



GIESE & PARTNER

CZECH REPUBLIC & SLOVAKIA

# Newsletter



## G&P News

### Giese & Partner Opens New Office in Moravia

We are pleased to announce the opening of our new office location in Zlín. The Zlín office will in particular serve the needs of our clients in the Eastern part of the Czech Republic. It will work closely with our existing offices in Prague and Bratislava and further strengthens our position as one of the leading law firms for international clients on the Czech and Slovak markets.

Marie Zámečnicková, who has been with our firm for more than 8 years, will head the new office. Please see [www.giese.cz](http://www.giese.cz) for further details or contact Marie Zámečnicková.

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## General Interest

# Sberbank CZ is About to Vanish – What Should Clients and Creditors Do Now?

by Martin Holler

Only a few days after the Russian invasion of Ukraine and the resulting European sanctions on Russian banks, the Czech subsidiary of Sberbank collapsed. The Czech National Bank revoked its banking license and Sberbank CZ entered into liquidation. Giese & Partner have set up a Sberbank Task Force to help our clients, who are affected by the Sberbank collapse. The current situation of the bank is this:

Sberbank CZ may not accept any deposits, provide loans or carry out any other activities, except for those necessary to settle its receivables and payables. However, until it settles its receivables and payables, Sberbank CZ is still considered a bank and its clients are obliged to repay their obligations. All agreements concluded with Sberbank CZ remain valid and effective. The liquidator of Sberbank CZ has asked all creditors to register their claims before 9 September 2022 by sending their applications either by post or to the Sberbank CZ data box.

Also, the liquidator has asked investors to provide offers for Sberbank CZ's business. Reportedly, PPF/Air Bank provided the highest bid with 52.4 bln CZK, followed by Česká spořitelna with 52 bln CZK and ČSOB as third bidder. ČSOB is said to be interested only in Sberbank CZ's portfolio of mortgage loans and thus offered only

30 bln CZK.

A decision has not yet been made, but the liquidator of Sberbank CZ stressed that the goal is to sell the bank as such and not to cut it into pieces. In any case, we will keep you posted.

Should you require any assistance in this respect, please contact our Sberbank Task Force:



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## Czech National Bank: Change at Helm

by Radek Werich

Will the change in the governor of the Czech National Bank (CNB) have an impact on its current policy? This is a question the markets have asked themselves since the surprising appointment of a new head of the CNB by president Miloš Zeman.

The appointment of the governor of



the banking board of the Czech National Bank is the sole right of the president. Such unlimited power is by itself questionable. However, never in the past has the appointment of a governor caused such an uproar as in the case of the current controversial board member, Mr. Aleš Michl who is to become the new head of CNB on 1 July 2022, in spite of the advice of the outgoing governor.

Many experts have criticized the president's choice for an insufficient professional qualification of the new governor, his controversial public appearance as well as his close relationship to former Prime Minister and oligarch Andrej Babiš.

The biggest market reaction, however, was stirred by the concern that the new governor would change the CNB's interest rate policy. In the past 9 months, the CNB has repeatedly substantially raised its benchmark interest rate up to the current 5.75 % p.a. in order to curb the highest inflation in the past 25 years (currently reaching 14 % year-to-year).

The new governor made it clear during his tenure as a member of the CNB board that the high-interest rates have a material adverse effect on the Czech economy and are inefficient to combat "imported" inflation which is mainly caused by external factors such as a hike in prices of oil, gas and raw materials. In his view, high-interest rates are useless for cooling down inflation.

The market, fueled by a fear of policy change, in particular, a drop in CNB interest rate, pushed the CZK down by several percent within hours from the official announcement of the name of the new head of CNB. For the first time in its history, the CNB had to intervene in the market to uphold the CZK as a result of the appointment of the governor. It is estimated that the intervention cost the bank approx. EUR 2 billion before the CZK recovered and stabilized around CZK 24.70 / EUR. With a pinch of salt, one may think that the new governor will be the most expensive manager in entire Czech history. Hopefully he will turn out to be worth it.

