



DELTA legal

Legal News

Are your company's Articles in compliance with the law?

The Supreme Court of the Czech Republic addressed the new obligation to include the exact number of company executives in the articles of association

Change of the articles of association based on the legal fact.


On 12 February 2015, the Supreme Court decided on a case in which the plaintiff claimed that registration of the exact number of its executives into the Commercial Register evidenced only by the articles of association conformed to the requirements of Act No. 90/2012 Coll., the Business Corporations Act (the "BCA"). The courts of first and second instance considered the fact that the plaintiff did not provide the Commercial Register with a resolution on the change of the articles of association in the form of a public deed as a reason to refuse the registration.

Contrary to both lower instance courts, the Supreme Court stated that:

- the obligation under the BCA to state the exact number of executives shall be considered as a change of the articles of association directly by law;
- executives are entitled to change the articles of association only by preparing a completely new full version, as the change of the articles of association is based on the legal fact (in this case, change of the relevant law).

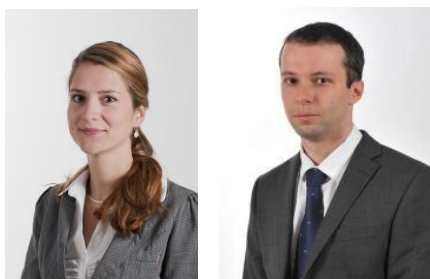
The Supreme Court's opinion confirms the fact that adding the exact number of executives that already followed from the content of the articles of association **does not constitute a real change of content. It is therefore irrelevant to require the change of the articles of association in the form of a public deed.**

However, this decision does not apply to cases where it is necessary to change the articles of association in order to adapt them to the BCA or in the event of the company's subordination to the BCA. In these cases, a resolution in the form of a public deed is required.



**Subordination to
the BCA possible
only until 31
December 2015.**

We would also like to draw your attention to the fact that companies were obliged to adapt their articles of association to the provisions of the BCA and to deliver these to the Collection of Deeds of the Commercial Register by **30 June 2014**. The court is entitled to dissolve and order the liquidation of companies that do not fulfil this obligation, even within the additional period provided by the relevant court (based on the claim of the relevant Commercial Court or a person proving his or her legal interest). On **31 December 2015**, the legal period to subordinate companies to the BCA will terminate. By subordinating to the BCA, companies avoid the simultaneous application of the cancelled Commercial Code and the BCA, which can cause significant interpretive and practical problems and greatly increases the company's costs related to its administration.



Should you require further information, please contact Lýdia Schmidtová or Jiří Absolon at lydia.schmidtova@deltalegal.cz or jiri.absolon@deltalegal.cz or your contact person in our office.

This document is intended as a general communication and is not an advice in specific circumstances.

If you do not wish to receive these Legal News, please advise us accordingly at the e-mail address office@deltalegal.cz.