

Press Release

For the seventh consecutive time, entrepreneurs will decide what is the best Act of the Year

Prague, 17 March 2016 – Entrepreneurs, companies and experts have again, after a year, been discussing the quality of legislation and its impact on Czech business – for the seventh time as part of the Act of the Year survey. Legal regulations adopted in the past calendar year that have a significant impact on the business environment have been nominated in the survey in which hundreds of representatives of companies take part every year. The aim of the survey is to foster discussion among Czech entrepreneurs, politicians and experts on the quality of legal regulations. The seventh year of the prestigious competition is being held by Ambruz & Dark Deloitte Legal in cooperation with the survey's partners. In the past year the amendments to the Act on Employment and the Trade Licensing Act were the winners of the survey which introduced less administration for the entrepreneurs and decreased the minimum amount of penalty.

Even though the Act of the Year shows the positive examples of business legislation, the Nomination Committee, as part of the discussion over the nominations, also dealt with negative legislative of the year 2015. The launch of a local sales/purchases report was declared to be one of the most problematic new regulations for entrepreneurs. However, the most practical problems with the local sales/purchases report do not arise directly from the legal regulation itself but rather from related forms and instructions for its filling.

“From this year’s discussion of the Nomination Committee I can partially feel satisfaction and partially the atmosphere of the calm before the storm: the satisfaction with the quite peaceful 2015 legislative year which did not discourage business but rather supported it and the calm before the storm to be caused by the local sales/purchases report and electronic receipt evidence. In this regard it should not sink into oblivion that entrepreneurs have a significant influence on what the year 2016 will be. Therefore this year, at the occasion of the seventh year of the survey and after 25 years of the functioning of the market economy in the Czech Republic, together with voting on the nominees, we also included three questions in the survey. Examining these questions, we investigate the degree of consensus of Czech entrepreneurs regarding the required qualities of the regulation of business and of their engagement to contribute to the achievement of these qualities,” says Tomáš Babáček, Chairman of the Nomination Committee for the Act of the Year survey and attorney of Ambruz & Dark Deloitte Legal.

Stability of New Codes

This year the Nomination Committee was considering how to propose such a fact for the **Act of the Year 2015** which is not in the form of an act but which might be more important than individual examples of legislation achievements. In the relevant case it is the stability and foreseeability of two acts, ie, a new Civil Code and an Act on Business Corporations.

“Even though these are very important Codes that substantially affect the private life and business of each person in this country, it was achieved that both acts were prepared by

experts in a conceptual manner, a period between the validity and effectiveness (the Czech term “legisvakance”) was adequately long and a period announced in advance in order for the acts to become effective was met. The acts did not negatively influence any proposed amendments of individual deputies and the so-called “technical amendments” were not implemented. And mainly, as opposed to its predecessors, the act is effective in a non-amended form for more than two years,” said Štěpán Holub, member of the Nomination Committee and attorney of Holubová advokáti law firm.

The members of the Nomination Committee agreed that the past year from which the nominations are selected had not brought any principal changes to entrepreneurs, whether positive or negative. This trend could contribute to the consolidation of the legal environment for entrepreneurs. It was mainly evaluated in a positive way that no amendment of the Civil Code and the Act on Business Corporations has been adopted so far.

Commentary to an Act on Contract Register

“The biggest discussion was held in respect of the inclusion of the new Act on Contract Register in the nominations. This step is perceived positively due to its benefit in the area of transparency of public finances. On the other hand it was stated that the general form of the act was affected by the drafts of deputies adopted during the legislative process. It also cannot be omitted that in a private sphere the act, to a certain extent, increases the uncertainty regarding the validity of contracts concluded with public entities. In the end the Nomination Committee arrived to a conclusion that the public should have a chance to vote for this act (it is not the task of the Nomination Committee to choose directly the winner of the survey), and, therefore, the contract register was included in the nominations,” Tomáš Babáček added.

“The contract register was discussed by the Nomination Committee both in a positive and negative context. For example, increased demands in respect of employees who will publish the relevant contracts are disputable. There is an evident need to have experts available who will be able to evaluate which part of the contract is, eg, a business secret. In practice the cases of Budvar, research institutions or universities can be mentioned where discussions are held regarding a potential damage occurrence in connection with the publication of information concerning the business secret or research results. Even though a business secret is exempted from the publication, a correct determination of the passage of the contract which must be protected as a business secret can be complicated,” added the member of the Nomination Committee, Martina Mikolášková, lawyer of Transparency International.

“In the very beginning it can be expected that increased publication costs can arise, nevertheless, in the course of time the publication in the register could save work and costs to obliged persons in the process of applying for the information. It will also be important to realise, in a transparent way, the choice of IT company/companies that will ensure the administration of the register,” said Martina Mikolášková.

Concerns about the Act on Contract Register are, according to Karel Šimka, the judge of the Supreme Administrative Court, unfounded. *“These concerns rather represent the seeking of pretexts for how to avoid public review. Who uses the public money, including the enterprises owned by the state, region or municipality, must bear a certain “burden of transparency” and withstand it. It also applies to the rules for the award of public contracts or to an Act on Free Access to Information. The public sector manages too many financial means for us to be willing to leave it outside the “limelight” of public control,”* noted Karel Šimka.

Commentary on an amendment to an Act on Free Access to Information

In addition to the Act on Contract Register, also the amendment to the Act on Free Access to Information focused on the so-called big data was nominated in the Act of the Year survey. *“A revolutionary right of on-line access to the databases of public authorities in open, machine readable formats has been launched; this makes the right to information the branch of the future for the commercial use of collective data, new applications and ICT development,”* stated František Korbek, attorney of Havel, Holásek & Partners and a former long-term deputy of the Minister of Justice.

