking operations).</li> </ul>
14. <i>Protection &amp; no tipping off</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• <i>The protection does not extend explicitly to the disclosure of information (although it covers the suspension of transactions), beyond the obliged entity, to its management and staff.</i></li> </ul>
15. Internal controls, compliance and audit	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no enforceable requirement that the compliance officer should be an appointment at a managerial level with extended scope of responsibilities;</li> <li>• Within the limited scope of responsibilities of the contact person it is not evident that these should have timely access to information;</li> <li>• There is no requirement that the contact person is required to filter STRs;</li> <li>• There is no requirement that obliged entities should make available the internal procedures to the employees;</li> <li>• There is no legal obligation on obliged entities requiring them to put in place screening procedures to ensure high standards when hiring employees;</li> <li>• In respect of smaller obliged entities, compliance (contact) persons are delegated to a statutory body of the obliged entities.</li> </ul>
16. DNFBP – R.13-R.15 and R.21 <sup>3</sup>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The categories of internet casinos, dealers in precious metal and dealers in precious stones are not explicitly covered by the AML/CFT Law;</li> <li>• There is no specific guidance to assist DNFBP detecting STRs;</li> <li>• Low numbers of STRs received by DNFBP;</li> <li>• The effectiveness of the system is negatively influenced by the listing of suspicious transactions;</li> </ul>

<sup>2</sup> The review of Recommendation 12 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3rd round report on Recommendations 9.

		<ul style="list-style-type: none"> <li>• Lack of formalised procedures issued by Czech authorities to make the obliged entities aware of circumstances under Recommendation 21.</li> </ul>
17. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>• Administrative sanctions included within the AML/CFT Law are not proportionate and not necessarily dissuasive, as the maximum financial sanctions that can be applied are quite low;</li> <li>• Except for violation of the obligation of confidentiality, on which administrative fines may be imposed on natural persons, all the other administrative penalties can only be imposed on legal obliged entities. Directors, managers and employees are not directly sanctionable;</li> <li>• No financial sanctions have been applied (effectiveness issue).</li> </ul>
18. Other forms of reporting	<b>LC</b>	<ul style="list-style-type: none"> <li>• <i>Relations with shell banks need to address all relevant financial institutions beyond the banks (e.g. credit unions). No provisions covering criterion 18.3.</i></li> </ul>
19. Other DNFBP & secure transaction techniques	<b>C</b>	
20. Special attention for higher risk countries	<b>LC</b>	<ul style="list-style-type: none"> <li>• <i>Possible need to put certain DNFBP under the control of financial supervisors, due to the type of their activities; Reliance on cash is still high despite existing initiatives; there is room for further initiatives.</i></li> </ul>
21. Special attention for high risk countries	<b>PC</b>	<ul style="list-style-type: none"> <li>• Indirect requirements in existing decrees need augmenting to fully ensure that all financial institutions examine and keep written findings in respect of transactions, with no apparent economic or visible purpose, in the respective countries space which insufficiently apply the FATF Recommendations;</li> <li>• The Czech system needs augmenting to ensure that all appropriate countermeasures envisaged in the FATF Recommendations can be instituted.</li> </ul>
22. Foreign branches and subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no requirement to ensure that foreign branches and subsidiaries observe AML/CFT measures consistent with the FATF Recommendations in general;</li> <li>• No requirement to apply the higher standard where requirements differ;</li> </ul>

<sup>3</sup> The review of Recommendation 16 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on Recommendations 14.

