

134 NEW CRIMINAL OFFENCES FOR COMPANIES: TIME TO RE-TRAIN EMPLOYEES

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Long-discussed amendment to the law on criminal liability of legal entities introduced.

This year, International Children's Day was not just important for our kids, but for legal entities too. On 1 June 2016, the President of the Czech Republic signed an amendment to the law on the criminal liability of legal entities, which introduced several fundamental changes.

The most obvious change is the almost tripling in the number of criminal offences for which a legal entity can be prosecuted, from 83 to 217. There are new punishments for unfair competition, such as deceptive advertising or copying competitor's slogans, but also for infringement of trademark rights or endangering the safety of the public. Compared to the government draft, however, the final wording of the law will not punish companies for participating in cartel agreements, which will continue to be penalised only by the Office for the Protection of Competition. Now Companies will also be punished for failing to prevent a crime that they have learned about or for not turning in the offender if the crime cannot be prevented.

The only thing that has not changed is the scope of the factual essentials. Until now a legal entity could avoid liability only for excesses on the part of its employees. Now companies can also be exonerated for a failure by their managers. The condition is that they carried out sufficient measures that can be justifiably requested of them.

In other words, the company does not necessarily have to bear liability for a criminal offence committed by an employee or member of the statutory body (e.g. executive or member of the board of directors). It must prove, however, that it did the utmost to prevent the commission of the criminal offence. How can this be proven? By submitting documents about the preventive measures it introduced in order to avoid the offence being committed. The standard system of prevention usually includes worker training, thorough inspections and verification of the functionality of the measures.

The final wording of the amendment was published on 13 June 2016 in the collection of laws and will come into effect in December of this year. Companies thus have an ideal opportunity to set their internal regulations, training programmes, monitoring and auditing systems so that their workers' excesses, whether within an employment or other relationship with the company, do not affect them.

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