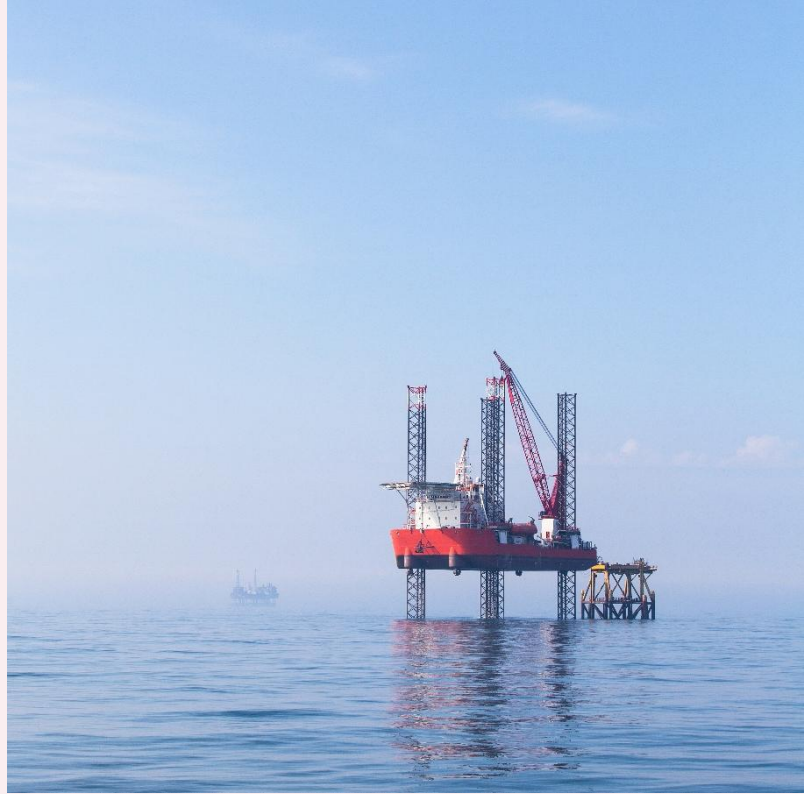


Fuel price regulation: options for petrol station operators



The closure of the Strait of Hormuz by Iran has significantly disrupted fuel prices worldwide. The Czech Republic is no exception, and domestic petrol station operators have also been forced to reflect the increased prices. In response, the Ministry of Finance acted promptly and, on 2 April, issued a price cap measure introducing a cap on the maximum retail prices of fuel sold at petrol stations. However, within just a few days of the measure taking effect, a number of problematic situations began to emerge. Due to market price fluctuations, some operators are purchasing fuel at higher prices than those at which they are subsequently permitted to sell it.

In this briefing, we outline our view on the legality of the price cap measure and summarise the options available to petrol station operators going forward.

Key points

- 1 Price regulation must allow businesses to achieve a reasonable profit
- 2 No direct compensation is available for complying with the maximum price cap
- 3 Breach of the price cap measure may result in fines of up to several million CZK
- 4 A motion to annul the measure can be filed within 3 months of its entry into force

Is the price cap measure compliant with the law?

Under Article 26(1) of the Czech Charter of Fundamental Rights and Freedoms, everyone has the right to conduct a business. An inherent aspect of this right is the ability to pursue a reasonable profit.

The Constitutional Court has repeatedly emphasised that, although the right to conduct a business does not guarantee a profit, the state is required to create conditions that allow individuals to realistically pursue one (see decision No. Pl. ÚS 19/13). For price regulation to remain within constitutional limits, it must not set prices at a level which, taking into

account necessary costs, effectively eliminates the possibility of making a profit.

In the case of the current measure adopted by the Ministry of Finance, we see a fundamental issue in its design. While the maximum price is based on wholesale supply prices, it reflects only the price for a given day. Petrol stations, however, typically purchase fuel in advance. If market prices subsequently fall by more than CZK 2.50 (i.e. the maximum regulated margin), operators may find themselves purchasing fuel at higher prices than those at which they are legally permitted to sell it. The calculation is further influenced by daily pricing on the Rotterdam exchange, which is not directly linked to the actual wholesale purchase prices of individual operators.

