

Digitalisation of the process of establishing capital companies in the Czech Republic

Government bill amending certain laws in connection with the use of digital tools in company law and the functioning of public registers

A new government was formed in the aftermath of the parliamentary elections held in the Czech Republic in October 2021. It officially took office in December 2021. On 6 January 2022, the new government published its legislative programme, in which it, among other things, undertook to take a number of steps to achieve the complete digitalisation of public administration.

In this regard, the Czech government recently approved (on 2 February 2022) a government bill amending certain laws in connection with the use of digital tools in company law and the functioning of public registers (the “**Government Bill**”), originally introduced by the previous government, that relates to the current long-term goal of the government to promote the digitalisation of public administration and also aims to implement Directive (EU) 2019/1151 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law (the “**Digitalisation Directive**”).

The Digitalisation Directive had already been partially transposed into Czech law by an amendment to Act No. 358/1992 Coll. on notaries and their activities (the “**Notary Code**”), which came into effect on 1 September 2021 and constituted one of the first and most important steps towards enabling the fully digitalised establishment of capital companies in the Czech Republic. This amendment to the Notary Code has made it possible to draw up a notarial deed online, including

the identification of the parties via a videoconference, and also introduced the possibility of performing the verification of signatures remotely, all without the need to visit a notary’s office. Even though in practice the traditional process will probably still be predominant in the near future, it is quite a revolutionary change compared to the strict formality of the traditional process.

The new Government Bill now represents the next step for further development in the area of digitalisation in the establishment of companies, introducing several partial changes across different laws (e.g. the Business Act, the Act on Business Corporations, the Act on Public Registers) to help in enabling a fully digitalised process:

- (i) the current strict order that requires i) a notarial deed on the incorporation of the company to be drawn up, ii) a business licence to be obtained, and iii) the newly incorporated company to be registered in the commercial register, will be simplified, and it will be possible for these steps to be carried out simultaneously. Therefore, the registration of a new company in the commercial register will no longer be subject to having previously obtained a business licence;
- (ii) the ineligibility to serve as a member of an elected body of a company will no longer be defined by integrity under the Business Act, and a new definition will be introduced in the Act on Business Corporations instead, taking into account any i) decisions of a Czech or foreign public authority prohibiting a person from exercising a function, ii) convictions for certain criminal offences, and iii) insolvency proceedings;
- (iii) a new register of persons excluded from becoming a member of an elected body of a company will be introduced, in which it will



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also be possible to verify the existence of an obstacle to exercise a function in another Member State of the European Union or the European Economic Area through the system of the interconnection of registers.

Even though the Government Bill is scheduled to come into force on 1 July 2022, it is still just at the beginning of the legislative process, as it was only presented to the Chamber of Deputies in early February and also needs to be approved by the Czech Parliament, so there is a possibility the wording of the bill may still be subject to further changes.

In conclusion, since the process of the establishment of capital companies partially or fully online is still very new in the Czech Republic and the legislation enabling it is not yet complete, we will have to wait for the next development regarding

the Government Bill and also for the process to actually be brought into practice to see if any problems arise. However, we can already say that it appears to be a step in the right direction, especially considering how much progress on digitalisation has been made all around the world during the COVID-19 pandemic.

For more information

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