



NEWSLETTER 1/2018

Legislative News 2018

I. Civil and Commercial law

A. **The so-called technical amendment of the Civil Code** (Act No. 460/2016 Coll., by which the Act No. 89/2012 Coll., the Civil Code, and other related acts are amended): this amendment became effective as a whole as of February 2017, nevertheless certain **important legal concepts** became effective **as of 1 January 2018** and that as follows:

- **Re-introduction of pre-emptive right**

- (i) As of 1 January 2018, the Czech civil law re-introduced **the pre-emptive right of co-owners** which shall be applied in case of a **transfer of a co-owner's share in real estate** (excluding a transfer between relatives and other close persons). If the co-owners do not achieve an agreement on exercise of the pre-emptive right, they have a legal right to buy out a share proportionate to the size of their existing share.
- (ii) The pre-emptive right shall be also applied in case of **gratuitous** transfers of shares. In such case the co-owners are entitled to buy out the share for a market price.
- (iii) A co-owner may **waive his pre-emptive right** with legal effects also for his legal successors. Such waiver has to be registered in the Cadastral Register (new provision Sec. 23 (1) (zb) of the Act No. 256/2013 Coll., on Cadastral Register).

- **Mandatory registration of trust funds**

- (i) As of 1 January 2018, the Czech Civil Code distinguishes between **the foundation** and **the establishment** of a trust fund. According to the new legal regulation, a trust **is founded** when a trustee accepts the authorisation to administer it and subsequently **is established** by its registration in the Trusts Register (except for cases when the trust is founded by making of will or testament, then the trust is established at the time of a decease of the testator and is registered subsequently).
- (ii) **The new Trusts Register** has been incorporated in the amended Act No. 304/2013 Coll., on Public Registers of legal entities and natural persons.
- (iii) Application for the trust registration shall be submitted by **the trustee**. The scope of registered data shall include: the name of the trust, its purpose, identification number, the date of its establishment and the date of its termination, details of the founder/s and of the trustee/s, and also **number of the trustees and way of representation of the trust**. The act also requires details of the **beneficiary** or how the beneficiary shall be determined. All above data shall form part of **the trust statute**.

(iv) Existing trusts, established before 1 January 2018, must be registered within **six months** from the effective date of the new legal regulation, i.e. **by 1 July 2018 at the latest**. If the registration application is not filed until this date, the trust administration will be cancelled.

B. **A part of the amendment of AML-Act** (Act No. 368/2016 Coll., by which the Act No. 253/2008 Coll., on the prevention of money laundering and terrorist financing, is amended), became effective **as of 1 January 2018**, specifically **the part relating to the Register of the beneficial owners of legal entities**.

▪ **Register of beneficial owners**

(i) The amendment of the AML-Act also amends **the Act No. 304/2013 Coll., on Public Registers of legal entities and natural persons**, which introduced the Register of beneficial owners of legal entities and trust funds with effectiveness as of 1 January 2018.

(ii) **The new Register of beneficial owners** shall be administered by the relevant register court, **and that in respect of each registered legal entity and each registered trust fund**.

(iii) An application to register a beneficial owner shall be filed **without any undue delay** after becoming the beneficial owner.

- (iv) Data concerning the beneficial owner **will not be open to the public**, i.e. they will be kept in the non-public section of the Register. The data will be **accessible only** to the respective registered entity and via Internet also to the state authorities/persons determined by the Act (e.g., to Czech courts or criminal authorities and prosecutor's offices).
- (v) Legal entities incorporated in the Commercial Register are obliged to register in the Register the relevant data about the beneficial owner within **1 year** from the date of the effectiveness of the new legal regulation, i.e. **till 1 January 2019**. Legal entities incorporated in other Public Registers, including trust funds registered in the Trusts Register, have to register their beneficial owner in the Register of beneficial owners within **3 years** from the effectiveness of the new legal regulation, i.e. **by 1 January 2021**. Direct sanctions for breach of this obligation are not set forth by the Act.

C. Further, the Act No. 303/2017 Coll., which amends certain other acts in connection with **cancellation of the public beneficial status**, became effective **as of 1 January 2018**.

- This Act also amends the **Act No. 89/2012 Coll., Civil Code**, and cancels the mandatory registration of the public beneficial status in the Public Register.
- Therefore pursuant to the new legal regulation, legal entities **are not obliged to register the public beneficial status in a Public Register**.

