



Doing Business in Czech Republic: Certain Key Legal Considerations

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Czech Republic: country overview

Strategic location in the central Europe : neighboring Germany (to the west), Poland (to the north), Slovakia (to the east), and Austria (to the south).

Capital City	Prague
National Day	October 28, independence day of Czechoslovakia
Area	78 866 sq. km
Population	10.54 million
Religion	Roman Catholic 10.3%, Other forms of religion both denominational or not 10.2%, none 34.2%, unspecified 45.2% (2011 census). Religion is generally not important in Czechia.
Language	Czech
Currency	Czech Crown (CZK)
Representation	Czech Representation in Canada : Ambassador Mr. Pavel Hrnčíř Canadian Representation in Czech Republic: Ambassador Mr. Otto Jelinek



Czech Republic in brief

Since 2004, the Czech Republic is a member of, among others :

- The European Union
 - A politico-economic union of 28 member states set up with the aim of ending the frequent and bloody wars between countries.
- The Organisation for Economic Co-operation and Development (OECD)
 - An international economic organisation of 34 countries founded to stimulate economic progress and world trade.
- The World Trade Organization (WTO)
 - An intergovernmental organization which regulates international trade.
- The World Intellectual Property Organization (WIPO)
 - A specialized agency of the United Nations created to encourage creative intellectual activity and to promote the protection of intellectual property throughout the world.



Czech Republic in brief

- The North Atlantic Treaty Organization (NATO)
 - An intergovernmental military alliance designed to promote the stability of the North Atlantic area and to safeguard the freedom of its peoples, based on the principles of democracy, individual liberty and the rule of law.
- The International Monetary Fund (IMF)
 - An international organization working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world.
- The European Bank for Reconstruction and Development (EBRD)
 - An international financial institution committed to furthering progress towards market-oriented economies and the promotion of private and entrepreneurial initiative. To that end, it offers project financing for banks, industries and businesses, for new ventures or existing companies.



Doing business in Czech Republic

- In addition to a number of government incentives, the main advantages of investing in the Czech Republic are:
 - Political and economic stability;
 - Open economy with no restrictions to foreign investment and equal treatment of foreign and domestic entities;
 - The fastest growing economy in EU in 2015 (4.2%); Unemployment 5.1% ;
 - Low public debt (41.1 % to GDP); Public budget balance -0.4% to GDP;
 - Export oriented industry (most to Germany 31%);
 - Strategic location: historically, Prague has been regarded as the “geographic center” of Europe;
 - Czech companies together with German ones enjoy great respect in ex USSR - huge export potential for Canadians wishing to have EU presence with possibility to export to ex USSR;
 - Well-educated and skilled workforce combined with favourable labour costs and price stability;
 - One of the most developed and industrialized economies in Central and Eastern Europe; principal industries are motor vehicles, machine-building and iron and steel production;
 - Business environment that is focused on innovation and R&D;
 - Lower corporate tax rate of 19%; and
 - Good transport and infrastructure links to Western and Eastern Europe.



Doing business in Czech Republic

- Multiple Canadian investors conduct business activities in Czech Republic, such as:
 - Bombardier;
 - Magna;
 - Molson Coors;
 - CGI;
 - Borealis; and
 - Adastra.



Doing business in Czech Republic

- In 2012 : major recodification of private law including - effective as of 1 January 2014:
 - the new Civil Code; and
 - the new Business Corporations Act .
- Under Czech law, foreign and domestic entities are treated identically in all areas, from protection of property rights to investment incentives.
- Foreign investment projects are not screened by the Czech government, with the exception of those in the defense and banking sectors.



