Implementation Review Group
Fifteenth session
Vienna, 10–14 June 2024
Item 4 of the provisional agenda*
State of implementation of the United Nations
Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

Contents

<table>
<thead>
<tr>
<th>II.</th>
<th>Executive summary</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Czechia</td>
<td>2</td>
</tr>
</tbody>
</table>

* CAC/COSP/IRG/2024/1.
II. Executive summary

Czechia

1. Introduction: overview of the legal and institutional framework of Czechia in the context of implementation of the United Nations Convention against Corruption


The implementation by Czechia of chapters III and IV of the Convention was reviewed in the fourth year of the first review cycle. The executive summary of that review was issued on 3 December 2018 (CAC/COSP/IRG/1/4/1/Add.65).

Article 10 of the Constitution provides that the international treaties ratified by Czechia are part of the Czech legal order and that if a provision in those treaties stipulates something different than the domestic law, that provision has precedence.

Relevant legislation includes the Civil Service Act, the Act on Public Procurement, the Act on Conflicts of Interest, the Free Access to Information Act, the Act on Selected Measures against the Legitimization of Proceeds of Crime and Financing of Terrorism (Anti-Money-Laundering Act), the Criminal Procedure Code, the Act on Political Parties and Political Movements and the Act on International Judicial Cooperation in Criminal Matters.

Institutions with mandates relevant to preventing and countering corruption include the Government Anti-Corruption Council, the Ministry of Justice, the Anti-Corruption Unit, the Office for the Protection of Competition, the Office for the Supervision of the Management of Political Parties and PoliticalMovements, the National Headquarters against Organized Crime of the Criminal Police and Investigation Service and the Financial Analytical Office (the Czech financial intelligence unit).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

The Government’s Anti-Corruption Strategy 2023–2026 outlines priority areas for preventing corruption, including ensuring the efficiency and independence of executive bodies, free access to information, the efficient management of State property and the development of civil society (sect. 3). On the basis of the Strategy, which was developed by the Government through the Government Anti-Corruption Council in consultation with civil society, annual anti-corruption action plans are developed that outline specific tasks and objectives for ministries in the priority areas identified. The monitoring and evaluation of implementation are conducted by the Ministry of Justice, with policy supervision by the Government Anti-Corruption Council. Ministries report implementation results to the Ministry of Justice, and those results are then summarized and distributed to relevant stakeholders for comment. The results of the evaluation are approved by the Government and published online, and corrective measures are reflected in subsequent action plans. Although monitoring and evaluation are an ongoing process, the anti-corruption action plans lack evidence-based corruption indicators to support that process.

Practices aimed at preventing corruption include internal anti-corruption programmes of ministries, central administrative bodies and agencies, which identify institutional corruption risks and entail a self-evaluation process conducted every two years with methodological assistance by the Ministry of Justice, and the adoption of codes of ethics and anti-corruption training programmes for civil servants.

According to the Government Legislative Rules, sponsors of laws, decrees and regulations must conduct corruption impact assessments before their adoption and...
must consult with relevant stakeholders (sects. 4 and 14). Although some legislation is also evaluated to determine its subsequent impact, rules have been developed to regulate ex post regulatory impact assessments.

Czechia is a member of the European Partners against Corruption and European contact-point network against corruption, the Group of States against Corruption of the Council of Europe, the Open Government Partnership, the Working Group on Bribery in International Business Transactions, Working Party of Senior Public Integrity Officials and Working Party on Open Government of the Organisation for Economic Co-operation and Development, the European Network for Public Ethics and the Network of European Integrity and Whistleblowing Authorities. The National Headquarters against Organized Crime of the Criminal Police and Investigation Service participates in the Camden Asset Recovery Inter-Agency Network and cooperates with the European Union Agency for Law Enforcement Cooperation (Europol), the International Criminal Police Organization (INTERPOL) and the Organisation for Economic Co-operation and Development.

The Anti-Corruption Unit is the main body responsible for corruption prevention. Established under the organizational rules of the Ministry of Justice (Resolution No. 818), the Unit is part of the Ministry’s Conflicts of Interest and Anti-Corruption Department and is responsible for the development of the national anti-corruption policy and strategic documents. The Unit also serves as the secretariat of the Government Anti-Corruption Council, a public advisory body established by government decree to coordinate and evaluate anti-corruption policies.

As a government body, the Anti-Corruption Unit is not independent and lacks separate legislation governing its mandate, functions and funding. Furthermore, the Unit does not prepare or publish dedicated annual reports, although information concerning its budget and staff is included in the annual reports of the Government Anti-Corruption Council. Unit staff are governed by the Civil Service Act and operational funding is provided by the Ministry of Justice. Authorities reported that the Unit has adequate human and financial resources to implement its current mandate, despite recent budget cuts that have affected its staffing.

The Government Anti-Corruption Council, which is chaired by the Minister of Legislation, is comprised of representatives from public bodies and non-governmental organizations who are pre-selected (art. 3 of the Council’s Statute) and are not appointed in a transparent and impartial process. Through its working commissions, the Council examines legislative and non-legislative instruments and prepares recommendations for submission to the Government (art. 2 of the Statute). However, it was reported during the country visit that, despite the existence of an obligation to hold meetings at least twice a year, the Council did not meet regularly in 2021. Other bodies that exercise preventive functions include the Supreme Public Prosecutor’s Office and the National Headquarters against Organized Crime of the Criminal Police and Investigation Service. In particular, the National Headquarters investigates and prosecutes, among other cases, the most serious cases of corruption and economic crime. The public is informed about these cases through regular press releases and regular annual reports, which are published both in Czech and English. Thus, such information is also important for the prevention of corruption crimes.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The recruitment, promotion and retirement of civil servants, and other matters such as remuneration and discipline, are governed by the Civil Service Act. Other types of employment and service are regulated by the Labour Code and specialized legislation. Basic prerequisites and conditions for appointment to positions in the civil service are laid down in the Civil Service Act (sects. 22 and 25). Vacancies are published online and applicants must pass civil servant examinations (sect. 36). The Act prescribes additional criteria for the recruitment of senior managers (sects. 53–58). The performance of civil servants is assessed on a periodic basis using pre-defined criteria,
and civil servants can file appeals against negative performance evaluations (sects. 155, 157 and 168).

