

# TIPS AND TRICKS IN FAMILY LAW

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# NAVIGATION IN FAMILY LAW

## HOW DOES IT WORK

### ● MARRIAGE

There are two types of marriages in the Czech Republic – civil and church marriage, both of the same legal effects and both available only to heterosexual couples. Homosexual couples may seek for a special legal union of **registered partnership** while the possibility of homosexual marriage is so far not available under Czech law. Nevertheless, the law recognises homosexual marriages validly entered into under foreign law.

The personal circumstances of the spouses are governed by the law of which both are citizens. If the spouses are nationals of different countries, these rules are governed by the law of the State in which both spouses are habitually resident. In other cases, these conditions are governed by Czech law.

### ● MATRIMONIAL PROPERTY REGIME

Generally, the proprietary regime of mixed couples is governed by the law of the country determined in the following mandatory order (i) where they have their first habitual residence or, (ii) the country of which they are both citizens when entering into the marriage or (iii) to which they have the closest relation. The couple can, however, with some limitations also **make a choice of applicable law to their property regime**.

Under Czech law **the Joint Property of Spouses (JPS) régime automatically starts to apply** from the date of marriage. JPS means that from the date of marriage whole property with some exceptions (assets as well as liabilities) belongs to both spouses jointly and severally. JPS regime does not apply to the property acquired before entering into marriage.

**JPS can be modified either by prenuptial or marriage contract in the form of notarial deed** and it is advisable to have it registered in the notary's register.

**Choice of applicable law for your matrimonial property can be as tricky as the choice of a spouse itself so we have no better advice than to consult a specialist in family law.**

### ● DIVORCE

**Divorce requires court proceedings in the Czech Republic.** There are two types. If you are able to agree on the issues relating to the property and child's care, you can go for **uncontested divorce**. It is easier and the court does not examine the reasons of the divorce in detail. If children are involved, **special court proceedings on approval of the agreement regarding the child's care precede the divorce proceedings**. Further, a signed property agreement must be presented to the divorce court. Although you can find a lot of inspiration on the internet, we recommend you consulting the property agreement with a qualified attorney as you may find out years later than to remedy the flaws of this cheap internet solution could cost you considerable money and stress.

Otherwise, there are **adversarial proceedings which far lengthier and more expensive**. Unless an agreement is reached, the **property issues are then resolved in another court proceedings**.

### ● CHILDREN

**Children acquire Czech citizenship by birth if one of the parents is a citizen of the Czech Republic** regardless the place of birth.

Children born in marriage or within 300 days after the end of the marriage are by law considered to be children of the spouse. **Beware of strict time-limits for paternity denials** within which an official filing should be made. Possibility to overcome these terms is very limited and you may end up paying the maintenance until the adulthood or self-sufficiency of the child.