Commentary on an amendment to an Act on Investment Incentives and an Act on VAT

Nowadays, when, under the flag of a fight against tax evasions (against which nothing can be objected in relation to illegal tax evasions, and this fight must be supported) the majority of changes in the tax area has the nature of global measures which, in the case of fair businessmen, lead to bigger administrative demands, the threat of frequent deadly sanctions and bring many interpretation problems and ambiguities, the positive changes are hardly searched for. In my opinion, positive changes for fair businessmen and a positive approach to these businessmen are missing, whereby a client approach should continue to be applied not only by tax administrators but also by the state in general. The change in the area of investment incentives and the related amendment to the Act on Income Tax represent such a change, even though, in compliance with the above-mentioned, it is rather a presumed one-eye king in the land of the blind,” said Jiří Nesrovnal, member of the Presidium of the Chamber of Tax Advisors of the Czech Republic on the amendment to the Act on Investment Incentives and the Act on Income Tax.

According to Nesrovnal, by means of the above-mentioned change some interpretation unclaritys are removed in the area of income tax and some, unnecessarily harsh and illogical sanctions, are mitigated.

Above the scope of a final selection of the nominations, eg, an amendment to a Waste Act was also discussed, regulating a collective take-back of tyres (example of an appropriate regulation that allows companies to cooperate with the resolution of a social problem and is not invasive at the same time to tie their space for consideration and innovations). Also a generally binding regulation of the capital city of Prague concerning gambling was proposed with a substantiation that certain localities could open to new entrepreneurs; however, it was not included in the nominations in the end for reason of a prevailing argument not approving the propagation of the benefit of the norm applying a considerable restriction of a certain type of business, albeit controversial.

Also an amendment to the Act on Consumer Protection was dealt with, which, among other things, regulates the legal framework for sharing information on consumer debts. This regulation could contribute to the fulfilment of the principles of responsible lending and, as a final result, lead to the increased protection of consumers.

In preparing individual nominations the Nomination Committee considered the recommendations that could be sent by the public **from January to 25 February 2016** through the website www.zakonroku.cz. In nominating five choices for **the Act of the Year 2015**, the Committee especially took into account the anticipated practical impact and the experience of the Czech entrepreneurs with the application of particular legal norms. The number of Nomination Committee members is 21, it primarily consists of legal experts across the legal industry, mostly attorneys-at-law, company lawyers and other persons engaged in law. The list of the members of the Nomination Committee is available [here](#).

The following legislation achievements are nominated for the Act of the Year 2015:

1. Title	Transparency of the treatment of public finances (Contract Register)
Regulation	Act on Contract Register No. 340/2015 Coll.
Author	Jan Farský and others (group of deputies)
Nomination	Only ten new sections of this act principally increase the transparency of the treatment of public finances. Contracts for the performance exceeding CZK 50,000 concluded by public entities will be published on the Internet in the format facilitating the search for data under a simple and effective sanction of the invalidity of the contract. A space is opened to all persons (companies, non-profit organisations etc.) who have anything to say as regards the treatment of the public funds.
2. Title	Green light to small and middle-sized businesses (differentiation of obligations by means of an amendment to an Act on Accounting)
Regulation	Act No. 221/2015 Coll. (amendment to the Act on Accounting)
Author	The European Commission, The Ministry of Finance
Nomination	For small companies an administrative burden is lowered in the presentation and publication of financial statements, for some of them an option is reintroduced to maintain single entry bookkeeping, the number of the so-called public interest entities is decreased on which the highest degree of control is imposed. Also some problematic accounting terms were made more precise (reserves, subsequent events, materiality). An example of the differentiation of public regulation for small companies.
3. Title	Public contracts in a more responsible but realistic way (small improvements in an Act on Public Procurement)
Regulation	Act no. 40/2015 Coll. (amendment to the Act on Public Procurement)
Author	The Ministry of Regional Development, The European Commission
Nomination	An obligatory cancellation of tenders with a single offer received was removed, a limit for the assignment of additional work was increased from 20 to 30% and the conditions for the assignment of such work were reformulated. Also an option to evaluate offers is extended, eg, by previous experience relevant for a new public contract. These are several small improvements responding to real needs which represent a good contribution to a wider debate on a global new conception of the award of public contracts.
4. Title	More realistic conditions for drawing investment incentives (amendment to an Act on Investment Incentives and an Act on Income Tax)
Regulation	Act No. 84/2015 Coll. (amendment to the Act on Investment Incentives and the Act on Income Tax with regard to the drawing of the investment incentives)
Author	The Ministry of Industry and Trade
Nomination	It mitigates some disproportionate sanctions upon the breach of the rules for drawing the incentives (eg, upon a merger or incorrect setting of the transfer pricing of a recipient the drawing is only stopped in the future or the amount of drawing is adjusted but the already drawn incentive is not returned automatically). Companies can decide explicitly not to further draw the incentive in the form of a tax credit, also administrative requirements in granting the investment incentives are mitigated. These are appropriate adjustments concerning the current and potential recipients of the incentives.

5. Title Public bodies data for commercial use (amendment to an Act on Free Access to Information)

Regulation Act no. 222/2015 Coll., amending the Act on Free Access to Information

Author The European Commission, the Ministry of the Interior

Nomination A revolutionary right of access to collective information held by public entities in open and machine readable formats is launched, including the option to share publically accessible data from databases and the facilitation of on-line remote access to information that is, over time, changed, renewed, completed or formed repeatedly. Obtaining the information via individual applications became old-fashioned as a clumsy instrument focused rather on political exercise of the right of citizens to information. The implemented changes make a right to information the branch of the future also for the commercial use of collective data, new applications and ICT business development.

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