Remuneration is based on the salary scales approved by the Government (sect. 198 of the Civil Service Act). Civil servants can attend periodic training on topics such as anti-corruption measures, and State authorities organize training programmes for newly recruited civil servants, including on the rules of conduct.

Czechia has not identified public positions considered especially vulnerable to corruption or adopted additional measures for the selection and training of individuals for such positions or their rotation to other positions.

Eligibility criteria concerning candidacy for elected public office are stipulated in laws governing different elections, such as those for the Parliament and regional assemblies. Minimum requirements for presidential candidates include eligibility to be a member of the Senate (art. 57 of the Constitution), and, in particular, to have Czech citizenship, the right to vote, and a minimum age of 40 (art. 19). There are no rules on conflicts of interest or requirements to declare the absence of conflicts for candidates for election. Czechia is currently developing legislation on lobbying.

Funding of political parties and individual candidates is regulated by the Act on Political Parties and Political Movements and the Act on Elections to the Parliament of the Czech Republic. Political parties cannot receive single-source donations exceeding 3 million koruny (approximately $138,000), and anonymous donations, as well as those from foreign entities and State-owned companies, are prohibited (sect. 18 of the Act on Political Parties and Political Movements). However, there are no specific rules prohibiting foreign donations in the case of independent candidates and no limit on campaign contributions for municipal elections. Political parties must submit audited annual financial reports to the Office for the Supervision of the Management of Political Parties and Political Movements (sect. 19h of the Act on Political Parties and Political Movements). Reports on election expenses are publicly available (sect. 16d of the Act on Elections to the Parliament of the Czech Republic; sect. 19h of the Act on Political Parties and Political Movements). Breaches of the political financing rules are punishable by a fine (sect. 19j of the Act on Political Parties and Political Movements).

Measures to prevent conflicts of interest are contained in the Act on Conflicts of Interest, the Civil Service Act and the Code of Ethics for Civil Servants and Public Sector Employees. 1 The Civil Service Act imposes restrictions on outside employment and business activities (sect. 81) and requires civil servants to abstain from actions that could lead to conflicts of interest and from accepting gifts with a value of more than 300 koruny (sect. 77); however, there is no robust mechanism to enforce these obligations. Although there is no general obligation to report conflicts of interest, supervisors must be notified if there are doubts as to whether a situation constitutes a conflict (sects. 6 and 7 of the Code of Ethics for Civil Servants and Public Sector Employees). Breaches of the Civil Service Act and the Code of Ethics for Civil Servants and Public Sector Employees can result in disciplinary penalties (sects. 6 and 7 of the Code; sect. 89 of the Act).

The Act on Conflicts of Interest regulates conflicts of interest for the elected and non-elected officials enumerated therein and requires such officials to refrain from making official decisions that can be influenced by their personal interests (sect. 3). Furthermore, the officials enumerated in the Act are prohibited from pursuing business or other gainful activities, taking up additional employment and engaging in other listed incompatible activities (sect. 4). The above-mentioned obligations apply

---

1 The definition of a conflict of interest in the Act on Conflicts of Interest, the Civil Service Act and the Code of Ethics for Civil Servants and Public Sector Employees covers both actual and potential conflicts of interest.
to a narrow list of public officials (sect. 4), which excludes some senior public officials such as the President.\(^2\)

The officials enumerated in the Act on Conflicts of Interest are required to submit declarations of assets, income, gifts, liabilities and activities to the Register of Declarations upon entering and leaving service and on a periodic basis (sects. 8–13). However, there is no requirement to declare property held separately by spouses and children and the threshold for reporting gifts not declared as income is relatively high (100,000 koruny, or approximately $4,600) (sect. 11). Non-financial personal interests must also be declared on an ad hoc basis if such interests could lead to a conflict of interest (sect. 8). However, various types of public officials are exempt from the disclosure obligation pursuant to section 2 (3) (which is currently under review). Information in the Register of Declarations is publicly accessible upon request, subject to several exceptions (sect. 14), and steps are under way to enhance the verification process for asset declarations in response to limited staffing and a lack of clear verification rules. Breaches of the Act are punishable by a fine, although judges and prosecutors are exempt and there are no penalties for breaches of section 3, covering conflicts of interest (sect. 23).

The Code of Ethics for Civil Servants and Public Sector Employees, adopted by a regulation of the Director General of the Civil Service, contains general rules on impartiality and professionalism (sects. 3 and 4), which are aimed at promoting the honourable and proper performance of public functions.

Government Regulation 145/2015 protects civil servants reporting criminal activity from retaliation (sect. 1). Furthermore, every service authority must have a special investigator to receive whistle-blower reports, including anonymous reports (sect. 2). Internal reporting mechanisms have been established in ministries and other public entities since 2021, in line with Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons who report breaches of Union law. Czechia is currently adopting comprehensive whistle-blower legislation.\(^3\)

The conduct of the judiciary is governed by the Constitution and the Act on Courts and Judges. The independence of judges is formally protected under article 81 of the Constitution and section 1 of the Act. Judges are appointed by the President, on the proposal of the Minister of Justice, from candidates selected by the Selection Committee (sect. 63 of the Act). Members of the Selection Committee are appointed by the Minister of Justice, and the Committee consists of three judges nominated by court presidents and two members selected by the Minister of Justice from among the employees of the Ministry of Justice or the bodies falling within its jurisdiction (sect. 116). Judges must abstain from improper conduct and are subject to disciplinary measures by the Supreme Administrative Court (sects. 80 and 88), including dismissal (sect. 94). The Code of Ethics for Judges was adopted, although it is not binding and there is insufficient awareness of its content. Several ad hoc workshops have been held on conflicts of interest for judges and prosecutors, and designated courses on conflicts of interest and ethics are expected to start in 2024.

