

# PROPERTY ASSESSMENT IN THE CZECH REPUBLIC

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**Key words:**

## **1. HISTORICAL ASSESSMENT**

The practice of property assessment dates back to the end of the last century. The Rules of the Court and the Code of Civil Procedure of the Austrian Code of Criminal Procedure from 1873, as well as the Hungarian Code of Civil Procedure passed in 1911, established an institute of regular experts. Gradually, tendencies to organize the practice of appraising activities were specified, and special institutions comprising councils of experts were founded to compile certain types of expertise. This led to a situation in which some procedures and professional branches were legally regulated and some were not. To remove this unified status, a ministerial order on lists of sworn regular experts was passed in 1939, applying to all fields of expertise.

However, truly unified legal norms were not introduced until 1949 and 1950, when it was stipulated through a special act and a ministerial order, respectively, that the bodies of state administration require expert opinions. This legal norm was cancelled in 1959.

It was only in 1967 that a new legal concept was introduced by passing the then-existing legal norms, and the Act on Certified Experts and Interpreters, along with its implementing decree. This Act has been valid up to now.

Prior to 1989, property assessments made in the Czechoslovak Republic were mainly completed for the purposes of taxation, as well as of civil suits concerning community property and proportionate co-ownership. Appraisals were made exclusively on the basis of price regulation, which had much in common in both republics of the then-federative state. All this is to say that, due to the absence of a market environment, there was not a market price. A market environment existed only in the field of so-called personal ownership and included, for instance, family houses and recreational weekend houses, leaving the prevalent segment of the remaining property in the ownership of the state.

It was after 1989 that a great majority of property was either returned to citizens in the restitution process or was privatized, and real estate and companies found concrete owners. Dealing in real estate was established. In some cases, real estate became an object of the right of lien, which necessitated a need for determining the value of respective property. At that time, property was appraised according to the then-valid price regulations (determination of an official administrative value), as well as according to newly introduced market assessment rules. It does not matter at all whether the value under determination was called a market, usual, negotiable, general, or lien price, as in all cases this price was the one for which property could be sold in a certain place at that time.

It should be admitted that the first years of privatization were marked by a lack of appraisers' experience in the field of market assessment, as well as with the insufficient preparedness of banks to accept this new method of assessment. This situation culminated in the current dismal state of the banking sector. Banks paid for their lack of experience and familiarity with a new assessment approach with immense damage in the form of badly, or rather inappropriately, appraised property.

The claim has to be made that the field of assessment has undergone tumultuous developments during the last nine years.

## **2. EXPERTS AND APPRAISERS**

Property assessment after 1989 was mainly performed by two groups of people: one comprising the original pre-1989 experts appointed according to Act 36/67 about Certified Experts and Interpreters, the other being formed rather spontaneously during the 1990's by appraisers practicing their activities according to the Trade Act. The prevailing number of appraisers were recruited from these experts, but only those appraisers who are also certified experts can fulfill appraisals for state bodies.

Experts (i.e. certified experts) are appointed on the basis of the above-referenced Act either by the Justice Ministry of the Czech Republic (state administration employees), or by Regional Court Chairmen (other applicants). The total number of experts is over 11,000, encompassing people from a broad variety of professions.

The most frequently represented area of expertise is in economics: the specialty field of value and appraisals, a sub-field specialty of property value, in which area about 4,600 experts have been registered. According to the law, the main precondition for being appointed an expert in the most popular fields is successful study at post-graduate schools in Prague or Brno. Experts who mainly specialize in property assessment work out their appraisals for the purpose of determining a tax base; i.e. inheritance tax, gift tax, and real-estate transfer tax. These appraisals used to be based upon price decrees. However, in 1997, Act no. 151/79 on Property Appraisal and its Decree were passed. I am sorry to state that this act is failing, as it does not imply whether a price determined according to this same act is a market price appraisal or an administrative (official) price. On the one hand, I can understand that specific regulations have to be followed with regard to tax purposes. On the other hand, I believe that such regulations should be simple and unambiguous, and should approximate market price for the purpose of determining a tax base. Many aspects of this act work just to the contrary. In the case of a great number of properties, there is a vast difference between its officially determined price and the market price. Meanwhile, this difference works both ways, depending on the location and type of the real estate. Market price appraisals (common prices) are very important in our new economic environment with regard to a number of economic purposes and laws such as: bankruptcy and settlement, the economics of investment companies and funds, pension funds, transformations, mergers and fusions of trading companies, deposits made in the basic capital of these companies, debenture acts, foreign currency acts, etc.

