



Amendment to the New Civil Code

Not even a year has gone by since the New Civil Code went into effect and it's already being amended, sparking a professional discussion and bringing further uncertainty to the still fresh legislation. Below is a summary of the current state of the amendment and possible future developments.

Does the New Civil Code need to change?

Undoubtedly yes. Certain provisions of the Code should be amended as soon as possible, as they contain obvious errors, are obscure or create disproportionate difficulties in practice (e.g. the requirement for a power of attorney in the form of a notarial deed). Provisions causing difficulties can only be voided or replaced by an amendment. It will take a significant amount of time until certain interpretative difficulties are resolved by case law.

Ministry of Justice draft amendment

At the end of August 2014, the Ministry of Justice published a draft amendment to the New Civil Code. However, the draft amendment has been criticized as excessive and reckless, e.g. by the Czech Bar Association. It has been criticized that the draft amendment goes beyond correction of obvious errors and introduces new concepts without thorough evaluation.

Current situation

In response to this criticism, the Ministry invited the wider professional community to discuss the proposed amendment and promised to submit a revised amendment to the government by the end of 2014. The latest news is that the first amendment to the New Civil Code will be limited to a few of the most problematic issues. Only after the government gives its approval will the Ministry submit it to Parliament for consideration, and subsequently to the President for signing. As a result, the first half of 2015 is the earliest the New Civil Code will be amended, after which there will most likely be another delay before the amendment goes into effect. Looking ahead, the Ministry anticipates a more extensive second amendment, which should be ready to submit to the government during 2016. The scope of this proposed amendment is as yet unknown.

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Legal news

We draw your attention to the following legal news from the third quarter of 2014.

Changes to criminal liability of legal persons

The government approved a draft amendment to the law on criminal liability of legal persons. If the amendment is approved by Parliament it will extend the range of crimes with which a legal person may be charged. With some exceptions, legal persons may be charged with any criminal offense under the Criminal Code, including, for example, usury. We therefore recommend that companies and other legal entities update their internal regulations (i.e. compliance programs) relating to the criminal liability of legal persons.

Seizure of marital property

According to current legislation, there is no regard when seizing marital property as to whether the spouse against whom the execution is directed previously narrowed or otherwise modified the scope of the couple's joint property. The other spouse is then forced to initiate a so-called exclusion action, which leads to delays and legal uncertainty. According to an amendment of the law currently being discussed in Parliament, the court or executor is obliged to first determine whether the couple modified the scope of their joint property, and then take this into account when enforcing the judgment. As a result, the other spouse is not forced to start an exclusion action and his/her exclusive property would be protected from unauthorized seizure at the start of the process.

Consent to processing of personal data

In its statement of August 2014, the Office for Personal Data Protection addressed the common situation where a personal data administrator asks for a data subject's consent to processing their personal data even though the administrator doesn't need the subject's consent because the processing is required by law. According to the Office, this is a redundant, confusing and deceptive practice since subjects may get the misleading impression that providing their personal data is voluntary and that they may revoke their consent at any time. As a result, the administrator does not fulfill his/her obligation to properly inform the subject, and the Office may require the administrator to implement corrective measures. According to the latest amendment to the Law on Personal Data Protection, not implementing such measures is punishable as an administrative offense, either as a threat to a legal person, with a fine of up to CZK 5,000,000, or as a threat against a natural person, with a fine of up to CZK 1,000,000. When determining the fine, the Office takes into account the seriousness of the offense, as well as other circumstances of the case.

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