



Cartels

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Contributing Editors:

Duncan Liddell & Denis Fosselard

Ashurst LLP

glg Global Legal Group

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Duncan Liddell & Denis Fosselard
Ashurst LLP

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Overview of the law and enforcement regime relating to cartels

Antitrust law was first introduced in Czechoslovakia after the 1989 revolution, in preparation for a market economy. During the first decade of independent development, Czech antitrust law evolved largely through domestic experience while drawing particularly on lessons from the German *Bundeskartellamt*. With the approach of EU accession in 2004, Czech antitrust law became increasingly aligned with EU law, including in the interpretation of cartels. In this context, Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) remains of central relevance.

The Czech Office for the Protection of Competition (in Czech: *Úřad pro ochranu hospodářské soutěže*) (hereinafter the “Office”) is an independent administrative authority and the primary institution responsible for addressing cartels, albeit only within the administrative sphere.

At present, Czech Antitrust law is governed by Act No. 143/2001 Coll. (hereinafter the “Act”), which not only prohibits cartels but also provides the legal basis for imposing fines and issuing administrative injunctions. The most recent English translation of the Act, updated in 2023, together with the most relevant soft law, is available at <https://uohs.gov.cz/en/legislation.html>

Additionally, the Criminal Code No. 40/2009 Coll. provides for criminal sanctions for various forms of horizontal hardcore cartels. In practice, however, criminal proceedings are extremely rare and are typically pursued only as follow-up proceedings to administrative enforcement and are therefore of limited practical significance.

Private (civil law) enforcement of antitrust claims is also possible. In line with Directive (EU) 2014/104 on antitrust damages actions (hereinafter the “EU Damages Directive”), Act No. 262/2017 Coll. (hereinafter the “Private Enforcement Act”) sets out detailed rules for private parties to claim compensation for harm caused by competition law infringements.

Overview of investigative powers in the Czech Republic

In the Czech Republic, the Office holds broad investigatory powers in both administrative and criminal contexts. These include the authority to order the production of specific documents or information, carry out compulsory interviews with individuals, conduct unannounced searches of business and residential

premises, access and image computer hard drives using forensic tools, retain original documents, require explanations regarding supplied documents, and secure premises overnight (e.g., by seal).

In criminal proceedings, the exercise of these powers generally requires prior authorisation by a court or another independent authority. The same applies to unannounced searches of residential premises in administrative proceedings.

Overview of cartel enforcement activity during the last 12 months

In 2025,¹ the Office examined 200 complaints and initiated five administrative proceedings – two concerning abuses of dominance, two relating to horizontal cartels, and one involving a vertical agreement. In addition, the authority conducted eight on-site inspections.

While the Office continues to pursue relatively straightforward resale price maintenance (“RPM”) cases, a stronger enforcement focus on bid-rigging in public procurement can be observed.

For example, in July 2025 the Office imposed fines totalling CZK 157.693 million (approximately EUR 6.4 million) on six companies for participating in bid-rigging agreements relating to Czech railway infrastructure contracts. The authority found that competitors coordinated their bids in 26 public tenders awarded between 2015 and 2021, with a total value exceeding CZK 850 million.

In addition, in June 2025 the Office opened proceedings into possible collusion among major energy companies, alleging coordination of bids in a government auction for gas and biomass power and heat plants.

Key issues in relation to enforcement policy

Unlike jurisdictions where authorities have a legal obligation to pursue every complaint, the Office adopts a selective enforcement approach. While it receives a relatively large number of complaints and has recently recorded a 25% increase in public tipoffs regarding anti-competitive conduct, only a limited number of cases are formally opened each year following a preliminary assessment.

The Office currently prioritises sectors with direct consumer impact, such as food, pharmaceuticals, digital markets, and energy.

In 2025, none of the proceedings were initiated against small or medium-sized enterprises, reflecting the Office’s focus on larger market players.

At the same time, the Office is increasingly employing proactive enforcement tools. Notably, it has conducted or announced sector inquiries in industries including non-alcoholic beverages, waste management, electricvehicle charging infrastructure, and telecommunications, allowing it to assess market-wide competition issues and guide future enforcement priorities.