		<ul style="list-style-type: none"> <li>• Requirement to ensure observing AML/CFT measures in respect of branches and subsidiaries is limited to institutions located in “third countries”.</li> </ul>
23. Regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• Low number of annual inspection in relation to AML/CFT especially in the banking sector;</li> <li>• No clarity as to whether there is a cycle of inspections which catches all financial obliged entities at some point;</li> <li>• A very light touch risk-based supervisory approach is taken overall in respect of AML/CFT;</li> <li>• The number of obliged entities where infringements were identified as a result of on site inspection appears to be low;</li> <li>• CFT issues insufficiently addressed in supervision.</li> </ul>
24. DNFBP – regulation, supervision and monitoring	<b>PC</b>	<ul style="list-style-type: none"> <li>• Problematic cooperation between the FIU and the professional chambers regarding AML/CFT supervision;</li> <li>• No authority performs inspections on some DNFBP and others do not have exclusive inspection on AML/CFT;</li> <li>• No sanctions had been imposed so far;</li> <li>• Poor understanding regarding financing of terrorism.</li> </ul>
25. Guidelines and feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>• Insufficient guidelines on AML/CFT techniques and methods;</li> <li>• Insufficient sector specific guidelines;</li> <li>• Not enough case specific feedback;</li> <li>• The FIU provides general feedback, but the requests for feedback as required by the FATF methodology are not met in light of the strict implementation of the Law.</li> </ul>
<b>Institutional and other measures</b>		
26. The FAU	<b>LC</b>	<ul style="list-style-type: none"> <li>• The independence and autonomy of the Ministry (FAU) is potentially limited by the powers and functions of the Ministry (and Ministers);</li> <li>• The width of the reporting obligation potentially leads to an over concentration on tax issues in FAU work.</li> </ul>
27. Law enforcement authorities	<b>PC</b>	<ul style="list-style-type: none"> <li>• Few successful police-generated ML investigations;</li> <li>• Lack of coordinated actions among authorities (Police Forces and Prosecutors);</li> <li>• Qualified staff in financial investigation have not yet obtained satisfactory results;</li> </ul>

		<ul style="list-style-type: none"> <li>• Little evidence that ML is being tackled effectively in respect of major proceeds-generating offences;</li> <li>• Lack of robust and accurate data, figures and any other relevant information useful to assess the activity of the Police Forces (both in terms of quantity and quality of the workload).</li> </ul>
28. Powers of competent authorities	<b>C</b>	<ul style="list-style-type: none"> <li>• [insufficiencies related to FT are covered under SR.III]</li> </ul>
29. Supervisors	<b>LC</b>	<ul style="list-style-type: none"> <li>• No adequate powers of enforcement and sanctions against directors or senior managers of financial institutions for failure to comply with or implement AML/CFT requirements;</li> <li>• Unclear whether there is a power to sanction for refusal to disclose information to a supervisor.</li> </ul>
30. Resources, integrity and training	<b>LC</b>	<p><i>FIU</i></p> <ul style="list-style-type: none"> <li>• Inadequate resources for FIU supervision and monitoring;</li> </ul> <p><i>LAW ENFORCEMENT AND PROSECUTION</i></p> <ul style="list-style-type: none"> <li>• The lack of education and training in tracing the funds limits law enforcement capability;</li> <li>• Shortage of staff in both the Ministry of Justice and the Prosecution, qualified in financial investigation;</li> </ul> <p><i>SUPERVISORY AUTHORITIES</i></p> <ul style="list-style-type: none"> <li>• Czech National Bank AML/CFT resources are low for supervision;</li> <li>• Due to the lack of training, DNFBP have difficulties to properly assess the reporting requirements and detect suspicious transactions;</li> <li>• Insufficient training and awareness concerning the CFT risks in the NPO sector by the sector itself and within the relevant public authorities with responsibilities in this area.</li> </ul>
31. National co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no formal mechanisms in place for regular domestic AML/CFT operational coordination;</li> <li>• There is no regular review of the effectiveness of the AML/CFT system at the policy level.</li> </ul>
32. Statistics <sup>4</sup>	<b>PC</b>	<ul style="list-style-type: none"> <li>• The lack of statistics on confiscation of ML proceeds negatively affects the system;</li> <li>• Lack of robust and accurate data, figures and any other relevant information useful to assess</li> </ul>

<sup>4</sup> The review of Recommendation 32 has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on Recommendations 38 and 39.