Establishment and incorporation of companies and partnerships

- Incorporation is a 2-step process:
 1. A company or partnership is established by execution of a memorandum of association or foundation deed by all of its founders and a joint stock company is established by the adoption of articles of association. (See table summary)
 2. Registration in the Commercial Register:
 - Official register administered by the courts.
 - Contains relevant information about companies and partnerships.
- To carry out business activities, the company or partnership must obtain relevant trade licenses. Other special permits and approvals from state authorities may be required for certain types of activities, such as:
 - Waste management;
 - Telecommunications;
 - Dealing with military equipment;
 - Utilities;
 - Pharmaceuticals; and
 - Gaming.



Merger, consolidation or acquisition

- Approval of the Office for Protection of Economic Competition (OEC) is required for any merger, consolidation or acquisition (the “Transaction”) where:
 - the aggregate net turnover (i.e. net sales from ordinary activities, minus certain deduction) of the entities involved in the Transaction in the Czech Republic for the previous accounting period exceeded CZK 1.5 billion (approx. CDN\$81 million) and at least two of the merging entities each recorded a net turnover of more than CZK 250 million (approx. CDN\$13.5 million), in the Czech Republic for the same period, or
 - one or more of the entities involved in the Transaction had a net turnover in the Czech Republic of at least CZK 1.5 billion (approx. CDN\$13.5 million) in the previous accounting period and the worldwide net turnover recorded by the other entity exceeded CZK 1.5 billion (approx. \$81 million) for the same period.
 - If the Transaction meets characteristics of concentration of undertakings under the Council Regulation, it shall only be subject to clearance of the European Commission.



Merger, consolidation or acquisition

- The OEC has the authority to approve a Transaction if the applicants are able to prove that the Transaction does not create a significant impediment to effective competition.
 - If the combined share of all undertakings concerned in the relevant market does not exceed 25%, it is presumed that their concentration does not result in a substantial distortion of competition, unless proven contrary during the review of the concentration.
- The Transaction may not be implemented before OEC approval is obtained. In share acquisition transactions, for example, unless specifically approved by the OEC, the acquirer may not exercise control over the acquired entity.
- The OEC may impose fines of up to 10% of the worldwide turnover in the preceding calendar year where the Competition Act has been breached.
- If no mandatory notification has been made, the OEC may also impose remedial measures, such as the divestment of the acquired shares or business to the original owner.



Legal vehicle available to foreign companies

- Foreigners/foreign companies can establish both joint-ventures and wholly-owned subsidiaries in the Czech Republic.
- The types of companies include a limited liability company, a joint-stock company, an unlimited partnership and a limited partnership.
 - See table.



	Limited Liability Company ("SRO")	Joint Stock Company ("AS")	General Commercial Partnership ("VOS")	Limited Commercial Partnership ("KS")
General	<p>Most commonly used business form in the Czech Republic</p> <p>Not a flow-through entity</p> <p>Must have at least one participant (no maximum limit)</p>	<p>Most widely used in the Czech Republic for operation of businesses involving larger investments</p> <p>Not a flow-through entity</p> <p>Must have at least one shareholder (no maximum limit)</p> <p>Limitation on transfer of assets for 2 years after formation</p>	<p>Must have at least two partners</p> <p>Profits are shared equally among partners</p> <p>Flow-through entity</p>	<p>Must have at least one limited partner and one general partner (no maximum limit)</p> <p>Flow-through entity</p>
Establishment/ Constituting documents	<p>Established by one founder upon the execution of a foundation deed or by more founders upon the execution of a memorandum of association in the form of a notarial deed</p>	<p>Established upon the adoption of articles of association by all founders in the form of a notarial deed</p>	<p>Established upon the execution of a memorandum of association by all founders in the form of a notarial deed</p>	<p>Established upon execution of a memorandum of association by all founders in the form of a notarial deed</p>
Registered capital and contribution	<p>Low minimum registered capital requirement (CZK 1, in a one-member SRO)</p> <p>Fast establishment</p> <p>Registration fees reduced to 300 Euros in May 2015</p>	<p>The minimum registered capital is CZK 2,000,000 or EUR 80,000</p> <p>If the AS is created by public subscription, the minimal capital is 20,000,000 KC</p>	<p>No obligation to create a registered capital</p> <p>No obligation for members to make any capital contributions</p>	<p>A KS creates a registered capital</p> <p>Minimum contribution for limited partners are to be set in the memorandum</p>



