

Home>Legislation and case law>National legislation

National legislation

Czech Republic

This page gives you information on the legal system and an overview of the law of the Czech Republic.

#### Sources of law

Czech law, which forms part of continental European legal culture, is founded on written law and includes acts and other legislative instruments, promulgated international treaties ratified by the Czech Parliament [[Parlament ČR](#)], and rulings of the Constitutional Court [[Ústavní soud](#)] annulling all or part of a legislative provision.

#### Types of legal instrument – description

The legal order of the Czech Republic is made up of all Czech legislation and related instruments.

The most important legislative instruments are **acts** [*zákony*], i.e. collections of rules of behaviour governing the main areas in the lives of individuals and society. More comprehensive acts known as **codes** [*zákoníky*] govern a whole area of law and set out the detailed provisions in a systematic way. Acts encompassing a whole area of procedural law and setting out detailed procedural provisions are called **rules of procedure** (*řády*). Acts on the most important matters of state and on citizens' and human rights (including the Constitution of the Czech Republic and the Charter of Fundamental Rights and Freedoms) are known as **constitutional acts** [*ústavní zákony*] and there is a special procedure for their adoption.

The acts are underpinned by implementing regulations: **government regulations, decrees from ministries or central-government bodies, and decrees from autonomous regional entities**.

Czech law also includes **international agreements** that have been ratified by Parliament and are thus binding on the Czech Republic. International agreements take priority over other legislation to the extent that an international agreement takes precedence over national law if the two differ on a given point.

Besides the types of legislation referred to above, **European law** has also applied in the Czech Republic, in the same way as in other Member States, since its accession to the European Union.

Custom is not a source of law in the Czech Republic. In some cases, however, the law allows custom to be taken into account in the context of certain fields or legal principles. Where this is the case, it is specified by the law in question and the courts can enforce those provisions. The prevalent view therefore is that the legal source is not the legal principle or the custom itself, but the law which refers to it.

A court judgment is not a source of law either. On the other hand, a court cannot refuse to take a decision because the law is incomplete or ambiguous. Often it must give its own interpretation of the matter, on which other courts will then, to a large extent, base their judgments, making this a *de facto* legal precedent. If the judgment is published in the *Sbírka soudních rozhodnutí a stanovisek* (Collection of Court Judgments and Opinions), where fundamental decisions of higher courts are generally published, it is in fact considered a source of law, even though it is not officially regarded as such.

#### The hierarchy of sources of law

The legal order of the Czech Republic is hierarchically structured. At the top are the Constitution and the other constitutional acts; these carry the greatest legal authority and can be amended only by another constitutional act. Below these come ordinary acts, the basis for implementing regulations, which carry the least legal weight. Provisions of lesser legal weight must comply with those which are higher in the legal hierarchy. Legislation may be repealed or amended only by provisions of the same or greater legal weight. **International agreements** have special standing. As indicated above, they are part of the legal order and take precedence even over a constitutional act in the event of a conflict.

**Legislation derived from acts** – government regulations, decisions of the President of the Republic of a generally normative nature (such as those on amnesty), legislative provisions of ministries and other central and local government authorities, delegated decrees of regional and municipal authorities. Such provisions must be issued on the basis and within the limits of an act, within the scope of lawful authority.

As regards **European law**, the EU principle of the supremacy of Community law applies just as in the other Member States. Under this principle, European legislation takes precedence when there is a conflict between European law and the national law of a Member State (acts, decrees etc.). This applies equally where there is a conflict between national law and primary Community legislation (the Treaties) and between national law and secondary Community legislation (regulations, directives etc.). Under the prevailing interpretation of the law, not even the supreme national legal instruments are exempt - European law even takes precedence over the constitutions and constitutional acts of Member States.

For international agreements, which are binding on the Czech Republic, to become part of its law, Parliament must ratify them, provided that no constitutional act requires the agreement concerned to be ratified by referendum. The President of the Republic ratifies international agreements. After ratification, the Czech version of the agreement must be published in the *Sbírka mezinárodních smluv* (Collection of International Agreements).

#### Institutional framework

##### Institutions responsible for adopting legislation

The legislative power of the Czech Republic is vested in its Parliament, which comprises two chambers:

the Chamber of Deputies (200 deputies) and

the Senate (81 senators).

##### The legislative process

The law-making or legislative process starts with the right of initiative. Individual members of Parliament or groups of members, the Senate, the government, and the regional authorities have the right to propose new acts and amendments to existing acts. Only the government may propose acts concerning the state budget or closure of the national accounts; only the Chamber of Deputies may decide on such acts. The government, however, has the right to express its opinion on any draft act (bill). The Chamber of Deputies first discusses and if necessary amends the draft in three successive readings.

Approval of the act requires a simple majority of the deputies present. The President of the Chamber of Deputies then sends the approved draft to the Senate as soon as possible and the Senate has just 30 days to discuss it — in contrast to the often long-drawn-out discussions in the Chamber of Deputies, which sometimes last for months. By the end of that time, the Senate must approve or reject the draft or return an amended version of it to the Chamber of Deputies. It can also decide not to discuss the act at all. If the Senate approves the draft, decides not to discuss it, or expresses no opinion by the deadline, the act is deemed to be adopted and is sent to the President of the Republic for signature. If the Senate rejects the draft, the Chamber of Deputies votes on it

once again. The act is adopted if approved by a simple majority in the Chamber of Deputies. If the Senate sends an amended draft back to the Chamber of Deputies, the lower house votes on the version approved by the Senate. The draft act is adopted by a simple majority of the deputies. If the Chamber of Deputies does not approve the Senate's amended draft, it votes again on the original version of the draft sent to the Senate. The act is adopted if approved by a simple majority of all deputies (i.e. at least 101 votes). Electoral acts and certain other types of act must be approved by both the Chamber of Deputies and the Senate.

