



Legal update

February 2025

Weinhold Legal

Contents

News in legislation

[Draft Law on Digital Finance](#)

Case law

[Legal entities have the right to protection of their good reputation.](#)

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics listed herein should be consulted on prior to any decisions being taken.

Bankovníctví, finance a pojišťovnictví:

Daniel Weinhold, Václav Štraser, Ondřej Tejnský

ESG – Firemní udržitelnost:

Tereza Hošková

Fúze a akvizice:

Daniel Weinhold, Václav Štraser

Insolvence a restrukturalizace:

Zbyšek Kordač, Jakub Nedoma

IT, media, telekomunikace:

Martin Lukáš, Jakub Nedoma, Michal Przcetek

Nemovitosti:

Pav Younis, Václav Štraser

Ochrana osobních údajů:

Martin Lukáš, Tereza Hošková, Daša Aradská

Pracovní právo: Eva Procházková, Daša Aradská,

Ondřej Tejnský

Regulační záležitosti:

Daniel Weinhold

Správa rodinného majetku:

Milan Polák, Zbyšek Kordač, Michaela Koblasová

Soudní a rozhodčí řízení: Milan Polák, Zbyšek Kordač,

Michaela Koblasová, Michal Švec

Soutěžní právo / právo EU:

Tomáš Čermák

Start-upy, venture kapitál a kryptoměny: Pav Younis,

Martin Lukáš, Jakub Nedoma, Michal Švec, Ondřej Tejnský

Veřejné zakázky a veřejný prostor:

Martin Lukáš, Tereza Hošková, Monika Švaříčková

delivered to the President for signing, following passage of the Bill by MPs at the third reading on 6 December 2024, and further consideration and approval by the Senate on 22 January 2025.

The Government Bill aims to implement European regulations in the field of digital finance, namely the European DORA (Digital Operational Resilience Act), regulation on digital operational resilience of the financial sector, and the MiCA (Markets in Crypto Assets) regulation on markets in crypto assets.

Crypto-assets have been regulated in a rather marginal way to date, with sub-aspects of crypto-asset trading merely importing the scope of regulation from other areas, while many other aspects of crypto-assets remain completely uncovered from a legal aspect, thus resulting somewhat of a legislative vacuum in the crypto-asset area.

Specifically, the bill introduces an obligation for providers of cryptocurrency-related services to register with the Czech National Bank and to obtain the relevant licence from the Czech National Bank. These obligations apply to entities who offer custodial and management services for crypto-assets on behalf of customers, as well as those operating crypto-asset trading platforms or providing advice on crypto-asset investments. Existing providers of crypto-asset-related services that have previously operated under a trade licence will also have to apply for a licence from the Czech National Bank. If they are able to submit their application by 31 July 2025, they may continue to provide their services under the existing licence until the Czech National Bank makes a final decision on their application, but no later than 1 July 2026.

Furthermore, the bill also includes rules for the issuance of stablecoins, i.e. crypto-assets linked to other assets and which are issued in the Czech Republic, including their reserve and transparency requirements. The MiCA regulation requires such issuers to have a sufficiently liquid asset reserve in a 1:1 ratio, and partly in the form of deposits. Issuers of these tokens are to be supervised by the Czech National Bank, which will monitor compliance with the rules, but also as to whether any insider trading or customer manipulation is occurring.

At the same time, according to the government's draft bill, issuers and brokers of crypto-assets will have to submit audited financial statements to the Czech National Bank, and will also be newly obliged to evaluate measures to protect the assets entrusted to them by their clients. This is also from a cybersecurity perspective, as the second European regulation, the DORA regulation, which the bill implements, and sets out the requirements for the security of networks and information systems which are used by financial and crypto service providers against cyber threats and other operational risks. In this context, financial and crypto service providers will have to conduct regular tests of their networks and information system security, as well as put contingency plans in place, identify potential vulnerabilities and implement remedial measures quickly. Any failure to do so will expose them to heavy fines.

The draft bill also gives the Czech National Bank a wide range of remedial and sanctioning powers, as the law, if adopted, will allow the Czech National Bank to impose fines ranging from tens to hundreds of millions of crowns for breaches of crypto-assets market rules, which include e.g. having a decision on an offence being published, prohibiting a crypto service provider from operating, or prohibiting the marketing of certain crypto-assets. At the same time, the Czech National Bank is set to obtain the power to prohibit, by way of a preliminary measure, various entities, including banks and their foreign branches, from manipulating crypto-assets of clients over whom it exercises its jurisdiction.

The subject government bill represents a step towards the integration of digital technologies into the financial sector of the Czech Republic and aims to increase consumer protection, prevent money laundering,

News in legislation

Draft Law on Digital Finance

On 30th January 2024, the Government Bill on the Digitalisation of the Financial Market (the "Government Bill" or simply the "Bill") was



Legal update

February 2025

Weinhold Legal

strengthen the stability of the crypto-asset market, and to ensure a fair playing field for service providers in the field of crypto-assets.

