CERHA HEMPEL CEE NEWSLETTER

Keep up to date with the latest legal developments in Austria, Belarus, Bulgaria, the Czech Republic, Hungary, Romania and the Slovak Republic with our CEE newsletter.

Austria	**Condominium Amendment Act 2022** After almost 20 years, the Condominium Act (*Wohnungseigentumsgesetz*) is being amended again. Mark Krenn and Marko Vladic summarise the objectives and changes to the Condominium Act. **>> Read full article**
Belarus	**The Law On Personal Data Protection has finally been passed** Law No. 99-Z On Personal Data Protection was adopted on 7 May 2021. Sergei Makarchuk outlines the most notable provisions. **>> Read full article**
Bulgaria	**The banking sector in Bulgaria must consider new statutory limitations** Boyko Gerginov sums up a recent amendment to the Bulgarian Obligations and Contracts Act that introduced the concept of an absolute statutory limitation period into Bulgarian private law. **>> Read full article**
Czech Republic	**The Markets in Crypto-Assets Regulation (MiCA)** David Kučera summarises the Markets in Crypto-Assets Regulation (MiCA) proposed by the EU Commission for regulating crypto assets. **>> Read full article**
Hungary	**Register of beneficial ownership comes to Hungary** On 21 May 2021, Act XLIII of 2021 on the Creation and Operation of a System of Data Reporting for Identification by Financial and Other Service Providers took effect. Dr. Zsanett Szabó and Dr. Wilhelm Stettner outline the key points. **>> Read full article**
Romania	**Amendments to labour legislation** In May, the Romanian Government issued two Government Emergency Ordinances in the labour field intended to provide employers with opportunities to ensure flexibility when dealing with issues regarding employment, such as signing different employment documents or the transition to teleworking. Mirela Nathanzon presents the key amendments. **>> Read full article**
Slovak Republic	**New competition act in Slovakia** With effect from 1 June 2021, the Slovak legislator adopted a new competition act with the intention of bringing this field of Slovak legislation into line with EU law and practical needs. Jozef Bannert sums up the most important changes. **>> Read full article**

CERHA HEMPEL
CEE NEWSLETTER
Austria

Condominium Amendment Act 2022

Objectives

After almost 20 years, the Condominium Act (*Wohnungseigentumsgesetz*) is being amended again. It is clear from the ministerial draft that the focus of the amendment, which is due to enter into force on 1 January 2022, is placed entirely on climate protection.

To mitigate the impact of the climate change that has already occurred, the Condominium Act should also contain provisions that pursue the following objectives:

(i) The improvement of the framework conditions for the installation of charging facilities for electric vehicles;
(ii) The promotion of innovations, such as the construction of individual photovoltaic systems, designing condominiums to meet the needs of the disabled, etc.; and
(iii) The establishment of optimised conditions for the preservation and improvement of buildings with regard to heat, climate and energy.

Changes to the Condominium Act

The proposal includes the following main changes to the Condominium Act:

- New provisions governing the right of condominium owners to make changes (Section 16 of the Condominium Act)
- Obligation of the property administrator to provide information (Section 20 para. 8 of the Condominium Act)
- Facilitating the decision-making process (Section 24 para. 4 of the Condominium Act)
- Setting a minimum amount for the reserve (Section 31 para. 1 of the Condominium Act)

New provisions governing the right of condominium owners to make changes (Section 16 of the Condominium Act)

It has hitherto been necessary to obtain the consent of all other condominium owners in the building before making changes to the condominium that could impair the legitimate interests of these other owners (Section 16 para. 2 of the Condominium Act). In future, it will be easier to make certain changes (e.g. the installation of e-charging facilities, photovoltaic systems, design changes for people with disabilities, sunshade solutions, and the installation of burglar-proof security doors) following the introduction of a fiction of consent. It is deemed sufficient if the other condominium owners have been informed of the planned measure and do not object to it. If they fail to object, they are deemed to have given their consent to the measure in question (Section 16 para. 5 of the Condominium Act). Since this fiction of consent is an exception to the principles enshrined in civil law, it does not apply to non-privileged measures. The procedure prescribed by law (qualified notification of the other owners; comprehensible description; period of two months for the submission of observations) must be observed.

