
Practical Guide for EU, EEA and Swiss Lawyers on Service and Establishment

CZECH REPUBLIC

SEPTEMBER 2018

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Structure	Information received
1. Establishment	
1.1. Registration with Host Bar	<p>Main legal regulations for establishment and registration with the Host Bar, ie. The Czech Bar Association (hereinafter referred to as “CBA”):</p> <ul style="list-style-type: none">• Act on the Legal Profession (hereinafter referred to as “ALP”) <p>Link: https://www.cak.cz/assets/zoa-2017_en_s-dodatkem_final.pdf</p> <ul style="list-style-type: none">• Code of Conduct: (hereinafter referred to as “CoC”) <p>Link: https://www.cak.cz/assets/code-of-conduct_as-of-march-2018.pdf</p> <p>Registration</p> <p>The Registry Office of the Czech Bar Association records in its Register of established European Lawyers every lawyer who submits the following documents:</p> <ul style="list-style-type: none">• a written application containing the address of the registered law office in the Czech Republic, including all possible contact details and the date of the requested registration. There is no official form for this application, a letter will suffice.• a certificate authorizing the provision of legal services in the home country with a certified translation into Czech (a certified copy of the lawyer’s identity card or certificate)

- a document on insurance (insurance certificate) for liability for damage caused when providing legal services, including confirmation that this insurance applies to the activity of the established European lawyer within the territory of the Czech Republic (a certified copy with a certified translation into Czech)
- ID proving that the applicant is a citizen of an EU member state or a member state of the Agreement on the EEA or third country nationals residing in EU country (*a certified copy of a passport or identity card, or the original document and the authorised employee of the Registry Office will certify the document directly in person*)

Relevant national provisions :

- ALP: § 12; § 35n par. 2,3
- CoC: Art. 21, 22

Registration fee: CZK 4.000 (approx. € 160)

Membership annual fee (contribution for the CBA activities for the year 2018)

- a) 8.000,- CZK
- b) 3.000,- CZK if a lawyer's practice of the legal profession was suspended
- c) 4.000,- CZK, if a lawyer is registered in the Register of Lawyers after June 30, 2018

Please note that the membership annual fee will be increased as of 2019 to CZK 10.600 (approx. € 424).

Contribution to the CBA Social Fund (for the year 2018):

- a) 500 CZK,
- b) 250 CZK, if a lawyer is recorded in the Register of Lawyers after June 30, 2018
- c) lawyers whose practice of the legal profession is suspended do not pay this contribution

The contributions are due by 20 January. If a lawyer is recorded in the Register of Lawyers after January 20, the contributions are due within one week of the date of the registration.

Once registered the Czech Bar Association will inform the Home Bar about the registration.

The registered European lawyer will receive an identification number and a five digit registration number starting with number 5 and will appear in the search of lawyers maintained by the CBA: <http://vyhledavac.cak.cz/>

Lawyer's Professional Identity Card

Once registered the lawyer proves his entitlement to provide legal services by the Certificate or the Lawyer's Professional Identity Card. In order to receive the Lawyer's Professional Identity Card it is necessary to make an appointment and come in person to the seat of the CBA as a photo will be taken. The first issuance of the card is for free. For appointments in Prague, please call: 00420/273193226.

	<p>Electronic data box</p> <p>Once registered the lawyer will receive information about his/her electronic data box which he/she is obliged to use. Information on the electronic data box (webpage of Ministry of Interior):</p> <p>http://www.mvcr.cz/mvcren/article/data-box-another-step-in-electronification-of-public-administration.aspx</p>
1.2. Title	<p>The lawyer must practice under his/her home professional title which must be expressed in the official language and refer to the entry in the Register of European Lawyers in addition to the title.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35n par. 2
1.3. Salaried practice	<p>Employment as lawyer is permitted only to another lawyer or law firm.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 15a par. 1 and 3
1.4. Legal Form and Shareholding	<p>Must correspond with the core principles laid down for Czech lawyers: no MDPs, no ABSs and no participation of non-lawyers.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 11; § 35n par.4
1.5. Joint Practice	<ul style="list-style-type: none"> • Lawyers who are members of a Consortium have to have common registered seat; <p>ALP: § 13 par.3</p> <ul style="list-style-type: none"> • Lawyer who is member of a Consortium may not at the same time, practise the legal profession as a sole lawyer or as a member of Company or as the member of a Foreign Company, or in another Consortium, nor as an employee. <p>ALP: § 11 par.1</p>
1.6. Areas of Activity	<p>Representation of clients before all courts and administrative authorities. Advise in the law of home and host state and European and International law.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35l par.2; §35o; § 35 p
1.7. Practice Rules	<p>When an established lawyer provides legal services subsisting in representation of clients before courts and other bodies, including defence in criminal proceedings, and where special legislation stipulates that a party must be represented by a lawyer, or that only a lawyer may be the representative of a party, an established lawyer must appoint a Czech lawyer, upon agreement with his client, as a consultant in procedural issues to be solved in the proceedings.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35p

