

Legal Framework of Czech Companies



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Czech law in general

- Continental law
- Strongly influenced by German and Austrian law
- After the fall of the Communist regime - significant influence from other quarters, including Anglo-Saxon law
- Extensive legislative process - harmonisation of the Czech legal system with the legal system operating in the EU

Essential commercial codes (laws):

- The Commercial Code
- The Civil Code
- Small Businesses Act (Code)
- Tax Laws
- The Law on Accounting
- The Health and Social Insurance Laws

Natural and Legal Entities

Czech law makes a distinction between **natural** and **legal entities**.

Natural Entities (Sole proprietor, entrepreneur)

Individuals can carry on business activities in their own name, on their own risk with the purpose to achieve profit, and on the basis of a valid trade licence and according to law(s)

Trade certificate

(Živnostenský list) is given according to the Small Businesses Act.

Legal Entities (Companies)

Capital companies

- Limited liability companies
- Joint stock companies.

Partnerships

- General commercial partnership (unlimited partnership)
- Limited partnership (also called commandite company)

Other types of legal entities

Natural Entities

<i>Economic activity</i>	<i>Natural persons</i>							
	1995		2000		2002		2005	
	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>
<i>Total</i>	1 124 662	100,0	1 680 169	100,0	1 732 082	100,0	1 817 450	100,0
<i>Agriculture, hunting and forestry</i>	104 152	9,3	119 494	7,1	120 739	7,0	119 571	6,6
<i>Manufacturing</i>	167 285	14,9	230 466	13,7	243 265	14,0	260 030	14,3
<i>Construction</i>	131 593	11,7	191 650	11,4	199 083	11,5	210 707	11,6
<i>Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods</i>	353 108	31,4	523 268	31,1	524 057	30,3	542 574	29,9
<i>Hotels and restaurants</i>	50 338	4,5	90 087	5,4	93 674	5,4	100 031	5,5
<i>Transport, storage and communication</i>	42 969	3,8	63 016	3,8	69 780	4,0	71 668	3,9
<i>Financial intermediation</i>	7 075	0,6	69 115	4,1	68 401	3,9	68 533	3,8
<i>Real estate, renting and business activities</i>	187 345	16,7	269 733	16,1	282 673	16,3	305 177	16,8
<i>Education</i>	9 337	0,8	16 497	1,0	17 897	1,0	18 978	1,0
<i>Health and social work</i>	23 284	2,1	25 946	1,5	26 533	1,5	27 685	1,5
<i>Other community, social and personal service activities</i>	44 624	4,0	79 012	4,7	84 287	4,9	90 251	5,0

Source: www.czso.cz, Czech Statistical Office

Number of entities in the Register of Economic Entities

Year	Total	Nr. of employess				
		0 ¹⁾	1 - 5	6 - 19	20 - 249	250 a více
1998	1 781 334	1 398 082	287 247	63 796	30 072	2 137
1999	1 963 319	1 602 460	268 302	60 982	29 560	2 015
2000	2 050 770	1 680 188	278 255	60 471	29 843	2 013
2001	2 121 562	1 816 576	216 591	57 305	29 065	2 025
2002	2 223 745	1 921 123	214 953	56 094	29 620	1 955
2003	2 325 977	2 005 938	228 133	59 290	30 686	1 930
2004	2 337 873	2 016 220	229 942	59 223	30 574	1 914
2005	2 332 283	2 012 139	229 025	59 023	30 184	1 912