Obligation of the property administrator to provide information (Section 20 para. 8 of the Condominium Act)

However, the fiction of consent described above is only applicable if the individual condominium owner also has the possibility of informing the other owners of one of the aforementioned climate-friendly changes. Accordingly, the administrator will in future be under an obligation to provide the names and addresses for service of the other condominium owners once the following

conditions have been met (Section 20 para. 8 of the Condominium Act):

- The notification must be necessary;
- The condominium owner may use the data supplied exclusively for the aforementioned notification purposes;
- Email addresses may only be disclosed with the consent of the condominium owner concerned. In the event that the disclosure of certain addresses for service to a condominium owner is prohibited, service is to be effected to the alternative domestic address or email address.

Facilitating the decision-making process (Section 24 para. 4 of the Condominium Act)

It has often been the case in the past that individual condominium owners do not participate in the decision-making process. As a result, it has only been possible to carry out improvements if the majority of the condominium owners agreed to (calculated based on co-ownership shares). The decision-making process is made easier through the introduction of an additional option for adopting decisions. It is no longer the majority of the co-ownership shares that counts, but the majority of the votes cast. However, (i) at least 2/3 of the condominium owners who cast their vote must vote in favour of the decision (calculated based on co-ownership shares) and (ii) the votes in favour of the resolution must reach the threshold of at least 1/3 of all co-ownership shares.

Setting a minimum amount for the reserve (Section 31 para. 1 of the Condominium Act)

Provision was already made for the formation of an appropriate reserve to cover future expenses (Section 31 para. 1 of the Condominium Act 2002). In future, the introduction of a statutory minimum allocation of EUR 0.90 per m2 per month is intended to ensure that sufficient investment capital is available in the reserve to make it easier to carry out improvements and implement measures.

Conclusion

The Condominium Amendment Act 2022 is characterised by the goal of protecting the climate. The establishment of future charging facilities for electric vehicles as well as the creation of photovoltaic systems, for instance, has been simplified by making the adoption of decisions easier while preserving legitimate minority rights as well as implementing measures for the obligatory allocation of reserves. These changes can certainly be seen as a positive further development of the Condominium Act. However, it has not proven to be a much-promised comprehensive reform of the Condominium Act.

For more information

Mag. Mark Krenn
Partner Austria
mark.krenn@cerhahempel.com
+43 1 514 35 591

Marko Vladic, LL.M.
Associate Austria
marko.vladic@cerhahempel.com
+43 1 514 35 0

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

CERHA HEMPEL
CEE NEWSLETTER
Belarus

The Law On Personal Data Protection has finally been passed

Introduction

Law No. 99-Z On Personal Data Protection (the "**Law**") was adopted on 7 May 2021.

It is the first law dedicated to personal data in Belarus. So, one could say that the regulation of personal data protection is literally being created now.

The Law's most notable provisions

The Law defines personal data as any information relating to an identified or identifiable natural person in the course of business activity.

Generally, the Law follows the common guidelines established by international regulations, notably the GDPR. For example, it introduces the concepts of the "**Operator**" independently processing personal data and the "**Authorized Party**", who does so on behalf of or in the interests of the Operator based on an agreement between them. These new concepts to some extent correspond to the relevant concepts of a controller and processor under the GDPR.

Personal data may only be collected and processed after obtaining the explicit consent of the data subject. To be fully legitimate, the consent should satisfy certain criteria laid down by the Law. Consent may be given in various forms; for example, as a hand-written document, an electronic document signed with a qualified electronic signature, entering a code received by SMS or e-mail, checking the relevant box on a web form, etc.

