

Introduction to Czech Business Law

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www.michalcerny.eu

The history

- Austrian Empire, Austrian-Hungarian Empire,
- Czechoslovak Republic from 1918 to 1938
- Occupation and the Second World War
- Czechoslovak Republic from 1945 to 1948
- Time of captivity (1948 – 1989)
- From 1989 till today
- The prospect to the future

Austrian Empire, Austrian-Hungarian Empire,

- Czech lands (Bohemia, Moravia, Silesia) and Slovakia were part of Austrian Empire (since 1867 Austrian-Hungarian Empire) – till 1918
- Modern Codes of private law – 1811: Civil Code, 1863 Commercial Code, + modern Trade Licence Order (1857)



 **Czechoslovak Republic**

- After WW1 – (CS) adopted former law (austrian law in Czech lands, hungarian law – Slovakia, Sub-Carpathian Ukraine)
- Several new acts and orders adopted – eg. Act on Protection of Competition (111/1927)
- Bills of new Civil / Commercial Codes had been prepared - but never adopted





Occupation and the Second World War (1938/39-45)

- No free Czechoslovak Republic but business law without important changes
- Protectorate was under German Empire. Independent Slovak State.
- Trade under german control – in Protectorate Bohemia and Moravia



(CS) 1945-1948

- Nationalization of big industrial property (movie industry, banks, insurance companies ...) – no compensations
- Regulations for other trades, no free business



Time of captivity (1948-1989)
(during Cold War)

- No free trade, everything was planned by state
- Communist party had a leading status in society – by the Constitution
- No private legal persons, theoretically it was possible to found a joint stock company (Act 1949) but in fact it was an Act for the purposes of communist state only
- Theoretically it was possible to run a private enterprise – impossible in fact



1989

- Change of society (the Velvet Revolution – 17th November 1989)
- Leading role of Communist party deleted from the Constitution (1989), Vaclav Havel elected a President of (CS) – 29th December 1989,

Early 90s – Czech and Slovak Federal Republic

- Free (private) trade – allowed since 1990, foundation of private companies – allowed since 90, first free elections – June 90, Trade Licensing Act adopted 91, Act on Protection of Competition (91)
- New Commercial Code adopted in 91 (in force since 1st January 92), big amendment (in fact big change) of Civil Code – adopted 92,
- New tax system – acts adopted 92



1993

- Split-up of (CS) – new country: (CZ) 1st January 1993
- CZ: former Czech state law and former CS federal law – still valid in CZ (take over of law)



1996, 2000

- New Act on Trademarks (1995)
- (first) Big amendment to Business Code - 96
- Regulations on company law changed (mainly)
- Association of (CZ) to EU - 96
- (second) harmonisation amendment to Business Code – 2000, technical amendment to Business Code – 2001 (re-adopted 2003)



2001-2004

- New Act on Protection of Appellations of Origin and Geographical Indications – 2001
- New Act on Protection of Economic Competition - 2001
- New Act on Trademarks – 2003
- New regulations on Securities and business activity on this field



01.05.2004



- CZ entry into EU – 2004, Act on EEIG, Act on SE
- New regulations for Business Register - 2005
- *Acquis Communautaire*

Future:

- Bill of new Civil Code (Private Law Code) prepared, bill of new Act on Business prepared
- We try to go to our „private law roots“ and combine them with the most modern trends in private law

Sources of Czech Business Law

Sources – written in Business Code (Section 1)

- Business Code
- Sources of Civil Law (if a question is not regulated by Business Code)
- Trade practises
- Principles of Business Code

All actual Sources

- Business Code + special other regulations of business law (special acts, international treaties) + EU Council Regulations
- Civil Code and other regulations of civil law
- Trade practises
- Principles of Business Code

The principles of Business Code

- The principle of freedom of contract
- The principle of equal position of the parties
- The principle of good will and protection of third parties
- The principle of fair business
- The principle of professionalism

Trade Licencies

- Act 455/1991 Coll. – Trade Licensing Act
- General regulations for both physical and legal persons
- It regulates basic conditions for majority of business activities



General conditions for carrying trade

- To be at least of 18 years of age
- To have a full legal capacity
- To have no criminal conviction according to the Trade Licensing Act, Section 6(4)
- A document testifying that the natural person, if he transacts or has transacted business in the Czech Republic, has no tax arrears. This document is issued by the locally competent revenue office. The document must not be older than 3 months.
- A document testifying that the natural person, if he transacts or has transacted business in the Czech Republic, has no arrears in payment of social security contributions and the state employment policy contribution. The document is issued by the local social security office. The document must not be older than 3 months.

