



Frank Bold

Having a family in the
Czech Republic

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PROGRAM

1. Getting married in the Czech Republic
2. Rights and duties of spouses (joint property, maintenance, domestic violence)
3. Rights and duties of unmarried couples (joint property, maintenance)
4. Divorce / Splitting up in the Czech Republic (procedure, children custody)
5. Residency status after divorce / splitting up
6. A child born in the Czech Republic, residency and health insurance
7. Schooling
8. Travelling with a child
9. International relocation of children
10. Q&A

1. GETTING MARRIED IN THE CZECH REPUBLIC

Can two foreigners marry in the Czech republic?

- **yes (man and woman)**, if one of the spouses do not understand the Czech language, the presence of an interpreter is required
- the legal capacity of the spouse to marry is governed by the law of the state of which the spouse is a citizen
- in the Czech Republic, it is possible to enter into a
 - **religious marriage**
 - **civil marriage**
- Short-term **residential status** (e.g. a tourist) in the Czech Republic is enough

How can we get married?

Civil marriage:

- the engaged couple must submit to the registry office **prescribed documents** proving their legal capacity to enter into marriage
- spouses arrange a wedding date at the registry office
- marriage between two persons none of whom has permanent residence in the Czech Republic - CZK 3,000
- marriage between two persons one of whom has permanent residence in the Czech Republic - CZK 2,000.

2. RIGHTS AND DUTIES OF SPOUSES

Matrimonial property law

- the engaged couple can **agree on the law applicable** for their matrimonial property relations (in prenuptial agreement) – with some limits
- If they do not agree, it is governed by the law of the state where they **reside** after marriage

In the Czech Republic, **community property** of the spouses is created after marriage unless modified in prenup

Community property of the spouses

- spouses' community property contains **anything that spouses have gained** for the duration of the marriage, **except for (mainly)**
 - items for the personal use of one of the spouses
 - what one of the spouses has acquired as a gift or inheritance
 - what one of the spouses earned by selling things that belong to his exclusive property
- Salary, profit earned from an item that was exclusively owned by one of the spouses and other incomes acquired during marriage are generally included in community property

Debts

- Community property includes also **debts assumed by one of the spouses during the marriage** (unless assumed by only one spouse without the consent of the other except for debts incurred to provide for the everyday or usual needs of the family)
- community property might be affected by enforcement even for **exclusive debts** of one spouse

Maintenance obligation

Maintenance obligation

- the spouses have a **mutual maintenance obligation**; both spouses should have the same standard of living
- if one of the spouses does not fulfill the maintenance obligation, the other spouse can bring an action to a court
- maintenance can be granted from the date of the lawsuit has been initiated at the earliest

What if things go wrong?

- domestic violence includes physical, sexual, psychological or economic violence that occurs between partners
- in case of an attack, call the Police, phone no. 158, or 112; Police can expel the wrongdoer from the apartment for up to 10 days
- call a reception center, or Integration center in your region
 - <https://www.brnoexpatcentre.eu/im-an-expat/difficult-situations/>
 - <http://www.integracnicentra.cz/>
- you can file a criminal complaint against perpetrators of domestic violence

3. RIGHTS AND DUTIES OF UNMARRIED COUPLES

Maintenance for an unmarried mother

- If the child's mother is not married to the child's father, the child's father shall provide **her** with **maintenance for two years from the birth of the child** and provide her with a reasonable contribution to cover the costs associated with pregnancy and childbirth. The man whose paternity is probable has the duty to reimburse **the costs associated with pregnancy and childbirth** even if the child is not born alive.
- Paternity by (a) joint declaration of man and woman or (b) by court order (usually based on DNA test)

Property regime and representation

Generally each partner has **exclusive property**

If partners buy something together, it will be their **joint property**

Partners may represent each other if they have **power of attorney**

Partner has **right for information about medical condition** of the other partner to a similar extent as married couples (the partnership may be proven e.g. By a birth certificate of their child or a lease contract)

4. GETTING DIVORCED / SPLITTING UP IN THE CZECH REPUBLIC

Can I get a divorce in the Czech Republic?

Czech courts will be deciding about the divorce if

- both spouses live in the Czech Republic, or
- their last common place of residence is in the Czech Republic and at least one of them lives in the Czech Republic

Divorce is possible in two forms, **uncontested** - if both spouses file for the divorce and fulfill specific conditions and **contested** - if one of them do not agree with the divorce

Limited right for legal aid <http://www.potrebujipravnik.cz/english>

Who will take care of children after divorce?

- Before the divorce the court have to decide on minor child custody (approves parental agreement or issues order), of the child to one of the parents, joint custody or alternating custody
- the court also decides how much should the other parent pay on **child support** (recommendation of the Ministry of Justice: 11-22 % of net income of non-custodial parent)
- Court appoints a **guardian** to represent a minor child in the procedure (social services worker who will contact and consult parents)
- Municipal court in Brno, Polní 39, phone: +420 5465 11111
podatelna@msoud.brn.justice.cz

5. RESIDENCY STATUS AFTER DIVORCE

What if your residence permit is dependent on your spouse and you split up?

