



# Construction

in 35 jurisdictions worldwide

Contributing editor: Robert S Peckar

# 2012



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# Czech Republic

**Gabriel Achour**

Achour & Partners

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## 1 Joint ventures

Must foreign designers or contractors enter into a joint venture with a local contractor to design, build and be paid for their work? Does the law require that the local contractor control the joint venture?

Foreign contractors are not obliged or forced by any Czech law to enter into joint ventures with a local Czech contractor.

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## 2 Foreign pursuit of the local market

If a foreign designer or contractor wanted to set up an operation to pursue the local market what are the key concerns they should consider before they took such a step?

Foreign entities may conduct business in the Czech Republic under the same conditions and to the same extent as their Czech counterparts, unless the law stipulates otherwise. They may become founders or co-founders of a Czech company, or may become part of an existing local company.

Foreign companies may operate in the Czech Republic either by establishing a branch office registered in the Czech Republic or by establishing a Czech company. The most common corporate legal forms are the limited liability company ('sro') and the joint stock company ('as').

In addition, foreign entities are permitted to carry out directly (without establishing a branch office or a subsidiary) occasional business activities in the Czech Republic under the conditions of the Act on the Free Movement of Services No. 222/2009. This statute allows these entities to provide only temporary or occasional services. Compliance is assessed on an individual basis, having regard to the nature, duration, frequency, regularity and continuity of the services.

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## 3 Licensing procedures

Must foreign designers and contractors be licensed locally to work and, if so, what are the consequences for working without a licence?

As mentioned above, foreign entities aiming to conduct business in the Czech Republic may either found or become a shareholder in a Czech company, establish a local branch office or only provide services on a temporary basis; in the latter instance, there will be no need to obtain a special Czech trade licence.

In order to form a new company or set up a local branch office, a foreign entity must obtain an authorisation from the relevant local trade licence office. (A branch office is not a Czech legal entity, but serves as a representative of a foreign company and acts on that company's behalf.) Certified architects and engineers preparing to set up their own business in the Czech Republic should instead apply for a special authorisation from the local authorities.

Newly formed companies and local branches of foreign companies must be registered in the Czech Commercial Register. For this purpose, they must hold all trade licences (or, for some types of business, all authorisation certificates) required for the activities that they will perform. To obtain a Czech trade licence, foreign persons

must prove certain facts stated in the Trade Licensing Act, including official Czech translations of all required documentation.

Construction work is listed in the Trade Licensing Act (Act No. 455/1991) as an activity requiring a specific trade licence. Once an applicant proves that it has met all the requirements for the granting of a trade licence, the Trade Licence Office will issue a licence excerpt. The applicant then has 90 days in which to use this excerpt as the basis for its application for registration in the Commercial Register. The applicant must fully list all business activities that it plans to undertake on the application form; upon registration, it will only be allowed to engage in these listed activities. Since August 2006, newly formed companies have had the option of applying for registration with the Czech Tax Office (for almost all types of taxation) at the same time that they apply for a trade licence.

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## 4 Labour requirements

Are there any laws requiring a minimum amount of local labour to be employed on a particular construction project?

Companies face no limitations or quotas with respect to the use of local labour on a particular construction project under either the Czech Employment Act (Act No. 435/2004) or the Labour Code (Act No. 262/2006). Companies established in the Czech Republic that hire locally must follow relevant Czech legislation with respect to both their local and foreign employees. In particular, their non-Czech employees must hold all relevant working permits and meet the other residence requirements of the Czech Foreigners Police Department.

Public procurement contracts are the sole instance in which limitations on the use of non-Czech employees may apply. Applicants may need to demonstrate that they will employ a certain percentage of local staff to qualify for award of the public contract.

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## 5 Local labour law

If a contractor directly hires local labour (at any level) for a project, are there any legal obligations towards the employees that cannot be terminated upon completion of the employment?

