



## The Clooney twins – compliance and data protection

CZ: Amendment to the Insolvency Act

SK: Changes in delivery by Administrative order

EU: Restriction on genetically modified food only in case of emergency

George Clooney has twins and the world is delighted. Our world is full of twins and couples whom we follow with pleasure, dislike or fear: Donald – Kim, Merkl – Scholz, Mayweather – McGregor, UK – EU, and in summer, barbecue – mosquitos. A very special couple is data protection (GDPR) and compliance. Data is the raw material of the 21st century and in an era when even TV sets, kitchen tools, cars and toys generate and collect data, companies face increased legal requirements and responsibilities. Under the heading of "compliance", companies voluntarily or obligatorily create various programmes for customers, business partners and employees. This generates not only work and paper, but also huge amounts of data, which have to be processed in accordance with the law. Compliance and data protection share in common that these programmes are relatively simple to implement, but if they are missing or any infringement of the law occurs, it might be life threatening for companies because of high penalties and lawsuits. Our firm offers assistance in the implementation of data protection and compliance programmes in Slovakia and the Czech Republic. More on this and on recent legal developments can be found in the pages of this newsletter.

Bernhard Hager

**CZ: Amendment to the Employment Act, Labour Code and Labour Inspection Act**

An amendment was announced in the Collection of Laws on 14 July 2017 under no. 206/2017 Coll. that will introduce changes in the areas of discrimination, agency employment, gainful employment, work incapacity of job candidates and substitute work, and also introduces new misdemeanours and administrative offences. (TJ)

**EU: Restriction on genetically modified food only in case of emergency**

According to the Advocate General's Opinion in Case C-111/16, Member States can adopt emergency measures regarding genetically modified food and feed only if they can establish, in addition to urgency, a clear and serious risk to health and the environment. (BEH)

**CZ: CTI controllers have the right to use a hidden identity**

Controllers of the Czech Trade Inspectorate (CTI) will be able to use hidden identities, including cover documents for their safety, during certain operations. This new competence was introduced by an amendment to the Czech Trade Inspection Act, which will become effective on 1 November 2017. (JV)

**SK: Changes in delivery by Administrative order**

From 1 July 2017, the day of receipt of a document stored at the post office sent by an administrative authority directly to the recipient's hands will be deemed to be the day on which the recipient actually receives the document. The fiction of delivery will also apply after this storage period has expired. (SL)

## CZ: Amendment to the Insolvency Act

**On 1 July 2017, an extensive amendment to the Insolvency Act came into effect. Of the changes most relevant to businesses, we note the following:**

In cases of insolvency due to inability to pay, where the difference between the amount of money owed and funds available to the insolvent party (known as the liquidity gap) is not more than one tenth of the amount due, the insolvent party shall no longer be a debtor.

The law newly requires that a petitioner who keeps accounts proves the existence of a receivable due from a debtor – acknowledgement by a legal person, enforceable title or confirmation from an expert, tax adviser or auditor that it has a receivable on its books. The court may, upon preliminary examination, decide that an unjustified insolvency petition or other documents will not be made public in the insolvency register.

Creditors claiming receivables must, in certain cases, submit an affidavit together with the application with information about the actual owner of the receivable. The court may order foreign creditors to deposit a security for the costs of the insolvency proceedings or compensation for damage incurred by other participants.

With few exceptions, a creditor forming a concern with the debtor must not vote at the meeting of creditors or in matters where it would be in a conflict of interest. This prohibition does not concern voting on a reorganisation plan if it was submitted by an unconnected person. From a practical point of view, however, it may be problematic to prohibit creditors from voting on a reorganisation plan submitted by a debtor with whom they form a concern.

Many of the amended provisions can be evaluated positively, although their real impact will only be seen in practice. In any case, it is necessary to keep the new rules in mind when submitting an insolvency petition and when registering receivables.

Stanislav Dvořák, Hana Treutlerová

## New publications

**Stanislav Servus**, a partner at our firm, is one of the co-authors of the newly published book "**Scientists, Inventors and Entrepreneurs in the Czech Lands: Škoda, Křížík, Kolben, Klement, Baťa**", which examines the lives, work and legacy of these important inventors and entrepreneurs. Stanislav wrote the chapter about Tomáš Baťa, in which he introduces readers not only to Baťa's life, but also his principles, work and management style, which were and still are a model for many Czech entrepreneurs. Current and future generations can find much inspiration and instruction in them.