Before obtaining consent, the Operator should provide the data subject with an explanation of her/his rights with respect to the processing of personal data and the consequences of giving consent or any refusal to give consent. The explanation should take the same form as the consent.

The Law also provides that the processing of personal data should be adequate in view of the relevant legitimate purposes. If the initially declared purposes change at a later stage, the data subject should be asked to give his/her consent again.

The cross-border transfer of personal data is prohibited unless an adequate level of personal data protection is ensured in the relevant foreign country. The newly created Belarusian data protection authority will maintain a list of foreign countries that ensure an adequate level of protection. The cross-border transfer of personal data to countries not on the aforementioned list may only take place if, for example, the data subject gives her/his consent or the personal data are obtained on a contractual basis and then used for performance of the respective contract, as well as in some other cases.

From 1 March 2021, a breach of the personal data protection regulations results in administrative liability. Depending on the type of infringement, the fine can amount to up to 200 basic units, which is equal to approximately EUR 2,000.

In addition to this, a breach of the personal data protection regulations from 19 June 2021 onwards that causes significant harm to the data subject may result in criminal liability, punishable by up to five years in prison.

The Law will come into force on 15 November 2021.

CERHA HEMPEL CEE NEWSLETTER
Belarus

Summary

The introduction of the Law supports the trend of bringing Belarusian legislation into line with European standards. With the new personal data protection regulation, which to a certain extent corresponds to the GDPR, the Belarusian market will become a more attractive destination for European businesses.

For more information

Sergei Makarchuk, LL.M.
Managing Partner Belarus, Advocate
sergei.makarchuk@cerhahempel.com
Tel: +375 17 2663417

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

CERHA HEMPEL CEE NEWSLETTER *Bulgaria*

The banking sector in Bulgaria must consider new statutory limitations

A recent amendment to the Bulgarian Obligations and Contracts Act introduced the concept of an absolute statutory limitation period into Bulgarian private law. As of June 2021, monetary claims against natural persons will as a rule expire after an "absolute" limitation period of 10 years. While the concept of an absolute statutory limitation period has long been established in the public law domain (e.g. with regard to tax claims), this is the first time it has been implemented in relation to civil law claims. As Bulgarian law lacks a concept of personal bankruptcy, the change is largely seen as introducing an alternative concept into Bulgarian law with an outcome similar to personal bankruptcy.

The new rules

Essentially, the new rule stipulates that all monetary claims of creditors against natural persons expire after a period of ten years, except when the obligation has been rescheduled or deferred. Certain claims are outside of the scope of the absolute statutory limitation period, including claims arising out of torts, certain employment-related claims, some claims connected to the commercial activity of individuals, etc.

Based on the general limitation rules, the absolute limitation period stops running for the duration of court proceedings. However, creditors should keep in mind that – unlike the ordinary limitation period – the absolute statutory limitation period is not interrupted by the commencement of enforcement proceedings.

The amendments originally provided for retroactive applicability of the new rule. However, this rule was declared unconstitutional by the Bulgarian Constitutional Court. Therefore, the absolute limitation period for existing monetary claims will not be applied retroactively.

Consequences for financial institutions

The new rule has not received a warm welcome from the financial sector. It is widely seen as allowing defaulting debtors to delay enforcement proceedings until the expiration of the limitation period. This requires increased caution on the part of banks, potentially compelling them to require additional collateral in relation to loans. In their view, the anticipated negative effect is twofold: increasing the administrative burden for banks and restricting access to credit for individuals.

In the aftermath of the legislative amendment, financial institutions would be well advised to adopt certain changes to their internal procedures. The fact that the absolute limitation period is not interrupted by and continues to run during enforcement proceedings essentially means that creditors need to be prepared to take active steps towards obtaining an enforcement title early on in the process. In addition, the recent amendments are likely to have a considerable impact on transactions with portfolios of defaulting consumer loans.

