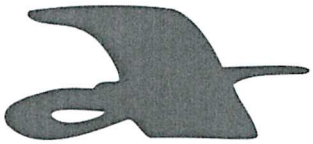

CZECH BAR
ASSOCIATION

Czech Bar Association

Country Report Czech Republic

Meeting of the Presidents of the Bars from Central and Eastern Europe, Kranjska Gora

Topic 1

Fees for legal services

- **Lawyers' tariff**
- **Lawyers' fees and methods of calculating the fee**
- **Lawyers' fees for the provision of free legal advice**

Topic 2

Remuneration for representatives of the Bar's bodies

- **Types of remuneration**
- **Methods of determining remuneration**
- **Types of positions**
- **Professionalisation: yes or no**

Topic 1

A) Introduction

The basic legal regulation of the fees payable to lawyers (attorneys-at-law) is enshrined especially in the Act on the Legal Profession, the Tariff Regulation, and the ethical rules (the Lawyer's Code of Conduct). The fees payable to lawyers are also dealt with in Resolution of the Board of Directors of the Czech Bar Association No. 3/2018 on ensuring free legal advice, and Resolution of the Assembly No. 5/1999 on the social fund of the Czech Bar Association.

Act No. 85/1996 Coll., on the Legal Profession, as amended

https://www.cak.cz/scripts/detail.php?id=1993

Regulation of the Ministry of Justice No. 177/1996 Coll., on fees and remuneration of lawyers for the provision of legal services (the Lawyers' Tariff), as amended

https://www.cak.cz/scripts/detail.php?id=2239

Resolution of the Board of Directors of the Czech Bar Association No. 1/1997 of the Official Journal, laying down the rules of professional ethics and rules of competition for lawyers in the Czech Republic (Code of Conduct).

https://www.cak.cz/scripts/detail.php?id=2238

Fee and advance fee

The legal profession is usually performed for a fee and the client may be asked to provide a reasonable advance fee. When assessing the reasonability of a specific advance fee, account has to be taken – along with a realistic estimate of the total fee – also of the anticipated cash

expenditures. A lawyer's fee for the provision of legal services is governed by his/her contract (letter of engagement) with the client, i.e. a contractual fee; if a lawyer's fee is not determined in this way, the provisions of the relevant regulation on non-contractual fees will apply.

Cash and cashless payments

A lawyer may receive his/her fee in cash or as a cashless payment. If he/she accepts cash payments, he/she is subject to a limitation of cash payments as laid down by the Limitation of Cash Payments Act, which caps – in its Section 4 – the amount of any cash payment at CZK 270,000. This limitation is also stipulated in the professional regulation issued by the Czech Bar Association (Art. 2 (2) of Resolution No. 7/2004 of the Official Journal, on escrow).

Value added tax

A lawyer who is a value added tax payer may also charge this tax on top of his/her fee and compensations as follows from Section 23a of the Legal Profession Act and Section 14a of the Lawyers' Tariff. Of course, a lawyer is not legally required to add this tax to his/her contractual fee; however, as a VAT payer, he/she is obliged to pay it to the State in any case. This duty follows from the Value Added Tax Act. The VAT rate is 21%.

Costs of proceedings

The costs of the proceedings are payable to the client; the lawyer's account to which the party unsuccessful in the dispute is to pay the costs on the basis of the final court decision serves merely as the payment point. The lawyer is required to remit the paid costs of the proceedings to the client without delay. The only amount that a lawyer may set off without prior agreement with the client is the lawyer's fee for the provision of the legal services to the client.

B) Lawyer's fee and methods of calculating the fee (contractual fee)

A contractual fee represents an arrangement between a lawyer and his/her client regarding the amount for which the legal service will be provided or the manner of its determination. The arrangement on a contractual fee is either part of the contract (letter of engagement) on the basis of which the legal service is provided, or is made separately.

Contractual fee and its types:

- Time fee (usually hourly)
- Fee for individual acts (specification of each act is required)
- Fixed (per month, regardless of the work performed)
- For resolving the matter
- Proportional (per cent of the performance)
- Pactum de quota litis (success fee – usually not more than 25% of the result).

