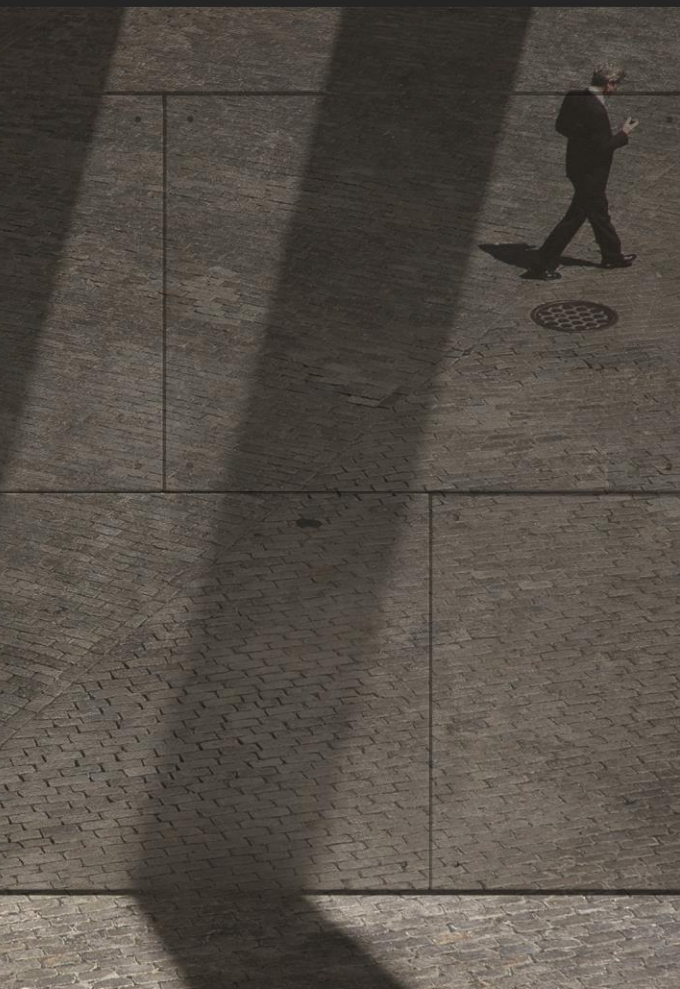


IMPLEMENTING THE OECD ANTI-BRIBERY CONVENTION



PHASE 4 TWO-YEAR FOLLOW-UP REPORT: **Czech Republic**

This report, submitted by the Czech Republic, provides information on the progress made by the Czech Republic in implementing the recommendations of its Phase 4 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 28 June 2019.

The Phase 4 evaluated and made recommendations on the Czech Republic's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. It was adopted by the 44 members of the OECD Working Group on Bribery on 15 June 2017.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

*Czech Republic – Phase 4
Two-Year Written Follow-Up Report*

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Summary and Conclusions by the Working Group on Bribery

Summary of findings¹

1. In June 2019, the Czech Republic presented its written follow-up report to the OECD Working Group on Bribery (Working Group or WGB), outlining the steps taken to implement the recommendations received and to address the follow-up issues identified during its Phase 4 evaluation in June 2017.² In light of the information provided, the Working Group considers that the Czech Republic has fully implemented 4 recommendations, partially implemented 10 recommendations, and not implemented 3 recommendations. The Working Group considers that the Czech Republic has deployed efforts to address Phase 4 recommendations. The Working Group notes the efforts that are underway to enhance detection of foreign bribery through certain key government agencies, in particular the Financial Intelligence Unit (FAU), and encourages the Czech Republic to pursue these efforts. The Working Group welcomes the publication of comprehensive guidance by the Supreme Public Prosecutor's Office (SPPO) on corporate liability, including on the "justly required efforts" exemption. This measure could be a meaningful step towards enforcement of the foreign bribery offence against companies. On the other hand, the Working Group regrets that expected measures have not been adopted to guarantee greater independence to prosecutors so that political factors prohibited under Article 5 of the Convention are not taken into account in foreign bribery investigations and prosecutions. This is an area where the Working Group expects the Czech Republic to act as a matter of priority. Another area of concerns relates to the absence of appropriate protection from discriminatory or disciplinary action especially for private sector employees who report suspected acts of foreign bribery to the competent authorities. This is an issue that the Czech Republic should address in priority. The Working Group's summary and conclusions are presented below. They should be read in conjunction with the report prepared by the Czech Republic, annexed to the present document.

2. The Czech Republic is prosecuting its first case of foreign bribery, which represents a very positive development. This case of alleged bribery of a foreign public official from a non-Party to the Convention was under investigation at the time of the Phase 4 evaluation. The Czech Republic does not however report any new investigations of foreign bribery despite the export-oriented nature of its economy, including in high-risk sectors for corruption and in destinations that are at high risk of bribery. This is an issue that the Working Group will continue to monitor very closely.

Regarding detection of foreign bribery:

- ◆ *Recommendation 1(a) (i) and (ii) – Partially Implemented:* In Phase 4, the Working Group found that the Czech anti-money laundering (AML) system had the potential to play a key

¹ The evaluation team for this Phase 4 two-year written follow-up evaluation of the Czech Republic was composed of lead examiners from **Hungary** (*Balázs Garamvölgyi*, Prosecutor General's Office and *Giba Mariann*, Ministry of Justice) and **Iceland** (*Hinrika Sandra Ingimundardottir*, *Kjartan Olafsson* and *Inga Thorey Oskarsdottir*, Ministry of Justice), as well as members of the **OECD Anti-Corruption Division** (*Catherine Marty* and *Elisabeth Danon*, Legal Analysts). See [Phase 4 Procedures](#), paras 54 et seq. on the role of Lead Examiners and the Secretariat in the context of two-year written follow-up reports.

² See [Phase 4 Report of the Czech Republic](#), and the [Phase 4 procedures](#).

role in detecting suspicions of foreign bribery. However, it noted that foreign bribery was not sufficiently “under the reporting entities’ radar”. In addition, the WGB identified the real estate and gambling sectors as particularly exposed to money laundering. The Working Group welcomes the adoption in 2019 of guidance under the leadership of the FAU. According to the authorities, the guidance is made of typologies based on information received from Suspicious Transactions Reports (STRs), experience of the Analytical Department of FAU and open source information on corruption cases. Circulation of the guidance has been limited to the financial sector. Considering the exposure of this sector to foreign bribery, this is an important step. However, similar guidance should be available to non-financial professions, considering their potential for detection and the specific recommendation made by the WGB for increased efforts of awareness raising within these professions. According to the authorities, more guidance is under development by FAU that will target all reporting entities. No trainings on how the proceeds of bribing foreign public officials are laundered have been provided since the Phase 4 evaluation although there is a plan to deliver such trainings later in 2019. The Phase 4 evaluation showed that the identification of politically exposed persons (PEPs) was the most significant challenge for reporting entities when fulfilling their STR obligations. In particular, they lacked proper guidance on how to identify PEPs. The Working Group welcomes the Methodological Instruction on PEPs, issued by the FAU in April 2018 that sets out some criteria for identifying PEPs. Efforts are also carried out by FAU to regularly exchange information with reporting entities on their obligation to identify PEPs. This part of the recommendation 1(a) is implemented. Effective access to information on this category of customers by the private sector is however likely to remain a challenge and the Working Group welcomes the planned amendment to the AML Act that will require the FAU to create a list of functions from which the status of PEP arises, as foreseen under EU Directive 2018/843.

- ◆ *Recommendation 1(b) (i) and (ii) – Partially Implemented:* In Phase 4, the Working Group noted the significant potential of the General Financial Directorate to detect foreign bribery through tax controls. However, in order for that potential to be achieved, more awareness and knowledge on the part of the tax administration regarding bribery of foreign public officials and means for identifying bribe payments through tax audits were needed. Czech tax authorities are involved in OECD TFTP and International Academy for Tax Crime Investigation and the International Academy for Tax Crime Investigation, which is positive. The WGB acknowledges that these measures, as well as training courses on foreign bribery dispensed by the General Financial Directorate have the potential to increase detection by tax authorities. This part of the recommendation 1(b) is thus implemented. Since Phase 4, the role of KOBRA, a tax enforcement unit composed of officers from the General Financial Directorate, Police Corps and the Customs Administration seems to have expanded. However, the Working Group notes that the Czech Republic has not extended the focus of KOBRA to the detection and reporting of foreign bribery, as recommended in Phase 4.
- ◆ *Recommendation 1(c) – Partially Implemented:* In its previous evaluation in 2017, the WGB noted the Czech National Bank (CNB)’s potential role in detecting and reporting suspicions of foreign bribery considering its access to relevant information, such as financial statements and reports on internal controls, through the disclosure obligations of listed firms. Since the Phase 4 evaluation, employees of the CNB’s Securities Issues Unit have undergone a training on the OECD Anti-Bribery Convention and relevant article of the Czech Criminal Code. A new obligation requires CNB’s employees to report all suspicions of foreign bribery to their superiors, who shall in turn forward the information to the CNB’s Enforcement Division if they find the information relevant. These measures are welcome by the Working Group, but without tangible measures to teach CNB’s employees to identify red flags for foreign bribery,

such as written guidance and regular training focusing specifically on detection, it seems unlikely that reporting from the CNB will increase. To date, the CNB has never detected a foreign bribery scheme, although it should be noted that such detection is not the primary purpose of reports to the CNB.

