

## **CZECH REPUBLIC**

### **Czech Bar Association**

For the Czech Bar Association ("CBA"), the year 2009 was the year of elections. In October, the Assembly was held and the new Board of Directors, the Supervisory Council and the Disciplinary Commission were elected. Members of absolutely new disciplinary organ - appellate disciplinary commission were elected for the first time. The new Board of Directors elected the President of the Czech Bar Association from among its members on October 20. JUDr. Martin Vychopeň, member of the Board of Directors and Vice President responsible for international affairs during the past electoral terms replaced JUDr. Vladimír Jirousek in that office. JUDr. Antonín Mokrý, Head of the Czech delegation to the CCBE for several years was elected the new Vice President responsible for international affairs. The Czech Bar Association has in total 4 Vice Presidents - JUDr. Jan Brož and JUDr. Petr Poledník defended their offices they had held during the last election term, while JUDr. Aleš Pejchal became the new Vice President responsible for legislation.

The previous year was important for the Czech legal profession also due to the fact that an extensive amendment of the Act on Legal Profession, No. 85/1996 Coll. was adopted – we have provided information on its preparation already in previous years. The amendment came into effect on September 1, 2009, and the following news are worth mentioning:

- 1) As for the applicants for entry into the Register of Lawyers, or legal trainees respectively, compatibility of legal education acquired during studies at foreign universities will be considered more severely. One of the conditions for entry into the lists kept by the Czech Bar Association is achieving the university level education in law, in particular within the master's degree programme studies at a university in the Czech Republic or studies at a foreign university. However, education achieved abroad must be recognized in the Czech Republic as equal to the Czech education on the basis of an international treaty binding on the Czech Republic, or it must be recognized according to the Act on Universities (Act No. 111/1998 Coll.) and concurrently, from the content and scope point of view, it has to correspond to the common education that can be acquired in the master's degree programme, law studies, at a university in the Czech Republic. In the case of applicants for entry into the Register of lawyers/legal trainees whose foreign education was recognized according to the Act on Universities, the Czech Bar Association newly checks whether their foreign education corresponds to the standard Czech legal education from the content and scope point of view.
- 2) Some hitherto existing restrictions in respect to drawing up public documents by visiting European lawyers were cancelled. The Directive 77/249/EEC enables determined categories of lawyers to draw up public documents authorizing for management of deceased persons' assets or documents on creation or transfer of property rights to real estate. The original transposition provision in the Act on Legal Profession absolutely deprived visiting European

lawyers of possibility to draw up contracts on transfer or lease of an enterprise or a part thereof. Due to the fact that extensive interpretation of the exception was not in compliance with the aim of the Directive focused on facilitating free movement of services provided by lawyers, the provision has been updated so that it would not deprive visiting European lawyers of possibility to draw up contracts on transfer or lease of an enterprise or a part thereof and mortgage contracts to the scope to which they do not concern property rights to real estate.

- 3) Issues concerning foreign companies were fundamentally newly regulated. Performance of the legal profession through the so-called foreign company is now possible for established European lawyers (as it was so far) and for “local” lawyers as well. Persons other than lawyers or established European lawyers, i.e. also individuals who – regardless of their citizenship – acquired the authorization to use the professional designation used in a state within the EU, EEA or Switzerland, may become members/partners of foreign companies.
- 4) The obligation was imposed on lawyers to wear gowns during certain judicial proceedings. Lawyers are obliged to wear the gowns, or – using the words of the amended Act, lawyer’s professional clothing, within the criminal proceedings before a court, within the proceedings before the Supreme Court, the Supreme Administrative Court and the Constitutional Court. Appearance/design of this professional clothing shall be regulated by the professional regulation being currently prepared. Introduction of lawyer’s gowns reflects the importance and position of a lawyer within the proceedings before a court, in particular within the criminal proceedings, where both judges (or associate justice) and the state prosecutor wear official clothing, and it seems to be proper for a lawyer to wear a similar clothing in order to be distinguishable from other parties to the proceedings at first sight.

Currently, the Czech Bar Association prepares itself for introduction of electronic identification cards for lawyers and legal trainees. In a significant amount it participates in preparation of a Ministry Decree regulating design, particulars, functions and manner of use of these new identification cards. Electronic cards will replace the hitherto existing lawyer paper cards and in addition to identification function, they should enable lawyers to sign electronically and in future they might be furnished with a certificate by the Ministry of Justice enabling access to electronic files of courts.

### **Statistics, numbers of lawyers and legal trainees at January 11, 2010**

- a) number of Czech Bar Association lawyers: active: 8,808; suspended: 951; deleted: 1,966
- b) number of legal trainees: active: 2,975; suspended: 11; interrupted: 55
- c) annual increase in number of lawyers: 552 (year 2008), 574 (year 2009)
- d) annual increase in number of legal trainees: 1,060 (year 2008), 1,098 (year 2009)
- e) number of independent lawyers: 7,273
- f) number of lawyers in associations: 949
- g) number of lawyers in companies: 427
- h) number of employed lawyers: 151