



Czech Bar Association

**Country report
Czech Republic**

48th European Presidents' Conference 2020

STATISTICS

Statistics on lawyers and trainee lawyers as of 31. 12. 2019

Number of lawyers: 12121

Number of trainee lawyers: 2610

Number of lawyers registered in 2019: 635

CHANGES IN THE LEGISLATION AND PROFESSIONAL RULES ON THE LEGAL PROFESSION

1) Legislation

Transposition of DAC 6

During 2019 the Ministry of Finance of the Czech Republic opened the consultation process on a draft act amending certain acts in connection with the implementation of European Union tax regulations and linked to the prevention of double taxation. Among other things, the draft act implemented DAC 6 (Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements).

In the Czech Bar Association's opinion, the original draft of the act breached lawyers' duty of confidentiality by obliging a lawyer to notify a client of the fact that the obligation of automatic provision of information on a cross-border arrangement was passed on to the client because he himself is bound by professional confidentiality. Meanwhile the lawyer was obliged to submit such a notification to a tax administrator upon request. The extent of the information that was to be contained in the notification was moreover equivalent to the extent of information on cross-border arrangements that the Directive requires to be automatically reported. This comment of the Czech Bar Association was accepted during the consultation procedure, with the outcome that the duty of confidentiality would not be compromised.

AML Act

In 2019, a draft amendment of the AML Act was presented, which implements the 5th AML Directive (Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU). As well as implementing the directives, the draft legislation also takes into account the supranational evaluation of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) regarding implementation of the international standards to counter money laundering, the financing of terrorism and the proliferation of weapons of mass destruction (FATF Recommendations), which took place in 2018. The Czech Bar Association filed a whole series of fundamental comments, as the draft dramatically changed certain issues concerning the status of lawyers as obliged entities and the status of the Czech Bar Association as a supervisory body. The Association's status changes primarily in the sense that future unlawful conduct by lawyers is to be dealt in administrative proceedings as a misdemeanour and not in disciplinary proceedings as a disciplinary offence, which is a significant deviation from the current rules of disciplinary punishment.

Lobbying

Another regulation affecting the legal profession per se is the draft act on lobbying. This draft act establishes an obligation for lobbyists to sign up to a register to be kept by the Office for Economic Supervision of Political Parties and Political Movements. Reports on meetings between lobbyists and lobbied persons are subsequently to be entered in this Register. These reports represent a “legislative trail” that will make it possible to track down - in relation to all legal regulations - who had dealings with whom for the purpose of influencing the legislative process. The Czech Bar Association adopted a relatively neutral approach on the draft act.

Proportionality test

In connection with Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, Directive (EU) 2018/958 of the European Parliament and of the Council of 28 June 2018 on a proportionality test before adoption of new regulation of professions was adopted. The Directive concerns new legislation governing regulated professions (including the legal profession) and demands that all such new draft legislation be subjected to a proportionality test. Proportionality is one of the general principles of Union law. It follows from case-law that national measures liable to hinder, or to make less attractive, the exercise of fundamental freedoms guaranteed by the Treaty on the Functioning of the European Union should fulfil four conditions, namely, they should: be applied in a non-discriminatory manner; be justified by public interest objectives; be suitable for securing the attainment of the objective which they pursue; and not go beyond what is necessary in order to attain that objective.

The implementation of the Directive in the Czech Republic is proposed to take the form of a government regulation implementing the Act on the Recognition of Professional Qualifications. The draft requires those submitting draft legal regulations to perform a proportionality test in the extent laid down by the regulation and to inform the Ministry of Education, Youth and Sports of the Czech Republic, as the national coordinator for the recognition of professional qualifications, of the results. The Ministry will then inform the Commission.

Change to the Bar exam rules

In 2018, an amendment of the Bar exam rules was adopted, making a written test part of the Bar exam. Passing this test is a precondition for taking the written and oral part of the Bar exam. This new part of the Bar exam was introduced in 2019. A set of 3,500 questions on constitutional law, administrative law, civil law, family law, labour law, commercial law, criminal law and legal profession ethics was drawn up. The written test is composed of 100 questions generated at random (separately for each candidate). Passing the test requires 85 correct answers.

2) Professional regulations

Publication of the Czech Bar Association Official Journal in electronic form

An electronic Collection of Acts and Collection of International Treaties is about to be launched in the Czech Republic as another step towards eGovernment. In this regard, the Czech Bar Association also changed the form in which the Czech Bar Association Official Journal is published: starting with volume 1/2019, the Official Journal has been issued solely in electronic form posted on the Czech Bar Association’s website.

Change to the electronic escrow ledger

Since 2012, lawyers have been obliged to declare the receipt of monies for lawyer's escrow in the electronic escrow ledger, which is a central record of escrows operated by the Czech Bar Association. In order to ensure greater legal certainty for clients and more effective control work by the Association's control bodies, the range of information entered in the ledger for each escrow was widened.

GENERAL INFORMATION

Lawyers into schools

In 2019, the Czech Bar Association launched a "Lawyers into schools" project under the auspices of the Ministry of Justice of the Czech Republic and the Ministry of Education, Youth and Sports of the Czech Republic. The project is based on lawyers' voluntary and unpaid involvement in children's education in the upper levels of primary school and lower levels of secondary school. Schoolchildren from 7th to 9th grade and pupils at secondary vocational schools are the target group. The usual duration of discussions with the schoolchildren is one to three hours. The selected lawyers who signed up for the project and were approved by the Czech Bar Association discuss general legal topics with the schoolchildren. To this end, they use materials (including comics) prepared by the Czech Bar Association, the lawyers themselves or a psychologist.

Lawyers against Totalitarianism

To mark the 30th anniversary of the Velvet Revolution, the Czech Bar Association presented a unique project called Lawyers against Totalitarianism. The project kicked off with a conference at the High Court in Prague giving an insight into the hardships suffered by ten prominent representatives of the legal profession who stood up to the totalitarian regime and contributed to the regained freedom of Czechoslovak society. A book entitled *Lawyers against Totalitarianism* was also launched at the conference. The project also included an interactive exhibition at the Czech Bar Association's headquarters, in which key information about the featured personalities was displayed on panels and some of their personal items were displayed in glass cabinets. The exhibition was open to the public free of charge from November 2019 to January 2020. A website was set up for Lawyers against Totalitarianism: <https://www.advokatiprotitotalite.cz/> .

The Bar Journal (Advokátní deník) – new online medium of the Czech Bar Association

The Bar Journal (Advokátní deník), a new electronic news medium of the Czech Bar Association, was launched on 8 April 2019. The Bar Journal informs both members of the legal profession and the general public about domestic and international developments from the world of law and the legal profession: <https://advokatnidenik.cz/>.

Lawyer of the Year 2019

The 14th annual Lawyer of the Year, a competition encompassing the entire legal profession and organised by the Czech Bar Association together with the EPRAVO.CZ publishing firm, took place in January 2019. The competition honours those who have achieved outstanding results in several categories (e.g. civil law, criminal law, financial law, intellectual property law, but also Talent of the Year, Pro Bono and other categories). The highest award is the lifelong achievement award handed out in the Lawyers' Hall of Fame category. Last year Petr Pithart, lawyer, philosopher and university professor, former dissident, former Prime Minister and Chairman of the Senate of the Czech Republic, became the award's fourteenth recipient.