

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY THE CZECH REPUBLIC**

ARTICLE 14 UNCAC

PREVENTION OF MONEY-LAUNDERING

CZECH REPUBLIC (SIXTH MEETING)

- Anti-money laundering/combating financing of terrorism (AML/CFT) in the Czech Republic is primarily regulated by the **Act No. 253/2008 Coll., on Selected Measures against Legitimation of Proceeds of Crime and Financing of Terrorism (the AML Act)**. This Act implemented the 3th EU Anti Money Laundering Directive and other related EU Regulations and Directives into the Czech national law. Currently are being finalized linguistic details and legal wordings on the 4th EU Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (AMLD) and a new Regulation of the European Parliament and the Council on information accompanying transfers of funds (AMLR). The new AMLD responds to the constant developments in the fight against the money laundering and terrorist financing and to the necessity to harmonize EU legal framework with the international standards adopted by the Financial Action Task Force in 2012. The proposal of the 4th AMLD contains several conceptual changes, e.g. extending of the scope of the Directive (partly into gambling services) and decreasing of the threshold limit for cash transactions from 15.000 EUR to 10.000 EUR. Among other changes there is also a new system of the Risk Assessment (including the national RA), new measures regarding the beneficial owner information, etc. There will be a two years transposition period of the 4th AMLD to the domestic legislation. The **Financial Analytical Unit of the Ministry of Finance (FAU)** has already started with preparations and proposals on amendments to the AML act accordingly. Monitoring of AML issues is under the overall control of the Ministry of Finance – namely FAU, the Czech national Bank and secondary also the Ministry of the Interior (as a law-enforcement part of the system).
- The FAU established **Supervision Division**, which closely cooperates with the Supervision Department of the Czech National Bank, which covers supervision on banks, credit unions, pension funds, investment funds, insurance companies and all capital market entities. In the framework of this cooperation, inspectors pay their attention to the targeted controls of reporting entities, where insufficient compliance with the AML/CFT Act is expected. The obliged entities as subjects to the Czech AML legislation, including persons acting (within their business capacity) as trustees of trusts, are obliged to keep records of all data and documents on all transactions within a business relationship (including transactions between a trustee and a settlor or beneficiary) for at least 10 years. The same obligation applies in case of occasional transactions exceeding EUR 1.000. The scope of records to be kept is very broad and comprises all data and written documents about the transactions. Failing to comply with these requirements can be sanctioned with a fine up to CZK 10.000.000 (EUR 400.000).

- The FAU has always focused on strengthening international cooperation and information exchange and tries (in the framework of the Egmont Group, Moneyval CoE, EU structures, OECD, etc.) to enforce the rule of the approach to foreign requests at the same manner as to domestic cases in the framework of analysis of STRs.
- The Financial Analytical Unit issued a **methodical guide** considering the new legislation effective from 2014. This guide includes the detailed instruction for obliged entities how to identify the beneficial owner of the client and it also covers procedures how to detect and identify the silent partners, in case that the influence of the silent partner achieves the influence of the beneficial owner. The methodological guide has been published on FAU websites. It also stipulates an obligation to trace the beneficial owner to the specific natural person according to amended FATF Recommendations. If there is no beneficial owner on the basis of the share or other influence on client's activity existing, it is an obligation to identify the natural person performing the highest control function at client's company. Anonymous transactions are forbidden in case of business relationships like for example - an agreement to establish an account, an agreement to use a safety deposit box or an agreement to make various forms of deposit. The customer identification is always performed based on the official identity card issued by the appropriate state authority only. In such cases the customer due diligence is being performed on the beginning of the business relationship as well as risk profile assessment. That is done regardless of any limits of customers transactions. The recommendation to observe the principles of performing the identification, in accordance with "Statement of Principles on Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering of the Basel Committee in February 2003", has been generally issued for banks and for financial institutions. The competent employees of credit and financial institutions are trained in recognition of fake documents. Anonymous businesses are, according to the AML Act and other legislation, prohibited in one-off businesses for 1.000 EUR or more. The exceptions are permitted only in accordance to the simplified customer due diligence by the original FATF Recommendations and only for life insurance and electronic money to the set limits. An obligation regarding summation of related transactions which is used for one-off businesses is set in Section 54, para. 3 of the AML Act. A lot of obliged entities, especially credit and financial institutions, exercise the identification of client under this obligation also for lower limits or even absolutely regardless of any limit.
- The **Czech Customs Administration** has responsibility and power to collect cash declarations and carry out cash controls. When customs find out within their controls that the obligation to declare the cash has not been fulfilled by a traveler, the cash can be detained and the customs open administrative proceedings and can impose a penalty (Section 50 of the AML Act). The customs have an obligation to collect all relevant information regarding the origin of cash during the opened administrative proceedings as well as other important information for possible future investigation. The collected information is sent to the FAU. The FAU in the case of suspicion of money laundering or financing of terrorism continues with its own analyses. In case the FAU has got relevant evidence on committing ML/FT crime then it is necessary to

file a criminal complaint to the LEAs. The LEAs consequently open their criminal investigation in the matter.

