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Possibilities of foreign non-profit organizations to be active in  
the Czech Republic

1. to be active directly as a foreign organization pursuant to the law No. 116/1985
2. to set up a civil association pursuant to the law No. 83/1990
3. to set up a foundation pursuant to the Czech Civil Code or Czech Foundation Law respectively
4. to set up a publicly beneficial company pursuant to the law No. 248/1995
5. to set up a company pursuant to the Czech Commercial Code

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ad 1. Pursuant to the law No. 116/1985 the Czech Ministry of Interior issues permits to international non-governmental organizations and organizations of foreign citizens in order for them to be set up, to have its seat in the Czech Republic or to be active here. The only requirements that the organizations shall meet are:

- its statutes and its activity are in accordance with the Czech law
- "other important reasons" do not obstruct it - a possibility to deny to issue the permit without a serious reason.

On the other hand the lack of regulation makes it possible for the above said organizations to create relatively freely their bodies and ways of activities. It is an old law that was directed to provide a legal basis for foreign cultural centers or entities like International Student Union and it has no relation to other laws mentioned hereunder.

ad 2. The present Civil Associations Law regulates "associations of citizens" and it is not clear whether the word "citizen" means simply "person" (i.e. any person including foreign citizens and persons having no citizenship relation to any state) as in many other provisions of the Czech Law - a problem that is being discussed by the Czech legal theory and overcome by construction in every single case. Therefore it is possible even for foreigners to become a member of an existing Czech civil association but it is not certain whether the Ministry of Interior would register - without causing problems - an association set up exclusively or mostly by foreigners.

Otherwise the law is very liberal and allows the associations to regulate their activities and functioning of their bodies as they like. There are only several activities that are prohibited to be the tasks of associations (e.g. limiting civil rights).

An amendment of the said law is supposed to be passed soon and after that the law will distinguish between civil associations and international associations. The latter will be discriminated in two ways:

a) presently the Czech Ministry of Interior as a registering body may deny registration of a civil association only for limited range of specified reasons but pursuant to the coming amendment while deciding on registration of a international association it shall ask the Ministry of Foreign Affairs for its opinion and it may deny registration of the international association if the opinion of the Ministry of Foreign Affairs is negative, no specific reasons for this negative opinion being stipulated,

b) unlike the application for registration of an "ordinary" civil associations, signatures of the members of the preparatory committee on the application for registration shall be verified by notary.

ad 3. Presently the foundation is regulated by the Civil Code in a very fragmentary manner. There is a lot of problems ensuing from

the lack of regulation but in general it is possible for a foreign founder to set up a foundation in accordance to the Civil Code.

Activity of branch offices (i.e. structures that are not regarded by the law as entities separate from their up-stream entities) of foreign foundations is not currently regulated at all. Only the Foundation Law Draft stipulates that branch offices of foreign foundations may be active in the territory of the Czech Republic under the same conditions as the foundations set up pursuant to the Czech law, i.e. the Czech Foundation Law.

The Foundation Law Draft is very detailed and brings a very needed regulation but on the other hand it is already now clear that it will bring also many new problems. The most important one is that the foundation created by the Draft is not foundation in its strict theoretical concept of property that has been given the position of an entity but the Draft distinguishes between the foundation and its property.

ad 4. The law on publicly beneficial companies has recently introduced a new and controversial form of entity into the Czech law. Its purpose is to find a new way of existence for the present organizations financed partly or completely from the state budget such as hospitals, in other words for organizations providing services (i.e. activities) which is not possible (pursuant to the Foundation Law Draft) for foundations that are allowed only to distribute money.

Unlike the foundation pursuant to the Foundation Law Draft, it has no minimal capital to keep. Similarly to the project foundations, its board of directors changes by thirds, a new third of directors being each time chosen by the present two thirds of directors. There are some tax allowances for the publicly beneficial companies but some tax provisions are less advantageous than e.g. those applying to companies established for non-entrepreneurial activities and foundations.

It is possible that the founders are foreigners and foreign entities. However at least two thirds of the members of its board of

directors shall be Czech citizens and influence of the founders upon the future functioning of the company is very limited (see the preceding paragraph).

ad 5. The Czech Commercial Code regulates several forms of companies designated for entrepreneurial activities but it allows three of them to be set up also for other than entrepreneurial activities. These are "the cooperative", "limited liability company" and "joint-stock company/public limited company". All of them may be established by foreign persons and entities exclusively or in combination with local persons and entities. The second and the third shall have a minimal amount of capital in the time of registration ("registered capital") - Kč 100.000 and 1.000.000 respectively.

If a foreigner is to be a director of the above said entities he shall obtain a permanent-residence permit from the Foreigners Department of the Police.