

Czech Bar Association – Country report

52nd European Presidents' Conference 2024



STATISTICS

Statistics on lawyers and trainee lawyers as of 31 December 2023

Number of lawyers: 12766

Number of trainee lawyers: 2463

Number of lawyers registered in 2023: 551

CHANGES IN THE LEGISLATION AND PROFESSIONAL RULES ON THE LEGAL PROFESSION

Amendment of the Legal Profession Act

The Czech Bar Association initiated the amendment of the Legal Profession Act in 2022, and the associated legislative process continued throughout 2023. The amendment is focused primarily on the following issues:

A. Lawyer-client privilege

The main objective of the Czech Bar Association's 2022 proposal to amend the Legal Profession Act was to enshrine protection for the confidentiality of lawyer-client communications in law. Its legislative proposal rests on three pillars: that any information exchanged with a lawyer during the provision of legal services is confidential; that only the client, and nobody else, may decide what is done with confidential information; and that no one can be forced to provide confidential information without the client's consent. Discussions regarding the amendment of the Legal Profession Act continued throughout 2023, and it is anticipated that a bill will be introduced into Parliament in 2024.

B. Legalisation of electronic signatures by lawyers

The proposed amendment to the Legal Profession Act includes, among other things, a legislative solution for the legalisation of electronic signatures by lawyers. In collaboration with the Ministry of Justice, the Ministry of the Interior and the Digital and Information Agency, a solution is to be found that will allow lawyers to certify the authenticity of electronic signatures under the same or similar conditions as apply during the official verification of electronic signatures by public authorities.

C. Part-time legal traineeships

The Czech Bar Association proposes that in special cases legal trainees should be allowed to pursue their professional training on a part-time basis. At present it is only possible to undertake legal training on a full-time basis (i.e. the statutory working week of 40 hours). It is therefore proposed that in cases worthy of special consideration the condition of a full working week may be waived, with the proposed amendment to section 5 extending the length of professional training proportionately. This will apply, for example, to legal trainees who are caring for a minor child, etc.

D. Stricter penalties for unlawful provision of legal services by non-lawyers

Practical experience has shown certain shortcomings in the existing legislation on minor offences involving the unlawful provision of legal services by non-lawyers. As a result, a whole range of cases have escaped penalisation because it was not possible to prove that legal services were provided in exchange for payment. An amendment has therefore been passed, so that it is now a minor offence for non-lawyers to even offer legal services.

Amendment of the Lawyers' Tariff

The Czech Bar Association has been pressing for amendment of the Lawyers' Tariff since 2022. This amendment aims to increase lawyers' fees and compensation for the provision of legal services in line with inflation and the rise in costs since the last increase in 2006. The revised proposal has been repeatedly discussed with representatives of the judiciary, who recognise the need to increase lawyers' fees and compensation in the context of recent economic developments, as well as to ensure the availability of legal services across the various regions. However, they have also drawn attention to certain cases where fees have risen multiple times, up to a level which, in their view, is not justified by inflation.

Amendment of the professional rules on lawyers' escrow services

In an effort to increase the transparency and security of lawyers' escrow services, the Board of Directors adopted an amendment to its resolution on lawyers' provision of escrow services in respect of money, securities and other client assets. This amendment requires lawyers to advise clients whose funds are held in escrow of the option to receive notifications from the custodian bank, and to arrange for notifications to be sent by the relevant bank if a client so requests. Lawyers must discharge this duty to advise in writing, so that this can be recorded in the documentation of the services provided. If a client asks to receive notifications of account activities, lawyers are required to arrange with the bank for such notifications to be sent, and cannot subsequently withdraw their consent to this.

A second measure to increase the transparency of cash escrow is the requirement for lawyers to register the client's email address in the digital escrow records maintained by the CBA. The CBA will then send confirmation of the opening and closing of the escrow account to that address. However, this obligation applies to lawyers only if the client expressly requests it.

Increase of the minimum indemnity limit

In 2023 the CBA's Board of Directors increased the minimum indemnity limit from CZK 7 million to CZK 7.5 million. This applies to all lawyers practising either as sole practitioners or in association as partners in a general partnership or general partners in a limited partnership.

The Constitutional Court's judgment regarding lawyers' duty of confidentiality and the imposition of procedural fines by the courts

On 21 November 2023 the Czech Constitutional Court delivered a very important decision for the legal profession, as it concerned the duty of confidentiality and the imposition of procedural fines on a lawyer who refused to testify (as a witness) about her client, citing her duty of confidentiality and claiming that she had doubts about the circumstances of her release from that duty. The Constitutional Court stressed that maintaining confidentiality is not a lawyer's RIGHT, but a lawyer's DUTY, and this must be honoured, even when duly released from it, if the lawyer believes the client has done so under duress or in adverse circumstances (section 21(2) of the Legal Profession Act).

The Constitutional Court considers lawyers' duty of confidentiality to be one of the essential elements for safeguarding the constitutionally guaranteed fundamental human rights to judicial protection under Article 36(1) of the Charter, and to legal aid under Article 37(2) of the Charter, and to be entitled to special protection as one of the pillars on which lawyer-client privilege is founded. The Constitutional Court also held that if presiding judges believe the conduct of lawyers or public prosecutors would justify procedural fines, they should refer them to the competent disciplinary bodies, i.e. in this case the Czech Bar Association.