¹⁾ a bez udání počtu

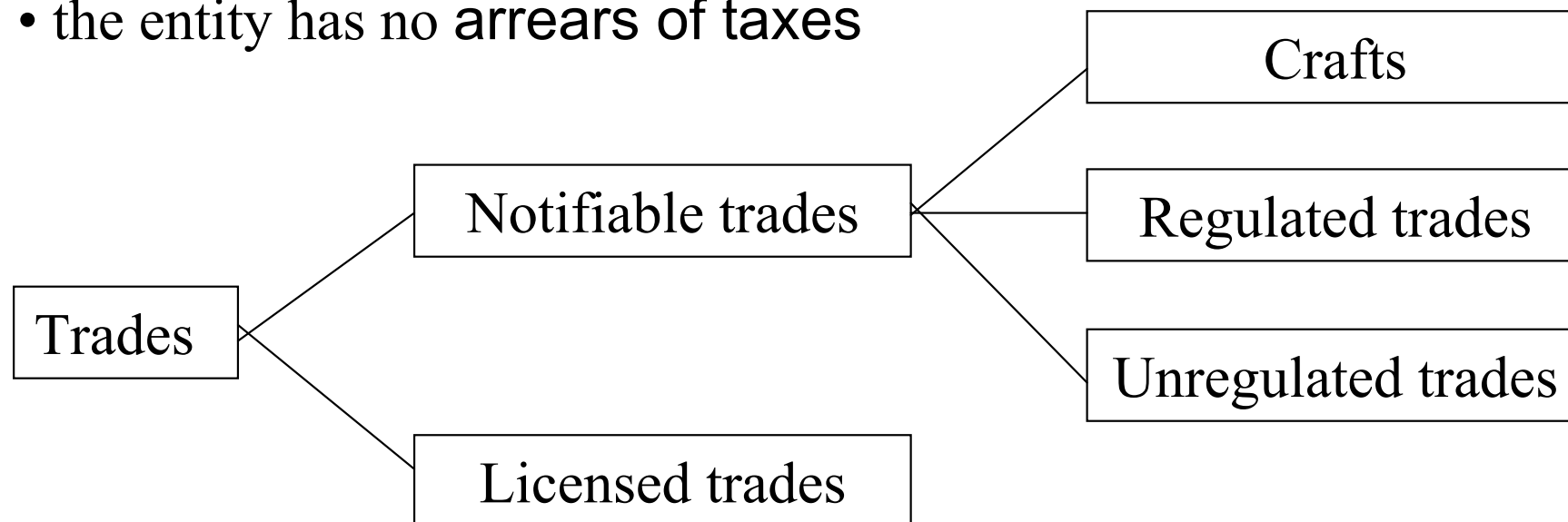
Year	Total	Nr. of employess				
		0 ¹⁾	1 - 5	6 - 19	20 - 249	250 a více
1998	100%	78,49%	16,13%	3,58%	1,69%	0,12%
1999	100%	81,62%	13,67%	3,11%	1,51%	0,10%
2000	100%	81,93%	13,57%	2,95%	1,46%	0,10%
2001	100%	85,62%	10,21%	2,70%	1,37%	0,10%
2002	100%	86,39%	9,67%	2,52%	1,33%	0,09%
2003	100%	86,24%	9,81%	2,55%	1,32%	0,08%
2004	100%	86,24%	9,84%	2,53%	1,31%	0,08%
2005	100%	86,27%	9,82%	2,53%	1,29%	0,08%

Trades

Trades (živnosti) - several categories

-the applicant (either natural entity, optionally his statutory representative or statutory representative of a legal entity) must fulfil the following 4 basic general conditions:

- a minimum age of 18 years
- legal competence to perform legal acts
- trustworthiness (not convicted for intentional crime act for more than 1 year or other crime act connected with the craft or some casual act connected with the craft)
- the entity has no arrears of taxes



Trades

Notifiable trades (živnosti oznamovací)

- 1) Easiest to obtain - the appropriate department at the Trades Licensing Office must be notified
- 2) A trade certificate will be issued, provided that the conditions have been met (the time limit is 15 days from notification)

Unregulated trades (živnosti volné) can be practised by those without professional qualifications, but the general conditions (above) must be met.

Regulated trades (živnosti vázané) can be acquired once the conditions according to the type of business activity have been fulfilled.

Crafts (živnosti řemeslné) - it is necessary to have either certificate of apprenticeship (výuční list) or a certificate of finished secondary school or higher education in the branch (or in similar branch and several years of work experience)

Trades

Licensed trade (živnost koncesovaná)

concession trade license (koncesní listina) must be acquired at the Trades Licensing Office

can only be practised by those who possess professional qualifications, as specified in appendix 3 of the Small Businesses Act (firearms, taxi, DDD - disinfection, desinsection, deratization and rat extermination, toxic waste liquidation)

The entity is then registered in Trade register (*Živnostenský rejstřík*) and in **Business Register** (*Rejstřík ekonomických subjektů* provided by Czech Statistical Office)

Some expatriates resident in the Czech Republic choose to start their own businesses. In the case of a foreign individual, entry in the Commercial Register is also required.