- ◆ *Recommendation 1(d) – Fully Implemented:* In Phase 4, the WGB noted that the Czech law enforcement authorities made effective use of MLA requests from foreign jurisdictions to detect the bribery of foreign public officials. However, in one case, detected through MLA, opening of the investigation was delayed due to complicated channel used to report the information stemming from the MLA request. By issuing in October 2017 an instruction requiring all public prosecutors to inform the Supreme Public Prosecutor's Office's (SPPO) international department about requests of public prosecutors for MLA sent abroad and foreign applications for MLA concerning suspicion of foreign bribery committed by a Czech national or a company, the Working Group considers that the Czech Republic has taken the right steps to implemented recommendation 1(d).
- ◆ *Recommendation 1(f) – Partially Implemented:* The Phase 4 Report found that the media is an important source of detection of domestic bribery and could thus play a significant role in detecting foreign bribery cases involving Czech companies and individuals. At that time, adequate resources were not being deployed to decipher potential allegations of foreign bribery in Czech media sources. Since Phase 4, data analysis capacities of the National Organised Crime Agency (NOCA) have increased, but the task force did not take measures to specifically target the detection of foreign bribery cases in domestic or foreign media and NOCA has not detected such cases since the last WGB's review. The number of staff allocated to media monitoring does not seem to have increased, although it is likely that the person in charge benefits from the expansion of data analysis capacities of NOCA in the monitoring process.

Regarding whistleblower protection:

- ◆ *Recommendation 1(e) – Not Implemented:* The Working Group is highly concerned that, in the absence of adoption of comprehensive whistleblower protections especially in the private sector, employees who report suspected acts of foreign bribery in good faith and on reasonable grounds to the competent authorities are still not appropriately protected from discriminatory or disciplinary action. This deficiency has been subject to recommendations by the WGB since Phase 2. The legislative initiative to address discriminatory or disciplinary treatment of whistleblowers that was underway during Phase 4 was unsuccessful. Since then, another law was drafted in light of the new European Union (EU) standards on whistleblower protection. While the Czech new draft law is positive, the adoption process is in its very early stages and the Working Group urges the authorities to implement Recommendation 1e) without any further undue delay.

Regarding detection and investigation of the foreign bribery offence by the National Organised Crime Agency (NOCA):

- ◆ *Recommendation 2(a) and 2(b) – Partially Implemented:* NOCA results from the merger, in August 2016, of the former Police Organised Crime Unit (UOOZ) and Unit for Combating Corruption and Financial Crime (UOKFK) and is required to take the lead in foreign bribery investigations. The fact that the Czech Republic plans to increase operational resources of NOCA with 6 positions specialized in foreign bribery and money laundering is very positive. The Working Group also welcomes NOCA's apparent support for better communication and

joint investigative teams, as well as the extension of its data analysis capabilities. Indeed, since Phase 4, NOCA's Department of Analytics has expanded and acquired new tools for data processing and analysis. However, it seems that enhanced coordination and analytics do not serve the detection and investigation of foreign bribery. Indeed, since Phase 4, no decree or internal directive has been issued that mentions the level of priority of foreign bribery. At the time of Phase 4, NOCA's stated priorities for analytics were corruption in domestic procurement, crimes related to EU funds, and asset recovery. Nothing indicates that foreign bribery has become a priority (see also above the review of Recommendation 1(f)). Finally, the Czech Republic plans to expand the Department of Analytics with 15 positions in 2021-2025, but whether some of them will be allocated to the investigation of foreign bribery remains to be seen.

Regarding investigation and prosecution of foreign bribery:

- ◆ *Recommendation 3 – Not Implemented:* The Working Group regrets that the Czech Republic has not adopted legislative measures to address its concerns – that date back to Phase 3 – regarding conformity with Article 5 of the Convention, which seeks to protect foreign bribery investigations and prosecutions from undue interference. A revision of the Public Prosecutor's Office Act is ongoing and a Code of Conduct for public prosecutors, which according to the Czech Republic addresses independence of prosecutors, was adopted. The authorities have been discussing over the past years about a proposal to safeguard investigative and prosecutorial independence but have regrettably failed to adopt this crucial reform.

Regarding sanctions for the foreign bribery offence:

- ◆ *Recommendation 4(a) – Partially Implemented:* In Phase 3 and 4, the Czech Republic was asked to increase the confiscation of proceeds of crime in foreign bribery cases. In the absence of foreign bribery cases brought to court, this recommendation remains partially implemented. However, the Working Group is pleased to note that efforts deployed by the authorities to raise awareness among the prosecutors and judges to change the practice regarding sanctions and ensure a wider use of monetary sanctions seem to show successful results, including in relation to freezing and confiscation of the proceeds of crime.
- ◆ *Recommendation 4(b) – Partially Implemented:* Despite extensive efforts to provide training to prosecutors and judges since the Phase 4 evaluation in several areas relevant to the implementation of the OECD Convention, the Working Group is of the view that more trainings to support judges in the complicated task of calculating appropriate penalties in foreign bribery cases remain necessary.
- ◆ *Recommendation 4(c) – Not Implemented:* In Phase 4, the WGB asked the Czech Republic to ensure that all judgements (including agreements on guilt and punishment) concerning foreign bribery are automatically published. The practice in the Czech Republic is to publish only a fraction of court decisions from the lower courts and the publication of agreements of guilt and punishment is discretionary. The Czech Republic is considering amending existing regulation to ensure the publication of all court decisions from Regional and High Courts but this reform is not in force yet. This reform also does not encompass judgements adopted at the level of District Courts for which another change to the law is envisaged. Finally, the proposal does not foresee the automatic publication of agreements on guilt and punishment. The WGB encourages the authorities to proceed with their project to ensure the publication of all judgments in line with recommendation 4(c).

Regarding the related offences of money laundering and false accounting:

- ◆ *Recommendation 5(a) – Partially Implemented:* In the absence of money laundering convictions related to foreign bribery, it remains challenging to assess the Czech Republic's efforts to enforce the offence of money laundering (ML) where transnational bribery is the predicate offence. Figures available in the [assessment conducted by Moneyval](#) in 2019 shows a good number of money laundering convictions, particularly in the latter years. However, the report states that the clear majority relates to less sophisticated and less complex ML schemes and none of these cases involves legal persons. It also highlights a very high conviction rate in relation to ML prosecutions (roughly 80%) which is a very positive feature. The Working Group also welcomes the efforts made to provide more training to law enforcement authorities on enforcing money laundering offences, and notes the reported amendments of the provisions on such offences.
- ◆ *Recommendation 5(b) – Partially Implemented:* In Phase 4, the WGB considered Phase 3 recommendation 7(a) unimplemented and required the Czech Republic to ensure that penalties for false accounting are effective, proportionate and dissuasive. The Czech authorities are of the view that no further action is needed in this area since they believe that the penalties imposed for false accounting meet the WGB's requirements. The Working Group welcomes an increased level of enforcement of the false accounting offence against legal persons in the past three years. However, figures available do not support the conclusion that the sanctions that have been imposed are effective, proportionate and dissuasive. The Working Group reiterates its recommendation in this area.

Regarding corporate responsibility for foreign bribery and the “justly required efforts” exemption:

- ◆ *Recommendation 6(a) – Fully Implemented:* Before the Phase 4 evaluation, the Czech Republic introduced an exemption from liability for legal persons that have made “all efforts that can be justly required to prevent the commission of an unlawful act” (exemption of “justly required efforts”) under section 8(5) of the Czech Republic legislation on the liability of legal persons (CLLE). In November 2016, the SPPO issued a Guide on how to interpret the exemption. In Phase 4, the WGB noted that information provided in the Guide was largely insufficient. The Working Group welcomes the updated version of the Guide that was adopted on 14 August 2018, in line with Recommendation 6(a). It also welcomes the fact that there is now one consolidated version of the Guide, rather than one for public prosecutors, and a shorter, diluted version for public access. Referring to international standards (ISO) and US, UK and French compliance models, the revised Guide provides information to enforcement authorities on what constitutes an efficient Compliance Management System (CMS), and examples of inefficient models. A new chapter of the Guide also clarifies the exemption of “justly required efforts”. It provides that “justly required efforts” can exempt legal persons from liability when a senior management staff committed the underlying offence, which, on the face of it, is contrary to Article 2 of the Convention and Annex I B of the 2009 Recommendation. This is an issue that the Working Group will continue reviewing. Since Phase 4, three cases involving legal person liability and in which the “justly required efforts” was considered were resolved. These cases are summarized and analysed in the Guide. This is very positive, in particular as the Working Group recommended that the Guide be regularly updated to include jurisprudence. However, as the companies' compliance efforts were blatantly insufficient in all three cases, enforcement authorities did not have the opportunity to clarify the exemption in light of a robust CMS.

- ◆ *Recommendation 6(b) – Fully Implemented and Recommendation 6(c) – Fully Implemented:* The Ministry of Justice has considered further measures to clarify the application of the exemption under section 8(5) of the CLLE and is of the view that the publication of the updated Guide and the ongoing awareness raising activities are sufficient measures to clarify the exemption. The Working Group welcomes the organisation by the SPPO of roundtables on "criminal liability of legal entities and compliance" with a large representation of professional associations, which show an effort to raise the private sector's awareness of corporate criminal liability and compliance. The Working Group is of the opinion that the authorities should continue their awareness raising efforts and invites the Czech Republic to continue updating the Guide to reflect any new developments that will derive from the implementation of the CLLE and the "justly required efforts" exemption.

