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# LEGAL UPDATE

WEINHOLD LEGAL

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The information in this newsletter is correct to the best of our knowledge and belief at the time of going to press. Specific advice should be sought, however, before investment and other decisions are made.

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## NEW LEGISLATION

### AMENDMENT OF THE ACT ON SUPPORTED ENERGY SOURCES

An amendment of Act No. 165/2012 Coll., on supported energy sources, which regulates the support of renewable energies, has been published in the Collection of Laws.

Under the amended law, support will only be applicable to electricity produced in plants that started operation before 31 December 2013. MPs have also extended the payment obligation for producers of electricity from solar power who commenced plant operations in 2010: the obligation will not only remain in place through to the end of 2013, but has been extended to the useful life of the electrical power plant. Additionally, the payment rate has been cut to 10% for payments in the form of a feed-in tariff and 11% for the electricity green bonus (premium tariff).

The amendment also introduces what is known as the transparent ownership requirement for renewable energy support applicants. Support will not be awarded to electricity producers that (if they have the form of a joint stock company or similar legal form) have not exclusively issued book-entry shares or that (if they are a foreign person) have not submitted a sworn affidavit concerning persons who are the owners of shares whose aggregate nominal value exceeds 10% of the basic capital of the respective energy producer.

The law will enter into partial effect on the date of its promulgation with the remainder coming into force in the course of 2014.

### ACT ON PUBLIC REGISTERS OF CORPORATE ENTITIES AND NATURAL PERSONS

An Act on Public Registers of Corporate

Entities and Natural Persons has been promulgated in the Collection of Laws under number 304/2013.

The new legislation should, above all, help reduce the administrative burden and speed up the process of establishing a business corporation.

The new public registers for corporate entities and natural persons will be:

- an association register,
- an endowment register,
- a registry of institutions,
- a unit owners association register,
- a commercial register, and
- a register of charitable enterprises.

The law also endeavours to address the issue of the failure to submit annual reports and financial statements to the Collection of Documents. Pursuant to § 104 et seq. of the Act on Public Registers of Corporate Entities and Natural Persons, the presiding judge may impose a disciplinary fine of up to CZK 100,000 on a registered entity/person for failing to heed a request to submit documents that should be filed in the Collection of Documents.

The law enters into force on 1 January 2014.

### ACT ON SPECIAL JUDICIAL PROCEEDINGS AND AMENDMENT OF THE CIVIL PROCEDURE CODE

As a result of the passing of Act No. 292/2013 Coll., non-contentious suits will no longer be addressed in the Civil Procedure Code. The court will, instead, only regulate contentious suits and in all other cases be applied secondarily.

The Act on Special Judicial Proceedings will only apply to those suits regulated in a special section. Thus, in applying this law the material nature of a given suit will not



be reviewed, i.e. whether it is by nature a non-contentious suit or whether or not the respective suit is subject to the principle of inquiry.

The law regulates, inter alia, proceedings concerning:

- matters of missing persons and death,
- certain issues pertaining to corporate entities and fiduciary funds,
- inheritance,
- custody,
- redemption of instruments,
- capital market-related matters,
- judicial sale of collateral,
- a ban on the exercising of rights attached to participating shares,
- matters of marriage and partnership,
- the establishment or contesting of a parent/child relationship, and
- matters of adoption.

The Civil Procedure Code is thus amended by Act No. 293/2013 Coll. not only through its abolition of the provisions of § 175a through § 200za, which regulated non-contentious and other special suits, but also via changes creating a need for private law recodification.

The law newly regulates, for example, subject-matter jurisdiction after voidance of the parallel treatment of civil and commercial law, protection of possession pursuant to the new Civil Code, and execution of a decision by the sale of plant and property reflecting introduction of the new institute of lease and building rights.

Terminology has undergone the following key changes:

- eligibility to have rights and obligations to legal personality,

- eligibility to perform juridical acts to legal capacity,
- the term “commercial matters” to “matters pertaining to relations between business entities arising from business activity”,
- place of business to registered office, and
- enterprise to commercial establishment.

These laws enter into force on 1 January 2014.

### ACT AMENDING SOME ACTS IN CONNECTION WITH THE ADOPTION OF PRIVATE LAW RECODIFICATION

A law has been promulgated under number 303/2013 in the Collection of Laws, which amends some laws in connection with the adoption of private law recodification.

Changes in what is known as the companion law to recodification will affect more than seventy legal regulations.

The changes may be grouped thematically into the following areas:

- business dealings and financial markets;
- changes associated with the legal treatment of new institutes in the areas of asset valuation, insurance and auctions;
- consumer protection;
- social matters;
- labour law;
- state administration;
- culture and other areas, and
- legislation regulating the status of professional chambers.

This law enters into force on 1 January 2014.

### RECENT CASE LAW

#### CONSEQUENCES OF THE INVALIDITY OF AN ARBITRATION CLAUSE IN EXECUTION

*(Resolution of the Grand Panel of the Civil and Commercial Law Division of the Supreme Court of the Czech Republic dated 10 July 2013, case No. 31 Cdo 958/2012)*

If an arbitration award is not issued by an arbitrator whose selection was conducted in a transparent manner or if an arbitrator was appointed by a corporate entity that is not a permanent arbitration court established by law, and, moreover, if the outcome of a decision cannot be deemed acceptable, then this arbitration award shall not constitute an enforceable execution title in the meaning of § 40(1)(c) of the Execution Code under which execution may be ordered, as an arbitrator appointed based on an absolutely invalid arbitration clause (§ 39 of the Civil Code) does not have the authority to issue an arbitration award pursuant to the Act on Arbitration Proceedings.

If execution was nevertheless ordered in such a case or if the court (later) learns of the lack of authority of the body that issued the execution title, then the execution must at every stage be halted for inadmissibility under § 268(1)(h) of the Civil Procedure Code, if the Act on Arbitration Proceedings does not preclude the issue of the (lack of) authority of the arbitrator also being reviewed in an execution proceeding (while such conclusion applies irrespective of whether or not the obliged party in the arbitration proceeding objected to the absence of an arbitration agreement).

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