Key issues in relation to investigation and decision-making procedures

A notable feature of the Czech system is that, although bid-rigging and certain hardcore cartels can constitute criminal offences, investigations are primarily conducted by the Office rather than by the police. In principle, general surveillance powers, such as bugging, are available in criminal investigations under specific circumstances, but the Office does not employ such measures in cartel cases.

To safeguard the rights of defence, communications with external counsel are protected by legal privilege. Following the European Court of Human Rights’ 2014 judgment in *Delta Pekárny a.s. v. Czech Republic*, which found that an unannounced dawn raid by the Czech competition authority violated Article 8 of the European Convention on Human Rights due to the lack of prior judicial authorisation and insufficient judicial review, judicial oversight of dawn raids is now required.

Additional protections apply to information submitted under leniency or fine reduction programmes. Under Section 21ca(1) of the Act, evidence provided to the Office in such programmes cannot be used outside proceedings before the Office.

Sanctions for obstruction of investigations exist and can be substantial. Pursuant to Section 22a(3) of the Act, fines of up to CZK 300,000 (≈12,000 EUR) or 1% of a company's last annual worldwide turnover may be imposed for lack of cooperation or violations of Office seals. These fines have been applied in practice: in 2022, five fines totalling over 1 million EUR were issued; while in 2023 and 2024 only one fine (≈550,000 EUR) was imposed, although it was subsequently revoked.

Leniency/amnesty regime

The Czech Republic has a formal leniency programme for companies that was introduced on 29 July 2023, replacing the previous 2007 framework. The programme is modelled closely on the ECN Model Leniency Programme and the European Commission's leniency rules, including a distinction between Type I (full immunity) and Type II (partial fine reduction) applications. Full immunity can be granted for hardcore cartels, while successful applications for vertical agreements may lead to a fine reduction of up to 30%. Key features mirror the European framework, such as the ringleader exemption, the obligation to cooperate fully, and the requirement to terminate participation in the cartel, unless otherwise agreed with the Office. In some cases, leniency may also lift exclusion from public tenders, an important consideration for businesses operating in regulated sectors. Applications must be made before receiving the statement of objections for full leniency, or within 15 days after receipt for a reduction of fines, and may be submitted electronically, in writing, or orally. For cartels that extend beyond the Czech Republic, a summary is sufficient if Type I leniency has already been filed with the European Commission.

Extensive guidance on the leniency programme is available on the Office's website: <https://www.uohs.cz/download/Legislativa/HS/CR/Oznameni-UOHS-o-lenieny-ucinne-od-29.-7.-2023-.pdf>

The Office operates a marker system at its discretion, allowing applicants to secure priority while compiling the full application, although informal discussions of a cartel (even with lawyers) do not grant a marker.

Oral applications are accepted to minimise disclosure risks in potential follow-on civil litigation.

Leniency applications are generally treated confidentially, but once the statement of objections is issued, other cartel members and the ECN are informed, and relevant documents may later be disclosed in court or criminal proceedings; information marked as a business secret receives additional protection.

Applicants are required to maintain continuous cooperation throughout the proceedings until the final decision becomes legally binding.

Since its introduction, the programme has become an established part of cartel enforcement and a common consideration among the Czech antitrust community. However, while many applications have been filed since the introduction of the programme, growing concerns about follow-on private litigation serve as a disincentive.

Administrative settlement of cases

The Office actively promotes settlement procedures to increase administrative efficiency. A successful settlement typically results in a 10% to 20% reduction in the final fine. This requires the party to admit liability and waive its right to a full appeal, leading to shorter decisions and a lower likelihood of subsequent litigation. Settlement has become a standard outcome in more than half of all cartel cases.

Third-party complaints

Third parties can trigger investigations by submitting formal complaints or anonymous tips.

The number of such complaints has increased in recent years; however, the Office has noted that many are submitted without sufficient justification.

While the Office is not obliged to open an investigation for complaints, it frequently uses this information to launch sector inquiries.

Complainants generally do not have the right to access the full investigation file, especially regarding leniency statements or business secrets.

