

Information on the penalties laid down by the Czech Republic for the infringement of the provisions of Regulation (EU) 2016/426, on appliances burning gaseous fuels

Penalties for the infringement by economic operators of the provisions of Regulation (EU) 2016/426 are realised through the adaptation of existing provisions of the **Act no. 90/2016 Coll., on conformity assessment of specified products when made available on the market** (hereinafter referred to as 'the Act'), after it was amended by Act no. 265/2017 Coll., which entered into force on 1 September 2017.

Section 1 of the Act defines its scope. Subsection 4 states that:

*(4) This Act also governs the exercise of the state administration in the area of products for which directly applicable legislation of the European Union in the field of marketing of products related to a common framework for the marketing of products applies **and which are referred to in Part two, Chapter I** or for which it provides another Act governing the conformity assessment and making of products available on the market.*

Part Two, Chapter I, Division 2 of the Act is dedicated to adapting onto Regulation (EU) 2016/426, in cases where the regulation demands an active measure from a Member State.

In this manner, the scope of the Act is extended to cover gas appliances, and thus its punitive provisions apply to this sector.

The penalties themselves comprise Part Four of the Act, sections 53 and 54:

PART FOUR OFFENCES

Section 53 Offences of natural persons

(1) A natural person will commit an offence, if he:

- a) unduly uses the CE marking or other marking specified in the regulation issued to implement this Act, or a marking specified in the relevant Regulation of the European Union;*
- b) falsifies or alters the certificate or another document drawn up pursuant to the regulation issued to implement this Act or to the relevant Regulation of the European Union;*
- c) as a builder fails to comply with the obligations pursuant to Section 30.*

(2) In case of an offence pursuant to subsection 1, a penalty may be imposed up to 20 million CZK.

Section 54 Offences of legal entities and sole traders

(1) A legal person or sole trader will commit an offence, if he:

- a) unduly uses the CE marking or other marking specified in the regulation issued to implement this Act, or a marking specified in the relevant Regulation of the European Union;*
- b) falsifies or alters the certificate or another document drawn up pursuant to the regulation issued to implement this Act or to the relevant Regulation of the European Union;*

c) without authorisation pursuant Section 20, subsection 1, carries out an activity in the process of the conformity assessment reserved, for the purposes of this Act, to the notified body;

d) fails to comply with one of the safeguard measures issued pursuant to Section 50, subsection 1, 3 or 4; or

e) fails to comply with one of the measures imposed pursuant to Section 49, subsection 2, paragraph b) or c).

(2) A notified body will commit an offence, if it:

a) contrary to Section 20, subsection 1 performs the action of the notified body without an appropriate authorisation; or

b) fails to comply with one of the obligations pursuant to Section 22, subsection 1 or 4, Section 24, Section 25, subsection 1, 3 or 4 or Section 26.

(3) A legal person or sole trader who is a economic operator or a person who is pursuant to the relevant Regulation of the European Union a manufacturer, importer, authorised representative or distributor, will commit an offence, if he contrary to his obligations makes a product available on the market, puts it into operation or uses it for own use:

a) without the CE marking or other marking specified in the regulation issued to implement this Act, or without a document stipulated by the Government in its Order or by the relevant Regulation of the European Union;

b) with the CE marking or other marking specified in the regulation issued to implement this Act or with a document, which are affixed or drawn up contrary to Section 14 or Section 15 or to the relevant Regulation of the European Union.

(4) A legal person or sole trader will commit an offence, if he as:

a) a economic operator fails to comply with one of the obligations pursuant Sections 6 to 9 and Section 11 or one of the obligations pursuant Sections 29, 30, 32, 34, 35, 37, 39, 40, 41, 44, 47 and 49; or

b) a person who is pursuant to the relevant Regulation of the European Union a manufacturer authorised representative, importer or distributor fails to comply with one of the obligations arising from the relevant Regulation of the European Union.

(5) In case of an offence, a penalty shall be imposed up to:

a) 50 million CZK, in case of an offence pursuant to subsection 3 or subsection 1, paragraph d) or e);

b) 20 million CZK, in case of an offence pursuant to subsection 1, paragraph a), b) or c) or subsection 2, paragraph a);

c) 1 million CZK, in case of an offence pursuant to subsection 2, paragraph b);

d) 500,000 CZK, in case of an offence pursuant to subsection 4.

General procedural rules for the imposition of penalties are governed by the Act No. 500/2004 Coll., Administrative Procedure Code.