For more information

Boyko Gerginov
Managing Partner Bulgaria
boyko.gerginov@cerhahempel.com
Tel: +359 2 401 09 99

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

The Markets in Crypto-Assets Regulation (MiCA)

An exponential growth in the cryptocurrency market all around the world made the EU Commission aware of the need to harmonise the regulatory framework in areas relating to blockchain-based applications to increase investments and ensure consumer and investor protection.

In light of this, the EU Commission published a proposal for the regulation of crypto assets, the Markets in Crypto-Assets Regulation ("MiCA"). This proposal, together with the proposal on a DLT (distributed ledger technology) pilot regime, represents the first specific action in this area. MiCA is in fact part of the Digital Finance package that supports the digital transformation of the financial sector and the use of new financial products in the EU.

In particular, the MiCA proposal has four main objectives. The first is to provide legal certainty. As mentioned, currently there is no harmonized legal framework in this field but rather increasing regulatory fragmentation within the EU. In fact, while a few Member States have already implemented a tailored regime to cover specific crypto-asset service providers, in most Member States they operate outside any regulatory framework. This should change with MiCA. The second objective is to support innovation and fair competition in order to promote the development of crypto-assets and the wider use of DLT. Another purpose is to instil appropriate levels of consumer and investor protection and, lastly, to ensure financial stability since crypto assets are continuously evolving.

Since the field of crypto assets is subject to continuous innovation and technological development, MiCA adopts a very broad definition of crypto-assets. Article 3(1)(2) of the MiCA proposal defines it as "*a digital representation of value or rights which may be transferred and stored electronically, using distributed ledger technology or similar technology*". In this way, the proposal ensures that the regulation will be applicable to all types of crypto-asset, including those outside the scope of current regulations and those that do not exist yet but may be created in the future.

The MiCA proposal distinguishes between three main categories of crypto-asset. The first category is the "*utility token*" (including Filecoin token, Basic Attention Token, etc.); this is a crypto-asset intended to provide digital access to a good or service, available on DLT, and is only accepted by the issuer of that token (Article 3(1)(5) of MiCA). The other category is represented by the "*asset-referenced token*", which is a type of crypto-asset that purports to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or more commodities or one or more crypto-assets, or a combination of such assets (Article 3(1)(3) of MiCA). The third category is the "*electronic money token*" that represents a type of crypto-asset whose main purpose is to be used as a means of exchange and that purports to maintain a stable value by referring to the value of a fiat currency that is legal tender (Article 3(1)(4) of MiCA). The distinction between different types of crypto-asset is essential since the MiCA proposal provides different rules applicable to the offer and admission to trading of the crypto-assets in question. It follows that, depending on the crypto-asset category, different regulatory duties and requirements will also apply to issuers.

According to the proposal, MiCA will apply to a group of crypto-asset service providers (CASPs)

and issuers of crypto-assets who offer these assets to third parties. Under the proposal, crypto-asset services can only be provided by legal entities that have their registered office in a Member State and have been authorised by the competent authority of the Member State where that registered office is located. Title V of the proposal sets out the provisions on authorization and operating conditions of CASPs. There are general obligations on crypto-asset services providers and specific obligations for each type of service provided. These obligations are related to requirements, organisational requirements, the implementation of measures to protect crypto-assets and client funds and prevention, management and the disclosure of conflicts of interest. Furthermore, more stringent additional requirements will be imposed on issuers of asset-referenced tokens and e-money tokens.

No definitive date for the Regulation's entry into force has yet been set. However, the EU expects it will happen within the next three years: "*By 2024, the EU should put in place a comprehensive framework enabling the uptake of distributed ledger technology (DLT) and crypto-assets in the financial sector… It should also address the risks associated with these technologies.*"

For more information

Mgr. David Kučera
Partner Czech Republic
david.kucera@cerhahempel.cz
Tel: +420 221 111 711

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

CERHA HEMPEL
CEE NEWSLETTER
Hungary

Register of beneficial ownership comes to Hungary

Act XLIII of 2021 on the Creation and Operation of a System of Data Reporting for Identification by Financial and Other Service Providers ("**DRA**"), which regulates the long-awaited register of beneficial ownership, took effect on 21 May 2021. With the introduction of the DRA, Hungary is now in compliance with the EU's 4th and 5th anti-money laundering directives ("**Directives**").