If you have **long term residence permit for the purpose of family reunification**, it is possible to **change the purpose** of your residence in case of divorce:

- after 2 years of stay in the Czech republic
- if the marriage lasted more than 5 years
- need to change purpose within 1 year of divorce

If you have a **residence permit for a family member of an EU citizen**, your **permit is not cancelled** in case of divorce:

- after 2 years of stay in the Czech republic
- if the marriage lasted more than 3 years
- or if a child who is citizen of European union is in your custody

6. A CHILD BORN IN
THE CZECH
REPUBLIC,
RESIDENCY AND
HEALTH INSURANCE

Czech citizens

- the child is a Czech citizen if one of the parents is Czech - in such case, the child **has free full public health insurance**

EU citizens

- the same residence rights apply to these children as to all EU citizens
- if the legal representative has permanent residence, it is possible to apply for **permanent residence permit** for the child
- if filed within 60 days of the child's birth, the child will fall under **the public health insurance** system from the date of birth
- it is a legal obligation of the parents to get an appropriate health insurance and find a pediatrician immediately after the birth of their child

nonEU citizens

- if the legal representative has a long-term residence permit, they must apply on behalf of the newly born child for a **long-term residence** permit within 60 days, the child will fall under the **private health insurance system**
- if one of the legal representatives has a permanent residence permit, they must apply on behalf of the newly born child for a **permanent residence** permit within 60 days, the child will fall under the **public health insurance system** from the date of birth

7. SCHOOLING

- education in public elementary schools is **free of charge**
- foreigners residing in the Czech Republic have access to education in the Czech Republic under the same conditions as Czech citizens
- **mandatory school attendance** from the age of 5 - for 10 years (1 year kindergarten; 9 years elementary school), or till the age of 17
- unlike secondary schools and universities, elementary schools and kindergartens do not have the right to assess the legitimacy of the residence in the territory of the Czech Republic
- if a child is absent from school **longer than 60 days** without proving the reason for absence, they will cease to be a pupil of this school

Supporting measures

- children fulfilling mandatory school attendance are entitled to free preparation for inclusion to school including **Czech language course**
- the minimum scope of language course is 70 teaching hours for a maximum of 6 months
- a child with special needs is entitled to supporting measures - individual educational plan, school counselling, adaptation of the teaching method, marking
- previous written consent is needed for some of the supporting measures e.g. psychological assessment

What are my responsibilities as a parent?

- **supervise** the child's school attendance
- if invited, **come** to the school to discuss issues related to the child's education with the headmaster
- **inform** the school about the child's health problems or other significant facts
- **give reasons** to the child's absence from school
- provide the school with information that are essential for the course of education or the safety of the child

What if the parents are unable to agree on the child's education?

- the pupil fulfills compulsory school attendance at a school in a district where the pupil has their permanent residence
- the parent may choose another school for the pupil
- both parents should agree on a school, if they don't, a parent can file a **motion to the court** to replace the consent of the other parent to enroll in different school
- if the child enrolls in two different schools, the court can then decide which school the child should attend

8. TRAVELLING WITH A CHILD

What if I want to travel with children?

Foreign nationals from outside Schengen:

- a **passport** and a **residence permit** in the Czech Republic should be sufficient for travel to the countries of the Schengen area
- it is better to check the conditions of entry into countries outside Schengen individually at the relevant embassy
- some states allow children to travel without their own passport provided that they travel with the parent in whose passport they are written

9. INTERNATIONAL RELOCATION OF CHILDREN

International child abduction

- **unlawful removal** or retention of a child outside of their usual country of residence without consent from the other parent or consent from the court
- if the child is abducted, contact **Office for International Legal Protection of Children** courts and initiate court proceedings

The child was abducted to the Czech Republic:

- Municipal Court in Brno will decide on the matter

The child was abducted from the Czech Republic:

- foreign courts will decide in the matter

RECOMMENDED SOURCES

<https://www.mvcr.cz/mvcren/article/a-child-born-in-the-territory.aspx>

<https://www.mvcr.cz/mvcren/article/third-country-nationals-travelling-in-the-eu-schengen.aspx>

<https://www.mvcr.cz/mvcren/article/marriage-between-czech-nationals-and-foreign-nationals-in-the-czech-republic.aspx>

<https://www.brnoexpatcentre.eu/im-an-expat/>

RECOMMENDED SOURCES

Czech Civil Code in English (some minor amendments are not translated) – sec. 655-975

<http://obcanskyzakonik.justice.cz/images/pdf/Civil-Code.pdf>

Basic information about Czech family law with international aspects

<http://mezinarodnirozvod.cz>

10. Q&A



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