1.8. Principle of Double Deontology	<p>The established lawyer is a subject to the regulations not only by his/her home bar but also by his/her host bar.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35n par.1 - CoC: Art. 1 par.1; Art. 2 par.2
1.9. Disciplinary proceedings	<p>See above.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35q; § 35r - ALP: §§ 32 – 35e
1.10. Insurance (professional indemnity insurance, social security, etc.)	<p>A document on insurance (insurance certificate) for liability for damage caused when providing legal services, including confirmation that this insurance applies to the activity of the established European lawyer within the territory of the Czech Republic (a certified copy with a certified translation into Czech) is needed.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 24a; § 24b; § 24c
1.11. Fees	<p>A lawyer's fee for his provision of legal services shall be regulated by the lawyer's contract between the lawyer and his client ("contractual fee"). Where a lawyer's fee is not set by a contract it shall be governed by provisions of the Regulation regarding non-contractual fees.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: §22 <p>Regulation of the Ministry of Justice No. 177/1996 on fees and remuneration of lawyers for the provision of legal services (the lawyer's tariff) as amended</p> <p>https://www.cak.cz/assets/lawyers-tariff_as-of-march-2018.pdf</p>
1.12. Continuing Legal Education	<p>Not required.</p>
1.13. Bar	<p>By registration, you become a member of the Czech Bar Association. However, you are not electable to a representative body of the bar.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35n par.5
1.14. Conditions for the Acquisition of the	<p>The Bar admits to the Bar and records in the Register of Lawyers, upon a written application and making of the promise, a European lawyer who has fulfilled requirements under s. 5 (1) a) and d) to g) and i) of the ALP and who has proved</p>

<p>Title of a 'National Lawyer'</p>	<p>a) that he has provided legal services in the Czech Republic as an established European lawyer for at least three years without any significant interruption, and that</p> <p>b) he has provided legal services in the area of law of the Czech Republic.</p> <p>Relevant national provisions : ALP: § 5b</p> <p>If a person applying for the admission to the Bar fails to fulfil the requirement of provision of legal services in the area of law of the Czech Republic but in an interview before a three-member panel appointed by the President of the Bar, proves that his knowledge of the law of the Czech Republic and of professional rules, and his experience acquired during his provision of legal services, are sufficient to practise the legal profession, the Bar may waive that requirement partly or fully.</p> <p>Relevant national provisions : ALP: § 5c</p> <p>The Bar admits to the Bar and record in the Register of Lawyers, upon a written application and making of the promise, a citizen of a home country or a citizen of other state being permanently established in any home country who has fulfilled requirements under s. 5 (1) a) and d) to g) and i) of the ALP, and who</p> <p>a) proves that he has fulfilled requirements for professional education and practice set in his home country in order to be entitled to provide legal services under the professional title according to s. 2 (1) b), and who</p> <p>b) passes the aptitude test (s. 54 (2)).</p> <p>Aptitude test: see below in 3.2.</p>
<p>2. Services</p>	
<p>2.1. Under home title & representation before courts</p>	<ul style="list-style-type: none"> • Service under home professional title which must be expressed in the official language – before courts and administrative authorities <p>ALP: § 35g</p> <ul style="list-style-type: none"> • Courts and administrative authorities may require proof that you are lawyer in your home state/ a European lawyer identity card (translated into the Czech language) <p>ALP: §35k</p> <ul style="list-style-type: none"> • When a visiting EU lawyer provides legal services subsisting in representation of clients before courts and other bodies, including defence in criminal proceedings, and where special legislation stipulates that a party must be represented by a lawyer, or that only a lawyer may be the representative of a party, a visiting EU lawyer must appoint a Czech lawyer, upon agreement with his client, as a consultant in procedural issues to be solved in the proceedings. It is required to appoint Czech attorney as an agent to whom will the court or other bodies send all documents. This attorney is thus appointed solely for the purpose of service of the documents. <p>ALP: § 35j</p>
<p>2.2. Deontology</p>	<p>The visiting EU lawyer providing legal services in a host country shall observe professional rules of his home country. The Czech legal regulations are applied as subsidiary rules. However, if the visiting EU lawyer provides legal services in representation of clients before courts and other bodies, he has the same rights and duties as a Czech lawyer and professional rules of his home country are applied as subsidiary rules.</p>

