

Anti-money laundering and counter-terrorist financing measures

Czech Republic

3rd Enhanced Follow-up Report & Technical Compliance Re-Rating

November 2022

Follow-up report



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

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The 3rd Enhanced Follow-up Report and Compliance Re-Rating on Czech Republic was adopted by the MONEYVAL Committee through written procedure (19 September – 31 October 2022).

Czech Republic: 3rd Enhanced Follow-up Report

1. INTRODUCTION

1. The mutual evaluation report (MER) of the Czech Republic was adopted in December 2018 and its 1st and 2nd Enhanced Follow-up Reports in June 2020 and November 2021 respectively. The reports analyse the progress of the Czech Republic in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress the Czech Republic has made to improve its effectiveness.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT AND SUBSEQUENT FUR

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

Table 1. Technical compliance ratings, November 2021

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

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

Source: Czech Republic Mutual Evaluation Report, December 2018, <https://rm.coe.int/czech-republic-5th-round-mer/168094b621>. Czech Republic 1st Enhanced Follow-up Report, June 2020, <https://rm.coe.int/moneyval-2020-8-sr-5th-round-fur-cz/1680a01d69>. Czech Republic 2nd Enhanced Follow-up Report, November 2021, <https://rm.coe.int/moneyval-2021-32-fur-cz/1680a4ced4>.

3. Given the results of the MER, the Czech Republic was placed in enhanced follow-up¹. The first enhanced follow-up report submitted by the Czech Republic was adopted via written procedure in June 2020 and the country was invited to submit its 2nd Enhanced FUR in one year's time. The FUR acknowledged that overall, the Czech Republic had made progress in addressing the TC deficiencies identified in its 5th Round MER and has been re-rated on 4 Recommendations (3 upgrades and a downgrade). Recommendations 2 and 19 initially rated as PC were re-rated as LC. Recommendation 13 initially rated as PC was re-rated as C. Recommendation 15 initially rated as LC was re-rated as PC.

4. The second enhanced follow-up report submitted by the Czech Republic was adopted via written procedure in November 2021. Overall, the Czech Republic had made progress in addressing the TC deficiencies identified in its 5th Round MER and the 1st enhanced FUR and has been re-rated on 6 Recommendations (6 upgrades). Recommendations 8, 20, 22, 23 and 35 initially rated as PC were re-

¹ Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

rated as LC. Recommendation 21 initially rated as PC was re-rated as C. Following the adoption of the 2nd Enhanced FUR, the country was invited to submit its 2nd Enhanced FUR in one year's time.

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

- Armenia

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

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

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

- a. Addressing the technical compliance deficiencies identified in the MER and subsequent enhanced FURs for which the authorities have requested a re-rating (R.32).

8. For the rest of the Recommendations rated as PC (R.6, 7, 15 and 33) the authorities did not request a re-rating.

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

III.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs

10. The Czech Republic has made some progress to address the technical compliance deficiencies identified in the MER and in subsequent Enhanced FURs. The country asked for a re-rating of R.32, which is analysed but no re-rating has been provided.

Recommendation 32 (Originally rated PC – no re-rating)

11. In its 5th round MER, the Czech Republic was rated PC with R.32 based on the following deficiencies: the declaration system applies only to movements (both inward and outward) of cash and BNI from and to the EU and there is no regulation that would require customs to stop or restrain currency of BNIs for a reasonable time in order to ascertain whether there is a suspicion that ML/FT or predicate offences were committed.

12. The Czech authorities have taken some measures to partially address these deficiencies. In particular, in relation to empowering the customs to stop or restrain currency of BNIs for a reasonable time in order to ascertain whether there is a suspicion that ML/FT or predicate offences were committed. According to Section 42 (4) of the AML/CFT Act, the customs administration should it suspect that the items are related to crime, seize the items concerned by the violation or suspicion. Furthermore, Section 6(1) of the Code of Administrative Procedures stipulates that administrative authority shall process cases without unnecessary delay and within a reasonable period of time.

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

Nevertheless, the EU regulations, as well as the national legal frameworks deal with currency or BNI only entering or leaving the EU (c.32.8).

13. Regarding deficiencies under c.32.1, c.32.2 and c.32.11, no steps have been taken by the Czech Republic to remedy them.

14. Overall, the Czech Republic has taken some measures to address partially the deficiency under c.32.8, however, this new legal framework deals only with currency or BNI only entering or leaving the EU. Other deficiencies under c.32.1, c.32.2 and c.32.11 remain unaddressed. **Therefore, R.32 remains “PC”.**

4. CONCLUSION

15. Overall, the Czech Republic has made some progress in addressing the TC deficiencies identified in its 5th Round MER, however no re-rating has been granted on R.32.

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

17. Overall, in light of the progress made by the Czech Republic since its MER and subsequent FURs were adopted, its technical compliance with the FATF Recommendations remains as follows:

Table 2. Technical compliance with re-ratings, November 2022

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	C	LC	PC	PC	LC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	C	C	PC	LC	LC	LC	LC	LC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
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Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

18. According to item 8 of Rule 21 of the MONEYVAL’s Rules of Procedure for the 5th round Mutual Evaluations the general expectation is for countries to address most if not all of the technical compliance deficiencies by the end of the 3rd year after the adoption of the MER.

19. The Czech 5th round MER was adopted in December 2018. In line with item 8 of Rule 21 it was expected that the country addresses most if not all of its technical compliance deficiencies by December 2022. The Czech Republic is therefore at the decision point for the Plenary as regards the next steps. At current, R.6, 7, 15, 32 and 33 are rated as PC. Bearing mind, the decision taken at the 63rd Plenary to set a transition phase for the implementation of CEPs throughout December 2022 and in line with Rule 25(1)³ under Title IV (Compliance Enhancing Procedures) of the Rules of

³ Rule 25 – General principles

1. MONEYVAL may take action at any time in respect of countries and territories subject to its evaluation procedures for failure to implement the reference documents or the recommendations in mutual evaluation reports. It should be guided by the following principles:

- flexibility in order to deal with situations which require urgent action by the Plenary when issues of non-compliance arise;
- equality of treatment for MONEYVAL countries/territories;
- a graduated approach for dealing with non-complying countries/territories;
- approval by the Plenary of the steps to be taken, whilst allowing for some discretion regarding their application.

Procedure, the Plenary is invited to issue a CEPs warning, and if progress is not made by the next FUR – to apply step 1 under CEPs.

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

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3rd Enhanced Follow-up Report &

Technical Compliance Re-Rating

This report analyses Czech Republic's progress in addressing the technical compliance deficiencies identified in the Mutual Evaluation Report of December 2018 and subsequent Follow-Up Reports.

Follow-up report