Trades - distribution

Number to date	31.12.1993	31.12.1999	31.12.2000	31.12.2002	31.12.2005	%
Total Trades	1 263 758	2 837 831	3 001 820	3 251 556	3 021 149	100%
- licensed trades	124 558	128 932	130 223	131 688	131 972	3,88%
- regulated trades	203 508	190 604	234 405	259 390	270 550	7,95%
- crafts	224 947	506 165	543 986	594 780	619 826	18,22%
-unregulated trades	710 745	2 012 130	2 093 206	2 265 698	2 379 801	69,95%
Trades - natural entities	1 030 631	2 241 460	2 351 737	2 505 503	2 608 175	76,66%
Trades - legal entities	233 127	596 371	650 083	746 053	793 974	23,34%
Trades - foreigners	8 823	68 586	72 471	78 423	75 661	2,22%
Entities - total	889 857	1 713 134	1 783 203	1 861 705	1 908 306	100%
- natural entities	794 937	1 523 553	1 578 323	1 634 811	1 676 221	87,84%
- legal entities	94 920	189 581	204 880	226 894	232 085	12,16%
Foreigners	7 292	58 386	61 340	64 000	60 532	3,17%
Nr. of citizens	10 328 970	10 303 036	10 293 662	10 292 933	10 182 471	
Nr of trades per 1000 of citizens	122,35	275,44	291,62	315,9	334,12	
Nr. of natural entities per 1000 inhabitants	86,15	166,27	173,23	180,87	187,41	
Number of trades per entrepreneur	1,42	1,66	1,68	1,75	1,78	

Trades

The following is required in case of foreign individual to obtain a Trade Licence:

- Extract from the Criminal Record from the country of origin;
- Translation of the Criminal Record form the country of origin;
- Birth Certificate;
- Translation of the Birth Certificate;
- Extract from the Czech Criminal Record;
- Landlord Statement;
- Landlord agreement of having the business address on this place;
- Extract from the Katastral register;
- Proof of having the current mandatory amount of Czech Crowns on a bank account;
- In the case of not having a Residence Permit, it is necessary to have a Guarantor;
- Extract from the Czech criminal record for the Guarantor;
- A copy of the Guarantor's ID;
- Guarantor's statement that he/she agrees with this post;
- Proof of Guarantor's taxes being paid;
- Proof of Applicant's taxes being paid;

Legal entities

Legal Entities (Companies)

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graph TD; A[Legal Entities (Companies)] --> B[Capital companies]; A --> C[Partnerships]; B --> D[Limited liability companies]; B --> E[Joint stock companies]; C --> F["General commercial partnership (unlimited partnership)"]; C --> G["Limited partnership (commandite company)"];
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Capital companies

Limited liability companies

Joint stock companies

Partnerships

General commercial partnership
(unlimited partnership)

Limited partnership
(commandite company)

Other types of legal entities

- **co-operative** - considered to be an independent legal entity.
- association of natural or legal entities,
- purposeful asset associations,
- municipalities,
- other subjects, as prescribed by law.

Legal entities

The most commonly used commercial companies are limited liability companies and joint stock companies.

Table 1: Legal entities by selected legal form

<i>Legal form</i>	Legal entities							
	1995		2000		2002		2005	
	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>	<i>Number</i>	<i>%</i>
<i>Registered legal persons, total</i>	196 434	100,0	370 601	100,0	389 480	100,0	406 295	100,0
<i>Business companies and partnerships, total</i>	112 514	57,3	204 075	55,1	214 637	55,1	220 461	54,3
<i>General commercial partnerships</i>	5 879	3,0	7 489	2,0	7 629	2,0	7 729	1,9
<i>Limited liability companies</i>	98 558	50,2	181 819	49,1	191 476	49,2	196 772	48,4
<i>Joint-stock companies</i>	7 564	3,9	14 092	3,8	14 845	3,8	15 260	3,8
<i>State-owned enterprises</i>	2 270	1,2	1 117	0,3	1 054	0,3	995	0,2
<i>Cooperatives</i>	6 172	3,1	11 007	3,0	11 536	3,0	12 085	3,0
<i>Foundations</i>	4 351	2,2	5 360	1,4	3 641	0,9	2 542	0,6
<i>Budgetary organizations ¹⁾</i>	1 217	0,6	857	0,2	496	0,1	500	0,1
<i>Semi-budgetary organizations</i>	2 973	1,5	3 100	0,8	4 445	1,1	5 596	1,4
<i>Schools, school and health establishments</i>	5 297	2,7	5 521	1,5	4 392	1,1	3 626	0,9
<i>Associations of natural persons, associations of legal entities</i>	43 473	22,1	80 450	21,7	85 167	21,9	89 178	21,9
<i>Other</i>	18 167	9,2	59 114	16,0	64 112	16,5	71 312	17,6

¹⁾ Budgetary organization before 2001

Limited liability company

1 to 50 individuals or legal entities (known as "shareholders" or "partners") can establish a limited liability company

The liability of each of the partners is limited to the total of the unpaid parts of all partners' contributions to the registered capital as registered in the Commercial Register.