Employment issues in the Czech Republic are tightly regulated under both the current Labour Code and the Employment Act. These rules apply to all employers and employees in the Czech Republic, irrespective of whether the employees are local or foreign persons. Employment relationships in the Czech Republic are established in most cases via an employment contract; they may, however, also be set up by the employee's election or appointment to his or her position. Employment contracts must be executed in writing and contain all information required by law. Employment may be terminated by mutual agreement, by the serving of termination notice (either by the employer or the employee), by immediate termination or by termination during the trial period. Czech law does not prohibit collective dismissals due to the closure of the employer's business (eg, due to bankruptcy or liquidation) or its relocation; in such situations, the

employer must notify the employees' committee or, as the case may be, the relevant trade unions, as well as the local labour office, at least 30 days before it delivers a termination notice to its employees. When terminating an employment relationship, the employer must issue:

- an employment certificate to the employee specifying the information required by law; and
- confirmation of the employee's average earnings.

The employer is also required to issue a labour report about the employee; it must fulfil this obligation no later than 15 days after receiving a request to do so from the employee.

## 6 Health and safety regulation

Are there any specific health and safety rules regulating the construction industry?

The Czech Labour Code sets out rules and principles for the prevention of workplace accidents. In 1968, a standard system for state supervision of occupational health and safety was introduced under the Act on Professional State Supervision (No. 174/1968). This legislation established a national supervision system via inspectorates of the Czech Office for Occupational Safety. Beginning even before the Czech Republic accession to the EU in 2004, EU standards in this area have gradually been implemented across the Czech Republic. National legislation (Act No. 309/2006) stipulates the professional qualifications required of a construction site occupational health and safety coordinator. These qualifications remain valid for five years, and coordinators must then renew their certificates by passing a new examination. The Czech Republic has adopted European Council Directive 82/57/EEC – on the implementation of minimum safety and health requirements at temporary or mobile construction sites.

## 7 Close of operations

If a foreign contractor that has been legally operating decides to close its operations, what are the legal obstacles to closing up and leaving?

A foreign company operating in Czech Republic that wishes to close its business will need to follow the same termination process as its local counterparts (or local entrepreneurs). First of all, the company will need to submit an application for cancellation of its trade licence(s) to the relevant trade licence office (section 58, paragraph 1, letter c of the Trade Licensing Act). It will then need to inform the relevant tax office of its intention to file its tax return under the time limits stated by law. Furthermore, the company will need to complete and submit relevant forms to all concerned health insurance companies and social security administration authorities regarding the termination of employment of its employees; this obligation must be fulfilled no later than eight days after the termination of their employment. Such employers must also consider if this termination of contracts with several or all employees amounts to a collective dismissal under section 62 of the Labour Code; if so, they must comply with the requirements of that provision. Finally, the company will need to file an application with the relevant court for the deletion of its business or branch from the Commercial Register.

## 8 Standard forms of construction contracts

What standard-contract forms are used for construction and design?

The Commercial Code sets out general rules covering the contracts for work that are used in construction and design projects. Most of those provisions can be altered by the parties' own agreement. At the same time, the statute does not provide specific solutions to many typical problems arising during the construction process. The parties therefore generally determine their own solutions contractually.

Standard-contract forms are seldom used without adaptation for construction and design projects in the Czech jurisdiction. International Federation of Consulting Engineers (FIDIC) forms are,

however, often modified in various ways as a contractual framework. Unmodified FIDIC forms are not suited to the Czech jurisdiction.

## 9 Price escalations

In typical construction contracts, who assumes the risk of material price escalation and shortages?

Typically, the parties set a lump sum for a particular construction project based on the documentation attached to the contract, and this price is described as 'final and the maximum allowed'. The Commercial Code regulates further issues. In these circumstances, the price may only be altered if the parties agree on a new price; or on a change to the work, without deciding on the effect of that change on the price. In the latter situation, the initially agreed price for the work should be increased or reduced to reflect the difference in the scope of the essential activities and reasonable expenses arising from the changed nature of the work.

While it is not typical practice in the Czech construction sector, there are cases where the contractual price for work may be determined based on a calculation, and the contract implies that not all parts of that calculation are guaranteed. In this situation, the contractor may demand an appropriate price increase if, during the performance of the work, it is necessary to carry out activities not included in the calculation, and the need for such activities could not be foreseen at the time of the contract's conclusion. This principle comes from the Commercial Code.