The President of the Republic may decide not to sign an approved draft within 15 days of it being sent to him, and may return it to the Chamber of Deputies for further discussion, stating his reasons. This is known as a presidential veto. The Chamber of Deputies can overturn the presidential veto by a simple majority of its members without any amendments to the draft, in which case the act is passed. Otherwise it is not adopted.

Besides the President of the Republic, the President of the Chamber of Deputies and the Prime Minister also sign acts, though this is just a formality. When the Chamber of Deputies is dissolved, the Senate may adopt legislation in certain areas requiring immediate action which would otherwise require the adoption of an act. The government can propose measures to the Senate and these must be approved by the Chamber of Deputies at its first meeting, otherwise they lapse.

The exceptions in this legislative process are constitutional acts. For these acts to be adopted, they must be approved by a three-fifths majority of all deputies (a qualified majority) and a three-fifths majority of senators present, rather than by a simple majority (half) of all the Members of Parliament present, as required for ordinary acts. Constitutional acts can be amended or extended only by means of other constitutional acts (i.e. when the Chamber of Deputies is dissolved, they cannot be changed by Senate legislation) and the President cannot veto them.

Ministries, other administrative agencies and self-governing regional bodies may issue detailed implementing rules (regulations and decrees) within the limits of their competence.

#### **Validity of legislation**

For a piece of legislation to enter into force, it has to be published. Constitutional acts, acts and other legislative provisions (government regulations, ministerial decrees etc.) are published in the *Sbírka zákonů* (Collection of Acts) issued by the Ministry of the Interior. Legislation enters into force and becomes part of Czech law on the day on which it is published in the *Sbírka zákonů*. The Collection also records the date on which each piece of legislation takes effect. This is the date from which everyone is obliged to comply with the legislation in question. If no later date is stipulated, the legislation takes effect fifteen days after publication. In cases of overriding public interest, the date of entry into effect may be brought forward, but may not precede the date of publication. Thus, the date on which a piece of legislation takes effect may be the same as the date of its entry into force, but it may never take effect before it enters into force. Legislation adopted by the Senate is published in the *Sbírka zákonů* in the same way as acts; ratified international agreements are published in the *Sbírka mezinárodních smluv* (Collection of International Agreements). Regional legislation is published in official gazettes; municipal legislation is displayed on the official council noticeboard for 15 days and then by whatever means is standard in that locality.

Where acts or their individual provisions conflict with the constitutional order or where other legal instruments or their individual provisions conflict with the constitutional order or with an act, the Constitutional Court decides whether they should be repealed.

For more information, see the text of the Constitution: [Ústava](#).

#### **Legal database**

The legal database is owned and maintained by the Ministry of the Interior of the Czech Republic. It contains the following information: a section of the official website of the Ministry of the Interior ([Ministerstvo vnitra](#)) dedicated to the legislature ([legislativa](#)). It contains electronic (PDF) copies of the Collection of Acts ([Sbírka zákonů](#)) and the Collection of International Agreements ([Sbírka mezinárodních smluv](#)) (part of the official gazette). The site has no official status or legal force. Only the printed text of the Collection of Acts is authentic. The site can be accessed by the public, and you can conduct full-text document and metadata searches for the information you need.

The Acts section ([Sekce zákony](#)) of the Czech government portal ([Portál veřejné správy České republiky](#)) contains the full, up-to-date texts of acts and implementing regulations. This website has no official status or legal force. You can conduct full-text searches and searches by name and number of the documents in the database.

The [ISAP](#) information system gives access to the databases used to allocate coordination roles to Council documents and to legislative acts published in the EU Official Journal. It also monitors the implementation process, the national legislative process and infringement procedures. The database provides an electronic archive of national positions, working papers, correlation tables and so on.

#### **Case law**

In the Czech Republic there is no single official or private collection that systematically publishes the fundamental judgments of all Czech courts, i.e. those of the Constitutional Court and the general courts that may have general implications. The findings of the Constitutional Court are published in the *Sbírka náleží a usnesení Ústavního soudu* (Collection of Rulings and Resolutions of the Constitutional Court), published by C. H. Beck in Prague. Where the judgments of general courts are concerned, only selected findings of the supreme courts, i.e. the Supreme Court and the Supreme Administrative Court, are systematically published. The selected judgments of the Supreme Court and also its opinions, whose purpose is to consolidate the case law of the lower civil and criminal courts of the ordinary judiciary, are printed in the *Sbírka soudních rozhodnutí a stanovisek* (Collection of Court Judgments and Opinions), published by LexisNexis in Prague. Selected judgments and resolutions of the Supreme Administrative Court are published in the *Sbírka rozhodnutí Nejvyššího správního soudu* (Collection of Judgments of the Supreme Administrative Court), published by ASPI in Prague. The case law of the lower general courts is not systematically published; selected judgments are sometimes published in legal periodicals.

Official electronic search engines for the case law of the Constitutional Court and both supreme general courts are of practical importance here, covering the judgments of those courts in their entirety. These initiate electronic searches of the servers of the various lower general courts in order to display selections from their case law.

[judikatura Ústavního soudu ČR](#) (Constitutional Court case law)

[judikatura Nejvyššího soudu ČR](#) (Supreme Court case law)

[judikatura Nejvyššího správního soudu](#) (Supreme Administrative Court case law)

#### **Is access to the database free of charge?**

Access to the database is **free of charge**.

Selected commercial databases:

[ASPI](#)

[LEXDATA](#)

[LEXGALAXY](#)

[SAGIT](#)

[TORI](#)

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