	Limited Liability Company ("SRO")	Joint Stock Company ("AS")	General Commercial Partnership ("VOS")	Limited Commercial Partnership ("KS")
Ownership interest	<p>Each member of an SRO may own one or more ownership interests</p> <p>Constituent document may permit existence of various types of interest (unless otherwise provided, can be transferred)</p> <p>Freely transferable (unless otherwise provided in the constituent document)</p>	<p>Founders must subscribe the total value of the registered capital</p> <p>An AS can issued shares with or without nominal value, with special rights attached, preference shares, convertible bonds or preference bonds</p> <p>Identity of shareholders holding shares exceeding 10% of the registered capital has to be known by the AS</p> <p>Rights attached to the shares can be transferred independently from the share. Shares are generally freely transferable</p>	<p>Equal ownership stakes of all partners</p> <p>Interest cannot be transferred</p> <p>If a partner wants to cease to be a partner, the VOS has to be liquidated</p>	<p>Limited partners' ownership stakes determined by the ratio of their contributions.</p> <p>Ownership stakes can be transferred</p>
Liability	<p>Each member is jointly and severally liable for the obligations of the SRO up to the aggregate amount of unpaid capital contributions</p>	<p>AS is fully responsible for its obligations towards third parties (not the shareholders)</p>	<p>Partners are personally jointly and severally liable for the VOS's obligations in full</p>	<p>Unless otherwise provided, each limited partner is jointly and severally liable for the KS's obligations up to the unpaid amount of his capital contribution.</p> <p>Unlimited liability for general partners (liability cannot be decreased or excluded)</p>



	Limited Liability Company ("SRO")	Joint Stock Company ("AS")	General Commercial Partnership ("VOS")	Limited Commercial Partnership ("KS")
General meeting and voting rights	<p>Members exercise their voting rights at the general meeting (held at least once a year)</p> <p>One vote per each CZK 1 of the capital contribution</p> <p>Simple majority generally required to pass decisions (higher quorum of vote be may be required by law)</p> <p>Quorum: Members holding at least ½ of all votes need to be present</p>	<p>Shareholders exercise their voting rights at the general meeting (held at least once a year)</p> <p>Voting rights are connected to a share - number of votes per share must be set forth in the articles</p> <p>Simple majority generally required to pass decisions (higher quorum of vote be may be required by law)</p> <p>Quorum: shareholders holding together shares with an aggregate nominal value exceeding 30% of the registered capital</p>	<p>No general meeting</p> <p>Decisions are adopted by the consent of all partners, unless the memorandum provides otherwise</p>	<p>No general meeting</p> <p>Decision are adopted by the consent of all partners (limited and general)</p> <p>Any amendments to the memorandum require unanimous vote</p>
Governance	<p>SRO is represented by one or more executives (i.e. managing directors) (no board of directors)</p> <p>No need to establish a supervisory board</p>	<p>The founders may elect to have a corporate structure with a statutory director and administrative board or with a board of directors as well as a supervisory board</p>	<p>No supervisory body</p> <p>Statutory body collectively formed by all the partners (each partner being authorized to act on behalf of the VOS individually)</p> <p>Each partner is entitled to examine and inspect all of the VOS's documents.</p>	<p>No supervisory body</p> <p>Only general partner(s) is/are authorized to carry out management of the KS</p> <p>Each partner is entitled to examine and inspect all of the KS's accounting documents</p>
Residency requirements	<p>No special requirements.</p> <p>A residency permit or visa is not required for the purposes of registration in the Commercial Register.</p>			

