



# Legal update

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## Weinhold Legal

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#### News in legislature

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Action for damages due to significant flight delay

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 in this bulletin should be consulted before investment decisions are made.

#### Banking and financial services:

Pavel Jendrulek

#### Mergers and acquisitions:

Daniel Weinhold, Dušan Kmoč, Dalibor Šimeček

#### Court / arbitration proceedings:

Milan Polák, Ondřej Havránek, Zbyšek Kordač

#### Information technology and intellectual property:

Martin Lukáš, Václav Smetana

#### Competition law / EU law:

Tomáš Čermák, Vladimír Petráček

#### Insolvency proceedings and restructuring:

Zbyšek Kordač, Vladislav Petráček

#### Labour law:

Ondřej Havránek, Anna Bartůňková

#### Real estate:

Pav Younis, Václav Štraser

#### Public procurement:

Jan Turek

We hope that you find Legal Update a useful source of information. Your feedback on this newsletter, especially its content, format and frequency, remains our concern.

Please send your comments to: [marketa.koblerova@weinholdlegal.com](mailto:marketa.koblerova@weinholdlegal.com) or fax +420 225 385 118 to Markéta Koblerová, or contact the person you are usually in touch with.

### News in legislature

#### Amendment to the Civil Code - pre-emption right to real estate in co-ownership

On March 18, 2020, the Senate of the Czech Republic approved an amendment to the Civil Code, which will bring changes in the area of housing co-ownership, including a pre-emption right of co-owners to co-ownership of real estate.

In the practice to date, there have often been problematic situations where the owner of a unit (flat), with which a co-ownership share in a garage or functionally related land (e.g. an adjacent road) was associated, required the consent of all co-owners to transfer the unit. This statutory pre-emption right of all co-owners to co-ownership of immovable property made it significantly more difficult to sell co-ownership of the unit (flat). This resulted in delays in any transaction, increased costs for the contracting parties and, unfortunately, in case of the exercise of the pre-emption right of one of the co-owners, the value of the unit (flat) was reduced. Last but not least, there was a risk that the absence of the consent of one of the co-owners would, as a last resort, invalidate the forthcoming transfer.

Considering the above, the regulation of the pre-emption right to co-ownership of another co-owner should, therefore, return to the form it had in the past. Thus, co-owners will acquire a pre-emption right to a co-ownership share of immovable property only if the co-ownership was established by testament (most often a last will) or other legal fact and at the same time the co-owners had no opportunity to influence their rights and obligations from the beginning. However, the pre-emption right does not arise in the event of a transfer to another co-owner, spouse, sibling or direct relative.

The amended legislation will thus simplify, in particular, transfers of units (flats) with which a co-ownership share in the garage is associated. In the future, it could help to kick-start the Czech real estate market again, currently unfortunately also affected by the state of emergency. However, it will not affect the transfers of "bare" units (flats) as such.

The amendment to the Civil Code is waiting only for the signature of the President of the Czech Republic and subsequent publication in the Collection of Laws. The amendment should enter into force on July 1, 2020.

### Newly published case law

#### Action for damages due to significant flight delay

*(Judgement of the European Court of Justice of March 26, 2020, C-215/18)*

The applicant concluded a package travel contract with a travel agency for air transport between the Czech Republic and Iceland by the Danish air carrier Primera Air Scandinavia and accommodation in Iceland. The flight from Prague to Keflavik was delayed by more than four hours, so the applicant brought an action for damages of EUR 400 against the air carrier due to a significant delay in the flight.

Following the preliminary ruling question referred by the national court, the ECJ answered that a passenger whose flight has been delayed by more than three hours may bring an action for damages under Regulation (EU) No 261/2004 against the operating air carrier, even if a contract has not been concluded between the passenger and this air and the flight in question is part of a package of travel services (tour). The passenger can then sue the air carrier in the court of the place of departure as the subject-matter of the dispute is the contract or the contractual claims within the meaning of Article 5 (1) of Regulation (EU) No 44/2001 (now Article 7 (1) (a) of Regulation (EU) No 1215 / 2012), although a contract has never been concluded between the parties themselves. However, a passenger cannot bring an action in such courts as are designated under special jurisdiction provisions in consumer contracts.