

Legal Alert

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Weinhold Legal

Listing the object of the company „production, trade and services not specified in annexes 1 to 3 of the Trade Licensing Act“ in the articles of association is no longer sufficient

On 12 May 2021, the Supreme Court of the Czech Republic concluded in its decision No. 27 Cdo 3549/2020 that the provisions of a company's articles of association (articles of incorporation, memorandum of association) listing the object of the company as „production, trade and services not listed in Annexes 1 to 3 of the Trade Licensing Act“, without specifying the field of activity or the specific object of the company (which may not be identical with the terminology of the Trade Licensing Act and its implementing regulations), does not meet the requirement of certainty, as it is not obvious what the object of the company in question is, and a satisfying answer cannot be obtained even by interpretation.

The court further stated that where „production, trade, and services not listed in Annexes 1 to 3 of the Trade Licensing Act“ is listed in the provisions of articles of association (articles of incorporation, memorandum of association) or entered in the Commercial Register as the object of the company, such an entry contravenes the provisions of Section 25(1)(b) of Act No. 304/2013 Coll., on Public Registers of Legal and Natural Persons thus it is necessary to take corrective action following Section 9(1) of this Act. This means that the registry court should ask the registered person to remove the inconsistency under threat of legal sanctions in case of failure to remedy the situation within the time limit set by the court.

In the case under review, it was not a situation in which the registry court itself, out of its activity, carried out „monitoring“ of the

objects of the company of the persons registered in the Commercial Register and asked the registered persons to eliminate any non-compliance concerning their object of the company (as mentioned in the preceding paragraph). In this case the registered person itself (actively) sought to change the registration in the Commercial Register concerning the extension of the object of the company, the change of which, however, was not properly reflected in its articles of association.

Nevertheless, in the light of the aforementioned decision of the Supreme Court of the Czech Republic, it may be recommended to check the wording of the articles of association (articles of incorporation, memorandum of association) and the entry in the Commercial Register as soon as possible to ensure that they contain sufficient identification of the object of the company and to seek legal advice if the wording is not sufficiently certain .

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For further information, please contact the partner / manager you are usually in touch with or the following Weinhold Legal lawyers:



Václav Štraser
Managing Associate
Vaclav.Straser@weinholdlegal.com



Daniel Weinhold
Partner
Daniel.Weinhold@weinholdlegal.com