The Public Prosecution Act prescribes conditions for the appointment of prosecutors (sect. 17). Public prosecutors are appointed for an unlimited term by the Minister of Justice, on the basis of a proposal by the Supreme Public Prosecutor (sect. 18), and they may be dismissed from office after a disciplinary procedure (sect. 21). The examination of public prosecutors is carried out by an examination board appointed by the Minister of Justice (sects. 18 and 34). Currently, the Government has the power to appoint and dismiss the Supreme Public Prosecutor at the proposal of the Minister of Justice (sect. 9). However, there are no clearly defined grounds for or independent assessment of such decisions. Furthermore, the Minister of Justice may request information on active proceedings from prosecutors if such information is necessary.

\(^2\) The Act on Conflicts of Interest was amended on 1 January 2024, after the country visit, to include the President in the list of obliged officials under the Act.

\(^3\) The Whistle-blower Protection Act came into force on 1 August 2023, replacing Government Regulation 145/2015.
for the performance of the Ministry’s tasks or if it is needed by the Minister of Justice in his or her capacity as a member of the Government, including proceedings involving senior government officials (sect. 13), a power that was reported to be vulnerable to abuse. Czech authorities explained that such information is only general in nature, concerning the state of the proceedings, that the Minister has no power to interfere in the proceedings and that the statutory framework is clear and narrow and should not allow information other than that specified or for purposes other than those specified to be requested. The Government is currently amending the existing legislation to introduce new types of disciplinary liability and the possibility of judicial review and to regulate the procedure and relevant grounds regarding the appointment and dismissal of the Supreme Public Prosecutor. A binding code of ethics for public prosecutors is in place.

Public procurement and management of public finances (art. 9)

Public procurement is governed by the Act on Public Procurement and European Union directives (2014/23/EU, 2014/24/EU and 2014/25/EU). Conditions are set by contracting authorities, which must determine technical requirements and budgets in line with the Act (sect. 6). There are several types of procurement procedures under the Act, including open and restricted procedures and small-scale public contracts (sects. 3 and 55), but the open procedure is not prescribed as the default procurement method and there is no robust review mechanism for the selection of restricted and negotiated procedures. Small-scale procurements (up to a value of 70,000 euros for services and 210,000 euros for works) are not subject to the Act’s procurement rules, leading to an increased risk of abuse (sect. 31). The Act establishes a range of grounds for exclusion from the use of procurement procedures, including in instances where confidential information would be disclosed or public security would be threatened (sect. 29), and the oversight functions for exempted procurements are regulated separately in Government resolutions.

The Act on Public Procurement prescribes a range of qualifications for tenderers, including economic and technical qualifications (sect. 37). Selection criteria normally include economic and quality criteria (sects. 36, 114 and 116). The Act includes grounds for the exclusion of tenderers, including conflicts of interest and failure to perform previous contracts (sect. 48). Contracting authorities must provide economic operators with sufficient time to submit their tenders (sect. 57).

The procurement process is conducted electronically (sect. 211), and calls for tenders and procurement results are published online. The Office for the Protection of Competition is responsible for the supervision of contract awards, and affected parties can file a motion to commence administrative or judicial proceedings for irregularities (sect. 249). Procurement committee members are required to confirm the absence of conflicts of interest and adopt corrective measures if such conflicts arise (sect. 44).

The national budget is prepared and adopted in accordance with the Budgetary Rules Act and the Constitution. The draft State budget and the draft State budgetary account are prepared by the Government and adopted by the Parliament (art. 42 of the Constitution). The Ministry of Finance and the Chamber of Deputies publish the approved State budget on their websites, along with the medium-term budget; however, authorities reported that there are no public consultations during preparation of the national budget. The Ministry of Finance has implemented a system of monthly cash flow monitoring, which includes the publication of monthly reports. In addition, reports on revenue and expenditure fulfilment are submitted to the budgetary committee of the Parliament (sect. 20 of the Budgetary Rules Act).

The Act on Financial Control and the Act on Accounting govern accounting standards and record-keeping. Accounting units must keep accounting records that accurately reflect the financial situation of their respective public entities for a period of five years (sects. 7 and 31 of the Act on Accounting). All public bodies are required to implement a system of financial control and internal audit (sect. 28 of the Act on Financial Control). The Budgetary Rules Act prescribes a range of corrective
measures for breaches of the financial and budgetary rules, including fines and subsidy withdrawals (sects. 14, 15 and 44).

Public reporting; participation of society (arts. 10 and 13)

The Free Access to Information Act regulates public access to information, which can be provided through official publication or upon request (sects. 4a and 4b), and prescribes the general information that public authorities must make publicly available (sect. 5). Each public authority is responsible for processing information requests (sect. 4a) and must respond to requests within 15 days (sect. 14). Grounds for refusal include confidentiality and ongoing criminal proceedings (sect. 11). Appeals against refusals can be submitted to superior authorities or courts (sect. 16). If the superior authority finds that the obliged entity has unlawfully refused to provide information, it is obliged to issue an information order to make the information available to the applicant within 15 days (sect. 16). Public bodies must publish annual reports containing information on requests received (sect. 18); however, there are no comprehensive national statistics on public access to information.

To facilitate access to decision-making authorities, the Public Electronic Library of Legislative Process contains draft laws, regulations and decrees. Czechia has also adopted the Client-Oriented Public Administration 2030 strategy to improve public service delivery and e-governance platforms. Priority items in the action plan under the Open Government Partnership include whistle-blower protection, participation by non-governmental organizations in decision-making and the provision of open data on education.

As noted above, Czechia conducts assessments of anti-corruption action plans and internal anti-corruption programmes. There is no national corruption risk assessment, but there are plans to develop annual screenings of corruption risks.