Two or more founding partners -> a memorandum of association is drawn up in the form of a notarial deed.

If there is a single founding partner, a notarised foundation deed is required.

Registered capital requirements

The minimum registered capital is CZK 200,000

Each partner is required to invest at least CZK 20,000 (If a single entity establishes the company, the registered capital must be fully paid-up before the company can be entered in the Commercial Register.

Limited liability company

Reserve fund

- must be at least 10% of registered capital.

Management

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graph TD; Management --> GeneralMeeting[General meeting]; Management --> StatutoryRepresentatives["Statutory representatives (Executives)"]; Management --> SupervisoryBoard[Supervisory board];
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General meeting

- Supreme body
- Rights similar to those of the general meeting of a joint-stock company
- fundamental decisions on the company's activities

Statutory representatives (Executives)

- Statutory body
- General meeting appoints one or more executives, who can act either independently or jointly
- can only be a natural person

Supervisory board

- not mandatory
- supervise the acts of the company and those of the executive(s)

Limited liability company – advantages & disadvantages

Advantages

- Limited liability of partners
- Low capital requirements
- Most commonly used form of legal entity

Disadvantages

- Less credible for partners (banks, creditors, suppliers)
- For start-up entrepreneurs more administratively demanding

Accounting & Audit Requirements

A limited liability company is subject to a mandatory statutory audit if at least two of the following criteria are met:

- the balance sheets for the current and immediately preceding accounting periods exceeded CZK 40 million
- the net turnover exceeds CZK 80 million
- the average number of employees exceeds 50.

Joint-stock company

Can be set up by a single legal entity (including state), at least two natural entities (private individuals).

It can be established by:

- the original founder(s) subscribing shares
- inviting other investors to subscribe shares,

Share capital requirements

The minimum share capital requirement is CZK 2 million for companies set up without a public offer for share subscription

CZK 20 million for companies set up with a public offer for share subscription

CZK 500 million for banks

Joint-stock company

Management

The formal bodies of a joint-stock company are:

- General meeting Board of directors Supervisory board

An individual cannot simultaneously be a member of both the board of directors and the supervisory board at any one time.

General meeting

- company's supreme body
- amends the company's statutes,
- approves changes to share capital,
- elects and reappoints members of the board of directors and supervisory board
- approve financial statements and profit allocations and wind up the company
- If there is only one shareholder, it has the same powers as the general meeting.
- A simple majority is sufficient for most decisions,
- a two-thirds majority is required to approve changes to share capital, amend the company's statutes or dissolve the company by liquidation,
- a majority of three-quarters is needed to change the class, type, or underlying rights of shares, restrict the transferability of registered shares or cease public trading of the shares.

Joint-stock company

Board of directors

- The board must have at least three members who are either Czech nationals or foreign individuals with Czech residency visas
- Board of directors is elected for a maximum of five years.
- Board oversees the day-to-day running of the company and is responsible for maintaining proper accounting and reporting procedures.
- Board members act and sign on behalf of the company, within the guidelines approved by the general meeting.

Supervisory board

- At least three members elected by the general meeting for a maximum of five years
- If the company has more than 50 employees, the employees must elect one-third of the members.
- The board monitors the activities of the directors and the performance of the company, and reviews the annual financial statements.

Joint-stock company

The following types of shares are permitted:

- Ordinary (common) shares.
- Preferred shares (the articles of association may reduce or remove the voting rights attached to this type of share).
- Convertible debentures of up to one-half of the nominal value of share capital can also be issued.

Shares

A joint-stock company can issue either registered shares or bearer shares. The shares may be issued either in certificated or uncertificated (paperless) format.

Employees of the company can acquire ordinary shares – the amount cannot exceed 5% of the company's share capital.

