



## **CZECH REPUBLIC DEVELOPMENTS 2006/2007**

The result of the 2006 parliamentary elections in the Czech Republic was a political deadlock resulting in an extended period where no government was able to be formed. As such, only a few significant new laws were passed during this period, primarily focused on implementation of European regulations and correction of existing domestic legislation.

- **Expropriation Act (184/2006 Coll.)**

The regulation of expropriation has now been separated from the Building Code. The term “expropriation” is defined by the act as “deprivation or limitation of the ownership or easement rights to a plot or structure for the purpose stipulated in the act”. According to the new regulation, expropriation of plots and structures is possible if the following conditions are met:

- Purpose stipulated by a special act.
- Public interest outweighs the rights of the owner.
- Rights to the plot or structure cannot be acquired by agreement.
- Accordance with the aims of planning.
- Only to the extent necessary to achieve the purpose of the expropriation.
- The owner has been aware of the purpose of expropriation for six months.
- The owner has not accepted a proposal for agreement on acquisition of the necessary rights to the plot or structure, provided that the period for acceptance was not shorter than 60 days.

Compensation for expropriation is to be granted in an amount corresponding to the usual price of the plot or structure, i.e. price for purchase of a similar plot or structure on the Czech market at the time of expropriation which will be determined on basis of an expert opinion.

- **New Building Code (183/2006 Coll.)**

The new Building Code provides for an expanded range of structures that may be built without the necessity of obtaining a building permission (e.g. family houses up to 150 square meters of built-up area and three aboveground floors). These structures may be constructed on basis of filing a notification with the relevant building office, on the condition of neighbor's consent. The building office does have the right to prohibit their construction after receiving the notification.

Another possibility for developers enabling them to simplify the planning procedure has been introduced, namely the so called "summary building procedure" carried out on the basis of a certificate issued by an authorized inspector appointed by the Minister of Regional Development. A public law contract may also serve as a substitute for a building permission.

The new act eliminates the former system of chaining administrative decisions so that now only the building office will decide on the building permission for a structure, provided that the relevant authorities will issue the rules for their decision-making practice.

Sustainable development and public interest plays an important role in the new act. Concerns are mainly health protection, fire precautions, respect of the environment and care for historical monuments. The ecological impact of structures will be assessed in accordance with European regulations.

The commencement of utilization of some structures is no longer connected with obtaining an occupancy permit. Occupancy permits will be required for structures whose characteristics cannot be influenced by future users, for example hospitals, schools, infrastructure, structures for accommodation, business, etc. The developer's announcement of the intent to use the structure thirty (30) days before the use will be sufficient for other structures. The developer may start to utilize the building if the building authority does not prohibit its utilization within the said period.

Free access databases will be established at municipal authorities, which should increase awareness for the public about building plans. The data (land-use planning information) will be provided free-of charge to persons, investors and public administration. It should simplify investors' decisions about projects, increase legal certainty and reduce financial expenses of procuring of country plats.

The permanent supervision of building authorities will be intensified, which will be maintained by carrying out inspection checks on buildings and by appropriate imposition of penalties for breach or violation of the act.

- **Electronic Judicial Payment Orders**

As a part of its efforts aimed at acceleration of resolution of civil proceedings, the Ministry of Justice has proposed introduction into the Czech law with the effect from January 1, 2008 so-called Electronic Judicial Payment Orders, i.e., instruments designed to resolve legal disputes concerning pecuniary claims.

The Electronic Judicial Payment Order will be an electronic form to be filled in, signed (using authenticated electronic signature) and sent to court by the plaintiff. The only requirement to initiate and obtain issuance the Electronic Judicial Payment Order will be the payment of the court fee and correct completion of the form. Upon meeting all the essentials, the court will issue a Judicial Payment Order automatically without a hearing or presentation of evidence.

The defendant will be entitled to file a protest within fifteen days following the date of delivery of the Judicial Payment Order. Should the protest be filed or should the Judicial Payment Order not be delivered, the court will cancel the Payment Order and transfer the court file to a common court for a hearing. Otherwise, if the protest is not timely filed, the Electronic Judicial Payment Order will have the effect of a final enforceable judgment.

According to the Ministry of Justice, the introduction of the Electronic Judicial Payment Order will accelerate the court decision making process with respect to the fact that the issuance will not require involvement of judges, allowing them to attend to other cases.

- **Copyright Law**

On April 25, 2006, Act No. 216/2006 Coll. was adopted, amending the Act No. 121/2000 Coll., Copyright Act. This amendment is primarily aimed at implementation of relevant EC directives in the field of copyright.

The amendment also reacts to the increasingly common situation of concluding contracts over the internet. It provides for a method of conclusion of license contracts corresponding to the needs of internet users and authors. A proposal for conclusion of a license agreement may be submitted to an unspecified number of persons who then may express consent without notification of the proponent by executing a certain act, by acting in accordance with the offer, with respect to the content of the offer or to the practice which the parties have adopted between themselves or with respect to the usage. In such case the acceptance of the offer becomes effective once such act is executed.

- **Lease of non-residential premises - arbitrary eviction of the premises by the landlord after termination of tenancy**

The process of vacating hold over tenants from nonresidential premises has been a problem until recently, as in many cases the former tenant failed to provide the necessary cooperation.

Previously, unified court rulings held the opinion that in the event of insufficient cooperation on the part of the former tenant, the landlord was obliged to file an action with the appropriate court to have the non-residential premises vacated. If the former tenant did not abide by the final court ruling, the landlord was left with no other choice than to petition for judicial execution of the decision. This was a time consuming process that frequently caused landlords significant harm.

The Supreme Court, on November 18, 2006, issued a ruling according to which landlords are entitled to vacate non-residential premises on their own accord should a tenant fail to vacate the said non-residential premises after termination of the lease. The Supreme Court clearly ruled that eviction, though having some arbitrary elements, if recorded in the form of a Notarial deed and accompanied by depositing of the vacated movable things, cannot be described as either illegal in principle or performed in violation of good morals.

- **2007 Amendment to Act on Cash Registers with Fiscal Memory**

A widely criticized law requiring retailers and restaurants to have cash registers with fiscal memory originally effective from January 2007 has been postponed to 2008. The purpose of the law, which was strongly opposed by small businesses, was to prevent tax evasion. The law was planned to apply to 300,000 entrepreneurs and was expected to increase tax revenues by up to 1 billion CZK. Abolishment of this law is now expected as an integral part of proposed tax reform.