



Czech Bar Association

Country Report Czech Republic

46th European Presidents' Conference 2018

CBA Assembly

The 7th Assembly of the Czech Bar Association took place in September 2017. It takes place every 4 years and representatives are elected for four bodies of the Chamber – the Board of Directors, Control Board, Disciplinary Commission, and Appellate Disciplinary Commission. Immediately following the working part of the Assembly, the newly elected Board of Directors of the CBA met in their first meetings, during which JUDr. Vladimír Jirousek was elected the President of the CBA (he was CBA President also in 2004–2009). Vice-Presidents were elected Dr. Petr Poledník, Dr. Tomáš Sokol, Mgr. Robert Němec and Dr. František Smejkal. Amendments to five profession-related regulations were also adopted in the Assembly. 1673 lawyers voted.

CHANGES IN THE LEGAL AND PROFESSION-RELATED REGULATION OF THE LEGAL PROFESSION

1) Legal regulations

Amendment to the Act on the Legal Profession

A long awaited amendment to the Act on the Legal Profession was adopted in 2017, which should ensure greater readiness of lawyer's apprentices (legal trainees), specify obligations of the lawyer-mentor in relation to lawyer's apprentices, and introduce new disciplinary measures in efforts to improve the quality of legal services provided by lawyers. In addition to the changes that have been asserted for a long time, the bill was supplemented with regulation of provision of free legal aid by lawyers and administrative punishment of unlawful provision of legal services by persons without the necessary licenses. Free legal aid includes basic legal advice not exceeding 2 hours per year for each applicant, appointment of a lawyer for free-of-charge representation in proceedings before a court of administrative body, and appointment of a lawyer to provide legal aid to detained foreigners. Legal regulation of administrative punishment of persons illegally providing legal services enables to fine such persons with up to 3 million CZK.

Other legal regulations

In the past year, the Chamber had to face a number of legislative proposals that, to a greater or lesser degree, interfered with the obligation of secrecy as the central pillar or free independent legal profession. In this respect, some attempts were prevented (an amendment to the Tax Code allowing the tax authority to obtain information to the same extent as the Financial Intelligence Unit), some, unfortunately, not (an amendment to intelligence services allowing monitoring of data flows without court protection against such a measure).

In terms of consistency of the rule of law as such, we should mention repeated amendments to the Code of Criminal Procedure, the Criminal Code and other regulations in the area of criminal law; it is understandable that the Czech Republic is obliged to fulfil its international obligations and the EU membership alone brings a number of obligations in the area of criminal law, but the frequency of amendments to the regulations in question is striking. The

same applies to a change in civil procedural norms and enforcement of decisions, and the Enforcement Code. In this regard, the frequency of bills of course reflected the end of the term of office of the Chamber of Deputies and the Government, but it can be expected that this legislative storm will resume after appointment of a new government.

2) Profession-related regulations

Change to the AML resolution

In connection with the upcoming MONEYVAL evaluation in the area of fight against money laundering and financing of terrorism, a profession-related regulation has been revised that specified obligations of a lawyer as an obliged person under the AML law. The profession-related regulation, in terms of regulation of client control, newly reflects obligations when establishing a business relationship whose subject is monitored activities with a politically exposed person—it states that an approval of a governing body of the company or a member appointed by the governing body is necessary. These changes took place in cooperation with the Financial Intelligence Unit towards which the Chamber plays the role of a mediator in the performance of the Unit's duties in relation to lawyers.

Change to the resolution on the Social Fund

In the past, the Czech Bar Association established a Social Funds used to provide lawyers with funds for a variety of purposes. The latest amendment of this year made it possible to use these funds for some additional reasons, and at the same time increased some amount to better fulfil the purpose for which they were established.

GENERAL INFORMATION

Statistical data as of 31 December 2018

Number of lawyers: 11,593

Number of legal trainees: 2,957

Number of lawyers registered in 2017: 644

Publications about the legal profession

The law on the legal profession and professional regulations. Commentary

The commentary responds to an amendment made by Act No. 258/2017 Sb. The publication is a result of decades of experience of mostly practising lawyers, who enriched it with references to related legal regulations, but also full texts of profession-related regulations published by the Czech Bar Association. It also includes case law of general courts and commented quotations of decisions of disciplinary senates of the CBA's Disciplinary Commission. For better orientation in profession-related regulations, there is a chronological

list of profession-related and legal regulations, three dozen tables that neatly compare the subject matter discussed, and several dozen model documents.

Advocacy Law

This publication is not a commentary explaining the provisions of a law, but a commentary on topics associated with the exercise of the legal profession, including controversial ones, relating to reflections on adequate remuneration, possible advertising, provision of services, provision of information about business, and more. The publication deals with provisions related to the legal profession in the broadest sense, from laws of the highest legal force to decrees, or resolutions of the Chamber bodies. The publication is a work of several authors-lawyers, most of whom have also experience with work in the Chamber bodies, and it is intended not only to lawyers and the professional public, but to all who want to know the rules and mission of the legal profession.

Lawyer of the Year 2016

The 13th year of the judiciary-wide contest Lawyer of the Year took place in January 2017. Its organizer is the CBA together with the EPRAVO.CZ publisher. Those who have achieved extraordinary results in their areas are awarded in several categories (e.g., civil law, criminal and financial law, intellectual property law, but also Talent of the Year, Pro Bono, and more). The highest award is the award for lifetime achievement, awarded in the category of Lawyer Hall of Fame. Last year, this award was awarded to Dr. Iva Brožová, who was a constitutional judge for several years and between 2002 and 2015 the President of the Supreme Court and whose merits in the area of independence of the judiciary are essential and invaluable.