

Study on agricultural interbranch organisations (IBOs) in the EU

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National Legislation and Actions Concerning IBOs

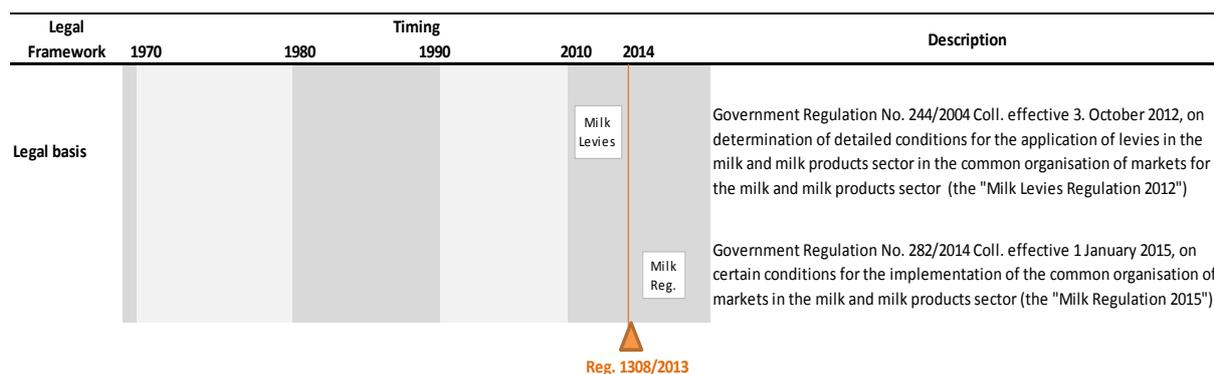
CZECH REPUBLIC

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[Section 1: National legislation pursuant to Articles 157 – IBOs, 158 – Recognition of IBOs, 159 and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163 – Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

Figure 1: Legal basis for the recognition of IBOs in the Czech Republic



Source: Compiled by Arcadia International and Schoenherr Rechtsanwälte

Summary of national legislation on IBOs

In the Czech Republic **national rules governing IBOs** exist solely within **the milk and milk products sector** where no IBOs have been recognised to date. The reason behind the existence of national legislation of IBOs in the milk sector is that milk is a traditional and important commodity of the Czech agricultural market with a significant volume of production.

Amendment No 308/2012 Coll. to Government Regulation No 244/2004 Coll. on determination of detailed conditions for the application of levies in the milk and milk products sector in the common organisation of markets for the milk and milk products sector (the "**Milk Levies Regulation**") introduced the first national legislation on IBOs. The amendment in question was adopted with a view to implementing Regulation (EC) No 1234/2007.

Government Regulation No 282/2014 Coll. on certain conditions for the implementation of the common organisation of markets in the milk and milk products sector (the "**Milk Regulation**") replaced the Milk Levies Regulation on 24 November 2014. It entered into force on 1 April 2015, although the only relevant provision concerning IBOs (**Section § 7**) became effective on 1 January 2015.

There seems no current plan to modify the current framework at national level.

IBOs: definition, objectives and legal status

There are no specific national provisions concerning the definition of IBOs, objectives of IBOs or their legal status.

IBOs recognition and monitoring

Pursuant to Section § 2b (1) and (2) of **Act No 252/1997 Coll.** on agriculture, the **State Agricultural Intervention Fund** (the "**Fund**"), which operates under the supervision of the Ministry of Agriculture, is entrusted with the implementation of the common organisation of agricultural markets. In accordance with Section § 1 (2) m) and n) of **Act No 256/2000 Coll.** on the State Agriculture Intervention Fund (the "**Act on the Fund**"), the Fund is the national authority responsible for the **recognition of IBOs**. Section § 12a of this act further stipulates that the Fund is authorised to carry out inspections and may impose sanctions on individuals or legal entities. Pursuant to Section § 12c and § 12d, a breach of obligations in the area of common organisation of agricultural markets may be punished with a fine of up to CZK 1,000,000 (approx. EUR 37,000).

Section § 7 (paras i. – viii.) of the Milk Regulation governs **the procedure of recognition of IBOs**.

