

Country report, European Presidents' Conference 2013

Czech Bar Association

GENERAL

Lawyer data boxes

Three years ago, a revolutionary change was adopted in the Czech Republic in the system of delivery between state authorities and public administrative authorities, which means that all deliveries made from courts to notaries, executors and lawyers are sent electronically, i.e. into so called data boxes. After a three-year delay it became the obligation of Czech lawyers to set up a data box in July 2012 and to collect matters delivered from courts to Czech lawyers. The CBA has prepared seminars, a technical manual, video manual (available on the website), and set up a call centre – help line at its own costs to help and instruct lawyers on how to set up, activate and operate a data box and deal with all the problems that come with it.

CBA new information medium – Bulletin online

The CBA has launched a new electronic medium, a sibling of the printed professional monthly Bulletin of the Legal Profession – Bulletin online (www.bulletin-advokacie.cz). Part of the content of the electronic Bulletin online is the same as the Bulletin of the Legal Profession, and a part is different – extended by a lot of new information and applications.

LEGISLATION

In 2012 there were several partial changes to legislation in the provision of legal services in the Czech Republic, otherwise the legal framework for the practice of the legal profession was not fundamentally altered in any way and remains relatively unchanged for the long-term. In terms of the evaluation of the effect of Directive 2006/123/EC on services in the internal market, discussions were held on the extension of the circle of legal entities allowed to practise the legal profession (such as joint stock companies), allowing other persons than lawyers to hold a capital interest in law companies and the possibility of operating other lines of business than just the legal profession (so-called *alternative business structures*). CBA expressed a negative standpoint because it wouldn't cause a limitation of free movement of services and the European legislation allows the exceptions as well.

Legal regulations

- Draft Amendment of the Act on the Legal Profession No. 85/1996 Coll.

In 2012 the Czech Bar Association participated in the preparation of the Draft Amendment of the Act on the Legal Profession which responds to the adoption of the new Civil Code. The changes

which the new re-codification of Czech private substantive law brings to the sphere of the practice of the legal profession are mostly of a terminological and legislative-technical nature, however some changes are factual – see, for example, the replacement of the term “damage” with the more extensive term “detriment” which, apart from real damage and lost profit, also includes non-property (intangible) detriment.

Together with the preparation of this change within the Act on the Legal Profession, the Board of Directors of the Czech Bar Association also dealt with other circles of issues whose legislation it will try to enforce in 2013. This especially concerns the issue of preparing for the Bar examination and the practice of the legal profession as such which involves tightening the education of legal trainees and tightening Bar examinations.

- Amendment of Decree No. 177/1996 Coll., Lawyer Tariff

In view of the trend in the economic situation in the Czech Republic and the national budget cuts, the fees of ex officio lawyers have been reduced for the year 2013 by 20%. The draft of the decree was adopted despite the considerable disapproval of the Czech Bar Association that pointed out at a disproportionate decrease of lawyers’ fees and the resulting possibility of a decline of lawyers’ interest in being court-appointed as ex officio lawyers.

- Amendment of Decree No. 197/1996 Coll., Disciplinary Code

The amendment of the lawyer disciplinary code was adopted by the Ministry of Justice based on the incentive of the Czech Bar Association which intended to tighten disciplinary proceedings with lawyers and legal trainees so that they couldn’t avoid disciplinary responsibility by being struck off the register of lawyers (or legal trainees) upon their own request; in this case disciplinary proceedings will no longer be suspended, but only interrupted (for no more than five years). This will avoid a situation when a lawyer (legal trainee) will evade a disciplinary measure by being struck off the register and then being re-registered.

- Amendment of the Act on the Legal Profession No. 85/1996 Coll.

On September 1st 2012 the Act on Mediation came into effect and consequently it also amended the Act on the Legal Profession by laying down new obligations for the Bar in the sphere of mediation. Primarily it is set by the Act that the Czech Bar Association’s duty is to educate lawyers in mediation and to organise examinations in mediation. Those ones who will pass the examinations successfully, will receive Mediation Examination Certificate and afterwards will be registered in the official Register of Mediators maintained by the Ministry of Justice. The CBA exercises disciplinary powers against lawyers – mediators. Lawyers - mediators are therefore exempted from the supervisory powers of the Ministry of Justice.

Professional regulations

- Amendment of the resolution of the Board of Directors of the Czech Bar Association No. 9/1999 of the Official Journal of the Czech Bar Association setting some particulars about lawyer documentation kept for the provision of legal services

In 2012 the Board of Directors of the Czech Bar Association focused on tightening the conditions for lawyers acting as escrow agents. An electronic system of the records of individual escrows (so-called electronic escrow ledger) has been created in which lawyers are obliged to enter identification data regarding money received in escrow (be it cash or by transfer to an account). The system will help with controls carried out by the Czech Bar Association and will contribute to a greater security of the entrusted funds.