In these cases where the contractual price is based on a non-binding estimate, the contractor may demand that the price be increased by the amount by which the contractor's reasonably incurred expenses exceeds the expenses stated in the original estimate.

If the contractor seeks an increase of the initial calculation for this reason, and the commissioning party disagrees, the contractor may petition a court to determine the actual price increase. Should the contractor demand a price escalation of more than 10 per cent, the commissioning party will have grounds to withdraw from the contract. The contractor may, in turn, bring a claim for unjust enrichment.

In general, unless otherwise agreed in the contract for work, a substantial change in the circumstances under which the contract was concluded (eg, material price escalation or shortages) is not generally ground for withdrawal from the contract, nor for seeking a change in price, and remains a risk of the contractor.

## 10 Competition

Do local laws provide any advantage to domestic contractors in competition with foreign contractors?

Under Czech law, foreign and domestic entities are treated identically in all areas; no advantages are offered to domestic contractors that are in competition with foreign counterparts. The government does not screen any foreign projects related to construction unless they involve the defence sector. The Czech Republic is a member of the OECD, and it has committed to non-discrimination against foreign investors in privatisation sales. The Czech rules on unfair competition are set out under the Commercial Code Act No. 513/1991; 'unfair competition' is understood to refer to practices that contradict the norms of good competition and may cause damage to other competitors or consumers. Other binding rules arise under specific Czech legislation (ie, Act No. 143/2001, the Economic Competition Protection Act) as well as European Community law contained in the Treaty on the Functioning of the European Union and other regulations of the EU Council or Commission. Community law is applicable across all areas of economic activity in the Czech Republic, including sectors subject to specific EC regulations (construction included).

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**11 PPP and PFI**

Is there a formal statutory and regulatory framework for PPP and PFI contracts?

While PPP projects are a frequently used method worldwide for the construction of publicly beneficial buildings (eg, transport infrastructure), this has not been the case in the Czech Republic. One of the reasons is the persistence of unclear legislation in this area despite the adoption of relatively recent specific laws on PPP and PFI projects (eg, Act No. 139/2006, on concessional contracts and concessional procedure).

When PPP projects do take place in the Czech Republic, the contractor is chosen through a special concessional procedure set out in the governing legislation; the contractor then concludes a concessional contract with a public body to execute the project. By entering into this concessional contract, the public body authorises the contractor to carry out the project at its own costs and to collect profit from the project's operation. The substantive rights under this contract cannot be assigned as a matter of law.

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**12 Payment of fees**

How may a contractor secure the right to payment of its costs and fees from an owner? May the contractor place liens on the property?

Czech statutes do not prescribe any express right of the contractor to be furnished with security for the performance of the counterparty (eg, property owner) in a construction project situation. Nevertheless, as a general rule, if it becomes obvious that the counterparty will not honour its obligations, the contractor may refuse to fulfil its duty upfront until the counterparty renders or sufficiently secures its performance. The contractor may stipulate an appropriate time limit for this performance or security provision. If that deadline expires in vain, the contractor may withdraw from the contract. (If bankruptcy has been declared over the counterparty's property, the contractor may withdraw immediately from the contract, ie, without providing this additional time limit.)

The parties may agree in their contract on specific security for the contractor's right to payment of the work price and costs from the owner, but this is not standard. Liens over property in favour of the contractor are not used in practice.

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**13 Tort claims and indemnity**

Do local laws permit a general contractor to be indemnified against all acts, errors and omissions arising from the work of a subcontractor, even when the general contractor is negligent?

As a rule, a general contractor is liable to counterparties for the performance of any other person through whom the contractor fulfils its obligations. Thus, the contractor will need to compensate the commissioning party for any harm that the party incurs owing to the contractor's breach of duty, even where that breach was in fact wholly or partially caused by the act, error or omission of a subcontractor. The subcontractor is, in turn, obliged to indemnify the contractor against all damage caused by the subcontractor. The subcontractor may bring a counter-claim where it considers the general contractor has been negligent.