Dissemination of the Phase 4 report³

3. The press release of the Phase 4 Report was translated and published on 22 June 2017 together with the official OECD version. The full report was published in February 2019 on the Ministry of Justice's website. It is also available on a new portal exclusively dedicated to the fight against corruption. The Czech Republic reports further efforts to publicise and disseminate the Phase 4 report to exporting Czech companies. A leaflet was also distributed to all the relevant institutions including the Ministry of Foreign Affairs and Czech Embassies.

Conclusions of the Working Group on Bribery

4. Based on these findings, the Working Group concludes that recommendation 1(d), (6a), 6(b) and 6(c) have been fully implemented; recommendations 1(a), 1(b), 1(c), 1(f), 2(a), 2(b), 4(a), 4(b), 5(a) and 5(b) have been partially implemented; and recommendations 1(e), 3, and 4(c) have not been implemented. The Working Group invites the Czech Republic to report back in writing in two years (i.e. June 2021) on Recommendations 1(e), 1(f), 2 (a) and (b), 3 and 4(c). The Czech authorities will also provide a review of the application of the exemption of "justly required efforts" with the expectation that this exemption is fully compliant with Article 2 and the Annex I B of the 2009 Recommendation outstanding recommendations. At the time of this report, the Czech Republic may ask for any other recommendation to be re-assessed as foreseen under para. 60 of the Phase 4 procedures. Finally, the Working Group will continue to monitor follow-up issues 7a-h as case law and practice develop. The Czech Republic will report to the Working Group on its foreign bribery enforcement actions in the context of its annual update.

³ The [Phase 4 procedures](#), para. 50, provide that "the evaluated country should make best efforts to publicise and disseminate the report and translated documents, for example, by making a public announcement, organising a press event, and translating the full report into the national language. In particular, the evaluated country should share the report and translated documents with relevant stakeholders, particularly those involved in the evaluation".

Annex: Phase 4 Evaluation of the Czech Republic: Written Follow-Up Report

Instructions

This document seeks to obtain information on the progress each participating country has made in implementing the recommendations of its Phase 4 evaluation report. Countries are asked to answer all recommendations as completely as possible. Further details concerning the written follow-up process is in the [Phase 4 Evaluation Procedure](#) (paragraphs 55-67).

Responses to the first question should reflect the current situation in your country, not any future or desired situation or a situation based on conditions which have not yet been met. For each recommendation, separate space has been allocated for describing future situations or policy intentions.

*Please submit completed answers to the Secretariat on or before **14 May 2019**.*

Name of country: CZECH REPUBLIC

Date of approval of Phase 4 evaluation report: June 2017

Date of information: 14 May 2019

PART I: RECOMMENDATIONS FOR ACTION

Text of recommendation 1(a):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:
 - a. Increase the priority of detecting foreign bribery through the Anti-Money Laundering system by:
 - i. Providing all entities and professions that have suspicious transactions reporting (STR) obligations with specific typologies and trainings on how the proceeds of bribing foreign public officials are laundered through the different channels, while putting an increased emphasis on non-financial obliged entities, such as those in the real-estate and gambling sectors, tax advisors, and legal professionals,
 - ii. Working together with entities and professions that have STR obligations to ensure that they have effective access to information about politically exposed persons;

Action taken as of the date of the follow-up report to implement this recommendation:

- i. Providing all entities and professions that have suspicious transactions reporting (STR) obligations with specific typologies and trainings on how the proceeds of bribing foreign public officials are laundered through the different channels, while putting an increased emphasis on non-financial obliged entities, such as those in the real-estate and gambling sectors, tax advisors, and legal professionals,

The FAU prepared guidance for obliged entities focusing on foreign bribery cases. This guidance describes the foreign bribery including definition, features, and provisions in the Czech legislation dealing with this type of criminal activity; introduces the standards of OECD Anti-Bribery Convention; provides anonymized case studies; and introduces typologies of factors for both client and transaction which may in certain circumstances indicate ML related with foreign bribery.

These typologies were prepared based on information from received STRs, practical experience of Analytical Department of FAU and public materials dealing with corruption cases. For example in case of a client, the guidance works with aspects of citizenship/residence factor, holding position in relevant business company or beneficial ownership of such business. In case of a transaction the indicators concentrate on unusual transactions (unusual in value, frequency, country of origin of funds), transactions indicating providing of a revenue (regular transactions, payments for rent/mortgage/scholarship of third person without logical economic reason, etc.).

The guidance was finalized and adopted by FAU in 2019 and disseminated to banks and other financial institutions through secured channel. Due to sensitive content of the guidance and information from practice and suggested indicators which should be further applied by obliged entities in their systems the guidance is not available publicly on-line.

For the second half of the year 2019 the FAU in cooperation with Police prepares training for obliged entities focusing exclusively on the content of guidance and mutual cooperation with obliged entities.

- ii. Working together with entities and professions that have STR obligations to ensure that they have effective access to information about politically exposed persons;

On daily basis, the FAU provided explanatory notes to certain provisions of the AML Act, including provisions dealing with a definition and obligations in relation to PEP. **During years 2017-2018 the FAU provided nearly 300 explanatory notes in written form.** Besides written explanation, the FAU actively participates in different kinds on AML/CFT related events for obliged entities and the topic of PEP in regular part of presentations and discussions. For example FAU presented this topic on meetings with the Czech Bank Association, the Czech Bar Association, the Czech Compliance Association and many others. **Furthermore, the FAU published on 23 April 2018 new Methodological Instruction No. 7 on measures regarding PEP** – available publicly on FAU's websites <http://www.financnianalytickyrad.cz/pravni-predpisy.html>.

With regard to clearer understanding of PEPs' scope and in reaction to EU directive No. 2018/843 (V. AMLD) the FAU in cooperation with the Ministry of Finance currently prepares an amendment of the AML Act which besides others stipulates new obligation for the FAU to create and share complete list of functions from which the status of PEP arises.

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(b):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:

b. Increase the potential of the tax authority to detect bribe payments by:

- i. Participating in relevant training activities for this purpose, such as those provided by the OECD,
- ii. Finding a resource-efficient way to integrate into the objectives of the new multidisciplinary tax unit – KOBRA – the task of detecting and reporting foreign bribery related to tax evasion to the competent authorities;

Action taken as of the date of the follow-up report to implement this recommendation:

- i. Participating in relevant training activities for this purpose, such as those provided by the OECD,

General Financial Directorate organises regular training courses for responsible officials of the Financial Administration of the Czech Republic (i.e. tax authority, TA). **The integral part of such trainings is building and developing awareness on bribery including foreign bribery.** During these trainings the following points are being explained:

- The content and issue covered by OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and OECD Bribery Awareness Handbook for Tax Examiners
- Domestic tax rules concerning bribery, namely
 - Income Tax Act (Section 25, para 1) “For tax purposes, the following expenses, in particular, may not be recognised as expenses (costs) incurred to reach, secure and maintain income” (letter zf) “performance provided to a foreign State officer or a foreign public official, or with their consent to another person in connection with the discharge of their function, not even where it is an officer of a State or a public official acting in a State in which the provision of such performance is tolerated or is not deemed to be a criminal offence or is usual.
 - Tax Code (Section 53, subsection 3) “The tax administrator has the reporting obligation under the law if, in the course of its activities, it ascertains any facts indicating that any of the criminal offences referred to in Subsection 2 was committed.” (Subsection 2, letter d) “..., any of the criminal offences of corruption, ...”

In addition, the updated domestic handbook on bribery for tax inspectors was published in 2016. It includes chapters on methods of detecting cases of bribery and further treatment of such cases. The domestic handbook is available on Intranet for official use only.

As for the international activities, **the Czech Republic is an active member of the OECD Task Force on Tax Crimes and Other Crimes (TFTC)**. TFTC holds sessions twice a year in spring and autumn. The last session was organized in April 2019. The Czech Republic has its representatives in this task force and according to the agenda, the representatives of the Ministry of Finance, the General Financial Directorate, the Financial Analytical Office or others participates and the information from the sessions is than shared with the relevant authorities in the Czech Republic. The Agenda of the last meeting focused on money laundering, terrorist financing, prevention of VAT fraud, use of data analytics and artificial intelligence to support tax and financial crime investigations etc. /the agenda is available in ONE CTPA/CFA/TFTC/A(2019)1/.

The Czech Republic is aware of the importance of the international trainings and experience sharing. Therefore, the representative of the FAU participated in the recent **training of the OECD International**

Academy for Tax Crime Investigation, Conducting Financial Investigations, 18 - 29 March 2019 in Rome, Italy. The course was focused on

- the key skills required in financial investigations, including the ability to trace money through complex financial arrangements and use sophisticated techniques to identify links between suspects and illicit financial activities;
- an increased awareness of the risks to countries posed by corruption and money laundering and the ability to better combat these offences;
- a good understanding of the importance of effective co-operation with other government agencies and other countries, as well as how they can participate in such co-operation; and
- the ability to share these skills and knowledge within their agencies following completion of the course, to ensure that countries sending participants obtain the maximum benefit from their investment.

More information available at <http://www.oecd.org/ctp/crime/tax-crime-academy.htm>.