Civil penalties and sanctions

Under Czech competition law, companies found to have participated in cartels may face substantial fines of up to CZK 10 million (approximately EUR 400,000) or 10% of the last annual worldwide turnover of the undertaking involved. The Office has issued amended soft-law rules for calculating fines, effective from 1 January 2024, which are expected to result in higher penalties for hardcore cartels.

Fines may be reduced in cases where enforcement would lead to the economic liquidation of the company, although temporary losses in a single business year are insufficient for reduction; the extent of any reduction is assessed on a case-by-case basis.

Legislative proposals are under consideration to allow administrative fines for individual executives in the future.

Employees may also be held liable to their employer for damages caused by negligence (up to 4.5 times their average gross monthly earnings) or unlimited liability in cases of intentional conduct. If the damage was caused by an Executive or a Board Member, there is equally no limitation of liability.

Parent companies can be held liable (but no case has been reported so far) for cartel conduct by a subsidiary even if not personally involved, provided that the subsidiary's behaviour cannot reasonably be considered independent of the parent's instructions or management. The Act also allows for successor liability.

Limitation periods for administrative fines are generally 10 years from the breach, with an absolute limit of 14 years, extended by periods of ongoing proceedings before administrative courts, the European Commission, or other Member State authorities. Legal costs and financial penalties are not tax-deductible, though D&O insurance is commonly used to cover potential liabilities.

Right of appeal against civil liability and penalties

Decisions of the Office may be appealed at multiple levels. The process is designed to provide multiple opportunities for review, while balancing the need for enforcement with the rights of the undertaking to challenge decisions at both national and constitutional levels.

The first level of review is conducted by the Chairman of the Office if the appeal is filed within 15 days of delivery of the decision to the undertaking concerned. In recent years, several fines have already been reduced during this initial review.

Following the Chairman's decision, parties may file an administrative complaint within two months. Recent years have seen a comparatively high number of successful administrative complaints, even in high-profile antitrust cases.

Decisions of the administrative court may, in turn, be challenged through a cassation appeal (*kasační stížnost*) to the Supreme Administrative Court in Brno, which is a legal mechanism to request review of a court decision strictly on points of law, rather than on the facts, within two weeks of delivery.

Finally, constitutional complaints may be submitted to the Constitutional Court within 60 days of the Supreme Administrative Court's decision.

An appeal at the first stage generally suspends the company's obligation to pay the fine, in accordance with Section 25a of the Competition Act and Section 85 of the Administrative Procedure Code. However, after the Chairman's decision, fines must normally be paid unless the court grants suspensive effect under strict conditions.

Witnesses may be heard during the appeal process, although the extent to which cross-examination is permitted is limited.

Criminal sanctions

In addition to administrative fines, undertakings may face exclusion from public tenders, as occurred in one case in 2024, and, in theory, criminal sanctions against the legal entity, including possible dissolution, though these have not yet been applied in practice.

Individuals participating in bid-rigging or horizontal hardcore cartels may be subject to criminal liability, though, to date, no sanctions have been imposed on natural persons in the Czech Republic.

Criminal sanctions for cartel participation have thus not yet become a standard practice in the Czech Republic.

Cooperation with other antitrust agencies

The Office is an active member of the European Competition Network ("ECN") and cooperates closely with the European Commission. It also maintains strong bilateral ties with neighbouring authorities, particularly in Slovakia, Austria and Germany, focusing on information exchange and policy alignment.

Cross-border issues

Czech law applies the effects principle, meaning conduct outside the Czech Republic is prohibited if it has a potential or actual impact on the local market. The Office frequently coordinates with the European Commission on cases with a multi-jurisdictional dimension.

Developments in private enforcement of antitrust laws

Private enforcement of competition law in the Czech Republic has developed gradually in recent years, particularly following the transposition of the EU Damages Directive through the Private Enforcement Act. This legislation introduced a specific framework for damages claims arising from antitrust infringements, especially in follow-on actions based on prior infringement decisions. Key features include joint and several liability among cartel participants, the recognition of the "passing-on" defence and, for the first time in Czech civil procedure, a form of discovery allowing claimants to request relevant documents from defendants. Jurisdiction over such claims lies with regional courts acting as courts of first instance.

