



## Before the summer begins

CZ: Ministry of Finance changes rules for assessing consumer contests

SK: Lex Váhostav – good news for creditors?

EU: Court decision on seizure of a driving license issued by another Member State

Despite the fact that many of you are already planning your holidays, in recent days and weeks Slovakia has been discussing two serious issues: "Lex Váhostav", which brought about changes in the Commercial Code and the Act on Bankruptcy and Restructuring, and the new Waste Disposal Act. Both topics have stirred up debate and divided public opinion. Now everyone is wondering what the changes will actually mean. Other major changes in the Czech Republic and Slovakia have come about through court decisions and new approaches by government departments and other authorities. As you may want to know what is going on before you leave on holiday, we have prepared a summary of the information that is important to your business. We also wish to express our gratitude to our clients and colleagues who enabled us to again succeed in the international Chambers Europe legal rankings. Thank you!

Annamária Tóthová

**CZ: Medical Devices Act**

The new Medical Devices Act establishes a registry of medical devices and sets new responsibilities for manufacturers, distributors and importers, especially concerning the registration and notification of medical devices. (JKol)

**CZ: Ranking in Chambers**

The Chambers Europe international legal directory has again ranked our law firm as Band 2 (second-highest ranking) in employment law. Individually, Tomáš Procházka, Veronika Odrobinová and Tomáš Jelínek are recommended. Our law firm was also recommended for corporate law and M&A. (VO)

**SK: License Agreement with OZIS**

Businesses using radio or TV for other than private purposes shall be obliged to conclude a contract on adequate remuneration with an association for collective administration of intellectual property rights. Random checks are carried out by inspection operating at OZIS. (NJ)

**CZ: Termination of employment due to refusal to work part-time**

The Supreme Court confirmed the possibility of dismissal of employees who oppose the shortening of their working hours when the employer does not have enough work for them. (TP)

**CZ: Protecting the second husband in execution**

The Chamber of Deputies is discussing an amendment to the Property Execution Rules, which prevents the execution of separate property of the second husband. The condition is that the contract or the court decision on narrowing the extent of common marital property is entered in a special list kept by the Chamber of Notaries. (SD)

## CZ: Ministry of Finance changes rules for assessing consumer contests

**The Ministry of Finance removed from its website its description of game concepts for consumer contests that are not to be considered as a lottery or other similar game or consumer lottery. In so doing, the Ministry unofficially reconsidered its position on this issue, heralding a significant shift in the well-established concept of marketing contests, which until now were not overseen by ministries and tax authorities.**

The Ministry issued this statement in 2006 in cooperation with several associations working in the field of lotteries and betting games. The game concepts contained in the statement did not have to be notified to the tax authorities and the announcer was not bound by strict financial limits concerning the offered prize value.

However this statement was withdrawn from the Ministry's website without explanation. The Ministry and specialized tax authorities in this field are now said to assess marketing contests in a far stricter way. The main criterion which they focus on is the element of chance. According to the Ministry's new interpretation, the element of chance is always present whenever the determination of the winner is in any way unforeseeable and cannot be influenced by the contestant. Under this interpretation, however, there is probably no game concept of any marketing contest that would not contain an element of chance and that would not be governed by the lottery law.

Marketers should therefore organize their marketing contests with utmost caution and consult their concept with the tax authorities in advance.

Jitka Stránská



**CZ: Lawsuit in case of putative actions**

In the case of putative actions, which are disregarded according to the Labor Code, e.g. oral termination of employment, the lawsuit should not claim that the action is invalid, but should claim that the employment continues, or should be a lawsuit requesting performance – allocation of work in due compliance with the employment contract. (TJ)

**CZ: Forthcoming amendment to the Consumer Protection Act**

This is a comprehensive amendment that affects virtually all legislation. The amendment modifies existing concepts and defines some new ones (e.g. the concept of product, business practices), and affects obligations associated with the sale of products, services and Alternative Dispute Resolution. (LZ)

**SK: The end of the transitional period is coming**

The deadline to harmonize contractual relations between operators and intermediaries under the new Privacy Policy Act is 30 June 2015. (JSap)

**CZ: Change of local jurisdiction in case of judicial sale of collateral**

Since May, the rule has returned under which the petition for a judicial sale of real estate collateral is presented to the court in whose jurisdiction the collateral is located. (KJ)

**CZ: Possibility of unilateral changes in customer contracts**

According to the ČTÚ (Czech Telecommunication Authority), operators will no longer be able to unilaterally change the conditions in customer contracts unless such a change was validly negotiated in compliance with the new Civil Code. (PKon)

**DE: Minimum Wage Act challenged in the German Constitutional Court**

Carriers from Austria, Poland and Hungary approached the German Constitutional Court seeking the annulment of the provisions of the law, according to which the minimum wage (EUR 8.50) is also applied to foreign drivers if trucks are loaded or unloaded in Germany. (KD)

**CZ: Method of calculating investment for the settlement of shared marital property**

During settlement of shared marital property, a husband who has used his exclusive property for an investment into assets of shared marital property shall not make claims to his wife, but a claim to the whole shared marital property. To calculate the settlement share, it is necessary to first subtract the investment value from the value of the shared marital property. (DV)

**SK New law on prevention of serious industrial accidents**

The objective of the proposed law with effect from 1 August 2015 is to prevent major industrial accidents with hazardous substances and limit their consequences on health, the environment and property. (MAB)

**CZ: Amendment to the Agricultural Land Fund Act**

The amendment was construed to direct housing construction to soil of lesser quality. It changes the way in which charges for removal of land from the agricultural land fund are calculated and introduces an exemption from the payment of contributions for transport or industrial buildings in industrial zones. (LL)

**CZ: Lapsed unpaid debts**

Under the new Civil Code, it is possible that unpaid debt may lapse if the maturity date was not agreed and the borrower is to pay the debt at the request of the lender. If the lender fails to request the payment of the debt during the lapse period, the debt will be extinguished after three years from the date when the debt was created and becomes non-repayable. (JM)



## SK: Lex Váhostav – good news for creditors?

In April, quickly and without expert debate, the National Council of the Slovak Republic approved significant changes in bankruptcy procedures. Their full consequences are hard to anticipate.