OTHER ACTIVITIES OF THE CZECH BAR ASSOCIATION

Election of the President and Vice-Presidents of the Czech Bar Association

Two years after the 8th Assembly of the Czech Bar Association, at which a new Board of Directors was appointed with a four-year mandate, the time came to re-elect the CBA's senior leadership, i.e. its President and Vice-Presidents. Dr. Robert Němec, LL.M. was elected once again to serve a further two years as President, and the Vice-Presidential roles were filled by Dr. Martin Maisner Ph.D., MCI Arb., Dr. Monika Novotná, Dr. Michala Plachká and the newly elected Dr. Ondřej Trubač Ph.D., who replaced Dr. Petr Toman following his resignation as Vice-President and member of the CBA's Board of Directors.

Lawyer of the Year 2022

The 17th year of Lawyer of the Year, a competition encompassing the entire legal profession organised by the Czech Bar Association together with the EPRAVO.CZ publishing company, took place in May 2023. 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 work award handed out in the Lawyers' Hall of Fame category.

The CBA's highest honour, the Saint Ivo Award for a lifetime of service to Czech law, went to JUDr. Martin Šolc, a specialist in commercial and international law, especially mergers and acquisitions, a previous Lawyer of the Year award winner in the field of commercial law, former Vice-President and President of the CBA and former Vice-President and President of the IBA, who was also inducted into the Lawyers' Hall of Fame.

At the Lawyer of the Year 2022 gala evening this year, the Czech Bar Association awarded a brand new distinction for eminent foreign colleagues – the Order of the Czech Legal Profession. For his contribution to the profession on the international stage and his role in the development of Czech-Croatian legal relations, CBA Vice-President JUDr. Martin Maisner, Ph.D., MCI Arb., presented this award to magistr jurist Ranko Pelicarić, a Croatian lawyer who is said to be a true Croat in spirit, but with the Czech Republic a second homeland in his heart.

First Bar Leaders Meeting in the “city of justice”, Brno

On the occasion of Lawyer of the Year 2022 the Czech Bar Association also staged its first Bar Leaders Meeting, involving presidents and representatives of bar associations with which the CBA closely collaborates. The invitation was accepted by representatives from Slovakia, Germany, Austria, Poland, Croatia and Hungary, and the topics discussed included lawyers' escrow services, free legal aid, digitalisation and the duty of confidentiality.

Czech Bar Association “Open Forum Days”

In 2022 the CBA’s leadership rolled out a new concept of “Open Forum Days”, to which lawyers – especially those practising in the regions – can come to ask questions and discuss current issues concerning their professional life and the practice of law with members of the Board of Directors face to face. Alongside digital and print media activities, the CBA’s leaders are committed to a policy of direct and open communication, and to making this as personal as possible, particularly at the regional level. CBA Open Forum Day 2023 was held with great success in Ostrava, and more of these days are in the pipeline.

The First Czech Bar Association Open House

With a view to forging better and stronger relations between legal practitioners and their professional organisation, the Czech Bar Association staged its first Open House events this year, first at its Brno branch office (25 October 2023) and then at its headquarters in Prague (7 November 2023). In Brno it hosted nearly forty lawyers, who had the chance to talk with members of the CBA’s Board of Directors and branch staff, visit the historical premises of Klein Palace where the branch is based, and take part in other accompanying events. The CBA headquarters on Národní Street in Prague then welcomed more than sixty lawyers, predominantly from the younger generation, who were treated to a guided tour of the baroque Kaňka Palace, spoke with members of the CBA’s Board of Directors and leadership, and attended a workshop on the theme of the motivations for working in a law firm. These first Open House events proved to be a positive experience, and established a new tradition that will be repeated.

Lawyers for Children’s Homes

The Czech Bar Association has launched a new project entitled “Lawyers for Children’s Homes”, which aims to offer legal advice where it is truly needed by means of talks and group discussions. Events are planned both for children’s home staff and the children themselves. The main objective is to encourage a wider understanding of the most important issues that these young people frequently encounter in the last stage of their residency in children’s homes, and soon after leaving them especially. The talks focus on employment law, family law and criminal law, as well as the issues of debt and tenancy. The project is also planned to include motivational group meetings with lawyers as well as broader engagement in a range of projects designed to help children’s home residents and others in a similarly vulnerable position (e.g. in shelters). The target participants are practising lawyers and trainees who are interested in pro bono participation in talks and discussions to help raise legal awareness among young people from children’s homes as well as the staff who are in daily contact with them and help them to handle their legal problems.

Support for the Israel Bar Association and Israeli lawyers

The Czech Bar Association has expressed its support for its Israeli colleagues in the wake of the terrorist attacks on Israel. In a letter to the President of the Israel Bar Association, Amit Becher, the President of the Czech Bar Association, Robert Němec, condemned the attacks in Israel on behalf of the Czech Bar Association. The CBA also added its voice to the demands of the Israel Bar Association (addressed to the international community and bar associations) for the release of hostages.