Despite these procedural improvements, practical enforcement has remained limited. Only a small number of cases have been reported, although a first successful damages action after many years of litigation was reported in 2024.

The general limitation period for competition damages claims is five years, which may be extended during competition authority investigations.

Court fees amount to 4% or 5% of the claimed amount, capped at CZK 2 million (approximately EUR 80,000). In addition, the costs of court-appointed experts and attorney fees calculated under the Advocate's Tariff must be taken into account. Under the loser-pays principle, the unsuccessful party is

generally required to reimburse the prevailing party for these costs in proportion to the outcome of the case. The court's judgment will always include a decision on the allocation of litigation costs between the parties.

Collective redress mechanisms have also begun to emerge, although their practical impact remains uncertain. While earlier attempts to bundle claims were discouraged by case law from the Supreme Court and confirmed by the Constitutional Court, Act No. 179/2024 Coll. (hereinafter "**Act on Mass Claims**"), which entered into force in July 2024 and transposes the Directive (EU) 2020/1828 on representative actions for the protection of the collective interests of consumers (hereinafter "**EU Representative Actions Directive**"), now allows certain class-type actions for consumer claims arising after November 2020.

However, standing is limited to qualified entities registered under consumer protection law, and the procedural framework is still relatively new. Combined with comparatively high court fees, the "loser pays" cost rule, and the need for court-appointed expert evidence, these factors may continue to limit the attractiveness of the Czech Republic as a forum for private antitrust litigation. As a result, claimants and litigation funders frequently prefer jurisdictions perceived as faster or more claimant-friendly, and significant competition damages disputes involving Czech conduct are often pursued elsewhere.

Reform proposals

The Office has proposed comprehensive amendments to the Czech Competition Act, with the legislative process expected to begin in 2026. These changes would constitute the most significant overhaul of Czech competition law in two decades and indicate a clear shift toward more assertive enforcement.

Key elements include the introduction of personal liability for natural persons involved in hardcore cartels such as price-fixing, market sharing, and bid-rigging. Under the proposed regime, executives could face fines of up to CZK 10 million (≈EUR 400,000) and be disqualified from management positions for up to five years. Participation in the leniency programme will continue to provide an avenue for mitigating liability through self-reporting.



Endnote

1 According to the information available as at 5 November 2025.

**Arthur Braun**

Tel: +420 224 490 000 / Email: arthur.braun@bpv-bp.com

Arthur Braun is the managing partner of bpv BRAUN PARTNERS and head of the M&A/corporate practice. He also specialises in competition law, often connected to employment law and market entry strategies for the Czech and Slovak Republics. Over the course of his career, he has advised on hundreds of transactions for both domestic and international clients and succeeded in about 100 merger control cases.

He is consistently recognised by leading international legal directories, including *Chambers and Partners*, *The Legal 500*, *Lexology Index* (former *Who's Who* in competition law), and *IFLR1000*, for his expertise in M&A, corporate, competition, and employment law. In addition to his legal practice, Arthur regularly publishes and speaks at conferences, seminars, and universities.

**Ondrej Poništiak**

Tel: +420 224 490 000 / Email: ondrej.ponistiak@bpv-bp.com

Ondrej Poništiak, JUDr., Ph.D., is a partner at bpv BRAUN PARTNERS in Prague and heads the competition practice. He also specialises in M&A, complex restructurings, JV structures and IT/IP. He has played a key role in numerous high-profile transactions.

Ondrej is a frequent author of expert articles in legal and business publications and regularly lectures at seminars and webinars in his areas of specialisation.

**Cynthia Sturfels**

Tel: +420 224 490 000 / Email: cynthia.sturfels@bpv-bp.com

Cynthia Sturfels is a German-admitted *Rechtsanwältin*, Czech-admitted *usazená evropská advokátka*, and senior associate at bpv BRAUN PARTNERS, Prague. She focuses on competition and EU law, white-collar crime, and public international law.

bpv BRAUN PARTNERS

Ovocný trh 8, 110 00, Prague 1, Czech Republic

Tel: +420 224 490 000 / URL: www.bpv-bp.com

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- Overview of investigative powers
- Overview of cartel enforcement activity during the last 12 months
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- Leniency/amnesty regime
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