

## Press Release

### For the sixth time, entrepreneurs revisit the impacts of the quality of legislation on the Czech business environment in the Act of the Year survey

Prague, 18 March 2015 – For the sixth time, entrepreneurs revisit the impacts of the quality of legislation on the Czech business environment in the Act of the Year survey. Legal regulations adopted in the past calendar year that have had a significant impact on the local business environment have been nominated in the survey in which hundreds of prominent Czech companies take part every year. The goal of the survey is to foster discussion among the Czech entrepreneurs, politicians and experts on the quality of legal regulations. The sixth year of the prestigious competition is being held by Ambruz & Dark Deloitte Legal in cooperation with the survey's partners.

*"This year's nominations for the best and worst legislative achievements include, as usual, tax regulations, due to their immense impact on business. Nevertheless, it seems that Czech entrepreneurs still cannot come to agreement on whether it is more important for them to have clear tax regulations and know them sufficiently in advance, or, whether the first fiddle is played by a tax rate. Even though it is a bit of a Sophie's choice that the businessmen be successful in partnership with a public sector, it will obviously be necessary to reach a stronger consensus across the business community",* said Tomáš Babáček, Chairman of the Act of the Year Survey Nomination Committee and attorney-at-law at Ambruz & Dark Deloitte Legal.

In preparing individual nominations, the Nomination Committee considered the recommendations that could be sent by the public through the website [www.zakonroku.cz](http://www.zakonroku.cz) from January to 20 February 2015. In nominating five choices for the "Act of the Year" category and the five nominations for the "Flop of the Year" category, the Committee took into account especially the anticipated practical impact and the experience of the Czech entrepreneurs with the application of specific legal norms. When compared to the previous year, the number of the members of the Nomination Committee increased by two members (from 20 to 22). It primarily consists of legal experts from across the legal industry, mostly attorneys-at-law and corporate lawyers and other persons engaged in law.

The final results of the survey will be decided by the companies' representatives, entrepreneurs and experts via voting that will run **through mid-May 2015**. The survey results will be announced in early June 2015 at the latest.

*"The Nomination Committee agreed that 2014 was rather calm from the perspective of newly adopted legal regulations. Partially, on account of (not only legal) public coping with the impacts of the private law recodification. A stormy discussion broke out in respect of the Civil Service Act, in which case it was discussed whether to include this act into the survey at all and if so, then in what category. In the end, the Civil Service Act was nominated both for the Act and the Flop of the Year, in each case due to a bit of a different aspect",* Tomáš Babáček added.

Changes lowering the administrative burden of entrepreneurs (amendments to the Trade Licensing Act and the Employment Act) were nominated for the Act of the Year. The Nomination Committee also appreciated the changes in the Rules of Procedure of the Chamber of Deputies which, in general, should contribute to the adoption of better quality legislation.

Also this year, tax regulations adopted at the last minute before the end of the year were nominated for the Flop of the Year, even though they are fully substantial for entrepreneurs. Furthermore, the Nomination Committee evaluated as negative the changes bringing useless extra obligations to the entrepreneurs and municipalities without bringing fundamental positives for consumers or the state (amendments of the Food Act and the Waste Act). The nomination for the Flop of the Year was also fully deserved by the amendment to a lawyers' tariff, resulting in lower receivables not being worth enforcing by creditors, which in fact basically motivates debtors not to pay their debts.