- ii. Finding a resource-efficient way to integrate into the objectives of the new multidisciplinary tax unit – KOBRA – the task of detecting and reporting foreign bribery related to tax evasion to the competent authorities;

The Tax KOBRA is an effective arrangement implemented in accordance with current rules (laws) and organizational structures. It is a method of cooperation between police, customs and tax administration experts where an immediate sharing of information, mutual trust and the highest dedication to protect the state budget are the cornerstones of their work.

The project aims to detect illegal activity before the tax is actually evaded and the state budget harmed (the criminal offence of preparation of a tax evasion). The second goal of this project is to identify the real organizers of the criminal activity, and to seize their assets which represent the proceeds of crime.

The Tax Cobra also initiates or partakes in the process of changes in the legal system based on gained experience.

Immediate exchange of information and close cooperation of the involved parties within the legal framework enables the Tax KOBRA to deal with active cases, and also brings very good results in the fight against tax crimes. Since its introduction in May 2014 the Tax Cobra saved the state budget 11,7 billion of CZK. The cooperation set within the current legal limitations is regularly analysed in order to develop this tool further.

Until the end of 2014 the Tax KOBRA was operated only on a “central level”, where the cooperating parties were specialists from the Division for Detection of Corruption and Financial Crime (since August 1, 2016 renamed as National Central Office for Organized Crime), the General Financial Directorate and the General Customs Directorate. The change came at the beginning of 2015 when also the regional tax and customs offices started to cooperate with district police directorates. Since then the Central KOBRA and the Regional KOBRA are recognized.

The Tax KOBRA focuses its activities solely on economic, or more precisely tax crimes (business operations and property dispositions which are liable to taxation). During the investigation of tax evasion cases the KOBRA also analyses financial flows and the real substance of declared transactions (services), because the financial assets are often generated without the actual services taking place, or the services may be provided in a different way and extent than declared. For these reasons, non-standard cash withdrawals, risk cashless transactions abroad etc. are analysed. **Tax crime investigation specialists of the NOCA’s Tax Crime Division perform an in-depth analysis of all transactions related to tax crime investigations within the Tax KOBRA. Any transaction detected as a**

suspicious is immediately reported to the agency's Corruption Division with respect to their jurisdiction as stipulated by the Binding Instruction of the Police President No. 103 of 28 May 2013, Art. 6 b).

The authorities are convinced that the methodology of the KOBRA is a very good practice and it was presented by the General Financial Directorate during a workshop with Europol in Haag.

The Tax Administration of the Czech Republic produced methodology papers covering cooperation with law enforcement authorities and notice obligation towards the law enforcement in case a crime is discovered. The Tax Administration also produced a methodology paper on "Detection of bribery".

The theme of bribery of foreign public officials is covered by specialist training focused on income tax organized by the Tax Administration. Bribery is also a theme of update courses for managers who disseminate the knowledge to their subordinates (twice a year, approx. 30 participants).

The Tax KOBRA organizes trainings focused on mutual cooperation, analytical activities and education in the area of criminal law (once a year approx. 60 participants).

Training sessions, either domestic or organized by OECD, are a valuable experience bringing new knowledge that can be used in practice in our country. The Tax Administration considers such trainings to be very desirable and contributing of combating tax evasion. The guidance is subject matter of particular training activities.

If no action has been taken to implement recommendation 1 (b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(c):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:

- c. Take reasonable and appropriate steps to ensure that the Czech National Bank effectively reports suspicions to the competent authorities suspicions of foreign bribery that it detects in the course of reviewing listed companies' disclosure documents and reports;

Action taken as of the date of the follow-up report to implement this recommendation:

As a part of financial market supervision, the Czech National Bank reviews relevant information published by the issuers such as financial reports and inside information. Such reviews are performed by five employees of Securities Issues Unit within the Securities and Regulated Markets Division.

In the 1Q 2019, all employees of the Securities Issues Unit underwent training of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and its objectives. They have been also educated on elements of the corresponding crime in the Czech Criminal Code to be able to recognize possible criminal offence of bribery of foreign public officials. For example, they have been educated with regards to the definitions of foreign public official or act in relation to the performance of official duties and with regards to manners in which foreign bribery can be committed. New employees will receive this information as well.

At the same time, an internal procedure was established according to which the employees shall inform their superior whenever they identify anything suspicious in the field of matter. If the superior considers the suspicion relevant, s/he will forward it to the Enforcement Division of the Czech National Bank which is responsible for communication with criminal law enforcement authorities.

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(d):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:
 - d. Formalise the new methodology for referring without delay MLA requests that concern foreign bribery committed by a Czech national or company directly to the Supreme Public Prosecutor's Office (SPPO);

Action taken as of the date of the follow-up report to implement this recommendation:

The Supreme Public Prosecutor's Office adopted **an amendment to the General Instruction No. 10/2011**, which entered into force as of 10 October 2017. This instruction obliges all public prosecutors to inform international department of the Supreme Public Prosecutor's Office about requests of public prosecutors for MLA sent abroad and foreign applications for MLA concerning suspicion of foreign bribery committed by a Czech national or a company.

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(e):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:
 - e. Fully implement without delay Phase 3 Recommendation 10 on whistleblower protections to adopt appropriate measures to protect from discriminatory or disciplinary action public and private sector employees who report suspected acts of foreign bribery in good faith and on reasonable grounds to the competent authorities, and conduct awareness-raising on the use of such protections in foreign bribery cases for public and private sector employees; and

Action taken as of the date of the follow-up report to implement this recommendation:

Since the adoption of its Phase 4 report the Czech Republic has been working on two legislative proposals to strengthen whistleblower protection not only in public but also in the private sector.

The first legislative proposal was adopted by the Government on 8 February 2017. The proposal was subsequently discussed in 1st reading in the Chamber of Deputies of the Parliament of the Czech Republic (see link <http://www.psp.cz/sqw/historie.sqw?T=1034&O=7>). Eventually the legislative process for the first legislative proposal ended unsuccessfully as the electoral period ended before the proposal was adopted and thus the proposal was dropped.

The second more comprehensive legislative proposal underwent the inter-ministerial commenting procedure during the months of October and November 2018 and was subsequently presented to the Government on 18 February 2019 (see links <https://apps.odok.cz/veklep-detail?pid=ALBSB9HFJX37> and <https://apps.odok.cz/veklep-detail?pid=ALBSB9HG2EA7>). The proposal is currently being discussed by the Government Legislation Council (government advisory body). Afterwards the proposal is going to be discussed by the Government and sent to the Parliament. While drafting current legislative proposal the Ministry of Justice has already taken into account an ongoing legislative process of the Directive of the European Parliament and of the Council on protection of persons reporting on breaches of Union law that is going to be adopted at the EU level. Thus

the proposal should already be in line with the future minimum standards set at the EU level when adopted.

Nevertheless, **the final version of the proposal will be presented to the Government once the EU Directive is adopted.**

With regard to awareness-raising on the whistleblower protection the representatives of the Ministry of Justice of the Czech Republic have already presented currently prepared legislation at two public events focused on the issue of whistleblower protection. The first event took place on 19 February 2019 and was hosted by one of the Czech anti-corruption NGOs “Nadační fond proti korupci” (see link https://www.facebook.com/events/2228898450657408?refid=52&_tn=%2As-R). The second event took place on 13 March 2019 and was hosted by the Czech chapter of Transparency International (see link <https://www.transparency.cz/whistleblowing-nejen-ve-statni-sprave/>).

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 1(f):

1. Regarding the detection of foreign bribery, the Working Group recommends that the Czech Republic:
 - f. Invest in analytics for the purpose of effectively detecting potential allegations of foreign bribery in Czech and foreign media sources, including appropriate human resources, expertise, foreign-language skills, training and potentially software.

Action taken as of the date of the follow-up report to implement this recommendation:

NOCA has realized several measures to implement this recommendation and fully recognizes its importance.

The analytical capabilities are supported within the framework of the open source intelligence – OSINT. NOCA organizes seminars focused on possibilities of search and analysis of open sources and stresses the importance of practical experience. The main topics include social media, google hacking, Dark web, structural organization of information obtained, search and analysis of foreign media sources and internet and etc. NOCA is already using software to improve the analytical possibilities such as Tovel Tools. The Department of Analytics is continuously evaluating and searching for new opportunities for updated software which is than obtained for NOCA from own budget or within the framework of various projects.

At the second half of the 2018, a new working group focused on forensic data analysis has been created within NOCA. **This working group transformed into the independent unit within NOCA and the main objectives are to plan and realize measures connected to the digital data such as analysis, optimization and backup of the data etc.**

Moreover, the Department of Analytics was also strengthened with personnel. **In 2018, the department expand with newly allocated 8 police officers.** The long term plan for 2021-2025 includes strengthening NOCA’s personnel further and the draft plan anticipates expansion of analytics with additional 15 positions and operational resources with additional 6 positions specialized in foreign bribery and money laundering.

With regard to language courses, almost all of the NOCA officers have University degree either in economics or in law. The NOCA officers participate in internal and foreign language or specialized courses as well. NOCA actively participates in courses organized by European Union Agency for Law

Enforcement Training (CEPOL). **In last 3 years, NOCA officers attended 46 international courses organized by CEPOL and 3 of them were specially focused on corruption.** These courses are in English. The NOCA officers also participate in training courses organized by [MEPA](#) Central European Police Academy and these courses are in German. Last but not least, NOCA organizes internal courses of English and French language and NOCA officers are encouraged to participate.