*Authors: Jan Králík, Ivo Kraus, Stanislav Servus*

*Publisher: Jonathan Livingston 2017*

**CZ: Occupational injuries during leisure time events for customers**

According to the Supreme Court, the employer is also liable for employee injuries that occur during marketing campaigns for customers (e.g. skiing in the Alps). Employee participation does not have to be mandatory; it is sufficient that the employer organised the event and that it serves to develop its business. (TP)

**CZ: Purchase prices of electricity**

A prerequisite for the establishment of the right to the purchase prices of electricity set for 2010 by the Price Decision of the ERO is the fact that the producer started to produce and supply electricity to the grid by the end of 2010 in accordance with a final decision on granting the licence. This prerequisite is not met if the supply was carried out without a contract and without a connection made by the distribution system operator. (JK)

**SK: List of seasonal employment sectors**

From 18 July 2017, a decree containing a list of seasonal employment sectors, in which third country nationals can be more easily employed (e.g. agriculture, industrial production, construction, accommodation and catering services), came into effect. (KL)

**CZ: Compensation for tolerance and use of waterworks on own land**

Even after 1 January 2016, you have the right, according to the Constitutional Court (file no. IV.ÚS 1911/16), to apply for compensation for the placement of a waterworks on your land. This right shall be time-barred after three years, i.e. 1 January 2019. (VF)

## Personal

**Ondřej Beneš | Attorney | Prague**

On 1 September 2017 our Prague office was strengthened by Ondřej Beneš. Prior to joining Dvořák Hager & Partners, Ondřej worked at Hájek Zrzavecký.

Ondřej is focusing especially on mergers & acquisitions and labour law. He graduated from the Faculty of Law at Charles University in Prague and also from the Faculty of business administration at University of Economics in Prague. Apart from Czech, he speaks English and German.

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**SK: Publication of illegal gambling websites list**

The list will be updated every week. The financial authority first calls on operators to cease their illegal activities. It then asks the court to prevent access to the website. Offenders also face a fine up to EUR 500,000. (TRU)

**CZ: Constitutional Court ruling on restitutions**

Compensation for land that can no longer be given in restitution must be proportionate and reasonable. According to the Constitutional Court, courts can take into account current conditions, not just prices in the early 1990s, which in those days were determined by the Land Act. (PP)

**EU: German law on codetermination compatible with EU law**

Exclusion of employees of a group employed outside of Germany from the right to vote and be elected in elections of representatives in the supervisory board of the parent company is not contrary to the free movement of workers. (MAB)

**CZ: Entitlement to refund cancelled package holiday**

The Constitutional Court has confirmed that clients are entitled to a full refund from an insurance company for a package holiday that has been cancelled, even if the original insurance coverage was agreed in an amount that is lower than the price of the trip. (TD)

**CZ: Extended options for municipalities to dispose with their property**

From September 2017, municipalities will have more options when disposing with their property. So far they were governed only by economic concerns, but now they will also be able to consider other important and justifiable interests of the municipality. (JM)

**CZ: Higher sickness benefit for employees with long-term illnesses**

The President has signed an amendment introducing a percentage increase for the calculation of the sickness benefit from the second month of illness. Employees with longer work incapacity will receive a higher sickness benefit starting next year. (MŠ)

**EU: PNR agreement incompatible with EU law**

The EU Court of Justice has ruled that the envisaged Canada-EU agreement on the transfer and processing of Passenger Name Record data is incompatible with EU law. (PSM)

**SK: Private expert opinion**

A participant in a dispute may submit a "private expert opinion" without the court ordering expert evidence. The participant will select the expert at his own discretion. The opinion is assessed as evidence equivalent to an expert opinion ordered by the court. (JS)

**CZ: Acceleration and simplification of authorisation processes under the Building Act**

With effect from 1 January 2018, it will be possible, among other things, to merge territorial and construction management and environmental impact assessment (EIA) into one process, thus extending the range of buildings not requiring building permits or notification, and those for which notification alone is sufficient. (LL)

**CZ: New act on compensation of damage related to competition**

The new act signed by the President simplifies the procedure for obtaining legal protection in this area. Among other things, the law excludes the possibility of reducing damages, shifts the burden of proof in the area of cartel agreements onto the defendant, and extends the subjective limitation period to five years. (DR)

**CZ: Taxation of athletes**

In its decision of July 2017, the Supreme Administrative Court concluded that the activity of a professional athlete may be a trade where a flat tax rate of 60% can be applied. The Tax Office will adapt its practice to the judgment in the taxation of athletes in team sports. (LB, MŠt)

The information about current tax changes is brought to you in cooperation with

**MOORE STEPHENS**



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