Tax considerations

- Standard corporate income tax rate of 19%.
- Repatriation of profits:
 - There is no restriction on the repatriation of profits but a withholding tax applies.
 - The following foreign tax relief is available under Czech Republic/Canada double tax treaty:

Withholding tax rates under the Czech Republic's tax treaties (%)		
Dividends	Interests	Royalties
A withholding of 5% or 15% applies instead of the 35 % withholding rate (the lower rate applies if the recipient is a company that owns at least a certain amount of the capital or a certain amount of the voting shares of the company paying the dividend directly)	A withholding of 10% applies instead of the 35% withholding rate	A withholding of 10% (and no rate in the case of a royalty in respect of a cultural activity) instead of the 35% withholding rate



Tax considerations

- Transfer Pricing
 - Transfer prices agreed between persons related either by capital or by another manner should be based on an arm's length principle:
 - otherwise, the tax authorities are authorized to adjust the taxpayer's tax base by an ascertained difference;
 - tax authorities follow the OECD Transfer Pricing Guidelines when determining the arm's length price between taxpayers;
 - persons related by capital are generally those whose direct or indirect participation in the capital of, or voting rights in, one company by another company is greater than 25%; and
 - persons related by another manner are those who have relationships between persons directly or indirectly participating in management or control, or have entered into a legal relation for the purpose of decreasing the tax base or increasing the tax loss.



Incentives listed in the Act on investment incentives:

- Tax incentive:
 - Corporate tax relief for up to 10 years for new companies; and
 - Partial tax relief for up to 10 years for existing companies.
- Job creation grants:
 - Financial support for the creation of new jobs:
 - CZK 300,000 (approx. CDN\$16,357) per new job in special industrial zones;
 - CZK 200,000 (approx. CDN\$10,905) per new job in regions with an unemployment rate that is at least 50% higher than the national average; and
 - CZK 100,000 (approx. CDN\$5,452) per new job in regions with an unemployment rate that is between 25% and 50% higher than the national average.



Incentives listed in the act on investment incentives:

- Training and retraining grants:
 - Financial support for training and retraining new employees:
 - Basic grant for up to 50% of the total training and retraining costs in districts with unemployment that is at least 50% higher than the national average;
 - Basis grant for up to 25% of the total training and retaining costs in districts with unemployment that is at least 25% higher than the national average;
 - Regions are evaluated every 6 months based on average unemployment rate.
- Exemption from Property Tax:
 - A property tax exemption for up to 5 years can be offered subject to the applicable municipality's consent. The municipality determines the extent of such property-tax exemption. Special industrial zones are those designated as such by the Government of the Czech Republic.
- Cash grants for acquisitions of assets:
 - Applies to strategic investments in the manufacturing industry or technology centres in an amount of up to 10% of the eligible investment costs. In the case of a combined strategic investment in industry and technology centres, a grant can be provided in an amount of up to 12.5% of the eligible investment costs.

Certain sources of business information:

- The Canadian Trade Commissioner Service in Czech Republic can help Canadian companies export their products and services, establish a presence, source technology or find the right partner.
 - <http://tradecommissioner.gc.ca/market-reports-etudes-de-marches/region.aspx?lang=eng>
- Export Development Canada (Canada's export credit agency) - provides Canadian exporters with financing, insurance and bonding services, as well as foreign market expertise.
 - <http://www.edc.ca/EN/Country-Info/Pages/Czech-Republic.aspx>
- Canadian Embassy, Prague
 - Internet: <http://www.CzechRepublic.gc.ca>
 - Email: prgue@international.gc.ca or canada@canada.cz



Certain sources of business information:

- CzechInvest, the Investment and Business Development Agency
 - www.czechinvest.org
- Ministry of Industry and Trade of the Czech Republic
 - www.mpo.cz
- Commercial Register
 - www.justice.cz
- Trade Register
 - www.rzp.cz
- Ministry of Finance of the Czech Republic
 - www.mfcr.cz
- Czech National Bank
 - www.cnb.cz



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