Case law

Legal entities have the right to protection of their good reputation

(Judgment of the Constitutional Court, Case No. Pl. ÚS 26/24 dated 15th January 2024)

The Constitutional Court of the Czech Republic, in its recent judgment Case No. Pl. ÚS 26/24, ruled that legal entities have the right to the protection of their good reputation and, in the event of an unjustified infringement of this reputation, may claim reasonable compensation for any non-material damage suffered.

In this case, the petitioner, a legal entity, filed a constitutional complaint seeking an annulment of the Supreme Court decisions and the High Court in Prague. Both courts had ruled that the petitioner, as a legal entity, does not have the right to receive compensation for non-material damage caused by an unjustified infringement of its reputation. These courts based their conclusions on existing case law, which had previously addressed the question of whether a legal entity can successfully seek protection against an unjustified infringement of its reputation under Section 135(2) of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the "Civil Code"), in the form of compensation for non-material damage.

The courts referred to the fact that, since the Civil Code came into force on 1 January 2014, the legislator did not include an unjustified infringement of the reputation of a legal entity among the specifically defined cases that entitle the affected party to receive compensation for non-material damage under Section 2894(2) of the Civil Code.

The First Chamber of the Constitutional Court had the case referred to the full court in view of the fact that the complainant's constitutional complaint alleged the unconstitutionality of the conclusion of the courts that did not grant him, as a legal person, the right to compensation for non-pecuniary damage caused by unjustified interference with his reputation. The Full Court of the Constitutional Court examined whether the legislation applied to the case, namely Section 135(2) and Section 2894(2) of the Civil Code, was not contrary to the Constitutional Order.

The Full Court of the Constitutional Court did not find that the provisions of Section 135(2) and Section 2894(2) CC were contrary to the constitutional order, and therefore did not proceed to their annulment. However, the Constitutional Court added in the second breath that the effective protection of the reputation of legal persons, which is constitutionally guaranteed by Article 10(1) of the Charter of Fundamental Rights and Freedoms, requires the analogous application of the same means as for the protection against unfair competition under Section 2988 of the Civil Code, including the possibility of claiming adequate compensation. In other words, the Constitutional Court, by its conclusion, has enabled a constitutionally consistent interpretation of the provisions of the CC in question, which now allows legal persons to seek compensation for non-pecuniary damage analogously with the rules of protection against unfair competition.

In its ruling, the Constitutional Court also recalls that everyone has the right to have his or her human dignity, personal honour, reputation and name protected, and the fact that some of these rights belong exclusively to natural persons does not mean that the protection of reputation (and name) cannot be constitutionally guaranteed in relation to legal persons. After all, reputation is also a fundamental prerequisite for legal persons to function and act in legal relations.

In its ruling, the Constitutional Court also stressed that the right to receive

adequate compensation for non-pecuniary damage, such as an apology or financial compensation, is a key instrument for the protection of reputation in cases where other means are not effective and can thus contribute significantly to its effective protection.

As a side note, the Constitutional Court *pro futuro* warned of the risk of abuse of the protection of reputation through so-called strategic actions against public participation. So-called strategic lawsuits against public participation, as they are called, sometimes also abbreviated in this association as SLAPP, are a type of lawsuit that has been frequently mentioned recently, which are often filed with the sole aim of making it difficult or impossible to publish information that the plaintiff in the lawsuit only "strategically" refers to as damaging to reputation, but which is fully protected by freedom of expression, and which thus does not interfere with the plaintiff's reputation. The Constitutional Court seems to have drawn attention to this risk with the assumption that the general courts, which will have to take the interpretation of the Constitutional Court's ruling into account in their decision-making practice, will have to distinguish more consistently between cases where there has actually been an infringement of personality rights and cases where the action is merely a form of subterfuge of the right (the plaintiff's procedural strategy).

To summarize, the Constitutional Court's ruling in question responded to the existing legal regulation which allowed commercial corporations, associations and other legal persons to claim defence in the event of unjustified interference with their reputation only in the form of refraining from the unlawful act or eliminating its consequences. However, these defences have very often proved insufficient in practice in various situations, especially in view of the speed of dissemination of false information in today's digital age. One of the other options for legal persons facing an interference with their reputation was to claim compensation for property damage or the release of unjust enrichment, but in this case, it was usually difficult for the injured legal person to prove in practice the occurrence and amount of the damage and the causal link between the unjustified interference and the damage suffered. Thus, under the existing legislation and the established case-law, legal persons could not claim adequate compensation for the non-pecuniary damage caused by the interference with their reputation. However, the Constitutional Court's ruling changes this situation, as it will now be possible for a legal entity to claim adequate compensation for non-pecuniary damage caused analogously with the rules of protection against unfair competition. The Constitutional Court's ruling has thus significantly strengthened the protection of the reputation of legal persons, thereby simultaneously strengthening the position of legal persons in legal relations and providing legal persons with more effective tools to defend themselves against unjustified interference.

© 2025 Weinhold Legal

All rights reserved

The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, s.r.o. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

Please send your comments to: martin.pesl@weinholdlegal.com or contact the person you are usually in touch with. To unsubscribe from publications: office@weinholdlegal.com