Preference shares may be issued of up to a maximum of 50% of the company's share capital.

Joint-stock company

Payment of Dividends

The payment of dividends or profit shares is not restricted provided:

- company has sufficient distributable profits according to Czech accounting and commercial law
- and have sufficient funds to make the payment.

The company may not distribute profit among shareholders if its equity is lower (or after the distribution of profit would be lower) than the company's registered capital

Reserve fund

At least 5% of annual after-tax profits must be transferred, until the fund is equal to at least 20% of the nominal value of the registered capital

Joint stock company – advantages & disadvantages

Advantages

- shareholders are not liable
- solid image
- higher level of control

Disadvantages

- capital requirements
- higher administrative costs

Accounting & Audit Requirements

Joint-stock companies are required to maintain a full set of double-entry accounting records prepared in accordance with Czech legislation.

A joint stock company is obliged to have:

- annual accounts audited by a Czech registered auditor and
- selected information from its accounts published in the business newspaper Commercial Bulletin (*Obchodní věstník*)

Partnerships

General rules

- Two or more individuals or legal entities ('partners') can establish a limited or unlimited partnership.
- The partners must draw up a partnership agreement.

General commercial partnership (unlimited partnership)

- The company is liable for a breach of its obligations with all its property, all partners are jointly and severally liable for the partnership's obligations – with all their (personal) property
- No capital requirements
- Any partner can act on behalf of the partnership, unless otherwise stipulated
- Unlimited partnerships are not required to have a Czech statutory audit.

General commercial partnership – advantages & disadv.

Advantages

- No capital requirements
- Trustworthiness for company's partners

Disadvantages

- Unlimited liability of a company
- Unlimited liability of partners (including their personal property)

Limited partnership (commandite company)

- Limited partnerships must have both general and limited partners
- General partners are jointly and severally liable for obligations of a company (as in unlimited partnership)
- The liability of limited partners (commandites) is restricted to the unpaid part of their investment (as in limited liability companies)

=> This company is thus a “hybrid” between the two forms mentioned above

Limited partnership (commandite company)

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Limited partnership – advantages & disadv.

Advantages

- No capital requirements
- Limited liability of limited partners

Disadvantages

- Unlimited liability of a company
- Unlimited liability of general partners (including their personal property)

Other types of business entity

Co-operative

- Five or more individual members, or at least two legal entities
- No maximum number of members
- The minimum initial capital is CZK 50,000
- The members are not liable for the co-operative's obligations, unless the co-operative's statutes state otherwise
- The co-operative's supreme body is the **members' meeting**, which is held at least annually.
- **Members' meeting** elects the **board of directors** to manage the day-to-day affairs of the co-operative and act on its behalf
- The members' meeting also elects an audit commission to perform regulatory and ombudsman functions
- A lot of co-operatives are not focused to generating profit, but to providing or gaining benefit for the members

Other types of business entity

Silent partnership

- Established by a written contract between a silent partner and a Czech business - silent partner invests in the Czech business in return for a share of profits.
- A silent partner can be either an individual or a legal entity
- Silent partners are only liable for losses to the extent of their original investment.

Association

- Two or more individuals or legal entities can establish an association
- Association is not considered to be a legal entity under Czech law
- Members are jointly and severally liable for obligations arising from the association's activities, profits and losses are shared equally, unless the agreement specifies otherwise.

Business Register

Business activities can commence as soon as entry in the Business Register has been made. The documents include:

- the company's statutes and any subsequent amendments
- resolutions on changes to the company's statutory bodies
- financial statements (together with auditor's report, if required)
- copies of resolutions winding up the company
- details of any merger, division, change in status (eg from a company to a partnership) and related documents
- expert valuations of non-monetary contributions
- any contracts on transfer or lease of the enterprise, or a part thereof, control contracts, contracts on the transfer of profit, and several other documents

www.justice.cz

Commercial Bulletin

Tax Issues

Legal Entities:

2003 – 31%

2004 – 28%

2005 – 26%

2006 – 24%

Natural entities and employees – progressive tax rate

<i>Profit Value</i>				<i>Form Profit exceeding</i>
<i>From</i>	<i>To</i>	<i>Tax rate</i>		
0	121 200	0	12,00%	0
121 200	218 400	15 444	19,00%	121 200
218 400	331 200	33 012	25,00%	218 400
331 200		61 212	32,00%	331 200