LEGAL ALERT

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Service by e-mail: when is a legal act deemed to be served?

The Supreme Court commented on the issue of service of documents by e-mail in the context of election of a chairman of the Board of Directors.

From the conclusions of the lower courts, which the Supreme Court has followed, it can be assumed that if it is undisputed between the parties that the e-mail message was deposited in the addressee's e-mail box, which is commonly used by the addressee, it can be concluded, in the absence of objective obstacles to delivery, that the mail has reached the addressee's sphere of disposal.

If the dispatch is to reach the addressee, it must be evident that the addressee normally uses the e-mail box or has invited the sender to use the e-mail address.

If the legal act in question is sent, for example, to a work e-mail box, the fact that the addressee, who in this case was a member of the company's body, was on holiday at the time does not constitute an objective obstacle to service. The Supreme Court stated that a person called to the office of a member of a company's body is a member of the body for the entire period from the creation of the office until its termination, so to speak, '24 hours a day, 7 days a week'. The addressee of a substantive act served electronically has the possibility of acquainting himself with that act simply by opening an e-mail box, which is possible wherever computer technology and the Internet are available.

The fact that the addressee has no reason to open the e-mail box because he is "on holiday" or is not expecting any correspondence cannot be regarded as an objective obstacle to receipt. It is also irrelevant whether or not the addressee was obliged to open his e-mail box. What is relevant is that he objectively had that possibility.

(according to the judgment of the Supreme Court of the Czech Republic, Case No. 27 Cdo 3499/2023)

Certainty of the registration of the company's line of business in the public register

As it states from the recent case law of the Supreme Court, when registering the company's line of business in the public register, it is required above all that this information is directly visible from the register, without the need to search for it in other sources, even if publicly accessible. Therefore, the line of business in the Commercial Register cannot be entered by reference to other documents, registers or law, even though the business corporation may define its line of business in the founding act with sufficient certainty, for example, by reference to the text of the Trade Licensing Act.

In the case at hand, the Supreme Court held that the arrangement contained in the founding act of a limited liability company, although formulated in very general terms ("Production, trade, services not listed in Annexes 1 to 3 of the Trade Licensing Act within the scope of activities belonging to the free trade No. 1-81") is not as such vague.

The entry of the company's business in the Commercial Register must correspond to the content of the founding legal act, and although in the above case it would be a certain arrangement, the entry in the Public Register itself would no longer meet the requirements of certainty and directness.

It would also be an inadmissible entry if the entry in the public register was limited to certain specifically defined activities.

(according to the judgment of the Supreme Court of the Czech Republic, Case No. 27 Cdo 3391/2023)

On the question of the state's liability for damages resulting from the annulment of a decision that is strictly favourable to plaintiff

The plaintiff became the owner of a vehicle whose roadworthiness was subsequently revoked because the official in question had approved the vehicle for use without complying with the legal requirements (which was done repeatedly), thereby committing an offence.

The damage suffered by the plaintiff derives from the original decision approving the roadworthiness of the vehicle, the plaintiff not being a party to those proceedings. The plaintiff became the owner of the vehicle after those proceedings but before the criminal conviction of the official concerned.

The plaintiff argued that the damage had already been caused by the fact that she had bought a vehicle in circumstances attributable to the state which had proved to be unfit for use on the road. If the plaintiff had not acted in reliance on the decision, she would not have concluded the purchase contract. At the same time, however, the plaintiff claims that she has also suffered damage because she can no longer use the vehicle and that its general value has fallen rapidly. The vehicle can now only be sold for spare parts.

By law the right to compensation for damage caused by an unlawful decision accrues to the parties to the proceedings in which the decision from which they suffered damage was made. The Supreme Court held that the plaintiff fulfilled that condition if it was a party to the subsequent proceedings for the restoration of the administrative proceedings in question and to the reopened administrative proceedings in which that decision on the technical qualification of the vehicle was annulled.

The Supreme Court also confirmed that, although the decision was purely favourable to the plaintiff's predecessor in title (as it fully satisfied the original party's claim and justified the operation of the vehicle in question on the roads, whoever was the owner and operator), it was nevertheless undoubtedly the primary cause of the damage.

The Act deliberately does not limit the definition of an "unlawful decision" in any way. The obligatory condition is that (with exceptions, which are not present in the circumstances of the present case) it is a final decision which has been annulled or reversed by the competent authority on the ground of illegality. However, according to the Supreme Court, it is possible to draw the partial conclusion that the mere fact that a decision entirely favourable to a party has been given but later annulled for illegality, does not preclude a finding that the damage was caused by that favourable decision. The state is thus liable for damage which is the result of an unlawful decision and not the result of its annulment.

(according to the judgment of the Supreme Court of the Czech Republic, Case No. 30 Cdo 2068/2024)

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