The language capabilities of NOCA officers can be also demonstrated by active participation in 10 Joint Investigative Teams within the EU countries.

If no action has been taken to implement recommendation 1 (a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(a):

2. Regarding detection and investigation of the foreign bribery offence, the Working Group recommends that the Czech Republic take concrete and appropriate steps to ensure that the newly established National Organised Crime Agency (NOCA):

a) Gives sufficient priority to detecting and investigating foreign bribery cases.

Action taken as of the date of the follow-up report to implement this recommendation:

Detection and investigation of foreign bribery cases as well as corruption cases are one of the priorities of NOCA. Various resources are used for detection of economic crime and for the foreign bribery. Particularly relevant is the mutual legal assistance or joint investigative teams as well as cooperation with FAU and Tax authorities. Many measures, such as better detection from FAU, language courses, JITs, various seminars etc. together shows, that transnational criminality is an important part of NOCA's work and sufficient priority is given to both detecting and investigating. **The ongoing case is currently at the stage of prosecution which also shows successful detection and investigation.**

The public prosecution also considers the foreign bribery as a high priority. Therefore the Supreme Public Prosecutor's Office proposed an amendment to the Section 15 of the Rules of Procedure of Public Prosecution to the Ministry of Justice in 2018. **This proposal introduces the special jurisdiction for all foreign bribery cases to the High Public Prosecution Offices in order to ensure the specialization of public prosecutors.** The HPPO already deals with the most serious economic crimes (including the foreign bribery) but this amendment is important to ensure that all the cases of foreign bribery would be promptly submitted to the HPPO.

The Ministry of Justice accepted this proposal and prepared the amendment which is currently circulated for internal comments.

If no action has been taken to implement recommendation 2(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 2(b):

2. Regarding detection and investigation of the foreign bribery offence, the Working Group recommends that the Czech Republic take concrete and appropriate steps to ensure that the newly established National Organised Crime Agency (NOCA):

b) As a matter of urgency has adequate analytical resources for the investigation of foreign bribery cases.

Action taken as of the date of the follow-up report to implement this recommendation:

The NOCA resources are continuously strengthening and currently it has more police officers than two previous institutions together. As it is visible from the table below, the increase of the personnel is mostly in police officers and the staffs are remaining more or less the same. The NOCA considers the analytical resources as sufficient. The foreign bribery is together with corruption one of the priorities and the analytical resources are considered sufficient as well. The Anti-Corruption department has currently 23 officers. The Czech authorities believe that the adequate analytical resources for investigation of foreign bribery are ensured within NOCA and this recommendation was urgently addressed by the authorities. Nevertheless, the anticipated increase described in f is of course always welcomed initiative.

	31 July 2016	1 August 2016	1 January 2017	11 April 2017	1 April 2019
ÚOOZ	434 officers 46 staff	N/A	N/A	N/A	N/A
ÚOKFK	362 officers 59 staff	N/A	N/A	N/A	N/A
NOCA	N/A	792 officers 99 staff	796 officers 102 staff	804 officers 102 staff	827 officers 103 staff
Total personnel	901	891	898	906	930

If no action has been taken to implement recommendation 2(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 3:

3. Regarding the investigation and prosecution of the foreign bribery offence, the Working Group recommends that the Czech Republic fully implement without delay Phase 3 Recommendation 3, by passing appropriate legislation to increase the independence of prosecutors so that considerations prohibited under Article 5 of the Convention are never taken into account in foreign bribery cases.

Action taken as of the date of the follow-up report to implement this recommendation:

The draft of the Public Prosecutor's Office Act, in which were proposed measures to eliminate the risk of influencing public prosecutors by the executive and which for this purpose for example introduced the revocability of senior prosecutors only on the basis of a disciplinary court decision, was submitted to the Chamber of Deputies of the Parliament on 21 April 2016. Unfortunately, before the end of the legislative process, the electoral term of the Chamber of Deputies passed, so the proposal was not approved.

The current government is aware of the necessity to modify the current rules for appointing and dismissing senior prosecutors, and therefore, under the Government's Legislative Work Plan

for 2019, mandated the Minister of Justice to draft an amendment to the current act. The main aim of the draft law is to strengthen the independence and impartiality of the prosecutor's office from the executive, in particular to make compulsory competitions for the positions of senior prosecutors and to allow the dismissal of the General Public Prosecutor or other senior prosecutors only within disciplinary proceedings and to introduce the limited term of their office. **According to the Government's Legislative Work Plan the proposal is to be submitted to the government by the end of this year, but it can be assumed, that the proposal will be submitted earlier.**

If no action has been taken to implement recommendation 3, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4 (a):

4. Regarding sanctions for the foreign bribery offence, the Working Group recommends that the Czech Republic:

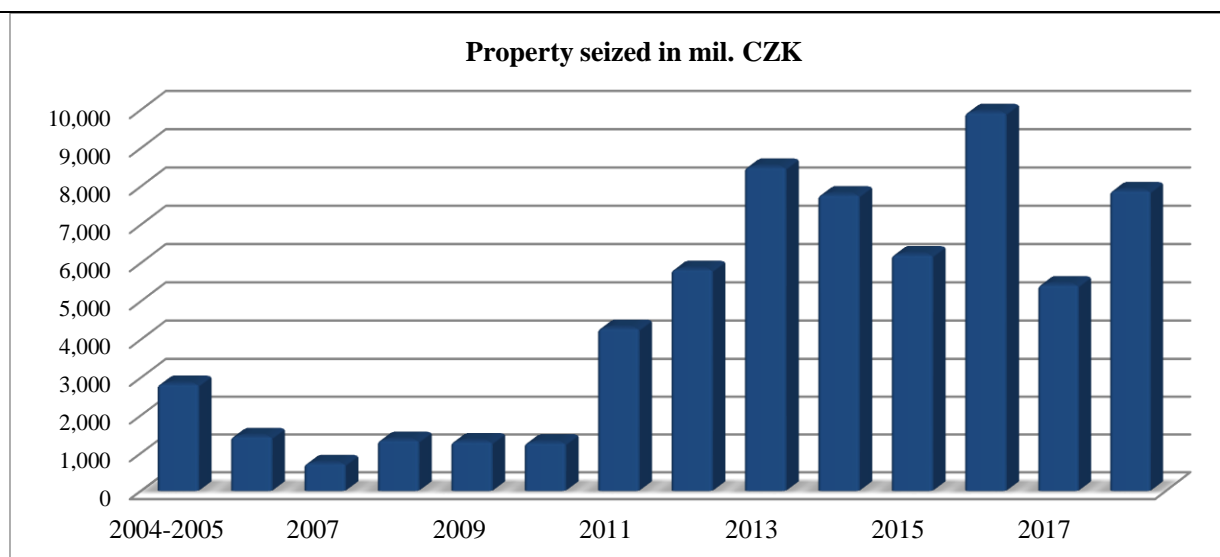
a) Fully implement without delay Phase 3 Recommendation 2(d) to increase confiscation of the proceeds of foreign bribery upon conviction for the offence.

Action taken as of the date of the follow-up report to implement this recommendation:

In 2017 and 2018 began an intensive effort of the Supreme Public Prosecutor's to change the sanctioning practice, so that property criminal sanctions were in the Czech Republic imposed in much greater extent (as well as abroad). Penalties or other appropriate property sanctions are also one of the effective tools to punish serious financial and economic crime. The rightness of the strategy chosen, initiated in 2017 by a series of four joint expert seminars held by the Supreme Public Prosecutor's Office and the Supreme Court, where prosecutors, judges and police officers from all parts of the Czech Republic have been trained, shows that, according to statistical results, there was a significant increase of number of imposed financial penalties in 2018, since the ratio of the number of fines imposed to the number of convicted persons in 2018 reached a total of 18.12 % (in 2017 it was 15.48 %, in 2016 8.45 % of the fines were imposed, in 2015 it was 4.65 %). In the period since 2011 a total of CZK 8.9 billion of secured assets has been permanently withdrawn (forfeited, seized, and returned to the injured parties).

One of the successful changes introduced by the Act No. 86/2015 Coll., which was amending among others the Criminal Code and entered into force as of 1. 6. 2015, was also enshrining of a rule, that direct proceeds of crime (a thing that the offender had obtained by a crime or as a remuneration for it) must always be confiscated, which should lead to a consistent withdrawal of proceeds of crimes in all cases, where such proceeds of crime are identified and seized and cannot be returned to the owner or used as a compensation for the injured party.

The result of this change is also visible in the Table below as the seized value in 2016 was the highest. As you can also see, the amount of confiscated property is gradually increasing.



The results of property seized and property confiscated in economic crimes can be seen in Table below. The numbers are in CZK.

Property seized between 2016 and 2018.

	Number of cases	Seized	% from the all seized property
Corruption	108	2 482 931 386	11%
Money laundering	592	3 889 030 639	18%
Tax related crimes	237	4 340 904 194	20%
Fraud	2 330	8 019 742 028	37%
Theft and Robbery	18 008	597 045 466	3%
Drugs related crimes	1 997	587 521 606	3%
Total	23 272	19 917 175 319	92%
Total of all crimes	29 622	21 641 505 844	100%

Property confiscated between 2016 and 2018.