Register of beneficial ownership

A register of beneficial ownership is a central database kept by each Member State that includes accurate and up-to-date information about the beneficial owners of the companies and other legal entities registered in that Member State. The creation of such a register of beneficial ownership ("**Register**") was required in Hungary to ensure compliance with the Directives because other existing registers and databases (such as the company register and the register of non-governmental organisations) do not include information on beneficial owners.

It is important to note that the Register will not qualify as an official record of the information included in it [DRA, Section 4(2)].

Whose information will be included in the Register?

Information will have to be reported to the Register by every

1. business entity;
2. non-governmental organisation;
3. professional trustee; and
4. government-owned entity with at least 25% private ownership

that is registered in Hungary [DRA, Section 1].

What information will be included?

The Register will include the following information about every entity:

1. national registration number;
2. name, short name and registered office;
3. home address (in the case of trustees who are natural persons);
4. tax number;
5. company registration number or other identification number;
6. European Unique Identifier (if any);
7. the first and last name, birth name, nationality, date of birth and address of, and the nature and extent of the beneficial interest held by, the entity's beneficial owner in accordance with Sections 3.38a), b) and d) to f) of the Hungarian Act on the Prevention of Money Laundering; and
8. a score assigned to the information ("**BO Index**") [DRA, Section 4(1)].

Who is required to report the information and from when?

Banks and safe deposit service providers ("**Banks**") are under an obligation to report the information to the National Tax and Customs Authority ("**Tax Authority**"), the government agency responsible for the administration of the Register. Banks were required to provide information to the Register about their existing clients on or before 12 June 2021 [DRA, Section 7(1) and Sections 24(1) and (2)].

It is important to note that clients are responsible and liable for ensuring that the information their Banks have on record about them is up to date, as they are required to report any change in their information within five business days [DRA, Section 12(3)].

The Tax Authority will assign a unique identifier and a BO Index score to each entity upon registration. The default score is 10 at the time of the registration. From 1 October 2021, Banks will be required to report the relevant information about their clients on a monthly basis [DRA, Sections 7(2) and (4), Section 23(4)].

The BO Index and the related legal consequences

The BO Index is intended to signify the reliability of the information pertaining to a particular entity on a scale from 1 to 10 [DRA, Section 3.15].

Service providers, such as accountants and registered office service providers, have an obligation to check the relevant information during client due diligence procedures, and if they identify any mismatch between information shown in any register or database and their own records, they have to report this to the Register within five business days. If there is a mismatch, the client's BO Index will be reduced by one point. If the mismatch is identified by a regulatory authority, a court or a prosecutor's office, the reduction will be two points. The rules pertaining to the reporting of mismatches will be applicable from 1 February 2022, while the legal consequences attached to various BO Index-based categories will be enforced from 1 July 2022 [DRA, Sections 10 through 12 and Sections 23(4) and (5)].

For easy reference, we have summarised the categories and legal consequences assigned to particular BO Index scores in the table below [DRA, Sections 12 through 14]:

BO Index	**Category**	**Legal consequences (from 1 July 2022)**
8 – 10 points	reliable	–
6 – 8 points	uncertain	– if an entity is in this category for more than 180 days, the Tax Authority will publish this fact, along with the entity's tax number, on its website
0 – 6 points	unreliable	– the Tax Authority - will publish on its website that the entity is in this category (along with the entity's tax number) - classify it as a high-risk entity [Act on the Prevention of Money Laundering, Section 10(1)] - take enhanced customer due diligence measures – **service providers will refuse to perform transactions worth HUF 4,500,000 or more**

If an entity is in the "*uncertain*" or "*unreliable*" category, the Tax Authority will notify it within five business days and call upon it to confirm or modify the information shown in the Register. If the entity confirms or modifies the information, it will regain its "*reliable*" status [DRA, Sections 12(3) through (5)].

