

Press Release

Results of the Act of the Year 2014 Survey: Entrepreneurs Call for a Single Effective Date for Introducing New Legal Regulations

Prague, 28 May 2015 – The winner of the Act of the Year 2014 survey, in which entrepreneurs, companies and experts voted for the best legislative achievement of the year, is the amendment to the Employment Act and the Trade Licencing Act, reducing the administrative burden and the minimum penalty for entrepreneurs. The amendment to the Tax Code, introducing the possibility of the cancellation of the late payment penalty and default interest, won second place. Such were the results of the sixth edition of the Act of the Year survey, which was organised by Ambruz & Dark Deloitte Legal in cooperation with the survey's partners. 424 leading Czech companies took part in the voting.

The vast majority of entrepreneurs also agreed on the need to introduce a single effective date for legislative changes that concern entrepreneurs: when voting for the worst legislative achievement of the year (the "Flop of the Year"), they drew attention to the negative impact that the complicated nature of tax regulations and their last-minute changes have on running businesses (three VAT rates and the reverse charge VAT treatment may serve as examples).

Comments on the Results of the Act of the Year 2014 Survey

"The results of this year's survey were very tight. They have shown that above all, entrepreneurs tend to appreciate steps that lead to 1) reducing administrative burden and 2) reasonable sanctioning, whether this concerns unemployment or fulfilling tax liabilities," said Tomáš Babáček, Associate Partner at Ambruz & Dark Deloitte Legal and the chairman of the Organisational Committee and the Nomination Committee of the Act of the Year survey.

"The Act of the Year 2014 survey also confirmed the findings of a recent Deloitte survey that focused on tax certainty, in which the majority of the companies questioned (93.1%) stated that they would prefer tax legislation changes to always become effective as of one or two specific dates in the year (such as 1 January or 1 July)," added Tomáš Babáček.

Another factor contributing to the general dissatisfaction with tax regulations is their unclear interpretation, which is often more closely specified even several months after they become effective. However, taxpayers have to comply with the given legislation right from the beginning, despite the fact that nobody is able to provide any guidance on what is correct and what is not. The introduction of a single effective date would also help resolve this problem, provided that a minimum, eg three-month period is maintained between the moment the given regulation is adopted and the moment it becomes effective. This would ensure that at least a minimum amount of time is provided for entrepreneurs to prepare and for unclear interpretations to be clarified," remarked Lucie Rytířová from the Tax function of Deloitte Czech Republic.

"I am very glad that the second place for positive changes was awarded to a regulation that improves the process of adopting new legislation. It introduces more transparency and

public control, obligatory statements of reasons for amendments and a reasonable prolonging of the time period before the final voting on laws in the third reading. Adopting these changes had been proposed to the Chamber of Deputies for a long time and it has finally happened. Although nobody would have admitted it, many deputies were actually satisfied with the previous state of affairs,” added František Korbel, a member of the nomination committee of the Act of the Year survey, a partner at the Havel, Holásek & Partners law firm and a member of the Legislative Council of the Government of the Czech Republic.

“The winners of the survey, both in the positive and the negative sense, basically reflect the same issue over and over again: entrepreneurs are very upset about last-minute changes and the lack of clarity in legal regulations. On the other hand, they always appreciate when the state acts as a transparent and predictable partner, who is tolerant to those that break the law unintentionally,” said Štěpán Holub, a member of the Nomination Committee of the Act of the Year survey and a partner at the Holubová advokáti law firm.

“The amendment to the Tax Code which concerns forgiving tax apportionment liabilities is a much-welcomed change among taxable entities. At the same time, this change works as a positive motivation for meeting tax obligations, as one of the basic possibilities of submitting a request for the cancellation of the tax apportionments is actually paying the tax due,” added Petra Petlachová, the press officer of the General Financial Directorate.