As noted in question 22, a contractor will not be liable for damage caused by a breach of its duty if that breach resulted from a force majeure-type event, ie, any obstacle that arose independently of the contractor's will and prevented it from performing its duty, provided that the contractor could not reasonably be expected to avert or overcome the obstacle or its consequences, and that the obstacle was unforeseeable when the contractor undertook its obligation. Where a breach is caused by a subcontractor, the general contractor will only be exempt from liability if both the subcontractor and the general contractor meet the criteria in the previous sentence.

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**14 Liability to third parties**

Where a contractor constructs a building that will be sold or leased to a third party, does the contractor bear any potential responsibility to the third party? May the third party pursue a claim against the contractor despite the lack of contractual privity?

According to the Commercial Code, a contractor that constructs a building that is sold or leased to a third party will be liable for any damage incurred by that or another third party as a result of construction defects. Such third parties may pursue a civil law claim against the contractor despite the lack of contractual privity. In this scenario, the contractor could also face criminal liability under the Criminal Code for any injury or harm resulting to a third party or its property due to the contractor's negligence. The contractor may further be found guilty of a statutory offence if it has breached building regulations.

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**15 Insurance**

To what extent may a contractor obtain insurance to cover its contractual risks?

Contractors for building projects in the Czech Republic may obtain two basic types of insurance: all-risk construction insurance and insurance against liability for damages.

All-risk construction insurance covers any damage or destruction occurring to the insured object (including both constructed structures and the surrounding land plot). Common exemptions from the coverage include damage caused by acts of war, the contractor's fraud, nuclear energy accidents, etc. In some cases there may be exemptions that are closely linked to construction work, for example, for damage caused by faulty design documentation (if the contractor knew or could have known about the defect in the documentation) or by failure to follow relevant technical standards or technical processes.

Insurance against liability for damages provides protection to the contractor in the event that it causes harm to another person's health, life or property. To ensure coverage, the harm must arise in connection with the execution of construction work by the contractor (or its agent) during the insurance period and at the insured site, or in its immediate vicinity. Even in these cases, the common exemptions mentioned above apply.

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**16 Insolvency and bankruptcy**

Where major projects have been interrupted or cancelled, do the local laws provide any protection for unpaid contractors who have performed work?

As described in question 12, if it becomes obvious that the commissioning party will not honour its side of the contract, then a contractor may refuse to fulfil its contractual duties until the employer renders or sufficiently secures its obligations. Where bankruptcy has been declared over the commissioning party's property, the contractor may withdraw from the contract immediately.

As a rule, the contractor will only have priority over other creditors in the bankruptcy proceedings if its claims against the commissioning party are secured. Otherwise, the contractor will have the same standing as other ordinary creditors.

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**17 Contracting with government entities**

Can a government agency assert sovereign immunity as a defence to a contractor's claim for payment?

In the Czech Republic, a government agency cannot assert sovereign immunity as a defence to a contractor's claim for payment.

**18 Bribery**

If a contractor has illegally obtained the award of a contract, for example by bribery, will the contract be enforceable?

In January 2010, a new Criminal Code (Act No. 40/2009) came into force in the Czech Republic. Key changes under the statute include the criminalisation of bribery committed in connection with business activities, an increase in the level of sanctions and the extension of the definition of a public official. The Criminal Code prohibits not only the bribery of public officials, but any sort of bribery in connection with 'procuring affairs in the public interest' or doing business. Public officials are also understood to include officials from foreign states and representatives of international organisations. The Criminal Code covers both the provision and receipt of bribes.

**19 Political contributions**

Are there laws that restrict the ability of contractors or design professionals to work for public agencies because of their financial support for political candidates or parties?

There are no statutory regulations in the Czech Republic that would limit or restrict the ability of a contractor or design professional to work for public agencies because of that person's financial support for political candidates or parties. The financing of political parties is regulated under the Act on Association through Political Parties and Political Movements (Act. No. 424/1991). According to this statute, political parties must submit certain information annually to the Czech parliament's Chamber of Deputies. This information includes a summary of the party's annual financial report featuring, inter alia, an overview of donations and donors indicating total monetary donations. If the total annual donation from one donor exceeds a value of 50,000 CZK, then the party must furnish copies of the relevant donation agreement. The information in that agreement must be identical to that in the submitted overview.

**20 Arbitration**

What is the prevailing attitude towards arbitration of construction disputes? Is it preferred over litigation in the local courts?