II. Labour Law

A. The amendment of **the Employment Act** (Act No. 327/2017 Coll., by which the Act No. 435/2004 Coll., Employment Act, and the Act No. 251/2005 Coll., on Labour Inspection, are amended) became effective **as of 1 January 2018.**

- The amendment concerns namely **the area of employment of disabled persons** and newly defines the following:
 - (i) **employer allowance for job creation** for disabled persons,
 - (ii) **employer allowance for operating costs** in connection with the employment of disabled persons,
 - (iii) **protected labour market** and agreement on recognition of an employer as an employer on protected labour market concluded between the respective employer and the Czech Labour Office, and
 - (iv) **employer allowance to support the employment of disabled persons** within the protected labour market.

- The new legal regulation should be much more transparent than the previous one and aims to ensure that the support system of the protected labour market is not accessed by entities misusing benefits.

B. Amendment of Anti-Discrimination Act

- Act No. 365/2017 Coll., by which the Act No. 198/2009 Coll., on equal treatment and on the legal means of protection against discrimination and on amendment of some acts, is amended, creates **as of 1 January 2018 a new right of the Public Defender of Rights** to supervise whether foreign workers from EU countries are or are not discriminated in the Czech Republic due to their foreign nationality.

C. Increase of Minimum Wage

- Governmental decree No. 286/2017 Coll., which amends the governmental decree No. 567/2006 Coll., on minimal wages, **changes as of 1 January 2018 the statutory base rate for minimum wage** for a working week of 40 hours. The new minimum wage is **CZK 73.20 per hour** (instead of CZK 66), or respectively is increased from CZK 11,000 per month to **CZK 12,200 per month**.

D. Increase of compensation for loss of income

- Pursuant to the governmental decree No. 406/2017 Coll., on compensation for loss of income, the rate of average earnings decisive for calculation of compensation benefits for loss of income due to work injury or illness **is increased** with effective date **as of 1 January 2018 by 3.5 %**.

III. Other

A. Amendment of Packaging Act

- Act No. 149/2017 Coll., by which the Act No. 477/2001 Coll., Packaging Act, is amended, became effective as a whole as of 1 July 2017; nevertheless, an **important exception** regarding **lightweight plastic carrier bags** became effective **as of 1 January 2018**.
- As of 1 January 2018, **so-called lightweight plastic carrier bags** may not be provided in shops free of charge, but **at minimum for reimbursement of costs** needed for their production. Only very lightweight plastic carrier bags (e.g., bags for bakery or meat products) are exempt from the above provision.
- The new Czech legal regulation represents a transposition of the Directive (EU) 2015/720 of European Parliament and of the Council of 29 April 2015 amending Directive 94/62/ES, as regards reducing the consumption of lightweight plastic carrier bags.
- Other changes in this area relate to **packaging registration**. As of 1 January 2018, the regulation No. 400/2017 Coll., amending the regulation No. 641/2014 Coll., on scope and method of keeping registration of the packaging, became effective.

B. Amendment of the Act on food and tobacco products

- **As of 1 January 2018**, an amendment to the Act on food and tobacco products (Act No. 180/2016 Coll., by which the Act No. 110/1997 Coll., on food and tobacco products is amended and on amendment and completion of some related acts) became effective. The amendment introduces a **new obligation of food business operators** placing food on the market in a facility larger than 400 m² **to provide food**, which does not comply with the Czech or EU legislation, but is safe, **free of charge to a non-profit organisation** collecting and further distributing this food for free to humanitarian and charity organisations.

C. New Act on Payments

- **As of 13 January 2018**, the Act No. 370/2017 Coll., on Payments, became effective.
- The new Act incorporates the respective EU legislation and aims to increase the security of Internet payments. The Act namely strengthens rights of users of payment services (e.g. in case of loss or misuse of a credit card, the limit of user's responsibility for loss from an unauthorized transaction shall be reduced from the current amount of 150 EUR to 50 EUR).
- Further, the new legal regulation enables to obtain information from all payment accounts of a user through only one application.

This Newsletter represents slightly up-dated version of the original version.

We hope the above summary will ease your orientation in the new legislation. We are available for any of your additional requests or information or legal assistance in this area.

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