FAU – statistics

	2011	2012	2013	2014
STRs in total	1970	2191	2721	3192
STRs in „24h“ regime	181	243	278	433
Complaints to LEA submitted by FAU in total	256	429	547	680
Complaints to LEA submitted by FAU in „24h“ regime	96	164	177	263
Funds frozen by FAU [million. CZK]	808,12	536,77	2435,00	1264,00
Funds frozen by FAU (for tax administration) [million CZK]		469,00	568,60	645,00
Funds frozen by FAU in total [mil. CZK]		1005,77	3003,60	2,182,00

Notifications sent to the tax administration by FAU	680	852	1162	1491
Notifications sent to customs by FAU	67	29	42	57
Notifications on transfers of funds from/to Iran	156	174	117	219
Number of applications for permit for transfers of funds from/to Iran	164	144	95	57
Number of proceedings in relation to breaching international sanctions	8	33	23	4
Number of fines imposed for breaching international sanctions	4	24	22	2
Amount of fines imposed for breaching international sanctions [million CZK]	0,035	0,157	0,133	0,08
Requests sent to abroad	191	191	195	260
Requests received from abroad	123	130	195	200
Spontaneous information received from abroad	140	107	117	149
Spontaneous information sent to abroad	122	83	103	154
Number of inspections executed by FAU	8	7	14	27
Number of proceedings in relation to breaching of AML/CFT Act.	3	13	19	18
Number of fines for breaching of AML/CFT Act	3	10	17	18
Amount of fines imposed for breaching of AML/CFT Act [million CZK]	1,15	0,63	3,0011	1,815

- Also, the Penal Code (Act No. 40/2009, Coll.) stipulates several related criminal offences: Section 216 – Money Laundering, Section 217 - Money Laundering out of Negligence, Division 3 of Chapter VI Sections 248 - 267 – Criminal Offences against the Mandatory Rules of the Market Economy and the Circulation of Goods in Relations with Foreign States, and Division 3 of Chapter X Corruption Sections 331 – 334 (Accepting Bribes, Bribery, Indirect Corruption) (see the English version of the Penal Code on http://knihy.abz.cz/imgs/teaser_pdf/4449788073576745.pdf).
- For some of the offences listed above (Sections 216, 217, 254, 256 – 260, 331 - 333), criminal liability of legal entities is established according to the Act No. 418/2011,

Coll., as of 27 October 2001 on Corporate Criminal Liability and Related Proceedings which came into effect as of 1 January 2012.

Actions required to strengthen or to improve the measures described above

- Within the process of recodification of the AML Act the FAU also submits a proposal of changing the FAU into an independent office within the Ministry of Finance and a requirement to strengthen its manpower. The requirement is based on a significant increase in activities of the FAU in the last period of time. In the analytical activities it is especially annual growth of number of suspicious transactions reports. In connection with the development of the international sanctions the FAU has faced a fast increase in administrative proceedings, particularly in the context of measures against Iran and in connection with the development in Ukraine. The FAU has also begun to exercise other activities in relation to sharing of assets in the context of international legal assistance, which is largely built on instruments of international law in the area of combating the legalization of proceeds from crime. In addition, the FAU is (even according to the Moneyval evaluation from 2011 and subsequent evaluations of elimination of deficiencies) still criticized for inadequate control of the entire spectrum of the obligated entities. Therefore, the increase in the FAU staff should be at least by 20 per cent (as a minimum variant) - but ideally 50 per cent. Costs associated with the creation of an independent office within the Ministry of Finance would be associated primarily with the creation of additional posts in various departments and costs arising from providing material and technical equipment for these officers. These costs are estimated to amount 10 - 24 million CZK.
- One of the areas where the Police of the Czech Republic would like to enhance its activity is the area of international cooperation. The Police of the Czech Republic would like to effectively use variety of international tools and networks in ML investigations, which have in many cases supranational character.

Technical assistance

- The FAU recently received technical assistance from FIU.NET Bureau and became part of the FIU.NET network.