	Number of cases	Confiscated	% From the all confiscated property
Corruption	25	328 187 491	11%
Money laundering	194	248 594 290	8%
Tax related crimes	140	121 133 377	4%
Fraud	1 299	508 665 394	16%
Theft and Robbery	15 960	405 979 409	13%
Drugs related crimes	854	78 523 525	3%
Total	18 472	1 691 083 486	55%
Total of all crimes	22 470	3 100 726 658	100%

If no action has been taken to implement recommendation 4(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(b):

4. Regarding sanctions for the foreign bribery offence, the Working Group recommends that the Czech Republic:

b) Organise judicial training as a matter of priority to support judges in the complicated task of calculating appropriate penalties in foreign bribery cases.

Action taken as of the date of the follow-up report to implement this recommendation:

As mentioned above (4a), during 2017 and 2018 an intensive effort of the Supreme Public Prosecutor's in cooperation with the Supreme Court to change the sanctioning practice begun, in order to increase the property criminal sanctions imposed in much greater extent in the Czech Republic.

The economic crime is a topic of regular judicial trainings which are organized for both judges and prosecutors. The full list of all judicial trainings is being attached; although the trainings are focused on broad issues, the authorities believe that this recommendation is fulfilled especially by the current activities of the SPPO and Supreme Court.

Moreover, regarding this issue the recent decision of the Supreme Court's, from 23. 11. 2016, file no. 8 Tdo 383/2016 (published under No. 12/2018 Coll. of criminal decisions) is also guidance for the judges in this matter. In this decision it was stated that the public prosecutor "is entitled to propose already in the indictment the imposition of a forfeiture of property (or other specific type of punishment). Even if (s)he fails to do so, (s)he is obliged to ensure, that the personal and property circumstances of the offender (the accused) are duly clarified within the pre-trial, if it is presumable, that the court will impose a forfeiture or other punishment that affect the offender's property (Art. 39 paragraph 7 of the Criminal Code). In such case, it is not enough to only seize the property of the offender (the accused) under Art. 347 of the Criminal Code." This ruling also clarified the issue and supports the calculating the penalties.

If no action has been taken to implement recommendation 4(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 4(c):

4. Regarding sanctions for the foreign bribery offence, the Working Group recommends that the Czech Republic:

c) Ensure that all judgements concerning foreign bribery are automatically published.

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Justice is preparing an amendment to the Instruction No. 20/2002-SM, which stipulates rules for evidence and registry of decisions from Regional and High Courts to the Evidence of Judicial Case-Law. This amendment proposes the expansion of the publication of decision regarding civil law and as a first part from the criminal law, the decision of corruption cases. This

obligation to publish all corruption related case law valid for Regional and High Courts; in the future the expansion is envisaged also for District Courts. The Ministry of Justice expects that the amendment will enter into force in the 4Q of this year.

The Evidence of Case-Law is available [here](#) and the decisions there are publicly available. The decisions of Supreme Court are already available [here](#). The Ministry of Justice plans to gradually broaden the scope of the evidence and desired target is anonymized publication of all decisions from all the courts online.

If no action has been taken to implement recommendation 4(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(a):

5. Regarding the related offences of money laundering and false accounting, the Working Group recommends that the Czech Republic fully implement without delay:

a) Phase 3 Recommendation 6(b) to take appropriate measures to enforce the money laundering offence more effectively in connection with foreign bribery cases, and in particular provide targeted training to the law enforcement authorities.

Action taken as of the date of the follow-up report to implement this recommendation:

Anti-money laundering measures

The issue of enforcing anti-money laundering measures more effectively is one of the priorities of the Czech Republic and all its authorities. **Number of measures has been already implemented and they are reflected in the evaluation conducted by MONEYVAL and the [5th round Mutual Evaluation Report on the Czech Republic](#)** which was published in February 2019. MONEYVAL acknowledged that the Czech authorities carried out a transparent and realistic analysis of the country's AML/CFT regime in relation with risks faced by the country. Money laundering occurs in the Czech Republic frequently due to fraud and phishing but higher risk is represented by tax crimes, corruption and subvention frauds based on the combination of seriousness and relative frequency. The report also states that legislative reforms and increased efforts in pursuing ML investigations represent a commendable progress achieved since the last evaluation. Although MONEYVAL recognizes that convictions were obtained in some large scale ML cases, it concludes that more investigative opportunities should be pursued with regard to serious third party and stand-alone ML. The prevalent practice within the Czech justice system of sanctioning multiple offences simultaneously makes it difficult to measure the precise impact of the sentence solely related to ML. The report underlines the improvements in the legislative and institutional framework on seizure and confiscation. Even though the legal instruments are relatively new, the Czech authorities have been already able to prove their practical usage which has positively influenced the statistical data. Law enforcement regularly carries out financial investigations in relation to proceeds-generating offences which resulted in significant amounts being seized and confiscated. Finally, the report praises the Czech authorities for being active in cooperation with their foreign counterparts. This has further been substantiated with the fact that, in addition to mutual legal assistance, other forms of international cooperation are routinely used both spontaneously and upon request. The results of the MONEYVAL assessment are considered to be very encouraging.

The FAU in cooperation with relevant institutions has prepared the draft of an Action plan which reacts to the MONEYVAL recommendation and will be approved by the Government. The second round of the National Risk Assessment was also commenced and is being conducted in compliance with the MONEYVAL recommendation in this respect.

In June 2018 the most recent EU Directive on AML (no. 2018/843) has been adopted. This directive stipulates several important new measures to strengthen the European AML/CFT framework. Transposition of this directive has to be finished by January 2020. The work on the legislative process is already going on. Above others amendments the significant changes in the Evidence beneficial ownership, such as special proceedings, sanctions, obligation to verify provided information and many others, are being planned.

Besides that the EU also prepared specialized legislation dealing with exchange of information between FIUs and LEAs which will support the cooperation in the field of AML/CFT. This directive stipulates scope, channels, time limits and other conditions for domestic exchange of information between FIU and LEAs and Europol and also international (European) exchange. Currently the transposition of the directive is being prepared.

Training of the law enforcement authorities

There are several training initiatives for the law enforcement to encompass fully the complex issue of money laundering.

The seminars for specialized prosecutors and police officers are organized at least twice a year. The seminars are focused on current knowledge in the area of combating money laundering and related issues of detecting, seizure and confiscation of the proceeds of crime.

Within the framework of the National Organized Crime Agency (NOCA), the specialized methodological workplace for this issue was established (analogically to the previous Advisory Department in UOKFK). Moreover, there is a network of specialized prosecutors at the level of regional offices, High Public Prosecutor's Office and Supreme Public Prosecutor's Office as well.

NOCA, through its Advisory Department, organizes annually four two-day seminars for NOCA officers as well as officers from the Regional Directorates. One two-day seminar is solely focused on investigation tactics and techniques of corruption and public tenders. The Head of Advisory Department attends among others the meetings of the Supreme Public Prosecutor where the results in the area of asset seizure in criminal proceedings are presented. Advisory Department also proposes new methods and measures in order to achieve better results. Lectures are given at the Police Academy of the Czech Republic, Judicial Academy, Customs Administration Financial Authority and other organizations. Concerning the courses of lifelong learning for Police officers organized by the Police Academy, NOCA officers proposed topics related to economic crimes to be incorporated into these educational activities; they also give presentations in these courses in particular areas of their expertise. These courses are intended for officers from units with nation-wide competence, Regional Police Directorates and General Inspection of Security Forces. The course is for 50-60 officers. The aim of these courses is to inform the officers about practical experience on the money-laundering issues.

The specialized unit for detection and analyses of ML with predicates offence is FAU and its experts regularly participates on Police trainings in form of presentation of recent trends, new technologies and risks and discussion strengthening mutual exchange of information and common understanding.

The seminars are organized also for judges and public prosecutors in the Judicial Academy. The preparation for a new seminar on Corruption, Whistleblowing and Ethics is planned at the Judicial Academy. The date is not yet confirmed but this seminar shall focus on bribery and special segment on foreign bribery (and related crimes). One of the lecturers is a specialized public prosecutor from the High Public Prosecutor's Office in Prague, which supervises the current case of foreign bribery (legally qualified as, among other things, legalization of proceeds of crime) and will present this case, monitored by the OECD Working Group, as a case study at this seminar.

If no action has been taken to implement recommendation 5(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 5(b):

5. Regarding the related offences of money laundering and false accounting, the Working Group recommends that the Czech Republic fully implement without delay:

b) Phase 3 Recommendation 7(a) to ensure that penalties for false accounting are effective, proportionate and dissuasive

Action taken as of the date of the follow-up report to implement this recommendation:

The Czech authorities, including the SPPO, are convinced that sanctions for false accounting are effective, proportionate and dissuasive. It is also important to highlight, that in many cases this offence is subsidiary offence to the more serious offence of economic crimes. The positive trend visible from the statistics below is slight increase of the convictions for legal persons. The most common sanction is a financial penalty.

	2016		2017		2018	
	LP	NP	LP	NP	LP	NP
Section 254	8	121	19	126	20	118

If no action has been taken to implement recommendation 5(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(a):

6. Regarding corporate responsibility for foreign bribery, the Working Group strongly recommends that the Czech Republic:

a) Ensure that the public and internal versions of the SPPO Guide on the application of the new exemption for 'justly required efforts' in section 8(5) of the Act on Criminal Liability of Legal Entities (CLLE) are updated regularly to include relevant jurisprudence, and also enhance the internal version of the Guide as a law enforcement tool by adding practical information on how to assess the effectiveness of compliance measures in companies.