The Government engages with civil society through the Government Anti-Corruption Council and its specialized working commissions. To promote anti-corruption awareness, the Anti-Corruption Unit organizes anti-corruption activities, such as lectures and presentations, and the topic of corruption is included in the framework educational programmes in elementary schools. The Constitution and the Charter of Fundamental Rights and Freedoms recognize the right to freedom of speech and protection of reputation (art. 17 of the Constitution).

Corruption reports can be submitted anonymously or otherwise to a range of bodies, including the police and the Public Prosecutor’s Office. Authorities reported that there is limited awareness of the existing reporting channels. Furthermore, there is no comprehensive whistle-blower protection legislation applicable to the general public.

Private sector (art. 12)

Under the Act on the Criminal Liability of Legal Entities and Proceedings against Them, legal entities can be penalized for criminal offences such as bribery if such offences are committed by their employees (sect. 1). Authorities reported that there are limited channels for cooperation between law enforcement agencies and the private sector.

The Chamber of Commerce promotes a voluntary code of business ethics for its members, but there are no publicly promoted general standards for ethical business conduct.

The Act on the Public Registers of Legal Entities and Natural Persons governs various registries of legal persons in Czechia, including the register of associations and the commercial register (sect. 1). Although the Ministry of Justice is responsible for the overall management of the registers, the registry court is responsible for the electronic publication of information concerning registered legal persons (sects. 3, 21 and 25 of the Act, read in conjunction with sect. 11 of the Act on the Establishment of Ministries and Other Institutions of Central Government of the Czech Republic). Information in the registers is publicly available and can be obtained free of charge (sect. 3 of the
Act on the Public Registers of Legal Entities and Natural Persons). Under the Act on Registration of Beneficial Owners, all legal entities are required to submit information about their beneficial owners, the nature of their position and their ownership share (sect. 13). The beneficial ownership registry is partially public (some identification data are not public). Nominee shareholder arrangements are not prohibited in Czechia.

The Act on Conflicts of Interest imposes post-employment restrictions on certain public officials, prohibiting them, for a period of one year, from becoming partners or employees in companies that had, in the previous three years, concluded public tenders that were within the scope of the public officials’ mandate or authority (sect. 6). Furthermore, the Civil Service Act allows the imposition of a cooling-off period for certain categories of senior civil servants (sect. 17).

The Accounting Act and the Act on the Criminal Liability of Legal Entities and Proceedings against Them prohibit the accounting practices established in article 12, paragraph 3, of the Convention. However, there are no prescribed internal audit requirements.

Section 25 of the Act on Income Tax provides that “benefits” paid to foreign State officials or foreign public officials, or with their consent to other persons, are not tax-deductible expenses. However, there is no provision expressly prohibiting the tax deductibility of bribes for domestic public officials. Authorities reported that the relevant rules are in the process of being amended.

Measures to prevent money-laundering (art. 14)

The main legislation covering measures to prevent money-laundering, including customer due diligence, reporting of suspicious transactions and record-keeping, is the Anti-Money-Laundering Act. Supervisory bodies include the Financial Analytical Office, the Czech National Bank, the Czech Bar Association, the Notaries’ Chamber, the Chamber of Tax Advisors and the General Customs Directorate.

Obliged persons comprise all categories of financial institutions and designated non-financial businesses and professions, including money or value transfer services, with the minor exception that section 2 (1) (g) of the Anti-Money-Laundering Act refers to lawyers and public notaries but does not cover other independent legal professionals. However, the Anti-Money-Laundering Act, as amended, applies to bailiffs as an independent legal profession. Non-profit organizations are not specifically mentioned, although those that provide services or receive cash in excess of 10,000 euros could be covered (sect. 2 (2) (d)), and outreach to the non-profit sector has begun.

The Anti-Money-Laundering Act imposes customer due diligence requirements on obliged entities prior to the conduct of occasional transactions or the establishment of business relationships (sect. 9 (1)). Section 9 (2) (b) establishes the obligation to identify beneficial owners and to adopt measures to verify their identity.

Record-keeping obligations are set out in section 16 of the Anti-Money-Laundering Act, as detailed in the section of the present document on article 52 of the Convention.

The duty to report suspicious transactions, as well as administrative procedures and prescribed time frames, are addressed in the Act (sects. 6 and 18–20).

Czechia finalized its first national risk assessment in January 2017, and a second assessment was approved by Government resolution in July 2021.

Relevant authorities (judicial, law enforcement and supervisory) cooperate domestically and internationally through various mechanisms. The Public Prosecutor’s Office, through its national correspondents, serves as a contact point for interdepartmental cooperation and cooperation with foreign countries, the European Union Agency for Criminal Justice Cooperation (Eurojust) and the European Public Prosecutor’s Office. Domestic and international cooperation are significantly enhanced through the Financial Analytical Office. The Office plays a key role as the recipient of suspicious transaction reports, which trigger analytical processes and the
dissemination of information to other State authorities. At the international level, the Office can provide the same scope of information as it can obtain for its own purposes (sect. 33 of the Anti-Money-Laundering Act), on the basis of memorandums of understanding or reciprocity. The Office is a member of the Egmont Group of Financial Intelligence Units and cooperates through the Egmont Secure Web or FIU.net and directly with other counterparts as needed, either spontaneously or upon request. Cooperation is provided by other competent authorities mainly on the basis of the Anti-Money-Laundering Act and inter-institutional agreements, such as those concluded by the police, customs authorities, tax authorities and the National Security Office.

The Anti-Money-Laundering Act establishes the obligation to declare any incoming or outgoing transportation or postal consignments of currency or relevant instruments with a value of 10,000 euros or more to customs authorities (sect. 41). Failure to declare or the submission of false declarations are sanctioned by a fine, and undeclared assets may be seized (sect. 42 (4)). The declaration system applies only to movements of cash and bearer negotiable instruments across the external borders of the European Union, and not to movements within the European Union. Intra-communitarian transfers and consignments are subject to random checks by customs authorities pursuant to article 35 of Act 17/2012 on the Customs Administration. The Financial Analytical Office receives information on all cash movements, as well as detected violations.