- i. The request for recognition of IBOs can be filed by any legal entity based in the Czech Republic that meets the requirements stipulated by Regulation (EU) No 1308/2013 and must be submitted to the Fund through a special form established for this purpose.
- ii. The request for recognition of IBOs must indicate the activity/ies pursued in accordance with Regulation (EU) No 1308/2013.
- iii. The Fund must issue a decision on the recognition of IBOs whenever the applicant meets the requirements set by law.
- iv. Recognised IBOs must inform the Fund of any changes related to data and documents that were provided to the Fund with the request for recognition within 15 days from when the change occurred.
- v. The Fund must publish the **list of recognised IBOs** online.
- vi. At least once every two years, the Fund must execute an **onsite inspection** of recognised IBOs to verify whether they still meet the requirements for recognition laid down by the applicable law and to ensure that there is no breach of the latter.
- vii. Should an IBO fail to fulfil the requirements for recognition under applicable law or it has been found to breach any of the rules governing its operation, the Fund will require this organisation to take remedial action. If the situation is not rectified within the prescribed period, the Fund is entitled to **withdraw the recognition** of the IBO in cases stated under the CMO Regulation, even without prior notice.
- viii. If a recognised IBO has decided to terminate its activities, the Fund must submit a written request for withdrawing the recognition of the IBO and issue a decision in that regard.

IBO agreements: approval and extension of rules

There are no specific national provisions concerning IBO agreements and related extension of rules to non-members of IBOs.

Rules on financing

There are no specific national provisions concerning the financing of IBOs.

Representativeness

There are no specific national provisions concerning representativeness criteria for IBOs.

Section 2: Other national legislation relevant to the activities and operation of IBOs pursuant to Articles 157 – IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163 – Recognition of IBOs in the milk and milk products sector of the CMO Regulation

Not applicable

Section 3: History and list of IBOs pursuant to Articles 157 – IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163 – Recognition of IBOs in the milk and milk products sector of the CMO Regulation

Not applicable

Section 4: Use of the available legal framework for IBOs and other forms of cooperation between producers and other stages of the food supply chain established in the context of the CMO Regulation

As referred above, in the Czech Republic the national legal framework provides for provisions on IBOs only in the milk and milk products sector. Notwithstanding that, in the country there seems to be little interest in establishing IBOs in that sector as well as in any other agricultural sector due to both economic and historic reasons.

Indeed, according to the national competent authorities, the reasons of the current lack of recognised IBOs in the Czech Republic mainly lie with the lack of financial subsidies/incentives and of a historical tradition of vertical cooperation as opposed to Western European countries. Overall, producers tend to rely on other types of organisations, such as sale/distribution cooperatives, agricultural associations and unions, or other forms of cooperation foreseen by Regulation (EU) No 1308/2013, such as producer organisations (see Annex 2).

It should be noted, however, that, according to some producer organisations, the Ministry of Agriculture would have a very lax approach towards the adoption of national legislation implementing forms of cooperation foreseen under Regulation (EU) No 1308/2013, including IBOs. Against this background, it is considered that interest among producers might increase should an appropriate legal framework exist.

There are no agreements established under, or no implementation of any of, the following provisions of Regulation (EU) No 1308/2013: Article 125 (sugar sector agreements), Article 127 (delivery contracts), Article 149 (contracts for the delivery of raw milk to a processor or collector), Articles 150, 152 and 172 (supply cheese and ham), Article 167 (wines), Article 169 (olive oil), Article 170 (live cattle), Article 171

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(arable crops). However, according to non-confirmed information an agreement under Article 125 Regulation (EU) No 1308/2013 is currently being negotiated in the sector of sugar production. More information should be available by April 2016 – the date at which the conclusion of the agreement is foreseen.