#### The following legislation achievements are nominated for the Act of the Year 2014:

<b>Title:</b>	<b>Less administration and restrictions (Employment Act, Trade Licensing Act)</b>
<b>Regulation:</b>	<b>Act No.136/2014 Coll.</b> , amending, inter alia, Act No. 435/2004 Coll., on Employment, as amended, and <b>Act No. 140/2014 Coll.</b> , amending Act No. 455/1991 Coll., on Trade Licensing, as amended
<b>Author:</b>	The Ministry of Labour and Social Affairs (amendment to the Employment Act) and the Ministry of Industry and Trade (amendment to the Trade Licensing Act)
<b>Nomination:</b>	The minimum penalty for illegal employment (typically the "Schwarz system") is decreased from the liquidation amount of CZK 250,000 to CZK 50,000 and the obligation of Employers to have available, at the workplace, the documents proving an employment relationship of an employee who is duly registered with the Czech Social Security Administration, is cancelled. The computerisation of the Trade Register will thus remove the necessity of a repetitive presentation of certain information that was once provided to the Trade Licensing Office and the amendment will, to a larger extent, protect privacy by moving data regarding an entrepreneur to a non-public part of the register after four years, following the expiration of a trade license.

<b>Title:</b>	<b>Transparent adoption of acts (amendment to the Rules of Procedure of the Chamber of Deputies)</b>
<b>Regulation:</b>	Act No. 265/2014 Coll., amending Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies, as amended
<b>Author:</b>	The deputies Věra Jourová, Petr Gazdík, Pavel Bělobrádek and others (a group of 46 deputies from various political parties and movements)
<b>Nomination:</b>	After years of vain discussions and several unsuccessful attempts, this change of the Rules of Procedure improves the critical points of the legislation process about which everybody knew. It brings about the obligation of the substantiation of draft amendments, introduces the role of a guarantee committee that is to comment on them, launches the name records of voting in the committees, publication of the minutes of the committees' negotiations, voting procedures or prolongation of a period between the 2 <sup>nd</sup> and the 3 <sup>rd</sup> reading allowing for the amendments to be evaluated. An added benefit is the prolongation of the period in which an applicant can take a bill back (until the beginning of a discussion in the third reading), so that he does have to watch how the bill changes in front of his

eyes.

*“A meritorious act in the past year that will become effective this March was the enforcement of the amendment to the Act on the Rules of Procedure of the Chamber of Deputies. It results in the correction of a substantial part of the deficiencies of the legislation process that had been criticised for a long time and the creation of an environment for more transparent and more responsible adoption of acts in the Chamber of Deputies. Now it will be necessary to ensure that these rules are enforced in practice and not avoided eg by intentional non-recording of voting in the committee, only by formally substantiating draft amendments or regular shortening of deadlines,”* said František Korbel, the Vice-chairman of the Legislation Council of the Czech Republic.

<b>Title:</b>	<b>Public regulation at the right place (Act on Cyber Security)</b>
<b>Regulation:</b>	Act No. 181/2014 Coll., on Cyber Security
<b>Author:</b>	The National Security Authority
<b>Nomination:</b>	The main benefit is the standardisation of the level of security measures that should be implemented by obligated entities. Thus a legal certainty is increased, not only of the obligated entities and their contractual partners but also of the public that would be most affected by putting the relevant system from operation. The increase of legal certainty and the foreseeability in the area of cyber security can bring about a decrease in transaction costs for technological and legal security of significant information systems and of critical information infrastructure. A substantial practical benefit for entrepreneurs is the implementation of an effective communication solution in the event of cyber incidents that are usually aimed at the unlimited number of subjects. In such a situation, the obligated entities have a national CERT and a governmental CERT available as the platforms for sharing information, methodical support, aid and cooperation, coordination of a joint procedure and solution of a constituted situation and acceptance of effective reactive measures, with the aim of minimising the impacts of attacks and the level of damages caused.

<b>Title:</b>	<b>Partner for a private sphere (Civil Service Act)</b>
<b>Regulation:</b>	Act No. 234/2014 Coll., on Civil Service
<b>Author:</b>	The deputies Roman Sklenák, Jeroným Tejc and others (the group of 6 deputies of the Czech Social Democratic Party)
<b>Nomination:</b>	A career progression without rules and the risk of an unjust recall, as part of the post-election filling of posts by the winning party. Such a perspective did not attract people to work in the state administration and the result are the cases of corruption, clientelism, non-conceptuality or insufficient qualifications. Nevertheless, the quality of the state administration operation has a significant impact on the quality of a business environment. The current government will thus deserve the commendation that it had the courage to surrender part of its influence over office workers and implement rules. Maybe the final wording of the act is not perfect, it is a compromise after all, on which the government agreed with the opposition for the price of concessions. However, when compared to the current situation, it represents a step forward; thanks to a compromising approach it has a chance to survive beyond a potential change of the government.