Banks and payment institutions providing cross-border wire transfer services are required to identify customers and verify their identity when carrying out transactions exceeding 1,000 euros or concluding business relationships (sects. 14 and 49 of the Anti-Money-Laundering Act). Regulation (EU) 2015/847 of the European Parliament and of the Council is directly applicable, including for money remitters, and stipulates the requirement for cross-border wire transfers to be accompanied by complete and accurate originator information, and other related requirements (arts. 4, 6 (2) and 8). The Regulation also obliges all service providers along the chain of wire transactions to collect complete information about payers and payees, verify the accuracy of information regarding the transfer originators and decline transactions that are missing this information.

Czechia has undergone five rounds of mutual evaluations by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and three follow-up reports have been issued. The country has taken steps to address the deficiencies identified, and the national risk assessment also reflects Financial Action Task Force standards.

Czechia participates in global and regional initiatives to strengthen cooperation in the prevention of money-laundering, including MONEYVAL, the Egmont Group and meetings of regional financial intelligence units. The country has signed multilateral and bilateral agreements on judicial cooperation in criminal matters and continues to conclude memorandums of understanding with foreign financial intelligence units. As a European Union member State, Czechia participates in European initiatives that facilitate cooperation among judicial and law enforcement authorities such as Eurojust, Europol, the European Judicial Network and the European Banking Authority.

2.3. Challenges in implementation

It is recommended that Czechia:

• Continue efforts to develop evidence-based indicators for monitoring and evaluating the implementation of anti-corruption policies, and finalize the
adoption of rules regulating ex post impact assessments of laws and regulations\(^4\) (art. 5, paras. 1 and 3).

- Ensure that the authority entrusted with corruption prevention functions as outlined in article 6, paragraph 1, of the Convention, has the necessary independence, and continue to ensure that it has sufficient human and financial resources; consider the publication by the Anti-Corruption Unit of more comprehensive annual reports; furthermore, strengthen the effectiveness of the Government Anti-Corruption Council by ensuring that the selection process for its members is impartial and transparent and that it holds regular meetings (art. 6, para. 2).

- Endeavour to enhance public sector integrity by identifying positions considered especially vulnerable to corruption and adopting additional procedures for the selection and training of individuals for those positions and their rotation to other positions, where appropriate (art. 7, para. 1 (b)).

- Consider imposing conflict of interest rules and declaration requirements for candidates for election to public office (art. 7, para. 2).

- Consider strengthening the integrity of political financing by imposing funding restrictions on foreign donations to individual candidates for election and imposing limits on campaign contributions for municipal elections (art. 7, para. 3).

- Consider strengthening the existing conflict of interest framework by:
  - Requiring civil servants to report conflicts of interest and establishing a robust mechanism for monitoring and enforcing rules on conflicts of interest and the acceptance of gifts.
  - Ensuring that the provisions on conflicts of interest and incompatibilities under the Act on Conflicts of Interest are applicable to a sufficiently broad list of public officials, adopting and enforcing adequate sanctions for breaches of section 3 of the Act and ensuring that sanctions are applicable to all relevant public officials.
  - Continuing efforts to adopt legislation to regulate political lobbying (art. 7, para. 4, and art. 8, para. 5).

- Consider adopting comprehensive whistle-blower protection legislation (art. 8, para. 4).\(^5\)

- Consider strengthening the asset declaration regime by:
  - Reviewing the scope of officials subject to reporting requirements to ensure that a sufficiently broad list of officials is covered, in particular those exercising prominent political functions and those at greater risk of corruption.
  - Extending declaration requirements to encompass property held separately by spouses and children and lowering the threshold for the reporting of gifts.
  - Adopting appropriate verification mechanisms and providing adequate resources to the bodies responsible for verification (art. 8, para. 5).

- Strengthen integrity in public procurement by lowering the threshold for small-scale procurements, ensuring that the open procedure constitutes the default procurement method, adopting appropriate control mechanisms to avoid abuse in the selection of restricted and negotiated procurement procedures, and

\(^4\) Czechia adopted a new framework for ex post impact assessments of laws and regulations on 14 June 2023, after the country visit.

\(^5\) The Whistle-blower Protection Act came into force on 1 August 2023, replacing Government Regulation 145/2015.
continuing to ensure that procurements under the Act on Public Procurement exclusion clauses are subject to sufficient oversight (art. 9, para. 1 (b) and (d)).

- Strengthen transparency and accountability in the management of public finances by conducting public consultations during the preparation of the national budget (art. 9, para. 2 (a)).

- Consider strengthening public access to information by publishing comprehensive national statistical data, including decisions on refusals of information requests (art. 10 (a) and art. 13, para. 1 (b)).

- Continue efforts to comprehensively assess corruption risks in the public administration, including by developing the annual screening of corruption risks (art. 10 (c)).

- Review and revise, as necessary, the composition of and appointment process for members of the Selection Committee, with a view to strengthening independence in the selection of members of the judiciary; furthermore, consider increasing awareness of the Code of Ethics for Judges and ensuring its adequate implementation, and continue to conduct comprehensive training on conflicts of interest and ethics for judges and prosecutors (art. 11, para. 1).

- Strengthen the integrity and independence of the public prosecution service by amending legislation to ensure that the procedure for the appointment of senior prosecutorial personnel (including the Supreme Public Prosecutor) and the revocation of their functions is based on objective criteria and conducted in a transparent manner through an independent mechanism, with the possibility of judicial review, and ensuring that the authority of the Minister of Justice to enquire about the status of criminal proceedings continues to be applied in a manner that does not impede prosecutorial independence, including by enacting legal provisions as necessary (art. 11, para. 2).

- Strengthen corruption prevention in the private sector, including by:
  
  - Broadening cooperation channels between law enforcement authorities and the private sector.
  