Section 5: National practice concerning Article 210 CMO Regulation and decisions of competition authorities/national courts on the compatibility of IBOs activities/practices with national competition law

Not applicable

Section 6: Literature

- National legislation

Act No. 252/1997 Coll., on Agriculture (Act on Agriculture):
http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_zakon-1997-252-viceoblasti.html;

Act No. 256/2000 Coll., on the State Agriculture Intervention Fund (Act on the Fund):
http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_zakon-2000-256-viceoblasti.html;

Government Regulation No. 282/2014 Coll., on certain conditions for the implementation of the common organisation of markets in the milk and milk products sector (Milk Regulation): http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_narizeni-vlady-2014-282.html;

Government Regulation No. 244/2004 Coll., on determination of detailed conditions for the application of levies in the milk and milk products sector in the common organisation of markets for the milk and milk products sector (Milk Levies Regulation): http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_narizeni-vlady-2004-244-SZIF.html;

Government Regulation No. 318/2008 Coll., on the implementation of certain measures of the common organisation of markets for fruit and vegetables (Fruit and Vegetable Regulation): http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_narizeni-vlady-2008-318-SZIF.html;

Plan of Legislative Works for the year 2016 (Ministry of Agriculture) – (Annex No. 1 to Government Resolution No. 1031 dated 14 December 2015):
http://www.vlada.cz/assets/media-centrum/dulezite-dokumenty/Plan-legislativnich-praci_2016.pdf;

Bulletin of the State Agricultural Intervention Fund, April 2015:
https://www.szif.cz/cs/CmDocument?rid=%2Fapa_anon%2Fcs%2Fzpravy%2Fzpravodaj%2F1430991763050.pdf;

Handbook of the State Agricultural Intervention Fund on providing financial subsidy to registered producer organisations:
https://www.szif.cz/cs/CmDocument?rid=%2Fapa_anon%2Fcs%2Fdokumenty_ke_staze_ni%2Fkomodity%2Frv%2F04%2F06%2F1394024547302%2F1428401384466.pdf;

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Explanatory memorandum to the draft of the Government Regulation on detailed conditions for the implementation of common organisation of markets in the milk and milk products sector:
<http://webcache.googleusercontent.com/search?q=cache:1njpLnBQzEUJ:www.komora.cz/download.aspx%3Fdontparse%3Dtrue%26FileID%3D13479+&cd=3&hl=cs&ct=clnk&gl=at>.

- National competent authorities

Ministry of Agriculture of the Czech Republic <http://eagri.cz/public/web/mze/>

The State Agricultural Intervention Fund <https://www.szif.cz/>

- Other links (relating to non-governmental institutions operating in the agricultural sector):

The Agricultural Association of the Czech Republic <http://www.zscr.cz/>

The Czech Agrarian Chamber <http://www.agrocr.cz/>

Annex 1 - *List of interviewed individuals*

Annex 2 - *Overview of history and other existing forms of agricultural organisations in the Czech Republic*

**Annex 1 to Study on agricultural interbranch organisations (IBOs) in the
Czech Republic**

List of individuals interviewed in preparation of the Study:

[...]

Annex 2 to Study on agricultural interbranch organisations (IBOs) in the Czech Republic

I. History of market organisations in the Czech Republic

The agricultural and related food production sector has always played an important role in the Czech economy. Specific forms of organisations within the agricultural market were known during the Communist era, when common agricultural cooperatives were established in order to accumulate vast croplands.

With the fall of the Communist regime in 1989, the economic market was transformed and agricultural land privatised. In 1998, the first sale/distributive cooperatives (in Czech: *odbytová družstva*) were established for various sectors of agricultural commodities.

II. Other types of market organisations not included in the recognised forms of common organisation of markets according to the CMO Regulation

a. Sale/distributive cooperatives

Sale/distributive cooperatives were established for various sectors of agricultural commodities. In general, sale/distributive cooperatives are organisations of a large number of producers for the accumulation of certain agricultural products, such as fruit and vegetables, cereals, milk and others for the purpose of common production, purchase or sale. Sale/distributive cooperatives are traditional organisations within the agricultural market in the Czech Republic and their existence is considered one of the reasons behind the lack of interest among producers in establishing IBOs. Also significant is the fact that less strict conditions (such as a minimum number of members or market outlets) are laid down for the establishment of sale/distributive cooperatives.

b. Associations, unions or chambers

In the Czech Republic, historically there have been numerous types and forms of organisations gathering entities and stakeholders in the agricultural market, e.g. various associations, unions or chambers. These forms of organisation existed prior to the implementation of the relevant EU legislation and are not included in the recognised forms of organisation of markets according to the CMO Regulation.

The main objectives of these alternative types of organisations include consultancy, provision of information, education and promotion of the respective sector of the agricultural market. Among the most significant organisations of this type are: **the Czech Agrarian Chamber** (in Czech: *Agrární komora České republiky*) and **the Agricultural Association of the Czech Republic** (in Czech: *Zemědělský svaz České republiky*).