Who can access the Register?

Third parties can access the information recorded in the Register against payment of a fee. Access for authorities, courts, entities and their beneficial owners will be free [DRA, Sections 8 and 9].

Interconnectedness of Member State registers

The provisions of the Directives designed to ensure the interconnection of registers kept by the Member States will take effect on 1 February 2023 [DRA, Section 23(6)].

Authors: Dr. Zsanett Szabó, Dr. Wilhelm Stettner

For more information

Dr. Wilhelm Stettner
Partner Hungary
wilhelm.stettner@cerhahempel.hu
Tel: +36 1 457 80 40

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

CERHA HEMPEL CEE NEWSLETTER *Romania*

Amendments to labour legislation

In May, the Romanian Government issued two Government Emergency Ordinances in the labour field: (i) Government Emergency Ordinance No. 36/2021 regarding the use of a qualified or advanced electronic signature in employment relations (GEO 36/2021) and (ii) Government Emergency Ordinance No. 37/2021 amending and supplementing Law No. 53/2003 – Romanian Labour Code (GEO 37/2021). GEO 36/2021 was amended in July by the Romanian Parliament, whereas GEO 37/2021 is still in the process of approval.

These measures are intended to provide employers with opportunities to ensure flexibility when dealing with issues regarding employment, such as signing different employment documents or the transition to teleworking. We present below the key amendments introduced by the new legislation.

Use of an advanced electronic signature or qualified electronic signature

In particular, the amendments enable parties to the employment agreement to use the advanced electronic signature or the qualified electronic signature (E-signature Solutions) to conclude, amend, suspend or terminate the individual employment agreement.

Moreover, GEO 36/2021 brings more flexibility for employers when drawing up other employment documents. In this respect, the employer may choose to use the (simple) electronic signature, the electronic seal of the employer or the E-signature Solutions, under the conditions established by the internal regulation and/or the applicable collective labour agreement.

Symmetric signatures are required when concluding, amending, suspending or terminating the individual employment agreement, as both parties must use the same type of signature, specifically the handwritten signature or the E-signature Solutions.

Employers are not allowed to compel candidates selected for employment or, as the case may be, employees to use the E-signature Solutions, for the conclusion, amendment, suspension or termination of the individual employment agreement. Moreover, employers must inform selected candidates or employees of the procedures for using the E-signature Solutions.

The concepts of electronic signature, advanced electronic signature, qualified electronic signature and electronic seal have the meanings given to them by the provisions of EU legislation.

Exemptions for microenterprises

For microenterprises with nine or fewer employees, GEO 37/2021 introduces a number of exceptions with regard to employment documentation.

The obligation to include the job description in the individual employment agreement has been eliminated; therefore, the duties corresponding to the position held may be specified orally. Nonetheless, employers must communicate the job description in writing, including the job duties, upon the written request of the employee.

The obligation for the employer to draw up the internal regulation has been eliminated.

Moreover, for (i) mobile employees, (ii) employees working from home and (iii) employees of the aforementioned microenterprises, employers are required to keep a record of the working hours performed daily by each employee under the con-

ditions established in a written agreement, depending on the specific activity performed by such employees.

In this respect, the framework template for the individual employment agreement has been updated to reflect the changes mentioned above.

Amendments to teleworking legislation

The definition of teleworking is amended by excluding the threshold of a minimum of one day a month of teleworking. The requirement to mention in the employee's individual employment agreement the place where teleworking is to be performed has also been removed.

The performance of the activity by teleworkers will be verified by the employer, mainly using information and communication technology.

There is a new obligation on the part of employers to ensure conditions for the teleworkers to receive adequate occupational safety and health training, in particular in the form of information and work instructions on the use of display screen equipment, upon their employment and upon the introduction of new work equipment/any new working procedure.