Construction disputes in the Czech Republic are resolved generally through litigation before a general court, or else by arbitration. Other dispute resolution methods are not yet common in the Czech Republic.

Arbitration proceedings are significantly shorter than court proceedings, but their outcomes are more unpredictable. Moreover, no appeal is generally permitted against an arbitration award; the award may only be overturned by a court on very limited grounds specified by law. After cancellation of the arbitration award, the proceedings will resume through arbitration and not by court proceedings.

In large-scale construction projects (airports, etc) involving international contractors, international arbitration becomes common.

Arbitration clauses are becoming more frequent in contracts in the Czech jurisdiction (mainly because of the comparative speed of arbitration). Nevertheless, arbitration is still not the most common means of resolving construction disputes in the Czech Republic.

**21 Foreign corruption**

Does local legislation prohibit corrupt practices carried out abroad by persons domiciled in your jurisdiction?

The Czech Republic asserts extraterritorial jurisdiction over its citizens who commit offences under the Criminal Code (ie, the active personality principle of jurisdiction). Thus, if an offence is committed abroad by a Czech citizen or by a stateless person with a permanent residence permit in the Czech Republic, such offence will be prosecuted as an offence under Czech law.

**22 Force majeure and acts of God**

Under local law are contractors excused from performing contractual obligations owing to events beyond their control?

There is no legal definition of force majeure or acts of God in the Czech jurisdiction. The Commercial Code stipulates, however, that any party that breaches its duty must provide compensation for resulting damage to another person, unless the duty-holder proves that the breach was caused by circumstances exempt from liability. Such circumstances refer to any obstacle that arose independently of the duty-holder's will and prevented this party from performing its duty, provided that this party could not reasonably be expected to avert or overcome the obstacle or its consequences, and further that the occurrence of this obstacle was unforeseeable at the time when this party undertook its obligation. Circumstances exempt from liability cover in most instances are generally understood as force majeure events in other jurisdictions.

In the contract, the parties may define circumstances exempt from liability broader than by operation of law.

Where a party has breached its duty owing to circumstances exempt from liability, it is not bound to provide any compensation. However, it must inform the counterparty of the nature of the obstacle that prevented the performance of its obligations and of the consequences.

As a general rule, according to the Commercial Code, in cases where it is impossible to fulfil key obligations under a contract, that contract will be terminated. The debtor is liable for damage caused to its former creditor by the termination of the contract. If the impossibility of performance is caused by circumstances exempt from liability, a debtor whose obligation was extinguished due to this contractual termination will not be liable for the resulting damage to its former creditor.

**23 Dispute resolution mechanisms**

What dispute resolution procedures are successfully used to solve construction disputes?

As mentioned in question 20, court proceedings and arbitration are the main resolution methods used in construction disputes in the Czech Republic. Other dispute resolution methods are not yet common. This is mainly due to the absence of rules on alternative forms of dispute resolution (including mediation) in the jurisdiction.

**24 Courts and tribunals**

Are there any specialised tribunals that are dedicated to resolving construction disputes?

There is no extraordinary or specific tribunal that specialises in resolving construction disputes in the Czech Republic. However, general civil courts include divisions that focus on hearing commercial disputes. As a general rule, these divisions settle commercial disputes whose value exceeds 100,000 koruna (CZK).

**25 Limitation periods**

Are there any statutory limitation periods within which lawsuits must be commenced for construction work or design services and are there any statutory preconditions for commencing or maintaining such proceedings?

Under Czech law, the standard statutory limitation period for civil claims is three years, while a four-year limit applies to commercial cases. Generally, the statutory limitation period starts running from the time when the claimant should first reasonably have brought the claim. It will stop running when the lawsuit is filed.

If a claim relates to defective work, then the claimant will only be entitled to bring an action, and the statute of limitations will only begin running, once certain statutory preconditions are met.

In particular, the claimant must first report any alleged defect to the contractor within the statutory notification period. Under the Czech Commercial Code this notification must take place without undue delay from the time that the claimant discovered or should have discovered any evident defect in the work; the maximum time limit for this notification is five years from the date of handover of the work in commercial cases involving real estate, and two years from this handover date in other commercial matters. Once this notification has been served, the claimant may generally launch court action if the contractor fails to take action within a reasonable time to resolve the claimed defect. Failure to provide this notification, on the other hand, will extinguish the claimant's rights with respect to the defect.