  - Considering the adoption of internal audit requirements for relevant private companies and standards of business conduct or ethics.
  
  - Considering adopting rules limiting nominee shareholder and director arrangements (art. 12, para. 2 (a), (b) and (c)).

- Strengthen private sector integrity by expressly prohibiting the tax deductibility of expenses that constitute bribes (art. 12, para. 4).

- Strengthen public reporting by promoting awareness of anti-corruption authorities and reporting channels (art. 13, para. 2).

- Consider specifically including non-profit organizations and other legal professionals besides lawyers and public notaries in the scope of obliged entities under the Anti-Money-Laundering Act (art. 14, para. 1 (a)).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

The framework established by the Act on International Judicial Cooperation in Criminal Matters enables authorities to provide legal assistance at various stages of a criminal case. The Act also provides for the spontaneous exchange of information. Dual criminality is required for authorities to provide a range of legal assistance measures (listed in sect. 47 (2) of the Act), with certain exceptions applicable to
European Union member States (see, for example, sects. 234, 238f, 282 and 297e of the Act; Regulation (EU) 2018/1805 of the European Parliament and of the Council).

Institutionally, the National Headquarters against Organized Crime of the Criminal Police and Investigation Service functions as the Asset Recovery Office and deals with asset tracing requests. To promote cooperation and information exchange in the detection and seizure of proceeds of crime, the National Headquarters cooperates with Europol, INTERPOL and the Camden Asset Recovery Inter-Agency Network.

Czechia recognizes the Convention as a legal basis for international cooperation for the purposes of asset recovery. Authorities may provide assistance in the absence of an international treaty on the basis of reciprocity (sect. 120 (1) (a) of the Act on International Judicial Cooperation in Criminal Matters) and other legal provisions applicable to European Union member States.

The Czech National Bank manages a central register of accounts held by financial institutions and payment service providers, which has accelerated financial investigations, including in cases involving international cooperation.

There is no centralized case management system for tracking and monitoring requests for international judicial cooperation, and statistics on the number of requests for and formal refusals of assistance, in cases where the Czech judicial authorities communicated directly with their foreign counterparts, were unavailable. A new case tracking system has been under development in the Supreme Public Prosecutor’s Office since 2020.

Some examples were provided of asset return under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and to a State non-member of the European Union.

The spontaneous exchange of information (including data on proceeds of offences) may be performed by the Financial Analytical Office and the police through INTERPOL, Europol or joint investigative teams. Section 56 of the Act on International Judicial Cooperation in Criminal Matters explicitly provides that judicial authorities may spontaneously share information or evidence collected in a criminal investigation with foreign authorities, provided that such dissemination will not hamper the domestic investigation.

Czechia is a party to bilateral and multilateral agreements enabling cooperation for the purposes of asset recovery, including 44 bilateral treaties on mutual legal assistance and extradition.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The Anti-Money-Laundering Act provides for the verification of customers, the determination of beneficial ownership and enhanced scrutiny in respect of politically exposed persons and their close associates (sect. 4 (5)), including family members, as defined in article 22 of the Civil Code and the methodological guideline on politically exposed persons (that is, direct relatives, siblings, spouses and domestic partners). Work is ongoing to develop a list of politically exposed persons.

The obliged entities listed in section 2 of the Anti-Money-Laundering Act are required to identify clients (sect. 8 of the Act) and undertake client control measures (sects. 9 and 9a of the Act). Obliged entities are required (sects. 8 (7) and 15 (1) c of the Act) to keep up-to-date data on customers and are prohibited from establishing business relationships if there are doubts regarding customer identification data. The requirements include determining beneficial owners and taking steps to verify their identity (sect. 9 (2) (b) of the Act).

A register of beneficial owners of legal persons and legal arrangements has been established, and these entities are obliged to keep identification data of their customers updated and report such information, as well as any changes, without undue delay (sect. 29b (5) of the Anti-Money-Laundering Act).
Obliged entities must obtain the approval of their statutory body to establish business relationships with politically exposed persons (sect. 9a (3) of the Anti-Money-Laundering Act). Enhanced customer due diligence must be applied to identify the origin of funds of politically exposed persons, and obliged entities must refuse any transactions with such persons if the origin of the funds is unknown.

Advisories regarding various aspects of money-laundering and obligations of reporting entities are published regularly by the Financial Analytical Office and some of the supervisory bodies. The Office has issued methodological guidelines on matters such as politically exposed persons, customer due diligence and beneficial ownership. The Czech National Bank has issued regulations on customer due diligence procedures for supervised institutions, including in relation to client risk factors. Czech authorities notify financial institutions about entities or persons posing enhanced risks by disseminating information from Financial Action Task Force press releases, the United Nations and European Union sanctions lists and other operational intelligence. This information is published online or, in the case of confidential information, disseminated through encrypted channels.

Obliged entities are required to store data and respective documents for at least 10 years following a transaction or the termination of a customer relationship (sect. 16 of the Anti-Money-Laundering Act). In addition, section 18 of Czech National Bank Decree No. 67/2018 requires financial institutions to operate a storage system containing information collected through the inspection of customers and examination of their transactions.

The Act on Banks establishes licensing requirements that prohibit the establishment or operation of shell banks. Obliged entities under the Anti-Money-Laundering Act (including banks) are further prohibited from entering into correspondent relationships with shell banks or with respondent institutions that are known to allow their accounts to be used by shell banks (sect. 25 (1) of the Anti-Money-Laundering Act).

As described above, the Act on Conflicts of Interest requires the officials enumerated in section 2 to submit declarations of assets, income, gifts and liabilities on an annual basis. While public officials submit declarations electronically (sect. 13 of Act 14/2017), judges do so manually (sect. 12 (5) of the Act on Conflicts of Interest). Through Act 14/2017, Czechia established a central register of declarations under the authority of the Ministry of Justice and modified the system for the punishment of offences through administrative penalties. Declarations are verified manually by the relevant department of the Ministry of Justice through random checks or on the basis of external complaints or automatically generated notifications. Declarations can also be verified by local authorities, which can issue sanctions for failure to comply. Information in the central register (http://cro.justice.cz) is available to the public upon request. Information in asset declarations may be shared through mutual legal assistance channels.