Action taken as of the date of the follow-up report to implement this recommendation:

The Supreme Public Prosecutor's Office prepared and issued an updated material - Application of section 8 (5) of the Act on Criminal Liability of Legal Entities (CLLE). The Guide for public prosecutors is available at:

http://www.nsz.cz/images/stories/PDF/Soubory_ke_stazeni/1_SL_141_2017_Aplikace_8_odst._5_Z_TOPO.pdf.

An updated version of the material, which was issued on 14 August 2018, extends the passages about the limits, in which a general exclusionary reason for the criminal liability of a legal entity is applied,

including the assessment of its aspects and measures. The issue of compliance management systems is also analyzed on the basis of international sources and foreign comparisons. Moreover, the important (first) domestic decisions, that have been finalized in the meantime and which revealed a practical view of an accepted or already unaccepted approach to the possibility of exemption of a legal entity from criminal liability through general grounds are presented. A document, which is focused on compliance programs and foreign inspiration and works as a tool for the public prosecutors, is attached to the guide. This should help prosecutors with assessing compliance programs. The update is also based on inspiring discussions from workshops with compliance lawyers and managers, where representatives from the Supreme Public Prosecutor's Office actively participated, as well as on direct experiences of the law enforcement bodies in criminal proceedings.

Regarding compliance management system, following can be emphasized.

In order to be exempted from criminal liability, a legal entity must have a functional system of interrelated measures, for which the term Compliance management system (CMS) is more or less uniformly used. It is understood as a set of related and interconnected elements of an organization to establish principles, objectives and processes to achieve a certain goal. The ratio of the legislation at the first place is not to punish well-managed legal entities, but to motivate legal entities to put every effort to take adequate measures to prevent or at least to minimize the risk of committing crimes by persons listed in Section 8 (1) CLLE. When assessing the adequacy of the legal entity's efforts, it will be necessary to take into account not only whether the legal entity has taken certain measures, but whether such measures respond to the specific situation of this legal entity and whether it constitutes an effective CMS, not just a set of mutually unrelated measures. In the updated material, more attention is specifically paid to the issue of compliance management system. It contains explanations to the risk analysis, foreign experience including international standards ISO 19600:2014 and ISO 37001:2016. Furthermore, the setting of CMS is discussed as a closed and functional system of prevention, detection and reaction measures. The most typical measures and the most common indicators of non-functional CMS are also described and summarized. An overview of foreign and international resources for CMS is provided and the translation of the document "Assessment of Corporate Compliance Programs (DOJ Guidance – Evaluation of Corporate Compliance Programs)", created by the US Department of Justice for public prosecutors, is also attached.

The Preface of the document is translated into English and attached to this follow-up report.

If no action has been taken to implement recommendation 6(a), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(b):

6. Regarding corporate responsibility for foreign bribery, the Working Group strongly recommends that the Czech Republic:

b) Consider further measures to clarify the application of the exemption under section 8(5) of the CLLE.

Action taken as of the date of the follow-up report to implement this recommendation:

The Ministry of Justice considered further measures to clarify the application of the exemption under section 8(5) of the CLLE and is convinced, that **updated Guide for public prosecutors** (more information 6 (a) and awareness raising activities in 6(c)) **are adequate measures to implement this recommendation.**

If no action has been taken to implement recommendation 6(b), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

Text of recommendation 6(c):

6. Regarding corporate responsibility for foreign bribery, the Working Group strongly recommends that the Czech Republic:

c) Engage closely with the private sector to raise awareness of the exemption for 'justly required efforts' in the CLLE and the establishment and implementation of adequate compliance measures to prevent and detect foreign bribery.

Action taken as of the date of the follow-up report to implement this recommendation:

Based on the initiative of the Supreme Public Prosecutor, the first Round Table meeting on "criminal liability of legal entities and compliance" in April 2018 was held in which besides representatives from Supreme Public Prosecutor's Office, Supreme Court and Police also representatives from the Czech Compliance Association, the Czech Bar Association, the Czech Banking Association, the Czech Chamber of Commerce, the Union of Towns and Municipalities of the Czech Republic, the Union of Corporate Lawyers of the Czech Republic and business corporations (Czech Railways, Czech Aeroholding etc.) and others also participated. The second meeting was held in September 2018 and the third meeting in February 2019. The round tables were very successful and showed that a continuous approach is necessary. The roundtables will therefore continue and the next meeting is planned in September 2019.

In cooperation with the Judicial Academy, the Supreme Public Prosecutor's Office continued to organize seminars for public prosecutors regarding the liability of legal persons and the exemption for 'justly required efforts'.

Moreover, several thematically focused articles were published in the resort's journal of the Prosecutor's Office. The issue of criminal liability of legal entities and the exchange of experience in this area was also a topic of a specialized working group at the nationwide meeting of chief prosecutors in October 2018.

If no action has been taken to implement recommendation 6(c), please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:

PART II: ISSUES FOR FOLLOW-UP BY THE WORKING GROUP

7. The Working Group will follow up as case law and practice develop with regard to the following issues:

Text of issue for follow-up 7 (a):

a) The effectiveness of NOCA in practice in the detection and investigation of foreign bribery cases, and the level of public trust in the institution.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Although it is not easy to measure effectiveness and especially the level of public trust, the Czech authorities are convinced that NOCA has become a well-respected, professional and effective institution and the merge of two previous authorities brought more effectiveness to its work.

The number of cases in the table below and increasing number of employees (table in 2b) which is higher in NOCA than ÚOOZ and ÚOKFK together in the past can be one of the indicators.

Number of files	2015	2016	2017	2018	As of 1. 4. 2019
ÚOOZ	195				
ÚOKFK	381				
NOCA	0	694	730	723	391

It can be also mentioned that in August 2018, a new director of NCOZ was appointed. The new director, Jiří Mazánek (same surname as the previous one but that is only coincidence), is an experienced policeman who worked at ÚOKFK on international corruption cases. Mr. Mazánek was awarded as a Policeman of a year 2013. In NOCA he worked as a Director of Serious Economic Crime and Anti-Corruption Section.

Moreover, the SPPO evaluates the cooperation with NOCA, after initial criticism of the creation of the institution, as very good and effective. As a proof of the independence of NOCA some recent sensitive corruption cases can be also presented as a success of NOCA, although the cases are still ongoing:

- 1) Case of Sport Subsidies and corruption (some recent information in English <https://www.radio.cz/en/section/business/new-evidence-emerges-in-sports-subsidy-scandal-embroiling-czech-football>).
- 2) Škoda JS Case - the criminal prosecution was initiated and the case is ongoing in cooperation with Ukraine
- 3) Public Procurement Case in Brno (where also politicians from the ruling party are involved (some recent information in English <https://brnodaily.cz/2019/03/08/news/politics/nine-people-charged-following-police-raid-on-brno-stred-council-offices/>)

Text of issue for follow-up 7(b):

b) The use of the new Central Bank Account Registry, Beneficial Ownership Registry, and Contracts Registry, once they are all operational, in foreign bribery investigations

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Central Bank Account Registry

The Law Enforcement, Customs Administration, Financial Administration and the FAU regularly use the data from Central Register of Accounts (CRA) that has been operational since 1 January 2018.

CRA has significantly expedited financial inquiries in terms of requesting information from bank institutions, because instead of more than 50 requests to individual banks the one request to the CRA is sufficient and the reply indicating particular bank(s) holding the account(s) of the person(s) of interest or the name of a particular bank account holder is provided within 24 hrs. The efficiency was therefore increased significantly.

Statistics on functioning are available publicly on website of the CNB at https://apl.cnb.cz/ceuweb/ceuweb.ceuw_forms.zprava.

Beneficial Ownership Registry

The Register of Beneficial owners has been operational since 1st January 2018 and is fully accessible to public authorities. However, the deadline for filing information on beneficial ownership of business corporations ended only on 1st January 2019. The filing deadline for other legal persons registered in the public registers (associations, institutes, etc.) ends on 1st January 2021. Because of the short time since the filing deadline ended, the Ministry does not yet have comprehensive statistics on the practicality and usage of the register as pertains to foreign bribery.

The Ministry is currently preparing a new Act on the Register of Beneficial owners which will transpose the requirements of the new directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 (the so-called “V. AML directive”). The Act should enter into force in 2020 and significantly change the parameters of the beneficial owner registration system. The register will be fully accessible to the public, courts will be capable of commencing proceedings on discrepancies in the register based on information from public authorities or the general public, and it will also contain tougher sanctions for non-compliance with filing obligations. The Ministry believes these measures should make the register more effective.

The V. AML directive also envisages the interconnection of registers of beneficial ownership of all member states. Pursuant to the directive, the Commission should ensure the interconnection of all beneficial ownership registers in cooperation with the Member States by 10 March 2021. This cross-border cooperation enhancing measure is however only in its early stages.

Contracts Registry

The Register of contracts as an information system of public administration is fully functional and meets the requirements given by Act No. 340/2015 Coll. It serves especially for publishing and searching for contracts. Since a contract published in the Register of contracts must have a machine-readable layer, the Registry of contracts is searchable by keywords. Metadata, filled in when published, can be exported to XLSX format. These metadata are also open data within the meaning of Act No. 106/1999 Coll. The Register of contracts is a preventive anti-corruption measure, however, reports of uneconomic behaviour sometimes appears in daily press, where the only information needed to detect it is the one published in the Register of Contracts.