Meanwhile, there has not been a single authority in the Czech Republic that would have taken an unambiguous attitude to this issue by saying whether this appraisal is a market

price assessment or an administrative (official) price. However, regardless of respective laws, it has been proven in practice that this price regulation is quite unsuitable for purposes other than those that are tax-related.

A smaller number of appraisals are compiled by experts for the courts, mainly with respect to the settlement of proportionate co-ownership, in which a market (common) price is usually assessed. Appraisers, on the other hand, determine exclusively market price appraisals. At present, there are several profession-oriented associations in which experts and appraisals join together.

Appraisers who are exclusively oriented on the determination of exclusively market price appraisals are united in the Czech Society of Certified Property Appraisers and in the Czech Chamber of Property Appraisers. Experts who largely specialize in administrative (official) price appraisals are united in the Chamber of Certified Experts and in the Association of Experts and Appraisers. A significant role among these organizations is played by the Czech Society of Certified Property Appraisers. It has about 300 members, 95% of which are appraiser-experts appointed according to Act no. 36/67 Sb. The very name 'certified appraisers' implies what type of appraisers are gathered in this Society.

### **3. APPRAISERS' ORGANIZATION AND SCOPE OF ACTIVITIES**

Let's look back to the year 1994, when the limited liability company A-Consult plus spol. s r.o. started its activities as an expert institute appointed by the Justice Ministry of the Czech Republic to appraise real estate and companies, and to offer the market a new software product distributed under the working name ACONS, which helped appraisers to determine the assessment of property market value. Later on, these appraisers organized themselves in a group, which gave rise to the Union of Professional Property Appraisers, later developing into the Czech Society of Certified Property Appraisers. The application of the ACONS software features a number of checking mechanisms that do not include only an appraiser's training, but also the subsequent supervision of his initial activities, his further education, regular consultations, etc. In the last five years, this system has been used to train more than 500 appraisers, of which only 345 have been working under the system until now. Cooperation with the remainder was terminated due to unprofessional appraising practices.

The Czech Society of Certified Property Appraisers has its own disciplinary committee which serves as a meeting point for the exchange of information on poor-quality appraisers, or possibly for proposing the termination of those appraisers' cooperation with the banks.

The Czech Society of Certified Property Appraisers is also a tradesman-type society acting under the umbrella of the Czech Economic Chamber.

The Society's members mainly cooperate with the banking sector, working for nearly all of the largest Czech banks and preparing about 75% of all of the appraisals compiled here. Their activities are organized as follows: in each district an expert committee has been founded, comprising several members. Respective member-appraisers meet every month to share information about the real estate market and for prices of land. This

suggests that the appraisers' work is territory-oriented; i.e. they make appraisals only in the district in which they live, since it is the solid knowledge of their local environment that provides them with as much information and data as possible in order to objectively determine common prices.

In addition to its many activities, this professional society cooperates with the Finance Ministry of the Czech Republic, specifically with its Tax Department, for which the Society's members have prepared an appendix to a bill about real estate taxes which proposes prices of land for all towns in the Czech Republic, as well as for their respective land-register territories, depending on individual zones. The Society also has close links to the Ministry for Local Development of the Czech Republic, for which it prepares, amongst other things, analyses for the development of rent.

#### **4. CERTIFICATION OF APPRAISERS**

It is clear from the name of our Society that it gathers those appraisers who have been certified, or those who are preparing for certification. To date, two companies have been accredited by the Czech Inspection Institute to certify appraisers. Certification of the appraisers of the Czech Society of Certified Property Appraisers takes place at one of the two companies of Bankovní institut a.s., which is a joint-stock company whose main shareholders are Czech and foreign banks, and which was established to provide further education especially for bank employees. This company is accredited to grant certificates in more than 15 different fields. The certification of property appraisers according to EN 45 013 is designed only for those appraisers who were trained by Bankovní institut a.s. and consists of two parts: a written part during which a certified candidate presents three appraisals along with a price map of the town he lives in. Upon examining the written assignment, a candidate is summoned for an oral exam, taking place about one month later. If the candidate successfully passes both exams he is certified. The graphic design of the certificates comes from the workshop of Josef Herčík, a famous Czech engraver.

#### **5. CONCLUSION**

In general, property assessment in the Czech Republic has reached a satisfactory level to which, I am convinced, the Czech Society of Certified Property Appraisers has substantially contributed.

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