Special conditions

- Professional competence - just for selected trades (permitted trade, vocational trade, professional trade)
- If there is no special condition than the trade is free (free trade – only registration is needed)
- Legal persons – through a responsible representative (physical person, for max 2 legal persons)

Trades (according to TLA)

- Unqualified Trade (volná živnost) – general conditions only
- Vocational Trade (řemeslná živnost) – general conditions, school + experience needed
- Professional Trade (vázaná živnost) – general conditions + special exam (acc. TLA annex 2)
- Permitted Trade – general conditions + qualification + permit
- For details see also: <http://www.czech.cz/en/economy-business-science/doing-business/trade-business/>

Activities of Foreign Persons

Foreign person:

WHO IS?

- An individual whose residential address is outside (CZ) territory,
- a legal entity whose seat is outside (CZ) territory
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Section 22 (Commercial Code)

- Under Czech law, the legal capacity of a foreign person other than a foreign individual (foreign national) is determined by the law under which such person was established.
- This law also governs the foreign person's internal legal relations and its members' or partners' liability for the person's obligations.

Section 23 (Commercial Code)

- Foreign persons having the right to engage in business activities abroad are considered to be entrepreneurs under the provisions of this Code.
- *It does not mean that every foreign person has right to run a business activity*
- *It means: Relation between CZ businessman and foreign (eg. (A)) businessman is COMMERCIAL relationship*

3 possibilities – WHAT TO DO (HOW TO MAKE OWN ACTIVITY IN CZ)

- Capital Investments (capital interests) – everybody is allowed to found a new company or buy a share in existing company. The business ACTIVITY is run by Czech Legal Person
- Relocation of a Legal Entity's Seat – if international treaty binding on the Czech Republic and promulgated in the Collection of Laws /Collection of International Treaties
- *Foreign person's business activity in CZ - means that the foreign person has an enterprise or its component (branch, permanent establishment) located in the Czech Republic (and recorded in Business Register)*

WHEN CAN ONE START?

- A foreign person's authorization to carry on a business activity on the territory of **the Czech Republic** takes effect on the day as of which that person, or that person's organizational component, is recorded in the (Czech) Commercial Register. Such foreign person is authorized to engage in the range of business activities specified in his (its) entry in the Commercial Register. The application for this is filed by the **foreign person concerned.**

Special Rules for EU citizens/persons

Individuals (natural persons) who have a permanent residential address in a member state of the EU or in some other state of the European Economic Area if such individuals carry on business activity on the territory of the Czech Republic – NEED NOT BE REGISTERED in Business Register (CZ).

Trade Licence (or other Licence) is still needed



EU



- Temporary operation of Business Activity – EU citizens/persons – NO CZ LICENCE IS NEEDED (if such person is licensed in his/hers own residential country)
- ECJ: European Commission x CZ (case of dentists, Dentists Chamber obligatory membership – if foreign dentist wants to do at least single medical help)

New Law

- Directive EP&C 2006/123/EC, 12th December 2006, on Services on Internal Market
- Implementation Period for member states – end 2009

Sources:

- Map of EU was taken from electronic publication „Europe today“ (www.europa.eu)
- All state symbols (incl. flags & state coat of arms) and all other maps were take from WIKIPEDIA – free internet encyklopedia (www.wikipedia.org OR cs.wikipedia.org)
- Picture of Trade Licence was taken from webpage: http://www.hanakpps.cz/Stranka_Zivnostensky_list.asp
