

## Database

### The organisation and functions of the Office of the Legal Adviser in the Ministry of Foreign Affairs

This database contains the original national contributions bringing together information on The organisation and functions of the Office of the Legal Adviser in the Ministry of Foreign Affairs



#### Information on the contribution

##### Member State

Czech Republic

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##### Translations

- No translations

#### THIS DOCUMENT CAN BE QUOTED AS FOLLOWS:

***Database of the CAHDI "The organisation and functions of the Office of the Legal Adviser in the Ministry of Foreign Affairs" - contribution of Czech Republic - 01/09/2014***

#### 1. What is the title, rank and position of the Legal Adviser?

(September 2014)

The Ministry of Foreign Affairs of the Czech Republic has never had a "legal adviser" for international law in the proper sense of the term. There is no position designated for this purpose in MFA internal regulations and organizational structure. The role of legal adviser is divided between the Director of the International Law Department and the Director General of the Legal Section.

#### 2. What are the principal functions of the OLA?

The International Law Department, which in practice performs the OLA function, has the following responsibilities:

- To follow the development of international law, and to provide for the Czech Republic's participation in its codification and development; to provide expert opinions on questions of international law for the purposes of the Czech Republic's foreign policy;
- To coordinate negotiation of and domestic procedures related to treaties; to assist in the unification of the Czech treaty-making practice; to take part in supervising the implementation of treaties; to draw up instruments of ratification, approval, adoption and accession as well as full powers to negotiate treaties and full powers to take part in international negotiations;
- To provide for and coordinate the Czech Republic's succession to the bilateral and multilateral treaties to which the Czech and Slovak Federal Republic was a party on 31 December 1992;
- To ensure publication of treaties binding on the Czech Republic in the Collection of International Treaties and their registration with international organizations; to keep a register of treaties binding on the Czech Republic;
- To perform functions of a depositary of relevant multilateral treaties;
- To provide opinions on the consistency of the Czech Republic's legislation with international law and treaties binding on the Czech Republic;
- Within its competence, to provide guidance to the Permanent Missions to the United Nations in New York, in Geneva and Vienna, to the Permanent Representation of the Czech Republic to the EU, to the Embassy of the Czech Republic in The Hague and, as the case may be, to other missions of the Czech Republic abroad.

There are other departments of the MFA in charge of some special areas of the international law agenda in a broader sense. The Department for Human Rights and Transition Policy i.a. follows the development of international law in the area of human rights, provides for the Czech Republic's participation in its codification and initiates ratification of and accession to the international instruments in this area. The European Union Law Department i.a. follows and analyses the development of the European Union law, provides expert opinions on questions of EU law and gives advice on the process of negotiation of treaties within the EU. Two consular departments deal with consular matters. The Diplomatic Protocol is i.a. responsible for overseeing the observance of the regime of privileges and immunities accorded to the diplomatic missions, consular posts and members of their staff in the Czech Republic.

#### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

Currently there are twelve lawyers (six of them are women) in the International Law Department dealing with different aspects of international law, and four members of administrative staff (all of them are women). In addition, there is one legal expert at the Czech Permanent Mission to the United Nations in New York, at the Embassy in The Hague and at the Permanent Representation to the EU, respectively (currently two of these three experts are women). The proportion of the men and women depends on the circumstances and keeps changing.

#### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

The recruitment to and promotion within the International Law Department and MFA is regulated by the general international and national legal regime of non-discrimination, applicable in the Czech Republic in accordance with relevant national laws, EU instruments and applicable human rights treaties; there are no MFA specific recruitment and promotion policies or provisions ("gender quotas") in this regard.

On the other hand, the MFA actively supports policy of equal opportunities and non-discrimination by adopting practical and effective measures the aim of which is to enable its employees - in practice mostly women - to combine their professional and family life by facilitating various forms of flexible, part-time and "home-office" employment (including the possibility to place children in the special nursery school operated by the MFA).

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

The MFA created a special working group (advisory body) for equal opportunities which coordinates these issues with other ministries and ensures their mainstreaming within the MFA. A special course on these issues forms part of a curriculum of the MFA Diplomatic Academy training programme for junior diplomats. Special seminar on these issues for all employees of the MFA is organized on an ad hoc basis. The staff of the International Law Department does not receive any special training on gender equality issues.

**6. Briefly describe the organisation and structure of the OLA.**

The International Law Department consists of three units:

The Public International Law Unit dealing mainly with diplomatic law and privileges and immunities (in cooperation with the Diplomatic Protocol), anti-terrorist conventions, IHL, ICC, international courts and tribunals, law of the sea, Antarctica and space law;

Treaty Law Unit dealing mainly with treaty law (bilateral agreements and multilateral conventions, succession to treaties etc.);

Archives and Documentation Unit responsible mainly for the publication of treaties in the Official Gazette of Treaties; additional tasks include drawing up instruments of ratification, depositary and documentation functions.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

The International Law Department is one of the five departments within the Legal and Consular Section (the other departments are the European Law Department, the Legislative and Legal Department dealing with national legislation, Department for Consular Activities and the Department for Consular Concepts and Methodology).

**8. What are the main contacts of the OLA within Government?**

The International Law Department cooperates with the competent departments of other ministries, as well as with other competent bodies (Office of the President of the Republic, Office of the Government, Government Legislative Council, etc.), academic institutions or NGO's in the area of international treaties and public international law.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Some of the department's lawyers teach public international law at universities or at the MFA Diplomatic Academy and participate in academic conferences and meetings. Some of them are members of the Czech Society for International Law.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a