The Czech Agrarian Chamber was established by Act No. 301/1992 Coll., on the Czech Economic Chamber and Czech Agrarian Chamber. It is a non-governmental agrarian organisation with about 103,000 members, such as farmers, foresters, food producers

and others, that provides consultancy and education to its members in the economic, commercial or legal sphere.

The Agricultural Association of the Czech Republic is an independent, non-governmental legal entity that groups various agrarian food companies, agrarian cooperatives and other stakeholders involved in the provision of agricultural, cultivation, breeding and related services on a voluntary basis.

In principle, the above-mentioned alternative types of organisations have a different nature and purpose than the forms of common organisation of markets under the CMO Regulation and sale/distributive cooperatives. The very fact of their existence, however, means that producers are not motivated to engage in other forms of organisation within the Czech agricultural market, such as IBOs.

III. Other forms of the common organisation of markets in the Czech Republic according to the CMO Regulation

As outlined above, the Czech national legislation does not include rules regarding IBOs in any sector other than the milk and milk products sector. However, legislation has been adopted governing **the other forms** of the common organisation of markets in agricultural products according to the CMO Regulation **in the milk sector and fruit and vegetable sector**, namely **Producer Organisations according to Article 152 of the CMO Regulation ("POs")** and **Associations of Producer Organisations according to Article 156 of the CMO Regulation ("APOs")**.

a. Other forms of the common organisation of markets according to the CMO Regulation in the milk and milk products sector

Sections § 4 – § 6 of the Milk Regulation also introduce detailed rules concerning the recognition procedure of POs and APOs, which are also both subject to recognition by the Fund. **Currently there is only one recognised PO** called "Mlékařské a hospodářské družstvo JIH" (in English: *Milk and Economic Cooperative SOUTH*). There are no APOs in the milk and milk products sector according to the official statistics. The significant advantage of POs in the milk and milk products sector is the possibility to associate up to 33% of the volume of total national production, which gives POs a significantly better negotiating position towards other subjects in the production/distribution chain.

b. The other forms of the common organisation of markets according to the CMO Regulation in the fruit and vegetable sector

The Fruit and Vegetable Regulation lays down rules regarding POs and APOs. The Fruit and Vegetable Regulation provides for detailed rules on the recognition of POs and APOs, such as formal requirements for requests for recognition, including a list of necessary documents or the number of members, or the minimum value of total production of respective producers. The Fruit and Vegetable Regulation also regulates the procedure for recalling members and stipulates a six-month notice period for this purpose.

Certain provisions of the Fruit and Vegetable Regulation deal with the financing of POs and APOs, such as approval of their operational programme by the Fund and the related obligation to notify the Fund of their operating fund. These rules are complementary to the rules laid down by the relevant European regulations. **Currently there are 18 recognised POs in the Czech Republic.**

c. New legislation regulating the other forms of the common organisation of markets according to the CMO Regulation for the remaining sectors

According to the Plan of Legislative Works published by the Government for 2016, the Ministry of Agriculture has prepared a new draft of the Government Regulation on the recognition of producer organisations (the "**New Regulation**").

The New Regulations was primarily an initiative of the Agricultural Association of the Czech Republic, which submitted a proposal on new legislation to the Minister of Agriculture, who is engaged in efforts to extend the existence of these types of organisations in the Czech Republic. There have been public discussions involving producers, who had the opportunity to share their proposals and comments.

The draft was sent for external consultation in February 2016 and is due to be submitted to the Government in April 2016. The contemplated entry into force of this new regulation is planned for second semester 2016.

During informal interviews, the state authorities confirmed that the **New Regulation should deal with POs, their recognition and related issues in the agricultural products and food sectors other than the milk and fruit and vegetables sectors.** According to available information, **the New Regulation most likely will not include regulation of IBOs in any other sector** (in addition to the milk and milk products sector), although this cannot be ruled out. No further information on the draft was available as of the date of this study.

The representative of the Fund also mentioned the preparation of a new regulation on some forms of common organisation of markets in the fish sector; however, this information has not been confirmed by the competent representatives in the Ministry of Agriculture; no additional information is available.