		<p>the activity of the Police Forces (both in term of quantity and quality of the workload);</p> <ul style="list-style-type: none"> <li>• Effectiveness of mutual legal assistance cannot be demonstrated due to the absence of reliable and comprehensive statistics on MLA requests;</li> <li>• Also there are no mechanisms in place for Police and supervisory authorities to collect data and provide statistics on international cooperation.</li> </ul>
33. Legal persons – beneficial owners	<b>PC</b>	<ul style="list-style-type: none"> <li>• Despite the acceleration of the procedure, the registration of business entities still does not ensure an adequate level of reliability of information registered;</li> <li>• Transparency of ownership structure does not provide more information on beneficial ownership;</li> <li>• No particular counter-measures have been taken against the issuance of freely transferable bearer shares.</li> </ul>
34. <i>Legal arrangements – beneficial owners</i>	<i>N/A</i>	
<b>International Co-operation</b>		
35. Conventions	<b>PC</b>	<ul style="list-style-type: none"> <li>• The Palermo Convention is not ratified due the lack of criminal, civil or administrative liability of legal entities;</li> <li>• The criminalisation mechanism still needs to be brought in line with the international requirements prescribed by the relevant Conventions already ratified by the Czech Republic (the Vienna Convention and the Terrorist Financing Convention) particularly as regards to: <ul style="list-style-type: none"> <li>○ the conversion and transfer as well as the possession of property,</li> <li>○ and all aspects of concealment and disguise need to be explicitly provided (R.1),</li> <li>○ the collection of funds, as one of the core activities within the concept of TF is not criminalised,</li> <li>○ there is still no explicit coverage of direct or indirect collection of funds/usage in full or in part (SR II);</li> </ul> </li> <li>• Conspiracy to commit all types of money laundering is not covered by criminalisation (R.1).</li> </ul>
36. Mutual legal assistance (MLA)	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no formal procedures which would enable to determine whether requests are being</li> </ul>

		<p>dealt with timeously, constructively and effectively;</p> <ul style="list-style-type: none"> <li>• The application of dual criminality may negatively impact the ability to provide assistance due to shortcomings identified in respect of the scope of the TF and ML offences;</li> <li>• Effectiveness cannot be demonstrated due to the absence of reliable and comprehensive statistics on MLA requests.</li> </ul>
37. Dual criminality	<b>C</b>	
38. MLA on confiscation and freezing	<b>LC</b>	<p><i>see R.36:</i></p> <p><i>Legal conditions and practices seem to be largely in line with the requirements of R.36; this being said, the ability to cooperate in a timely and effective manner could be hindered occasionally by the Czech legal framework on seizure and confiscation (which excludes for instance indirect proceeds, value confiscation), and shortage of staff (MoJ, prosecutors).</i></p>
39. Extradition	<b>LC</b>	<i>Issue of staffing seen earlier.</i>
40. Other forms of Co-operation	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no mechanisms in place for Police and supervisory authorities for collecting data and providing statistics on international cooperation;</li> <li>• FAU should develop a much more detailed process and procedures to keep the information collected on requested cases.</li> </ul>
<b>Nine Special Recommendations</b>		
SR.I Ratification and implementation of UN instruments	<b>LC</b>	<ul style="list-style-type: none"> <li>• The Czech Republic has not fully implemented Article 2(1) in connection with Article 2(3) of the TF Convention which criminalises not only the provision of funds for terrorist acts but also the mere collection of funds with the intention to be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts (as that term is defined in the said Article of the Convention) – regardless of whether an actual terrorist offence is carried out.</li> </ul>
SR.II Criminalise terrorist financing	<b>PC</b>	<ul style="list-style-type: none"> <li>• The offence of terrorist attack does not adequately cover the acts described in Art. 7 of the Convention on the Physical Protection of Nuclear Material (1980) and Art. 2(a-b) of the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (1988);</li> </ul>