<b>Title:</b>	<b>Fair payment of taxes pays off</b>
<b>Regulation:</b>	Act No. 267/2014 Coll., amending, inter alia, Act No. 280/2009 Code, the Tax Rules, as amended

<b>Author:</b>	The Ministry of Finance
<b>Nomination:</b>	Everybody can stumble sometimes and one should not be treated as a criminal for that. Starting from January 2015, the Tax Authority can waive tax appurtenances (penalties, default interest, interest on deferred amount), if a tax person duly fulfilled his/her/its tax and accounting obligations and provided cooperation or where interest would be too harsh a measure when taking into account his/her/its economic situation. The Tax Administration has already announced, in a structured and clear way, how it will proceed in a standard way which inspires confidence in the way of the waiving.

*“I consider the re-implementation of the individual waiver of some tax appurtenances to be a very positive step which the Czech Chamber of Tax Advisors had been seeking to put in place for a long time. It is a very important and irreplaceable institute, allowing for the resolution of some specific absurd consequences of taxation arising from a complicated and frequently changing tax system. It enables to take into account non-deliberate mistakes and remove the potential harshness of the legal regulation etc. - it is a kind of “survival kit”, commented Jiří Nesrovnal, a member of the Presidium of the Czech Chamber of Tax Advisors, and added: “I would speak for the enlargement of this institute to all tax appurtenances in the future, also to the tax itself, and the adjustment of some conditions for the application of the waiver. Arguments of the potential risk of corruption must be refuted as such arguments can be applied to all tax proceedings – it is the procedure having to do with people and it is about them.”*

#### The following legislation achievements are nominated for the Flop of the Year 2014:

<b>Title:</b>	<b>Useless information obligation of entrepreneurs (information on the origin of food)</b>
<b>Regulation:</b>	Act No. 139/2014 Coll., amending, inter alia, Act No. 110/1997 Coll., on Food and Tobacco Products, as amended
<b>Author:</b>	The Ministry of Agriculture
<b>Nomination:</b>	The operators of food enterprises with sales of over CZK 5 billion must newly inform, at the entrances of their stores, about five countries of the origin of their food with the highest share in their sales, in a strictly determined form and with an annual update. Even if consumers notice this information, it would tell them nothing about the actual place of production of the food which they purchase. According to the amendment and the subsequent interpretation of the state bodies, all operators of food enterprises must also place, on a shelf price tag, readable information containing the business name and registered seat of the operator of the food enterprise which produced the food. If the registered seat of such an operator is not consistent with the place of factual production, this information lacks the informative sense.

<b>Title:</b>	<b>Civil Service Act: Aims not achieved</b>
<b>Regulation:</b>	Act No. 234/2014 Coll., on Civil Service
<b>Author:</b>	The deputies Roman Sklenák, Jeroným Tejc and others (a group of 6 deputies of the Czech Social Democratic Party)
<b>Nomination:</b>	An unsuitable manner of adopting such an important norm got reflected in its quality and the determined aims (stipulation of the conditions for a professional and stable state administration) were not fulfilled. The absence of the General Directorate of State Service means giving up a sufficiently independent and strong position of a managing body. In fact, it is not only a formal change where the General Directorate was replaced by the State Service Section at the

Ministry of the Interior; the created section has, from the perspective of the determined competencies, a significantly weaker position. Other deficiencies are represented by the ways of public tenders and non-transparent ways of remuneration. The acceptance of implementing regulations that are crucial for quality implementation also appeared as problematic. The Civil Service Act probably did not form the necessary assumptions for the creation of a professional and strong state administration that would be an equal partner to business spheres.