In light of the above, we consider the compliance of the measure with statutory law, and potentially with the constitutional framework, to be at least questionable.

What options are available to petrol station operators?

Petrol station operators essentially have three ways to respond to the current situation:

a) Accept the regulation and operate at a loss

If an operator complies with the price cap measure, they may be forced, due to market price declines, to sell fuel at a loss. The measure issued by the Ministry of Finance is currently in place until 30 April 2026, making it a relatively limited time period. However, it should be noted that the Ministry explicitly allows for the possibility of extending or tightening the regulation if the extraordinary market situation persists.

At the same time, the Czech Price Act does not provide any direct compensation for losses incurred as a result of selling below cost.

b) Suspend sales temporarily

Alternatively, an operator may decide not to sell fuel in situations where the maximum price set by the Ministry of Finance for a given day exceeds their own purchase price. This approach was, for example, adopted by some operators on Friday, 10 April. In such a case, the operator does not breach any obligation arising from the price cap measure. However, this course of action may carry reputational risks in relation to customers. In addition, some operators may be limited in their ability to suspend sales due to licensing conditions or contractual obligations with business partners.

As noted above, it also remains uncertain how long the price regulation will remain in place.

c) Disregard the price cap measure

The third and final option is to disregard the price cap measure. Charging prices that are not in line with the officially set maximum price constitutes an administrative offence under the Price Act. The Czech tax authorities may impose a fine of up to five times the unjustified financial benefit gained by the operator, or up to CZK 10,000,000 where such benefit cannot be determined or has not arisen. In administrative proceedings, operators may nevertheless argue that the price cap measure itself is unlawful. If operators are unsuccessful in the administrative proceedings, they may subsequently file an administrative lawsuit, together with a motion to annul the applied price cap measure.

What options are available to petrol station operators?

- Accept the price cap measure and operate at a loss;
- Temporarily close the petrol station and bear the associated negative consequences; or
- Disregard the price cap measure and face the risk of financial penalties.

Irrespective of the three options outlined above, all petrol station operators have the possibility to file a petition with the competent court seeking annulment of the price cap measure on grounds of illegality. If successful, such proceedings may also open the door to potential compensation for damages incurred as a result of the application of the measure. However, this petition must be filed within three months from the date on which the measure entered into force, i.e. by 8 July 2026. This therefore represents the only direct legal avenue to challenge the measure, as well as a potential route to seek compensation within a foreseeable timeframe.

Next steps by the government

The government appears to be aware of the risk of potential legal challenges seeking annulment of the price cap measures issued by the Ministry of Finance. As a result, on Monday 13 April it submitted an amendment to the Price Act to the Chamber of Deputies, proposing that future price regulation could be implemented in the form of a government decree. As correctly stated in the explanatory memorandum, the legality of a government decree cannot be challenged as easily as a regulatory measure before an administrative court. Operators would instead be limited to raising the issue indirectly, for example through a constitutional complaint in proceedings concerning administrative fines imposed by authorities or reviewed by administrative courts.

It is also worth noting that the proposed amendment does not include any form of compensation for petrol station operators. Finally, the government has proposed that the legislation be debated under a state of legislative emergency, which would further limit public discussion of its impacts during the legislative process.

Conclusion

We consider that the current price regulation introduced by the Ministry of Finance may be unlawful, as in certain circumstances it does not allow businesses to achieve a profit, which may be contrary to the constitutional order of the Czech Republic.

Petrol station operators should therefore carefully consider whether to accept these state interventions or actively challenge them.

In any case, we recommend:

- a) closely monitoring the official price bulletin and the regularly published daily maximum fuel prices;
- b) properly documenting all wholesale purchases and retail sales; and
- c) given the short statutory deadline, not delaying the filing of a application to annul the price cap measure.



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