	<p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 35i
2.3. Fees	<p>A lawyer's fee for his provision of legal services shall be regulated by the lawyer's contract between the lawyer and his client ("contractual fee"); where a lawyer's fee is not set by a contract, it shall be governed by provisions of the Regulation herein regarding non-contractual fees.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: §22 + Regulation of the Ministry of Justice No. 177/1996 on fees and remuneration of lawyers for the provision of legal services (the lawyer's tariff) as amended. https://www.cak.cz/assets/lawyers-tariff_as-of-march-2018.pdf
3. Acquisition of the national lawyer's title	
3.1. Via Establishment Directive	See above point 1.14
3.2. Via Professional Qualification Directive	<p>Pass the aptitude test</p> <p>The Bar admits to the Bar and record in the Register of Lawyers, upon a written application and making of the promise, a citizen of a home country or a citizen of other state being permanently established in any home country who has fulfilled requirements under s. 5 (1) a) and d) to g) and i) of the ALP, and who</p> <ul style="list-style-type: none"> a) proves that he has fulfilled requirements for professional education and practice set in his home country in order to be entitled to provide legal services under the professional title according to s. 2 (1) b), and who b) passes the aptitude test (s. 54 (2)). <p>Relevant provision:</p> <ul style="list-style-type: none"> - ALP: § 5c <p>Useful information on the aptitude test:</p> <p>Test cost: CZK 8.500 (aprox. € 340)</p> <p>The aptitude test examines the knowledge of the system of law of the Czech Republic, including the ability to interpret and apply the law to a particular situation, and the knowledge of professional rules considering the fact that the applicant has already passed the Bar examination in his home country and satisfied requirements for awarding the entitlement to provide legal services in that Country. The aptitude test may be taken only in Czech language or Slovak language.</p> <p>The candidate will complete the aptitude test in four compulsory fields and in one from four optional fields of his/her choice.</p> <p>Obligatory fields are:</p> <ul style="list-style-type: none"> (a) constitutional law, (b) civil law, (c) criminal law,

	<p>(d) rules governing the provision of legal services.</p> <p>The optional fields are: (a) administrative law, (b) business law, (c) family law, (d) labour law.</p> <p>The aptitude test consists of a written part and an oral part.</p> <p>The written part of the aptitude test is held in a single day, from compulsory fields of law, namely civil law, criminal law and the field chosen by the candidate. The written part of the exam has the form of a written test. The candidate is authorized to use the collections of legal and other regulations, collections of judicial or other decisions, and journal or book law literature during the written part of the exam. The duration of the written part of the exam may not exceed eight hours.</p> <p>The oral part of the aptitude test is held in one day and may be performed only by a candidate who has completed the written test. The oral part of the exam is mainly focused on verifying the candidate's ability to apply legal or other regulations in the practice of the legal profession.</p> <p>The aptitude test is held before a five-member board.</p> <p>The duration of the oral examination of each candidate must not exceed two hours.</p>
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4. Practicalities

