

**RUTLAND JEZEK, CZECH LAW FIRM IN PRAGUE ON FOUNDATION AND INCORPORATION
OF LIMITED LIABILITY COMPANY IN CZECH REPUBLIC**

1. BASIC INFORMATION ABOUT A LIMITED LIABILITY COMPANY

A limited liability company (in Czech: *“společnost s ručením omezeným”*) is the simplest and most common type of business entity in the Czech Republic. By definition of Act No. 513/1991 Coll., the Commercial Code, as amended (hereinafter the **“Commercial Code”**), it is an Czech corporation whose registered capital is made up of its members' investment contributions and whose members are liable (as sureties) for the company's obligations only until their contributions are paid up and registered in the Commercial Register. The Czech limited liability company is liable for breaches of its obligations with its entire property, which can be higher and is not necessarily equal to the registered capital. Its members are jointly and severally liable for the company's obligations only up to the unpaid investment contributions of all members according to the entry in the Commercial Register. Hence, if the Czech limited liability company has the registered capital CZK 200.000, and according to the Commercial Register only CZK 150.000 is paid up, all the members are liable up to CZK 50.000, even those ones that have paid up their contributions.

The Czech limited liability company is a very popular legal form for small and medium sized businesses in the Czech Republic. The advantages of it are mainly the limited liability of members for company obligations, its relatively low registered capital and low administrative requirements.

2. FOUNDATION AND INCORPORATION

The Czech limited liability company (hereinafter the **„LLC”**) may be formed by one or more persons. A single-member LLC cannot form or be a single member of another LLC. One individual may not be a sole member of more than three LLCs. The LLC may have a **maximum of 50 members**. Both founders and members of LLC can be individuals or legal entities.

The Czech limited liability company is formed by **drawing up of the Deed of Association or the Deed of Foundation** (in case of a single founder), which has to be made in a form of **a notarial deed** in front of a notary. These documents must contain:

- a) the commercial **name and seat** of the company;
- b) **the identity** of the company's members; in the case of a legal entity, its commercial name and seat, in the case of an individual, his full name and residential address;
- c) **scope of business activities**;

- d) **the amount of the registered capital** and the amount of the investment contribution to which each member committed himself, and the method and time-limit for paying up such investment contributions;
- e) the names and addresses of the company's **first executive officers** and the method by which they will act in the name of the company;
- f) the names and addresses of the members of the **first supervisory board**, if any; and
- g) the determination of the **administrator of investment contributions**;

The **required registered capital for the Czech limited liability company is at least CZK 200.000**. The contribution of one member has to be at least CZK 20.000. It can be monetary or non-monetary, but it must be expressed in pecuniary terms (*i.e.* in units of Czech currency). Before the incorporation of the company, the company has to fulfill the obligation to, at least partially, pay up the required equity (in case of single founder the whole capital must be paid up). At least 30 % of each monetary investment contribution must be paid up before incorporation. The total of paid-up investment contributions and the value of non-monetary investment contributions must amount to at least CZK 100.000 (as stated before – this applies only in case the company is founded by at least two members). The whole required capital must be paid up until 5 years since the incorporation of the LLC. For the purpose of paying up the registered capital of a company, a designated bank account has to be established.

Another condition is acquiring the **Trade License**, which allows carrying out the business which the Czech limited liability company is being founded for. Only few business activities might be done by the company without the Trade License, *e.g.* letting of premises. For most of the business activities (*e.g.* the activities that do not require any professional qualification) only the notification of the business activity of the company to the Trade Office is required. For the specialized business activities (*e.g.* travel agency) the professional qualification is required along with other additional conditions.

The final stage of the process is **filing a petition for entry of the LLC to the Czech Commercial Register**. A petition must be filed with the registration court within 90 days of the company's formation, or within 90 days of the date on which the Trade License Certificate is received by the company. It can be done electronically, by way of filing the petition downloaded from <http://www.justice.cz>. Following documents are required to support the petition:

- a) The **Deed of Association** (Deed of Foundation) in the form of notarial deed;
- b) The **Trade License Certificate**;
- c) The decision of the executive of the company on the **location of the seat of the company**. The signature of the executive does not have to be officially verified.
- d) The **consent of the owner of the premises**, where the seat of the company will be registered. If the LLC is the owner of the premises, it must be proved by the excerpt from the Cadastral Register.
- e) **The certificate from a bank** confirming that the company has paid up the required capital to the established bank account in connection with the establishment of

the company. Also a report by an evaluation expert on the valuation of nonmonetary investment contributions must be provided (if any).

- f) The future executive is obliged to provide an **affidavit** stating that he/she **did not commit a crime** regarding the business activity of the company. The extract from the criminal record from the state of origin of the future executive is required as an evidence of this statement.
- g) The executive also has to grant the **consent** with his/her **registration to the Czech Commercial Register**. The affidavit, consent and signature specimen are usually executed in one document with the officially verified signature of the future executive.

A company is officially **founded, i.e. incorporated on the day as of which it is entered in the Commercial Register**, which is the day when the company officially comes into existence. The registration court shall decide on the incorporation of the company within 5 business days from the date of application. One of the first duties of newly incorporated company is its **registration with respective Financial Office** within 30 days. For not fulfilling this obligation the financial office can impose up to CZK 2.000.000 fine on the company.

3. CONCLUSION

In conclusion, one of the myths about the Czech limited liability company is that it is liable up to the registered capital, which is not correct. The LLC is liable with its entire property and between the property and the registered capital is no direct connection. Hence, the LLC with the registered capital of CZK 200.000 can have property worth millions or property worth nothing at all.

Second common myth is that the registered capital of the LLC is during its existence somehow deposited and the LLC has no power of disposition with it. Even though such situation exists in some states, it is not a case in the Czech Republic. The Czech limited liability company is fully in disposal of its property (including the registered capital) and is not obstructed in any kind of way from using the money for its business and spending it.

The successful process of foundation of the LLC requires the founders to fulfill many formal obligations required by Czech law. It is, therefore, very advisable to use the services of a specialized lawyer to go through the whole process of incorporation without any unnecessary mistakes.

Finally, a very common way how to acquire a share in a Czech limited liability company is to purchase a ready-made company. The main advantage of such shelf companies is that the purchaser of the share may practically act on behalf of the company immediately after the execution of the share purchase agreement without going under formal and long-standing administrative procedure.