There is no obligation to declare foreign financial accounts or signature or other authority over such accounts, or to maintain appropriate records related to such accounts.

The Financial Analytical Office serves as a centre for receiving and analysing suspicious transaction reports and for disseminating the results of analyses to other State authorities (sect. 18 of the Anti-Money-Laundering Act).

**Measures for direct recovery of property: mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)**

Although there is no specific legal provision giving foreign States legal standing to file civil claims in the domestic courts, there is no obstacle to the filing of property claims by foreign legal persons, who are recognized as entities under public or private
law. Such claims are frequently filed, including against municipal territories (case examples were given).

Under Czech law, aggrieved persons (whether domestic, foreign, natural or legal, as per sect. 43 of the Criminal Procedure Code) who have suffered harm from a criminal offence or at whose expense offenders have been enriched by a crime are entitled to raise a civil claim as part of criminal proceedings, in order to request that the court order the accused to pay compensation or surrender any unjust enrichment. Civil claims are part of criminal proceedings (sect. 43 (3) of the Code). Injured persons may also join criminal confiscation proceedings during the preparatory phase or file claims in civil court.

Czech courts may order offenders to compensate damage or remedy harm caused by a criminal offence, or to surrender any unjust enrichment, provided that the above-mentioned civil claim is filed at the trial before the evidentiary proceeding (sect. 228, read in conjunction with sect. 43 (3), of the Criminal Procedure Code). Where punishment is waived by the court owing to the nature and degree of seriousness of the offence, the court may specifically order an offender to provide the aggrieved person with adequate satisfaction (sect. 48 (4) (k) of the Criminal Code).

Czechia applies a parallel system for the execution of foreign orders that depends on the origin of the request. Generally, Czech authorities recognize and enforce foreign confiscation orders on the basis of the Act on International Judicial Cooperation in Criminal Matters, which addresses the recognition and execution of foreign judicial decisions on confiscation (sect. 118). If the request is submitted by a State non-member of the European Union, it triggers the procedure set out in sections 118 et seq. of the Act, and when the foreign order is recognized, execution is conducted pursuant to sections 129 et seq. Decisions issued by European Union member States, except Denmark and Ireland, are executed in accordance with Regulation (EU) 2018/1805 on the mutual recognition of freezing orders and confiscation orders, together with the adaptive provisions of the Act (sects. 297a–297n). For Denmark and Ireland, sections 278 to 297 of the Act apply. There have been few cases involving the recognition and enforcement of confiscation orders issued by States non-members of the European Union.

Unless the Act on International Judicial Cooperation in Criminal Matters stipulates otherwise or in the event that it does not regulate a certain issue, the Criminal Procedure Code applies, unless stipulated otherwise in an international treaty (sect. 3 of the Act). Dual criminality is one of the conditions for the recognition and enforcement of foreign confiscation orders (sect. 120 of the Act), with certain exceptions applicable to European Union member States.

Whenever Czech authorities recognize their jurisdiction to investigate criminal offences (sects. 4–6 of the Criminal Code), criminal proceedings are launched, whether in respect of money-laundering or another crime. Confiscation covers proceeds of crime and instrumentalties, and their equivalent value (sects. 70 and 71 of the Code). Although confiscation pertains only to property owned by the offender, in cases where property subject to confiscation has been transferred, forfeiture may be imposed (sect. 102 of the Code).

Non-conviction-based confiscation is possible in criminal proceedings only as a protective measure where there is proof of a criminal offence (sects. 101 and 102 of the Criminal Code). The provisions apply, inter alia, if an offender cannot be prosecuted or sentenced, in accordance with section 11 (1) of the Criminal Procedure Code. Czech authorities explained that this would include obstacles in prosecution, and cases involving the flight or absence of an offender or fugitive. In the event of the death of an offender, proceeds may be confiscated from that person’s heirs (sect. 101 (2) (c) of the Criminal Code). Mutual legal assistance in the event of the death of an offender may be rendered to European Union member States (except Denmark and Ireland) under section 297f of the Act on International Judicial Cooperation in Criminal Matters, to Denmark and Ireland under section 283 (2) of the Act, and to other countries under section 123 (1) of the Act. Under the current
framework, Czech authorities would be precluded from providing assistance in implementing foreign civil non-conviction-based forfeiture orders.

Pursuant to the Act on International Judicial Cooperation in Criminal Matters, a request from a State non-member of the European Union for the freezing or seizure of property is treated as an ordinary mutual legal assistance request and the procedure in the Criminal Procedure Code applies, together with the provisions on seizure in sections 66a to 68 of the Act. These requests are considered in terms of dual criminality (sect. 47 (2) (a) of the Act). For cooperation with European Union member States, Regulation (EU) 2018/1805 applies, as adapted in sections 238a to 238m of the Act. With regard to Denmark and Ireland, sections 232 to 238 of the Act apply. There have been few cases involving foreign provisional orders in the last five years. Czech law does not require a request from a foreign authority to be accompanied by an order for freezing or seizure in order for assistance to be provided.

In the absence of a foreign request, property can be secured by the authorities acting on their own initiative, through the opening of a criminal proceeding. There are no additional measures that permit the authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge.

With regard to States non-members of the European Union, proceedings related to the recognition and execution of foreign decisions are initiated by the Ministry of Justice through the filing of a petition or the forwarding of a foreign request (sect. 120 of the Act on International Judicial Cooperation in Criminal Matters). Decisions are taken by the court in a public session in the presence of the public prosecutor (sect. 123 of the Act). If the conditions for recognition are met, the court recognizes the foreign decision through a judgment (sect. 124 of the Act).