Unless the parties expressly agree otherwise in their contract, a debt will generally become due and actionable in the Czech jurisdiction if the debtor receives a request for its performance and fails to satisfy that request in due time. 'Due time' in this case means within the deadline stated in the request, or within a reasonable time from receiving the request if no deadline is given.

The proceedings will commence when the lawsuit is filed. To maintain the proceedings, the claimant should provide all due assistance to the court.

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**26 Dispute review boards**

Are dispute review boards (DRBs) used? Are their decisions treated as mandatory, advisory, final or interim?

Dispute resolution boards are not often used in the Czech Republic; they occur strictly if the disputing parties have arranged for this in their contract. This contract will also determine the effect of the board's decision. In general, the decisions of dispute resolution boards are not enforceable. To achieve this enforceability, it would be necessary to regulate the board's operations in a contractual arbitration clause. This would, in turn, change the status of the proceedings to arbitration, and the outcome of the proceedings to a final arbitration award.

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**27 Mediation**

Has the practice of voluntary participation in professionally organised mediation gained acceptance and, if so, how prevalent is the practice and where are the mediators coming from?

Mediation does not have institutional support in the Czech Republic, and it is not a common dispute resolution method. There have, however, some signs of change on the horizon; although there are currently no regulations regarding the role of mediators in dispute settlement, a recent bill on mediation in non-criminal matters has been submitted to the Czech parliament.

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**28 Confidentiality in mediation**

Are statements made in mediation confidential?

There is no formal requirement to observe confidentiality in mediation in the Czech jurisdiction. This is because the mediation procedure is not officially regulated. The norms applied during the procedure, including the legal impact of statements made, will thus depend on the agreement of the parties.

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**29 Arbitral award**

Is there any basis upon which an arbitral award issued by a foreign or international tribunal may be rejected by your local courts?

The Czech Republic is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) of 1958. Local courts apply this treaty when enforcing foreign arbitral awards.

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**30 Governing law and arbitration provider**

If a foreign contractor wanted to pursue work and insisted by contract upon international arbitration as the dispute resolution mechanism, which of the customary international arbitration providers is preferred and why?

International arbitration is only used in a minority of cases to settle disputes arising in the Czech Republic: these are always high-value transactions that do not involve a public entity contract. The most commonly used arbitration courts (in order of popularity) are: the International Chamber of Commerce (ICC) Court of Arbitration in Paris, the Zurich Chamber of Commerce Arbitration Court and the London Court of International Arbitration. The ICC Court of Arbitration in Paris is the most popular because it gives a high level of administrative control of the arbitral process and maintains quality control. It is the biggest dispute resolution institution in the world, and construction and engineering disputes account for a large amount of these. As noted in question 20, arbitration is not very common in construction cases in the Czech Republic due to the high costs that it entails.

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**31 International environmental law**

Is your jurisdiction party to the Stockholm Declaration of 1972? What are the local laws that provide for preservation of the environment and wildlife while advancing infrastructure and building projects?

The Czech Republic is a party to almost all major international conventions on environmental protection and a member of many important international organisations focused on ecological conservation. The main national legislation on environmental protection is the Act on the Environment (No. 17/1992), which sets out basic principles and penalties surrounding environmental damage. In the field of construction, the Zoning and Building Code (Act No. 183/2006) prescribes rules for the preservation of the environment in the planning of land use and construction. Another key law that should be considered before commencing construction is the Act on the Assessment of Environmental Impact (No. 100/2001).

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**32 Other international legal considerations**

Are there any other important legal issues that may present obstacles to a foreign contractor attempting to do business in your jurisdiction?

The Czech Republic is a notably open and free market economy. In general, foreign individuals and legal entities do not encounter any restrictions regarding their undertakings in the country, and they are treated on par with Czech citizens. The Czech legislature has to a large extent adopted the tenets of European Union law, including standard commercial law principles on economic and consumer protection, mergers and acquisitions, intellectual property and energy.

