

# LEGAL ALERT

## SELECTION OF LEGAL UPDATES

January 2025



### **Introduction of a fee due to change of land use?**

The draft amendment to the Construction Act which plans to introduce the fee was submitted by the Central Bohemian Regional Council to the Chamber of Deputies at the end of 2024.

This is an amendment which, if adopted, would allow municipalities and the capital city of Prague to regulate by a generally binding ordinance the rules for determining a reasonable levy for the increase or decrease in the value of land when acquiring land-use planning documentation for the purpose of development of the territory of a given municipality. The municipality could use the funds collected in this way only for specifically defined activities (financing of public infrastructure, publicly useful buildings, land remediation or settlement of property relations in the affected area). The proposal also envisages, for example, that the payment of the fee could in specific cases be replaced by the conclusion of a planning agreement.

### **Digitalization of the financial market: new law brings regulation of crypto assets**

The bill on the digitisation of the financial market which was approved by the Senate on 22 January 2025 is now awaiting the President's signature. The new legislation reflects the European Financial Sector Digital Operational Resilience Regulation (DORA) and the regulation on markets in crypto assets (MiCA) effective as of 30 December 2024, which sets out uniform rules for crypto asset issuers and crypto asset-related service providers that have not been regulated by other EU financial services legislation to date.

The law will newly regulate, for example, certain obligations of issuers of electronic money tokens, rules regarding the reserves of assets of such issuers (such reserves and the proceeds associated with the investment of the reserve are not subject to execution or execution on the assets of the issuer of the asset-linked token under certain conditions), the obligation to submit proper financial statements to the Czech National Bank (CNB) or requirements for professional competence, i.e., among other things, the ability to properly explain the nature of crypto assets or related information and services to the customer and provide recommendations. It also regulates the categorisation of offences and the powers of the CNB as a supervisory authority. The CNB will grant licences to providers of crypto asset-related services, supervise compliance with specified obligations and deal with any breaches.

### **Setting rules for the operation of automated vehicles: who will be responsible and in what situations?**

An amendment to the Road Traffic Act is currently being debated in the Chamber of Deputies, in which deals with the operation of automated vehicle.

The amendment seeks to introduce that, while the automated vehicle is being driven by the automated vehicle itself, the driver is not a subject to the rules of the road or to other driving-related obligations of driver, which are ensured by the automated vehicle.

However, the driver must be prepared to safely take control of the automated vehicle during this time. If the driver fails to do so when prompted by the vehicle, the exception to the preceding paragraph shall not apply.

The amendment so far envisages in situations where the automated vehicle operator is not liable for the offence, if it proves that the automated vehicle was ensuring compliance with the driver's obligations or the rules of road traffic at the time of the violation.

### **Dispute over the State's pre-emption right to land located in a specially protected area**

In the present case, the Supreme Court considered the objection of the Czech Republic, as the applicant, which considered that the defendant was obliged to make an offer to buy the land first before selling it, which was located in a specially protected area, with reference to Section 61 of the Nature and Landscape Protection Act, which regulates the Czech Republic's right of pre-emption in respect of undeveloped land outside the built-up area of municipalities in national parks, national nature reserves, national nature monuments and land associated with caves. In doing so, the Supreme Court first had to define what is meant by "undeveloped land".

The Court of Appeal dismissed the State's claim on the ground that the land was not undeveloped land because there was an underground structure (water tank) on the land used to supply water to the neighbouring building.

The Supreme Court agreed with this argumentation and stated that since the Nature and Landscape Protection Act does not contain any exception to the pre-emption right for certain types of buildings, no pre-emption right within the meaning of Section 61(1), first sentence of the Act arises in respect of land if it is affected by any building in the civil sense.

Therefore, the Supreme Court emphasized that if no exceptions to the pre-emption right are enshrined in the framework of the Law on Nature and Landscape Protection in the case of the

interpretation of the term "undeveloped land", they cannot be derived by interpretation either.

*(according to the judgment of the Supreme Court of the Czech Republic, Case No. 22 Cdo 833/2023)*

### **Constitutional Court: the right to protection of reputation and compensation for non-pecuniary damage also applies to legal persons**

In its January ruling, the Constitutional Court responded to a constitutional complaint filed by association, which objected the previous decisions of the general courts finding unconstitutional their conclusion that a legal person is not entitled to compensation for non-pecuniary damage caused directly by the unjustified interference with its reputation.

In its ruling, the Constitutional Court took a different position from the Supreme Court and its previous case law in this area, when it proceeded to the following interpretation of the Civil Code, namely that the protection of the reputation of legal persons is to be ensured by analogy with the means provided for protection against unfair competition, including the right to adequate compensation. The ambiguity of this 'conclusion' originally lay in the fact that the legislator did not expressly include unjustified interference with the reputation of a legal person in the range of specially defined cases which are associated with the right to compensation for non-pecuniary damage within the meaning of Article 2894(2) of the Civil Code.

The decision of the Constitutional Court emphasises that legal persons are not a mere legal fiction, but an instrument for pursuing the interests of individuals. The impossibility of effectively protecting their reputation would undermine confidence

in legal relations and weaken a democratic society.

*(according to the ruling of the Constitutional Court, Pl. ÚS 26/24)*

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If you have any questions or need a consultation, please do not hesitate to contact us via email at [info@sirokyrzavecky.cz](mailto:info@sirokyrzavecky.cz).

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