Foreign confiscation decisions issued by States non-members of the European Union may be recognized on the basis of either an international treaty or, in the absence of such a treaty, reciprocity (sect. 120 (1) (a) of the Act on International Judicial Cooperation in Criminal Matters). Content requirements are stipulated in section 41 of the Act for requests not based solely on the Convention. Czech legislation does not include the de minimis value of the property as a ground for refusing cooperation with European Union member States, in relation to which orders are executed automatically.

Sections 233 and 284 of the Act on International Judicial Cooperation in Criminal Matters (in the case of Denmark and Ireland) and articles 8 and 19 of Regulation (EU) 2018/1805 allow for the non-recognition of seizure and confiscation orders issued by European Union member States as a result of a lack of sufficient and timely evidence. In respect of other countries, a lack of sufficient evidence can be used as a ground for refusing to execute a request (sects. 54 and 55 of the Act). Consultations are held in these cases as a matter of practice, in accordance with internal guidelines for prosecutors and guidelines on mutual legal assistance.

With regard to European Union member States, article 19 (1) (c) of Regulation (EU) 2018/1805 protects the rights of third persons in confiscation matters. Similar provisions have not been adopted in respect of measures on seizure. For Denmark and Ireland, section 284 (2) (c) of the Act on International Judicial Cooperation in Criminal Matters applies. In relation to States non-members of the European Union, the rights of bona fide third parties are implicitly taken into account in determining grounds for refusal (sect. 54 (1) (b) of the Act), and provisions of the Criminal Procedure Code apply (sect. 3 of the Act).

Return and disposal of assets (art. 57)

Pursuant to Act 59/2017, funds obtained from confiscation and forfeiture can be used to satisfy the property claims of aggrieved persons arising from the commission of an offence, provided that such persons raise their claims within 60 days of criminal confiscation or related civil proceedings. It was explained that the provisions on compensation of aggrieved persons and victims could also be used by foreign States,
although there have been no such cases in practice. 6 Except as provided for under the aforementioned Act, confiscated property devolves to the State (sects. 70 (6) and 71 (3) of the Criminal Code). If property has been confiscated or forfeited on the basis of a recognized foreign decision, it may be shared with the foreign State (sect. 135 of the Act on International Judicial Cooperation in Criminal Matters; sect. 290 of the Act in the case of Denmark and Ireland; sect. 297l of the Act and art. 30 (7) of Regulation (EU) 2018/1805 in the case of other European Union member States).

Czech authorities may return confiscated property when acting on the request of another State. If the requesting country is a European Union member State, articles 29 to 30 of Regulation (EU) 2018/1805 apply and section 297l of the Act on International Judicial Cooperation in Criminal Matters triggers the sharing of assets (sect. 290 of the Act in the case of Denmark and Ireland). In the case of other States, the Ministry of Finance may conclude agreements on the sharing of confiscated property, if permitted by a bilateral or multilateral treaty or if reciprocity is guaranteed (sect. 135 of the Act). 7 The rules on asset-sharing have been applied in a case involving the return of confiscated property to a State non-member of the European Union.

Sections 290, 297l and 135 of the Act on International Judicial Cooperation in Criminal Matters all provide for asset-sharing. There is no provision in Czech legislation that gives effect to the obligation specified in article 57, paragraph 3, of the Convention in the case of offences established in accordance with the Convention.

Article 31 (2) of Regulation (EU) 2018/1805 and section 297m of the Act on International Judicial Cooperation in Criminal Matters allow for the sharing of extraordinary costs related to asset recovery. For Denmark and Ireland, although the ordinary costs are borne by Czechia (sect. 291 of the Act), negotiations are to be held if the court considers the costs to be extraordinarily high (sect. 291, read in conjunction with sect. 55, of the Act). Similarly, with regard to States non-members of the European Union, section 133 of the Act provides that ordinary costs are to be borne by Czechia and section 55 provides for negotiation in respect of extraordinary expenses. There has been no such negotiation in practice.

The Ministry of Finance may enter into agreements that address the sharing of confiscated property on a case-by-case basis (sects. 297l and 135 of the Act on International Judicial Cooperation in Criminal Matters), and it has done so in specific cases.

3.2. Successes and good practices

• The central register of accounts, which has accelerated financial investigations, including in cases involving international cooperation (art. 51).

3.3. Challenges in implementation

It is recommended that Czechia:

• Continue efforts to develop a case management system for tracking and monitoring requests for international judicial cooperation (art. 51).

• Endeavour to more clearly stipulate the application of Act 59/2017 to foreign States (art. 53 (c) and art. 57, para. 3).

6 The Act is intended to satisfy the claims of entitled persons from funds obtained by the State through criminal sanctions such as confiscation. Owing to the nature of the compensation from public funds, it was the intention of the legislator to specifically exclude only the Czech State from the definition of entitled person under the Act.

7 In the case of the United Kingdom of Great Britain and Northern Ireland, pursuant to section 135 (2), unless otherwise agreed, a threshold of 10,000 euros triggers asset-sharing; if the value of confiscated assets does not exceed that threshold, the confiscated property devolves to Czechia; other specific rules apply.
• Continue to consider the possibility of expanding the grounds for providing assistance in the absence of a conviction in cases involving civil forfeiture orders where property is tainted property in relation to criminal conduct (art. 54, para. 1 (c)).

• Ensure that requests to freeze or seize property on the basis of foreign freezing or seizure orders issued by States non-members of the European Union are dealt with swiftly (art. 54, para. 2).

• Consider taking additional measures to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge (art. 54, para. 2 (c)).

• Take the necessary measures to ensure that confiscated property is returned in line with article 57 of the Convention, even in the absence of an agreement with the requesting State (art. 57, para. 3).

• Consider regulating the costs of ordinary expenses relating to proceedings involving the recognition and execution of decisions issued by States non-members of the European Union (art. 57, para. 4).