C) Lawyers' Tariff and methods of calculating the fee (non-contractual fee)

The amount of a non-contractual fee is determined based on the rates of non-contractual fees per legal service and the number of legal services provided by the lawyer in the given case.

According to Section 11 of the Lawyers' Tariff, legal services are as follows, for example: acceptance of and preparation for representation or defence under a contract for the provision of legal services; initial advice to the client including the acceptance and preparation of his representation or defence; subsequent advice to the client exceeding one hour; a written submission to the court or other body in relation to the merits; participation in investigative acts during the pre-trial procedure, for every two hours commenced; writing a legal analysis of the case; negotiating with the adverse party, etc.

A lawyer is also entitled to compensation of cash expenditures – Section 13 of the Lawyers' Tariff, and compensation for the loss of time – Section 14 of the Lawyers' Tariff.

Tariff value and fee

Rate of non-contractual fee per legal service equals the following of the tariff value (Section 7 of the Lawyers' Tariff)

- 1. up to CZK 500 — CZK 300
- 2. more than CZK 500, up to CZK 1,000 — CZK 500
- 3. more than CZK 1,000, up to CZK 5,000 — CZK 1,000
- 4. more than CZK 5,000, up to CZK 10,000 — CZK 1,500
- 5. more than CZK 10,000, up to CZK 200,000 — CZK 1,500 and CZK 40 for every commenced CZK 1,000 exceeding CZK 10,000
- 6. more than CZK 200,000, up to CZK 10,000,000 — CZK 9,100 and CZK 40 for every commenced CZK 10,000 exceeding CZK 200,000
- 7. more than CZK 10,000,000 — CZK 48,300 and CZK 40 for every commenced CZK 100,000 exceeding CZK 10,000,000

Examples of fees for a legal service

- Action for payment of CZK 50,000: CZK 3,100.
- Maintenance and support for the wife in the amount of CZK 3,000 per month: CZK 8,300.
- Contact with a child: CZK 1,000.
- Purchase contract for real estate worth CZK 5 million: CZK 28,300.
- On invalidity of termination: CZK 1,500.
- On sale of an enterprise worth CZK 20 million: CZK 52,300.
- On deprivation of legal capacity: CZK 1,000.

Increase or decrease of a non-contractual fee

- Can be decreased by 50 %

- Can be increased by 200% – especially in the case of a foreign language, foreign law, time required.
- Simultaneity of crimes: fee for the criminal offence carrying the highest sentence.
- Combination of matters where the tariff values are aggregated; the maximum fee per legal service equals CZK 5,000

D) Lawyer's fees for the provision of free legal advice

Anyone who does not meet the conditions for being appointed a lawyer by court may ask the Czech Bar Association to appoint a lawyer for him/her.

The Czech Bar Association is obliged to appoint a lawyer to provide legal services in three forms: to provide legal consultations under Section 18a of the Act on Legal Profession; to provide consultations in a facility for detention of foreigners under Section 18b of the Act on Legal Profession and to provide legal services under Section 18c of the Act on Legal Profession. In the first two cases, the fee is paid by the State, while in the last case, it is paid either by the State or by the Czech Bar Association.

Free legal aid paid for by the State (Sections 18a, 18b and 18c of the Legal Profession Act)

1. Based on written application and a decision of the Czech Bar Association under Section 18a of the Act on Legal Profession, a lawyer shall provide a successful applicant with a legal consultation in the duration of at least 30 minutes. The maximum scope of consultations is 120 minutes per year.

   According to the Tariff Regulation, the rate of a non-contractual fee for legal consultations provided under Section 18a of the Act on Legal Profession equals CZK 150 for each, even incomplete, half-hour of the legal consultation.

2. Based on written application of the operator of a facility for detention of foreigners, the Czech Bar Association shall appoint a lawyer to provide a one-off legal consultation to an undetermined number of persons placed in such a facility.