Text of issue for follow-up 7(c):

c) Whether the newly streamlined MLA channels combined with the new database for compiling MLA information, once it is operational, enable the Czech Republic to fully implement Phase 3 Recommendation 4 to maintain statistics on the number of formal MLA requests sent and received regarding foreign bribery.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

Following the introduction of a duty to report prosecutors' requests for MLA sent abroad and for foreign applications for MLA concerning suspicions of foreign bribery committed by a Czech national or company, as mentioned in point 1 (d), the Supreme Public Prosecutor's Office is able to provide full statistical data on the above-mentioned MLA applications since 10. 10. 2017.

Regarding the MLA statistics at the Ministry of Justice the new system is not yet in place, but the possible solutions are being discussed.

Text of issue for follow-up 7(d):

d) The sanctions imposed in domestic and foreign bribery cases.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The sanctions for corruption crimes in last three years.

Section 331 Accepting Bribes	2016	2017	2018
Number of convicted natural persons	21	26	17
Number of convicted legal entities	0	0	0

Section 332 Bribery	2016	2017	2018
Number of convicted natural persons	64	52	48
Number of convicted legal entities	2	1	0

Section 333 Trading in Influence	2016	2017	2018
Number of convicted natural persons	6	2	4
Number of convicted legal entities	0	0	0

Imposed sentences (main sanctions)	2016			2017			2018		
	331	332	333	331	332	333	331	332	333
unsuspended sentence of imprisonment	6	10	1	0	1	0	0	5	1
suspended sentence of imprisonment	15	45	5	25	41	2	16	33	1
pecuniary penalty - natural persons	0	7	0	1	8	0	1	7	0
pecuniary penalty - legal entities	0	2	0	0	1	0	0	0	0
banishment	0	0	0	0	1	0	0	2	0
waiver of punishment	0	0	0	0	1	0	0	0	0
prohibition of activity	0	0	0	0	0	0	0	1	0
community service	0	2	0	0	0	0	0	0	2

Text of issue for follow-up 7(e):

e) The application of the CLLE in practice, including in particular, the following new provisions introduced by amendments since Phase 3: 1) the exemption for ‘justly required efforts’ under section 8(5); and 2) section 33a on the possibility to temporarily interrupt a prosecution against a legal person to prevent a financial crisis.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Act on Criminal Liability of Legal Entities has introduced a model of true criminal liability of legal entities. The enactment of criminal liability of legal persons has been and is perceived by the public prosecutors as a step in the right direction. In the Czech Republic, legal entities are mainly prosecuted for tax, property and economic crimes. The ranking of the three most common offenses, for which legal entities have been found guilty, is: 1) the offence of shortening taxes, fees and similar compulsory payments (section 240 of Criminal Code), 2) the offence of fraud (section 209 of Criminal Code) and 3) the offence of non-payment of taxes, social security or similar mandatory payments (section 241 of Criminal Code). The most common punishment imposed on legal entities was the prohibition of activity and a fine; it is imposed in approximately 1/3 of cases for both sanctions. The strictest punishment - the abolition of a legal entity - has been meanwhile imposed in about ten percent of cases.

The concept of criminal liability of legal persons also bears certain problems related to the effectiveness of criminal prosecution, in particular in relation to legal entities that, at the time of commencement of criminal proceedings, do not actually operate, have no property, actually do not seat at the address listed in Commercial Register and their statutory bodies are often persons, who can be described as a “strawperson”. These legal entities are basically shell corporations, although they still exist legally. Sanctions do not really affect such legal entities, as they do not care about their good business name, their media image or potential business partners. It is here to be considered to strengthen the principle of opportunity in criminal proceedings.

A separate special report deals with findings from the application of section 8 (5) and other provisions of Act No. 418/2011 Coll., on criminal liability of legal entities, from 26. 2. 2018, file no. 4 NZN 604/2016 (last updated on the 4th quarter of 2018). Newer updates have not been implemented as they are currently being prepared.

The graph below provides an overview of application of the criminal liability of legal entities in the Czech Republic in 2012–2018.

Year	Prosecuted	Accused	Shortened preliminary proceedings	Proposal for punishment	Proposal to approve guilt and punishment agreement	Conditional suspension of prosecution	Convicted
2014	138	69	6	6	5	6	33
2015	183	179	1	1	1	8	63
2016	256	187	4	4	0	12	90
2017	339	237	1	1	1	10	103
2018	349	222	1	1	5	19	132

Based on the amendment made by Act No. 183/2016 Coll. the institute of exemption from criminal liability by legal entity was incorporated into the legal regulation.

So far, there have not been many recorded cases, in which the court considered the application of the Section 8 (5) CLLE and to which the court would provide guiding arguments. The case law of the higher courts has not had a real opportunity to develop yet.

The first court decisions regarding the application of the section 8(5) showed rather a formal view of the application without focus on practical impact of the efforts that can be reasonably required on a legal entity. At the same time, it has to be acknowledged, that cases so far decided in the Czech Republic do not show the assessment of robust elements of the compliance management system in comparison with foreign countries. Basically, the focus in those cases was on mere existence of some compliance tools and their adequacy. The cases showed both the inadequate creation and implementation of the anticipated measures of legal entities and the inadequate identification and assessment of the conditions for application of an exemption of a legal entity from criminal liability in the criminal proceedings. In other words there was no need to assess the robust CMS because the deficiencies were obvious and simple. Public prosecutors also successfully defended those deficiencies in the court. From a broader perspective, the introduction of an institute of an exemption from criminal liability has also helped to strengthen a more serious approach to the prevention measures by organizations, especially by those which has not focused on compliance in the past or focused only on high risk areas. To manage the risks of causing, facilitating or committing crimes that can be attributed to a legal entity becomes an acute appeal especially for small and medium-sized companies that could not draw on such foreign experience with the functioning of compliance tools as typically large multinationals companies.

So far, there have been only three cases recorded within the reporting duty to the Supreme Public Prosecutor's Office, in which section 8 (5) of the CLLE was applied after the indictment in court. New cases have not been recorded yet.

The application of the section 33a CLLE on the possibility of a temporary suspension of criminal proceedings against a legal person in order to prevent a financial crisis is not being used in practice.

Text of issue for follow-up 7 (f):

f) Whether legislative initiatives similar to those requested by the Chamber of Deputies of the Parliament of the Czech Republic in its resolution of 2 February 2017 are requested again in the future, in particular to assess whether any such initiatives comply with Article 5.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The Government took a negative opinion on the proposals contained in the above-mentioned resolution of the Chamber of Deputies and informed the Chamber of Deputies about it. Legislative changes contained in the above-mentioned resolution of the Chamber of Deputies were no longer required since then.

Text of issue for follow-up 7(g):

g) If the current practice of not using AGPs in foreign bribery cases changes, the transparency of such agreements, including the rationale for using AGPs, the identities of the convicted persons involved and the sanctions and terms imposed.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

The practice has not changed and the AGPs are not used for complicated crimes and therefore they are not used for the foreign bribery or in general for corruption cases in the Czech Republic. In 2018, the typical crimes where AGP was used were unauthorized production and other disposal with narcotic and psychotropic substances and poisons; theft; and violation of home privacy.

Text of issue for follow-up 7(h):

h) Whether the new analytical resources provided to the public prosecution system are sufficient and used effectively.

With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:

According to information from both High Public Prosecutors' Offices, the new analytical resources are actively used and are a great support for their work. However, the promised numbers of these analysts are not yet completely filled, and one of the issues is the amount of financial remuneration in public service as it is not always competitive with the private sector.

PART III: ADDITIONAL ISSUES FOR INFORMATION

Efforts made to publicise and disseminate the [Czech Republic Phase 4 report](#), for example, through public announcements, press events, sharing with relevant stakeholders, particularly those involved in the on-site visit [*Phase 4 Evaluation Procedures*, para. 50]

Action taken as of the date of the follow-up report:

The press release about the Czech Republic was translated immediately and published on June 22, 2017 simultaneously with the official OECD version (available at <http://www.oecd.org/newsroom/ceska-republika-musi-podniknout-vyznamne-kroky-k-posileni-prosazovani-vnitrostatni-legislativy-proti-podplaceni-zahranicnich-verejnych-cinitelu-prokazala-vsak-odhodlani-ke-zlepseni.htm>).

Following the adoption of the report, all relevant institutions actively participated in the translation process. The Czech translation of a full report was published in February 2019 both at the new [website](#) of the Ministry of Justice and at the new [website dedicated only to fight against corruption](#) under the Ministry of Justice (website is called www.korupce.cz and means "corruption"). Due to the reorganization of the Office of the Government and the Ministry of Justice, the new Anti-Corruption Unit within the Conflict of Interest and Anti-Corruption Department was created at the Ministry of Justice and the anti-corruption agenda on national and also international level was unified. This unification should increase efficiency of implementing international obligations into national policies. The website "corruption" was therefore also newly created and extended (website was originally under the Office of the Government).

Moreover the CzechInvest in cooperation with the Ministry of Justice, SPPO, NOCA, the Ministry of Industry and the CzechTrade prepared the informational leaflet about foreign bribery targeted at the exporting Czech companies. The leaflet also includes information about the Working Group on Bribery, its monitoring process and links to more information and monitoring reports. The leaflet was distributed to the all relevant institutions including the Ministry of Foreign Affairs and Czech Embassies.