



The Czech "Magnitsky Act": creation of a legal basis for national sanctions

August 2022

Concerned with what it perceives as a lack of proper unity and enforcement on the local level of EU sanctions against Russia and Belarus, the Czech government has taken steps to create a legal basis for national sanctions in what is being referred to as the Czech "Magnitsky Act". The government is working to fast track the legislative process, and the bill is expected to be enacted into law in the coming months.

Variation in regulation / enforcement among Member States of EU sanctions regime

The European Union has repeatedly adopted sanctions against Russia starting in March 2014 in response to the annexation of Crimea, followed by Russia's military offensive against Ukraine in 2022. [These sanctions](#) currently apply to over a thousand individuals and one hundred entities from all over the world.

The EU sanctions cover a wide range of areas in following categories: asset freezes and visa restrictions, financial and capital markets restrictions, trade and investment restrictions, media restrictions, and the closure of EU airspace, ports and road access. However, **regulation and enforcement of EU sanctions as well as punishments for non-compliance vary considerably between Member States**. Opinions of individual Member States' public and political representatives also diverge with respect to the stance towards Russia and in relation to the severity of the sanctions. Furthermore, there are many grey areas and loopholes in the current sanctions regime, and that is one of the reasons why **local regulation and enforcement is gaining traction**.

Czech Republic developing act to improve enforcement on local level

Because the Czech government considered the joint EU sanctions insufficient and lacking proper unity and enforcement on the local level, it is in the process of passing new act which is by some politicians and journalists called **the Czech "Magnitsky Act"**.¹ This so-called Czech Magnitsky Act will vest additional powers in Czech government and officials. The bill has been forwarded into an **accelerated legislation procedure and may be enacted and effective in two to three months**. Though the comparison to the US Magnitsky Act is not entirely accurate. The Czech Magnitsky Act will have much broader scope and general use than the US Magnitsky Act, which focuses on human rights violations.

¹ **The US Magnitsky Act** (Sergei Magnitsky Rule of Law Accountability Act of 2012) **sanctions foreign government officials who are regarded as human rights offenders**. It was enacted in December 2012 by the U.S., after Sergei Magnitsky, a Russian lawyer who called for an investigation of a large-scale million fraud from the Russian state carried out by Russian tax officials, died in police custody, atrociously beaten.

The Czech Act aims to strengthen the security policy of the Czech Republic by creating a legal basis for national sanctions.

If the bill is approved, the Czech government will be able to designate by its own decision a person to be added to the list and to impose specific sanctions. The list of national sanctions that the Czech government will be able to impose is similar to the list of the EU. The sanctions are expected to be based on the Czech Republic's security interests. The sanctioned person can request judicial review of the decision.

The Czech "Magnitsky Act" will empower Czech authorities to designate a person and impose specific sanctions. The bill is expected to be enacted in the following months, after the summer.

Foundation created for the Czech Act with robust new bill

On 16 August 2022, the Czech president Miloš Zeman signed into effect a robust bill amending an act on regulating implementation and enforcement of international sanctions. The bill comprehensively amended and clarified the act, introduced a variety of new instruments and primarily laid the ground for the Czech Magnitsky Act so that it can be used as soon as it is enacted. Before this amendment, the Czech authorities could only enforce international sanctions.

One of the new instruments is the extension of the sanctions to public tenders. The sanctioned person may be completely banned from public tenders and the contracting authority may terminate or withdraw from a contract after becoming aware that the contractor is a person subject to sanctions. These sanctions can also be applied to any activity that could support participation of the sanctioned person in a public contract. Further, the customs authorities will be able to seize items on the spot if they suspect they are subject to sanctions. Lastly, public authorities will be able to sell seized property to pay for the costs of administering such property. The statutory fee for administration is 3% per annum of the property value.

Adding this layer of national sanctions into the sanctions mix thus further increases uncertainty for businesses operating in Czech Republic and it may be even more challenging for international groups operating in several jurisdictions such as the EU, the UK, the US, Canada, Japan, and Australia to properly set up enough layers of compliance measures to safely navigate different regimes.

Our experience indicates that a planned and coordinated approach supported by [an international, specialised team](#), familiar with several jurisdictions, brings not only added value, but also addresses significant risks and saves considerable time and costs - now and in the future.

Confiscation of the seized or frozen assets may soon be a reality

Setting up legal instruments for confiscation of the sanctioned property is being discussed both at the EU and Member State levels right now. Following the discussions at national levels, it can be assumed that soon, some Member States will move to create a legal basis for confiscation of seized or frozen property.

About Wolf Theiss

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

For more information about our services, please contact:



Jitka Logesova
Partner

E jitka.logesova@wolftheiss.com
T +420 234 765 111



Jaromir Pumr
Associate

E jaromir.pumr@wolftheiss.com
T +420 234 765 111