Czech commercial and private civil law is based upon continental civil law principles. As distinct from common law, continental law has its main sources in the written and binding statutes, orders, bills and directives of competent legislative bodies.

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**33 International treaties**

Is your jurisdiction a signatory to any investment agreements for the protection of investments of a foreign entity in construction and infrastructure projects? If so, how does your model agreement define 'investment'?

The Czech Republic is a member of the Multilateral Investment Guarantee Agency (MIGA), which is part of the World Bank International Monetary Fund group. MIGA is an international organisation for the protection of investments. The Czech Republic has signed more than 80 bilateral and multilateral treaties that protect foreign investments; these include treaties with Belgium, China, Italy, Luxembourg, Switzerland, the United Kingdom, the United States and

many other countries. The treaties state that a non-discriminatory framework must be applied, and that each party shall permit and treat the investments and associated activities of the citizens and residents of the other party on this basis. The treaties are always available in the Czech language and the language(s) of the counterparty or counterparties.

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#### 34 Tax treaties

Has your jurisdiction entered into double taxation treaties pursuant to which a contractor is prevented from being taxed in various jurisdictions?

The Czech Republic has entered into many taxation treaties to prevent double taxation in both the Czech jurisdiction and the jurisdictions of the other contracting countries. It has concluded these treaties with all other European Union countries, and with 70 additional countries, including Australia, Canada, Switzerland, the United Arab Emirates, the United Kingdom and the United States. Double taxation treaties cover taxes on dividends, interest and royalties. The exact method for preventing double taxation is stated in the individual treaty between the Czech Republic and the other country.

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#### 35 Currency controls

Are there currency controls that make it difficult or impossible to change operating funds or profits from one currency to another?

The Czech koruna (CZK) is the Czech Republic's official currency. The exchange rate is subject to a managed floating system with no predetermined course; it is calculated according to supply and demand on the foreign exchange market. The Czech National Bank has the right to intervene in the exchange market to control volatile swings in the exchange rate. Commercial banks can set their own exchange rate without restriction. Exchange controls and regulations are administered by the Czech National Bank and the Ministry of Finance. Almost all of these controls have been removed, however; the exceptions are controls on investments by non-residents in the air transport sector and controls on lotteries. There is also a partial exemption related to controls on the real estate investments of non-residents.

Non-residents, including individuals and branches of foreign companies, may repatriate CZK in a foreign currency or transfer funds from their CZK account to a destination abroad without restrictions. This includes the repatriation of profits.

Some transactions must be reported subsequently to the Czech National Bank for balance-of-payments statistics. These include fund movements of at least 1 million CZK in value between resident and non-resident legal entities, or at least 306,000 CZK in value for transactions involving a Czech bank or institution.

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#### 36 Removal of profits and investment

Are there any controls or laws that restrict removal of profits and investments from your jurisdiction?

No express limitations exist regarding the distribution and expatriation of profits by Czech subsidiaries to their parent foreign companies; limited liability and joint stock companies must only meet their obligations to generate mandatory reserve funds and pay withholding taxes. In practice, foreign investors in the Czech Republic are allowed to freely transfer profits and capital throughout the EU and to third countries, but these transfers must be declared subsequently to the Czech National Bank for statistical purposes. In addition, certain limitations apply to transfers in accordance with Czech and EC rules surrounding taxation, prudential supervision, public policy considerations, money laundering and financial sanctions agreed under the EU Common Foreign and Security Policy.

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#### 37 Contractual matrix of international projects

What is the typical contractual matrix for a major project in your jurisdiction in terms of the contractual relationships among the various construction project participants?

Various generally accepted and internationally used contractual matrices are used in the Czech Republic. The most common practice in the Czech Republic remains for the developers to engage architectural and design firms to provide the architectural concepts and designs, pursuant to which the construction contracts are then awarded to the contractors on a build-only basis. Project managers are usually appointed by the developer to oversee the execution of the project but they do not have a direct contractual relationship with the contractor and derive authority solely from their contract with the developer (investor). In certain cases, the construction manager is appointed by the developer (investor) to contractually engage different contractors for the design and construction of the projects. Design-and-build and turnkey contracts are not massively used.



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