



Acting towards Employees Interpretative Rules under Fundamental Change

On September 30, 2015 Czech Supreme Court issued a decision on acting of the statutory body of a legal person towards its employees explaining certain unclear provisions of the new Civil Code.

Major impact of the decision lies within the acting of the statutory body towards employees of the company. The decision applies mainly to joint-stock companies. If, however, company executives of a limited liability company form a collective body, this decision applies to them as well.

The new Civil Code regulates the specifics of acting of a statutory body vis-à-vis the employees. According to these rules, collective statutory body shall appoint one of its members to act towards employees. Without such appointment, the chairman of the statutory body acts towards the employees automatically.

So far, appointing one of the members of the statutory body has been viewed as a way to simplify acting towards employees in practice, such as when the articles of association require joint acting of several members of the statutory body. The Supreme Court, however, held in its decision that this appointment was a special way of representing the company which excludes the general way of representing the company by its statutory body under the rules laid down in the articles of association and the Commercial Register.

Therefore, according to the decision of the Supreme Court, only the authorized member of the statutory body of a legal person may represent the entity in concluding, modification or termination of employment contracts, agreements on work performed outside employment law relationship, as well as in other legal acts towards employees. If the statutory body does not decide on an appointment, these powers are vested by the chairman of the body. Therefore, if for instance the articles of association of a joint-stock company with a three-member Board of Directors specify that the company is represented by members A and B acting together, but member C is empowered (appointed) to act towards employees, acts regarding employment contracts or other steps towards employees can, according to the findings of the Supreme Court, only be taken by member C and not jointly by members A and B. In another case, when the company is to be represented by members A, B and C individually, but only member C was empowered (appointed) to act towards employees (or none of the Board of Directors' members has been appointed, but member C is the Chairman of the Board), again only member C exclusively may act towards employees and the remaining members A or B cannot do so.

Moreover, the Supreme Court stated that the appointment for acting towards employees had to be registered in the Commercial Register in the same manner as the general way of conduct of a statutory body.

Please note that the obligation to appoint a particular member of the statutory body to act towards employees and register this authorization (appointment) into the Commercial Register does not preclude employment agenda (including the conclusion or termination of employment contracts) from being handled by other persons under their authority resulting from internal rules or their job description (e.g. HR directors). We do, however, recommend that the authorization of such person results from a document signed by an authorized member of the statutory body or by the Chairman of the statutory body when specific authorization is absent.

If the intention of the statutory body of the company is that labor-law agenda in the company shall be exercised by a member of the statutory body different from its chairman, we recommend that the collective statutory body appoints a particular member to act towards employees. If the statutory body decides to appoint an individual member in this manner, it is necessary to enroll this authorization into the Commercial Register.

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