

Czech Republic amends Act on Ultimate Beneficial Owners

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On 1 October 2022, the amendment to the UBO Act came into effect in the Czech Republic, which places obligations on Czech companies regarding their UBOs and specifies penalties for companies, which fail to comply with these obligations.

Under the amended UBO Act, the UBO of a Czech company is now any individual who ultimately owns or controls the company. This includes any individual who directly or indirectly, through another person or legal arrangement,

- holds an ownership interest or a share representing more than 25% of voting rights in the Czech company;
- has a right to a share exceeding 25% of the profits, other funds or liquidation balance distributed by the Czech company;
- exercises a controlling influence in a corporation or corporations, which, individually or jointly, have an interest in the Czech company exceeding 25%; or
- exercises decisive influence in the Czech company by other means (e.g. by a side-agreement).

Contrary to the previous legal rules, the option of Czech entities to register their local directors as the UBOs in the UBO register, which to some extent is publicly accessible, is now very limited.

Company obligations and sanctions for non-compliance

According to the amended UBO Act, Czech companies' obligations include the following:

- collecting and recording complete, accurate and up-to date data on its UBOs;
- recording the steps undertaken in the course of identifying its UBOs;
- keeping records of the above for the duration of the status of the UBO and for ten years after this position has ceased;
- keeping its entry in the UBO register current and updating the registration without undue delay after each triggering event; and
- providing all necessary cooperation to public authorities upon their request.

If a Czech company fails to provide information on its UBOs following a court request or update its registry records following a court decision on discrepancy, the company (and in some cases even the parent companies) could face a fine of up to CZK 500,000 (approximately EUR 20,000).

In addition, non-compliance could lead to a ban on payment of dividends to an unregistered UBO, as well as prevent an unregistered UBO from exercising their shareholder rights at a general meeting.

Conclusion

Non-compliance with UBO rules may considerably impact transactions, any planned corporate restructuring or financial distributions.

For example, if the UBO registration is not up-to-date and a seller has their shareholding rights suspended due to the missing or outdated UBO registration, such seller is prevented from adopting a resolution on the transfer of business or restructuring until the UBO register is updated. Considering that some UBO registrations may take days or even weeks to be processed, failure to comply may have a significant adverse effect on a transaction or restructuring.

For more information on the UBO Act, contact your CMS client partner or local CMS experts.

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