   According to the Tariff Regulation, the rate of a non-contractual fee for legal consultations provided under Section 18b of the Act on Legal Profession equals CZK 300 for each, even incomplete, hour of the legal consultation.

3. Based on written application and a decision of the Czech Bar Association, the Czech Bar Association shall appoint a lawyer to provide a legal service to an applicant who has proven that he/she meets the statutory conditions for the provision of a legal service related to proceedings before public authorities and proceedings before the Constitutional Court.

   Billing of the fee is again governed by the Tariff Regulation (Section 12a); the rates of non-contractual fees for acts performed by a lawyer appointed for proceedings before a public authority or proceedings before the Constitutional Court are reduced by 20%.

Free legal aid paid for by the Czech Bar Association (Section 18c of the Legal Profession Act)

A lawyer who has been appointed by the Bar to provide legal services and whose fee is not paid by the State may be provided with a one-off contribution towards the payment of usual administrative work related to the provision of legal services if the Czech Bar Association has stipulated in the conditions of the provision of legal services that they will be provided by a lawyer free of charge; the contribution towards one legal service is provided in the amount of twice the fixed amount specified by the legal regulation as compensation of lawyer's expenditures for domestic postage, local calls and transport charges.

The fixed amount of compensation of expenditures for domestic postage, local calls and transport charges equals CZK 300 per legal service. These compensations are paid out to a lawyer from the social fund of the Czech Bar Association, based on a regime governed by a resolution of the Assembly of the Czech Bar Association.

Topic 2

Legal regulation

Act No. 85/1996 Coll., on the Legal Profession, as amended

Section 48 of the Act on Legal Profession – positions in the bodies of the Bar are honorary; their holders are not entitled to remuneration, but rather only to have their cash expenditures covered and their loss of time compensated.

Resolution of the Assembly No. 7/1999 of the Official Journal of 8 November 1999, approving the amount of compensation for loss of time spent in the discharge of offices in the bodies of the Czech Bar Association and regulating the provision of compensation of cash expenditures, provides in its Article 1:

In consideration of the discharge of offices in the bodies of the Czech Bar Association, lawyers and members of the examination committee for bar examinations, aptitude tests and equivalency examinations who are not lawyers are entitled to

a) compensation for the loss of time spent in the discharge of their office;
b) compensation of cash expenditures incurred in connection with the discharge of their office.

Office (position) means membership of the Board of Directors of the Czech Bar Association; membership of the Supervisory Council, including discharge of the office of disciplinary petitioner or his/her representative; membership of the disciplinary committee, including the discharge of the office of member of a disciplinary panel; membership of an appellate disciplinary panel, including the discharge of the office of member of an appellate disciplinary panel; membership of an examination committee, including the discharge of the office of member of an examination committee; position of a regional representative of the Czech Bar Association and his/her substitute; membership of the "advisory bodies" of the Czech Bar Association.

Compensation for the loss of time

Unless stipulated otherwise, the compensation for the loss of time equals CZK 500 per hour of discharge of office. The compensation for the loss of time is not payable for participation in meetings of the bodies of the Czech Bar Association. Compensation for the loss of time may not exceed CZK 30,000 for an entitled person in a calendar year.

Instead of compensation for the loss of time, members of examination committees are entitled to one-off compensation for the loss of time in participation in bar examinations, aptitude tests and equivalency examination in the amount of

c) CZK 600 for each person examined in the written part of a bar examination;
d) CZK 600 for each person examined in the oral part of a bar examination;
e) CZK 500 for each person examined in the written part of an aptitude test;
f) CZK 500 for each person examined in the oral part of an aptitude test;
e) CZK 400 for each person examined in an equivalency test.

Compensation of cash expenditures

The Czech Bar Association compensates cash expenditures purposefully incurred by an entitled person in connection with the discharge of his/her office. Compensation of cash expenditures is payable in the amount in which they were demonstrably incurred by the entitled person; however, compensation of travel expenses may not exceed the amount set by the legal regulations on travel allowances.