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ADVOKÁTNÍ KANCELÁŘ

LEGAL NEWS
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Dear clients, let us to introduce several news from Czech legislation and judicial decisions appeared during April 2022 and previous months. We will inform you about next changes soon.

Taxes

+ Amendment to the Act on Excise Taxes and the VAT Act

On 26 April 2022, Act No. 93/2022 Coll., amending the regulation of excise duties and value added tax, was published in the Collection of Laws. The Act transposes the so-called Alcohol Directive. The law allows the Czech Republic to disregard beer components added after fermentation for the purpose of measuring the Plato level until the end of 2030. The amendment also clarified the provisions concerning tax exemption for denatured alcohol and specified the procedure for obtaining a certificate for the purpose of applying a reduced rate of tax in another Member State for persons transporting alcoholic beverages to Member States that apply reduced excise duty rates to them. Similarly, the law will specify the conditions for the recognition of a certificate of a small independent beer producer from another Member State when beer is transported to the Czech Republic.

In the Value Added Tax Act, the amendment extends the tax exemption to allow the European Commission, or an agency or other entities established under EU law to purchase goods (whether from another Member State, a third country or domestically) or receive services with a place of performance in the country, thereby removing value added tax as a cost factor for EU programmes designed to assist Member States.

Financial Markets

+ Amendment Act in connection with the implementation of EU regulations on the Capital Markets Union

The President of the Czech Republic signed a law unifying the rules for cross-border offerings of investment funds or changes to capital requirements for securities dealers. The legislation should thus strengthen the competitiveness of the Czech capital market, in particular by supporting small and medium-sized companies and by aligning Czech regulations with the European Regulation on crowdfunding. The Act will allow foreign banks and authorised financial institutions to provide investment services in the Czech Republic without the need to establish a branch if these services are provided to professional customers. The Czech National Bank should also determine the remuneration of the liquidator for banks and credit unions instead of the court.

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Commercial Law

+ Statutory body of a joint stock company with a monistic system after a major amendment to the Business Corporations Act

The Supreme Court ruled in its judgment on 2 February 2022, Case No. 27 Cdo 1986/2021, that the provisions of the articles of association of a joint-stock company with a monistic system of internal structure, according to which the statutory body of the company is the statutory director, ceased to be binding at the beginning of 2021, when Act No. 33/2020 Coll., amending the Business Corporations Act (BCA), came into force. Pursuant to Section 456(1) of the BCA as amended, the statutory body of such joint stock companies is the board of directors, which, according to the statutes under review, is a single-member board. In other words, whoever was the statutory director of a joint stock company with a monistic internal structure until the end of 2020 is deemed to be the sole member of the board of directors as of 2021.

Criminal Law

+ Protection of seized electronic communications between attorneys and clients

The European Court of Human Rights (ECtHR) addressed the protection of confidentiality of communications in the case of *Särgava v. Estonia* (Application No. 698/19), in which a lawyer suspected of involvement in criminal activities had his mobile phone and computer seized. According to the ECtHR, there must be sufficient procedural safeguards to ensure that the right to respect for privileged correspondence is not violated. The ECtHR has recognised that lawyers' communications with their clients enjoy special protection. While obligations may be imposed on lawyers in this respect, particularly where there is credible evidence of their involvement in a criminal offence, States must adopt legislation with sufficient procedural safeguards against arbitrary and unreasonable interference with such correspondence. There should also be a procedure for carrying out content filtering on seized electronic devices where they contain privileged lawyer-client communications. Such legal protection will protect not only lawyers, but especially their clients.

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