		<ul style="list-style-type: none"> <li>• The collection of funds, as one of the core activities within the concept of terrorist financing under SR.II is not adequately, if at all, criminalised;</li> <li>• Apart from the above, different provisions that criminalise FT are not adequately harmonised ;</li> <li>• There is still no explicit coverage of direct or indirect collection of funds/usage in full or in part;</li> <li>• There is no explicit indication that the offence is prosecutable without the funds being used or linked to a specific terrorist act;</li> <li>• There is no corporate criminal liability.</li> </ul>
SR.III Freeze and confiscate terrorist assets	LC	<ul style="list-style-type: none"> <li>• It is unclear whether the freezing mechanism clearly encompasses the whole concept of “funds and other assets” as defined by the FATF Methodology;</li> <li>• The national procedure provided by the IIS Act for the purpose of unfreezing requests upon verification that the person or entity is not a designated person does not guarantee the timeliness of the process;</li> <li>• There is no clear guidance to distinguish SR.III obligations from SR.IV obligations;</li> <li>• Concern that DNFBP are not always in the position to identify persons on TF lists (effectiveness issue).</li> </ul>
SR.IV Suspicious transaction reporting	LC	<ul style="list-style-type: none"> <li>• The lack of guidance on TF indicators to assist the financial institutions negatively affects the SR.IV obligations.</li> </ul>
SR.V International co-operation <sup>5</sup>	LC	<p>As in R.36:</p> <ul style="list-style-type: none"> <li>• There are no formal procedures which would enable to determine whether requests are being dealt with timeously, constructively and effectively;</li> <li>• The application of dual criminality may negatively impact the ability to provide assistance due to shortcomings identified in respect of the scope of the TF and ML offences;</li> <li>• Effectiveness cannot be demonstrated due to the absence of reliable and comprehensive statistics on MLA requests.</li> </ul> <p>As in R.40:</p> <ul style="list-style-type: none"> <li>• There are no mechanisms in place for Police</li> </ul>

<sup>5</sup> The review of Special Recommendation V has taken into account those Recommendations that are rated in this report. In addition it has also taken into account the findings from the 3<sup>rd</sup> round report on Recommendations 37, 38 and 39.

		<p>and supervisory authorities for collecting data and providing statistics on international cooperation;</p> <ul style="list-style-type: none"> <li>• FAU should develop a much more detailed process and procedures to keep the information collected on requested cases.</li> </ul>
SR.VI AML requirements for money/value transfer services	<b>PC</b>	<ul style="list-style-type: none"> <li>• Effective implementation of SR.VI not demonstrated;</li> <li>• Alleged informal remittance activities not fully assessed.</li> </ul>
SR.VII Wire transfer rules	<b>LC</b>	<ul style="list-style-type: none"> <li>• A reserve on effectiveness of implementation.</li> </ul>
SR.VIII Non-profit organisations	<b>PC</b>	<ul style="list-style-type: none"> <li>• Lack of a fully comprehensive review of domestic NPOs in order to obtain a clear picture of all the legal entities that perform as NPOs, especially ones of potential high risk;</li> <li>• Insufficient awareness raising campaigns in the NPO sector, and obliged entities, regarding potentially vulnerable NPOs;</li> <li>• Lack of “know your beneficiary and associate” rules for NPOs, excepting those who become obliged entities under AML, in the hypothetical case of accepting large cash payments;</li> <li>• Insufficient targeted supervision or monitoring of NPOs which control significant portions of the financial resources of the sector and substantial shares of the sector’s international activities;</li> <li>• Insufficient training and awareness concerning the CFT risks in the NPO sector by the sector itself and within the relevant public authorities with responsibilities in this area.</li> </ul>
SR.IX Cross Border Declaration & Disclosure	<b>LC</b>	<ul style="list-style-type: none"> <li>• <i>There are some minor shortcomings (reporting duty for suspicions of ML and FT needs to be clearly spelled out); the major insufficiency is the effectiveness issue (low number of ML cases generated by the Customs compared to the criminal activity context of the Czech Republic);</i></li> <li>• <i>Customs need to be made more aware of AML/CFT issues as they rely a lot on the police as regards information in this field;</i></li> <li>• <i>Community market exception needs to be clarified together with EU partners.</i></li> </ul>