<b>Name:</b>	<b>Hit and miss: Amendment to a lawyers' tariff</b>
<b>Regulation:</b>	Regulation No. 120/2014 Coll., amending the Regulation of the Ministry of Justice No. 177/1996 Coll., on Remuneration and Reimbursement of Lawyers for the Provision of Legal Services (Lawyer's Tariff), as amended
<b>Author:</b>	The Ministry of Justice
<b>Nomination:</b>	From the first half of 2014, the reimbursement of the costs of the proceedings in the event of form applications up to CZK 50,000 is stipulated for the winning party in a lump-sum amount of several hundreds of crowns. These lump sums cannot reimburse to applicants the costs that were incurred for legal support and therefore the enforcement of the amounts ranging in several tens of thousands becomes very uneconomic. Debts ranging in thousands of crowns can be, according to the new regulation, more economic for creditors, than the enforcement as such. Instead of an amendment that would restrict an occasional abuse of court proceedings, a regulation was issued that in fact does not allow creditors to enforce their receivables.

<b>Title:</b>	<b>Once again, tax regulations more complicated and passed at the last minute (three rates and VAT reverse charge)</b>
<b>Regulation:</b>	Acts No. 262/2014 Coll. and No. 360/2014 Coll., amending Act No. 235/2004 Coll., on VAT, as amended, and other related acts
<b>Author:</b>	The Ministry of Finance
<b>Nomination:</b>	A third VAT rate was implemented when, at the same time, unclarities are widespread regarding the inclusion of certain products in the respective rates. In addition, the extension of the reverse charge regime to include other types of goods delivery in the Czech Republic was implemented, including an option to introduce it to other commodities for a transitional period, again with unclarities in respect of the application and non-application to certain goods and size of deliveries. In addition, Act No. 360/2014 Coll. was approved by the Chamber of Deputies on 22 December 2014, which again caused useless trouble and uncertainties to companies that did not know, until the last minute, how to set up their systems as of 1 January 2015. Perfect examples of what would not happen, if the regulations for entrepreneurs became effective at least with a three-month interval after their acceptance. Even more certainty would be brought about, if new regulations for the entrepreneurs only became effective as of 1 January or 1 July of the relevant calendar year.

<b>Title:</b>	<b>Useless administrative burden instead of solutions to real problems (bio-waste sorting instead of waste purchase facilities regulation)</b>
<b>Regulation:</b>	Act No. 229/2014 Coll., amending Act No. 185/2001 Coll., on Waste and Amendment of Some Other Acts, as amended
<b>Author:</b>	The Parliament of the Czech Republic
<b>Nomination:</b>	Due to a whirlwind in the legislation process, a new obligation of municipalities to sort plant bio-waste and metals was implemented from an

original proposal of the Senate to regulate the operation of waste purchase facilities. Instead of solving a real problem (restriction of massive pilfering of manhole covers, traffic signs etc. through waste purchase facilities), a regulation was implemented in the area where cooperation between municipalities and the business sphere already exists.

### Rules of the Act of the Year 2014 Survey

Only Czech or EU generally-binding legal regulations which became effective in the past year may be nominated in the survey: fundamental laws, acts, ministry regulations, government decrees or EU directives and regulations. The nominations can also apply to new international treaties with an impact on the Czech business environment.

In the category of the worst legislation achievement of the year, voters can also choose legal regulations that were cancelled in a relevant year, in particular as a result of the decision of the Czech Constitutional Court or the Court of Justice of the EU. The initiators, or anybody who contributed significantly to the adoption of the regulation, are stated as the authors of the nomination.

You will find more information about the Act of the Year 2014 Survey and the results of the previous survey at: [www.zakonroku.cz](http://www.zakonroku.cz).

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