Results of the Act of the Year 2014 Survey

Act of the Year 2014 – Best Legislative Achievement for the Business Environment		%
1.	Less administration and restrictions (Employment Act, Trade Licencing Act)	34%
2.	Fair payment of taxes pays off	32.5%
3.	Transparent adoption of acts (amendment to the Rules of Procedure of the Chamber of Deputies)	17.3%
4.	Partner for a private sphere (Civil Service Act)	8.9%
5.	Public regulation at the right place (Act on Cyber Security)	7.3%

Flop of the Year 2014 – Worst Legislative Achievement for the Business Environment		%
1.	Tax regulations once again more complicated and passed at the last minute (three VAT rates and VAT reverse charge)	44.2%
2.	Hit and miss: amendment to the lawyers' tariff	29.7%
3.-4.	Useless information obligation of entrepreneurs (information on the origin of food)	9.4%
3.-4.	Civil service act: aims not achieved	9.4%
5.	Useless administrative burden instead of solutions to real problems (bio-waste sorting instead of waste purchase facilities regulation)	7.3%

The results of the Act of the Year 2014 and Flop of the Year 2014 were decided by entrepreneurs, companies and experts. **The voting took place between 18 March and 18 May 2015** on the www.zakonroku.cz webpage and through **ballots placed in the client suite of the Prague Deloitte office.**

The nominations in both categories were selected by the Nomination Committee, which consisted of selected lawyers from various legal specialisations, and other businessmen and businesswomen. The goal of the survey is to foster discussion among Czech entrepreneurs, politicians and experts on the quality of the legal regulations adopted in the past year and on their impact on the business environment, as well as on the standard of the Czech legal environment.

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 legislative 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.

Overview of the Act of the Year 2014 Nominations:

Title:	Less administration and restrictions (Employment Act, Trade Licensing Act)
Regulation:	Act No.136/2014 Coll. , amending, inter alia, Act No. 435/2004 Coll., on Employment, as amended, and Act No. 140/2014 Coll. , amending Act No. 455/1991 Coll., on Trade Licensing, as amended
Author:	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)
Nomination:	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.

Title:	Fair payment of taxes pays off
Regulation:	Act No. 267/2014 Coll., amending, inter alia, Act No. 280/2009 Code, the Tax Rules, as amended
Author:	The Ministry of Finance
Nomination:	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 taxable entity duly fulfilled its tax and accounting obligations

and provided cooperation or where interest would be too harsh a measure when taking into account 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.

Title:	Transparent adoption of acts (amendment to the Rules of Procedure of the Chamber of Deputies)
Regulation:	Act No. 265/2014 Coll., amending Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies, as amended
Author:	The deputies Věra Jourová, Petr Gazdík, Pavel Bělobrádek and others (a group of 46 deputies from various political parties and movements)
Nomination:	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 nd and the 3 rd 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.

Title:	Partner for a private sphere (Civil Service Act)
Regulation:	Act No. 234/2014 Coll., on Civil Service
Author:	The deputies Roman Sklenák, Jeroným Tejc and others (the group of 6 deputies of the Czech Social Democratic Party)
Nomination:	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.

Title:	Public regulation at the right place (Act on Cyber Security)
Regulation:	Act No. 181/2014 Coll., on Cyber Security
Author:	The National Security Authority
Nomination:	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.

Overview of the Act of the Year 2014 Nominations:

Title:	Tax regulations once again more complicated and passed at the last minute (three VAT rates and VAT reverse charge)
Regulation:	Acts No. 262/2014 Coll. and No. 360/2014 Coll., amending Act No. 235/2004 Coll., on VAT, as amended, and other related acts
Author:	The Ministry of Finance
Nomination:	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.

Name:	Hit and miss: Amendment to the lawyers' tariff
Regulation:	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
Author:	The Ministry of Justice
Nomination:	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.

Title:	Useless information obligation of entrepreneurs (information on the origin of food)
Regulation:	Act No. 139/2014 Coll., amending, inter alia, Act No. 110/1997 Coll., on Food

	and Tobacco Products, as amended
Author:	The Ministry of Agriculture
Nomination:	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.

Title:	Civil Service Act: Aims not achieved
Regulation:	Act No. 234/2014 Coll., on Civil Service
Author:	The deputies Roman Sklenák, Jeroným Tejc and others (a group of 6 deputies of the Czech Social Democratic Party)
Nomination:	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.

Title:	Useless administrative burden instead of solutions to real problems (bio-waste sorting instead of waste purchase facilities regulation)
Regulation:	Act No. 229/2014 Coll., amending Act No. 185/2001 Coll., on Waste and Amendment of Some Other Acts, as amended
Author:	The Parliament of the Czech Republic
Nomination:	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.

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