The amendment, known as "Lex Váhostav", introduces a number of modifications and new responsibilities, limiting the damage to creditors. At the same time, efforts are underway to increase the accountability of entrepreneurs by introducing new penalties as well as other obligations of persons who represent the statutory body of a company in the period of imminent bankruptcy. The new institute called "Company Crisis" aims to limit tunneling of companies, as it prohibits certain operations, especially payments to people involved in managing the company and its profits. In the area of restructuring, the amendment essentially prevents profiting from a bankrupt company that might attempt to avoid the claims of creditors, because now it must contribute to further satisfaction of the claims from its own future earnings, even beyond the limits of the planned restructuring. Since this eliminates the "attractiveness of restructuring" effect, this change will probably not be well received by the public. Only real-life experience will show whether as a result of the recent changes bankrupt companies will remain motivated to undergo restructuring or prefer the easier route of liquidation.

Eva Pauerová

## Personal

**Annamária Tóthová | Partner | Bratislava**



Annamária Tóthová has become a new partner of the law firm Dvořák Hager & Partners. She worked as a managing attorney before and has been cooperating with the law firm Dvořák Hager & Partners since 2006. Annamária specializes mainly in environmental law, infrastructure project regulation, waste and packaging management as well as in construction law and real estate law, energy law and regulated activities.

**Katarína Jendželovská | Attorney | Prague**

Katarína is focusing especially on banking & finance, insolvency and restructuring and contract law. She is also experienced in litigation. Katarína worked for Law office Dunovská & Partners before. She graduated from the Faculty of Law at the Masaryk University in Brno and also studied law in Belgium at the University of Gent.



**Eva Pauerová | Attorney | Bratislava**



Eva Pauerová has broad professional experience in commercial and insolvency law, real estate and health care. Before joining Dvořák Hager & Partners she worked for the Law office Noerr and as a partner, she joined the Law office Senior Consultants. Eva studied at the Faculty of Law of the Paneuropean School in Bratislava.



**Erika Ráczová**  
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**Mária Sadloňová**  
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**Vojtěch Faltus**  
Associate | Prague

### EU: Court decision on seizure of a driving licence issued by another Member State

According to the European Court of Justice, it is not contrary to the Driving Licence Directive when an authority in one Member State seizes a driving licence issued by another Member State as a punishment for a violation of the Highway Code that would not be a reason to withdraw the driving licence according to the law of the Member State that issued the driving licence. (AJ)

**EU: Enforcing claims of foreign creditors in insolvency proceedings**

For known foreign creditors with registered office in the EU, the period for enforcing a claim in insolvency proceedings starts only after a notice on enforcement of the claim has been delivered to them from the court. (TL)

**CZ: Technical amendment to the Public Procurement Act**

In March, an amendment to the Public Procurement Act came into force. The most significant changes include the abolishment of the obligation to cancel a tender in cases where the contracting authority receives only one bid or only one bid remains for assessment. (MR)

**SK: Draft amendment to the Copyright Act**

The draft to the new Copyright Act is a response to the use of copyrighted works on the Internet. The new regulation aims to ensure effective exercise of authors' rights and strike a balance between the protection of copyright and users' access to copyrighted works. (MSa)

**CZ: Amendment to the Environmental Impact Assessment Act**

The new regulation also extends to projects where the planning or construction process has already started. The amendment to the Act removed administrative burdens, particularly by raising the limits (e.g. area) for assessing individual projects. (MABB)

**CZ: Direct records in the Commercial Register**

Since May 2015, notaries are allowed to make direct entries into the Corporate Register. The notary registration fee is lower than the current court fees. (JK)

**SK: The controversial Waste Disposal Act**

This controversial law will come into force on 1 January 2016. Significant changes are expected in authorized organizations and collective schemes of household waste disposal. Critics fear the monopolization and rise in the prices of services for entrepreneurs and citizens. (BH)

**CZ: Amendment to the Credit Unions Act**

From 1 July 2015, only client accounts/account balances up to ten times the value of their member investment in the Credit Union will bear interest. Until 31 December 2017 this rule will not apply to deposit accounts opened before 30 June 2015. (JH)

**CZ: Validity of the non-compete clause agreement**

According to a Supreme Court decision, excluding certain territories from the scope of non-compete agreements or a failure to make a detailed catalogue of "forbidden" activities does not affect the validity of such an agreement. (TM)

**SK: The first consumer arbitration courts in Slovakia**

The Consumer Arbitration Act made it possible to set up a new type of arbitration court, competent exclusively to decide consumer disputes. The Ministry of Justice has issued four licenses so far. The list is on the Ministry's website. (ZH)

**CZ: Amendment to the Energy Act**

The approved amendment ultimately does not diminish the risk of repairs of faulty solar power plant components. Therefore, there is still a risk of loss of entitlement to subsidies for electricity from renewable resources. (JŠ)

**CZ: Choice of jurisdiction for settlement of inheritance**

From 17 August 2015, citizens with usual residence in a foreign country and foreign nationals residing in the Czech Republic or Slovakia will be able to choose whether all of their inheritance will be settled under the laws of the country of their usual residence or under the laws of the country where they are nationals. (MG)

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