4.1. Practical information	<ul style="list-style-type: none"> • The seat of the law office should be properly identified – see Art 29 CoC: „The lawyer must have his title or name, on a table of an appropriate size, placed on the building where his registered office is located.“ • Information about the Czech Republic on e-justice: https://e-justice.europa.eu/content_member_state_law-6-cz-en.do?init=true&member=1 • You can find addresses, contacts and opening hours of all Czech courts at: http://portal.justice.cz/Justice2/Uvod/Soudy.aspx • It is recommended to arrive at least 15 minutes beforehand, because you have to pass the security check which can be time consuming (security guards, the policemen, would not likely speak English). Some of the Court houses are bigger than others, consider the time spent for searching the appropriate courtroom • Once you find the appropriate courtroom, please wait outside. You will be invited in • In criminal proceedings before court, in proceedings before the Supreme Court, the Supreme Administrative Court and the Constitutional Court, it is required to wear a gown (official dress of the legal profession) in the courtrooms • As a defendant, you and your client sit on the left side from the judge. As a plaintiff, you sit on the right side from the judge's point of view • It is required to stand when the judge walks in or when you speak to him. You are allowed to ask questions or speak only when you were given the floor to by the judge
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<p>4.2. National organisation</p>	<p>The Czech Bar Association is the biggest legal professional organization in the Czech Republic. It is a self-governing organization performing public administration in the area of the Legal Profession and, as such, it protects and guarantees the quality of the provision of the legal services by lawyers.</p> <p>The CBA is established with its seat in Prague and branch-office in Brno. Only one single national Bar is established in the Czech Republic, there are not regional bars.</p> <p>The branch-office shall, in particular, be responsible for the execution of the powers of the Bar with respect to European lawyers and lawyers within the jurisdiction of regional courts in Brno and Ostrava, and for their legal trainees.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 40 <p>The Bar has bodies as follows:</p> <ul style="list-style-type: none"> a) the Assembly; b) the Board of Directors; c) the President of the Bar; d) the Supervisory Council; e) the Disciplinary Commission; and f) the Appellate Disciplinary Panel, g) the Examination Board for the Bar examination, aptitude tests and equivalency examinations <p>The Bar may establish advisory bodies.</p> <p>Relevant provisions:</p> <ul style="list-style-type: none"> - ALP: § 41
<p>4.3. Reference to national legislation with other languages available + links</p>	<p>You may find the national legislation in English here: https://www.cak.cz/en/</p> <p>The website exists in different language versions:</p> <p>EN: https://www.cak.cz/en/</p> <p>DE: https://www.cak.cz/de/</p> <p>FR: https://www.cak.cz/fr/</p> <p>1) Act on the Legal Profession</p> <p>EN (2018 updated version): https://www.cak.cz/assets/zoa-2017_en_s-dodatkem_final.pdf</p>

	<p>DE (2014) https://www.cak.cz/assets/rechtsanwaltsgesetz.pdf FR (not updated): https://www.cak.cz/scripts/detail.php?id=2031</p> <p>2) Code of conduct EN (2018): https://www.cak.cz/assets/code-of-conduct_as-of-march-2018.pdf DE (2014) https://www.cak.cz/assets/ethische_berufsregeln.pdf</p> <p>3) Lawyers tariff EN (2018): https://www.cak.cz/assets/lawyers-tariff_as-of-march-2018.pdf DE (not updated): https://www.cak.cz/scripts/detail.php?id=2237</p> <p>4) Professional rules EN: https://www.cak.cz/scripts/detail.php?id=2630</p> <p>Mediation for lawyers: https://www.cak.cz/scripts/detail.php?id=8694 Out of court settlement: https://www.cak.cz/scripts/detail.php?id=16376</p>
<p>4.4. Reference to existing national guides</p>	<p>FAQ (EN): https://www.cak.cz/scripts/detail.php?id=6505</p>
<p>4.5. Reference to services available for lawyers in that jurisdiction</p>	<p>European established Lawyers have access to the same services as Czech lawyers, such as the possibility to attend training courses, use the library of the Czech Bar Association, they receive also electronic News of the Bar as well as monthly magazine.</p>
<p>4.6. Contact information</p>	<p>Contacts to the Czech Bar Association:</p> <ul style="list-style-type: none"> • The Registry Office of the CBA: matrika@cak.cz • The International Department of the CBA: international@cak.cz • Webpage of the CBA: http://www.cak.cz/en/