For more information

Mirela Anelise Nathanzon
Partner Romania
mirela.nathanzon@cerhahempel.com
Tel: +40 37 151 71 87

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic

CERHA HEMPEL
CEE NEWSLETTER
Slovak Republic

New competition act in Slovakia

With effect from 1 June 2021, the Slovak legislator adopted a new competition act repealing the former act with the intention of bringing this field of Slovak legislation into line with EU law and practical needs. The new act takes over the structure and basic principles of the former, but it introduces some important changes, the main details of which are set out below.

Change in the definition of undertaking

The first noteworthy change is in the meaning of the term "undertaking", which has been redefined. The former act defined an undertaking as only subjects with legal personality, i.e. natural persons and legal entities, and joint ventures between them. According to the new act, undertaking means any entity carrying out economic activity regardless its legal form and whether it has legal personality or not; according to the new definition, a single undertaking may include multiple natural persons or legal entities linked to each other by relationships of control, contractually, personally, organizationally or where linked by equity, including joint ventures of undertakings. The new definition also allows the extension of liability for unlawful conduct to subjects other than the direct perpetrator, which are part of the same undertaking, such as, for example, parent companies.

New powers of the Slovak Antimonopoly Office

A notable change compared to the previous legislation is the introduction of new types of measures that can be imposed by the Slovak Antimonopoly Office.

The first type are interim measures, which may be issued before the authority adopts a definitive decision on the case if there is reason to believe that there has been a breach of the ban on agreements restricting competition or an abuse of a dominant position, and there is a risk of serious and irreparable harm to competition. By means of the interim measure, the Slovak authority may impose on the addressee a duty to render a specific performance or to seize an asset, which has to be destroyed or be used for the purposes of evidence.

The second type are so-called "behavioural and structural measures", aimed at terminating the breach of the ban on agreements restricting competition and an abuse of a dominant position. The measure may consist of an obligation to render a specific performance (behavioural measures), the obligation to cede some rights or property (structural measures), or the obligation to appoint an independent administrator tasked with monitoring the fulfilment of the measures imposed or with ensuring the fulfilment of measures.

For the purpose of transposing recent EU law, a new sanction consisting of fines for any delay in fulfilling obligations imposed by a decision of the Slovak authority has been introduced; the maximum fine that can be imposed is calculated as a portion of the worldwide turnover of the undertaking that has failed to comply with the Slovak authority's decision, multiplied by the number of days of delay.

Reaction to the consequences of COVID-19 prevention measures

As a reaction to the experience with the COVID-19 pandemic, the new act allows the suspension of proceedings before the authority for the duration of the state of emergency, when it is declared. The limitation periods cease to run during the period in which proceedings are suspended.

Furthermore, in connection with the recent prolonged state of emergency, the new act also provides for a change in the assessment of threshold requirements for the notification of a concentration. As a general rule taken over from the previous act, the fulfilment of the threshold requirements is assessed based on the turnover of the undertakings that are parties to the concentration in the accounting period preceding the period in which the concentration takes place. However, if during such a period a state of emergency was declared and the parties in such a period did not reach the thresholds established by the law, the immediately preceding accounting period unaffected by the state of emergency is decisive for assessing the fulfilment of the threshold requirements.

For more information

JUDr. Jozef Bannert
Partner Slovakia
jozef.bannert@cerhahempel.sk
Tel: +421 2 20 64 85 80

Media owner and publisher: **CERHA HEMPEL Rechtsanwälte GmbH**, Parkring 2, A-1010 Vienna | Tel: +43 1 514 350 Fax: +43 1 514 35 35 | email: office@cerhahempel.com | Although this newsletter was created with the greatest of care, we nevertheless do not accept any responsibility whatsoever for its content being correct, complete or up to date **| Visit us at www.cerhahempel.com | CERHA HEMPEL** Austria Belarus Bulgaria Czech Republic Hungary Romania Slovak Republic