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# Russian Oil Embargo Fuels Disputes in Slovakia

by Veronika Kvašňovská and Valter Pieger

The invasion of Ukraine by Russian troops sparked countless responses in order to help Ukraine and limit funding of the Russian economy and hustle war. Oil represents one of the greatest incomes of Russia's state budget. The discussions on the oil embargo have been challenging, as the member states of the European Union could not reach an agreement on restriction of the Russian oil supply. Of course, the main goal of the EU is to help Ukraine and stop the war, but naturally, numerous sanctions against the Russian Federation also negatively constrain national economies of individual states to a different extent. This concerns especially Slovakia and Czechia. The EU noted that it imported 48 bln EUR worth of oil and 23 bln EUR worth of refined petroleum products from Russia in 2021. Although the EU adopted a 6th sanction package collectively, individual member states have had the possibility to negotiate certain exceptions.

An embargo is imposed on Russian oil as well as oil products such as gasoline, aviation gasoline or heating oils. The ban concerns not only oil imports from Russia

but also its further export from member states to other member states or third countries. The EU has completely banned Russian oil imports as of 2023. However, Slovakia, Czechia and Hungary were given time-limited exemptions due to their supply connection to the "Družba" oil pipeline and their major dependence on Russian oil. These countries have time to prepare for an oil shutdown and ensure that the shutdown does not cause a severe economic crisis. The Slovak exception for Russian oil imports is a transitional period of 8 months. This includes import via pipeline as well as oil tankers. In the course of this period Slovakia will be able to further export oil and oil products anywhere. There is another exemption, which concerns also Czechia. After an 8 months' transitional period terminates, Slovakia was granted an extra 10 months' period during which it will be able to export oil and oil products solely to Czechia.

The result of negotiations is considered to be a disappointment, as the Slovak representatives were trying to negotiate a three years' transitional period. The only "little gain" negotiated, is that during the 8

months' exemption period Slovakia will be able to import oil without any limitations on the amount.

Privately owned Slovak refinery Slovnaft has commented that the new embargo and ban on export of products from Russian oil will cause the refinery technological problems. It will not be able to produce if it does not process a certain minimum amount of oil, because it is uneconomical and brings a higher security risk.

The new sanctions, along with the previous five packages, are unprecedented and designed to further escalate economic pressure on Russia and weaken its ability to pursue war in Ukraine. Even though the embargo brings economic, technical and security difficulties, Slovakia realizes that there is a war behind its borders and Russia, as the aggressor, must be punished. On the other hand, sanctions must be adopted in such a way that the EU countries do not ruin themselves economically and will be able to lend a hand to Ukraine also through other forms of aid.



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## Czech Legal News

### Home Office and Meal Vouchers

by Dagmar Junková

Although home office existed before, only mandated lockdowns during the Covid pandemic made it popular. Employers have found that working from home works well and home office is now a very popular benefit in the Czech Republic.

The legislation has not yet been adjusted to the new situation, although there have been efforts to regulate home office more precisely. The Czech Labour Code contains only very few provisions regulating the performance of work from home. The current regulation is completely insufficient and **employers**









the effectiveness of the amendment. Thus the company has two months to appoint another person as the member of its body.

#### REGISTER OF EXCLUDED PERSONS

The second novelty introduced by the amendment is the so called Register of Excluded Persons. It shall contain information about individuals for which obstacles to perform an office arise in the Czech Republic. Similar registers shall be established also by other EU member states. The registry shall not be public, only courts, notaries and certain authorities in other member states shall be allowed to have access. Every citizen shall be entitled to ask for an extract of entries relating to himself/herself.

#### REGISTRATION OF A COMPANY WITHOUT A TRADES LICENSE

Currently, if you want to register a newly established company with the Czech commercial register, you first need to obtain the trades licenses for performance of its business. However, it will be possible to apply for the trades licenses at a later stage, i.e. after the company has been registered in the commercial register. In case the corporation has not obtained the trades licenses within one year and its only scope of business is entrepreneurship, the court might dissolve such company.

Taking into account that the proposed changes mostly implement provisions from several EU directives on digitalization into Czech law, it is highly probable, that they will be adopted by the Czech Parliament.

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## Slovak Legal News



# Price Regulation as Response to Energy Crisis in Slovakia?

by Zuzana Tužilová and Renáta Konštiaková

Energy markets are constantly facing unpredictable challenges. A long lasting Covid-19 pandemic, significant inflation at the beginning of 2022 and the military aggression by Russia against Ukraine resulted in an extremely adverse situation on the European market with energy commodities.

The distressed situation has initiated an extraordinary increase of prices for electricity and natural gas jeopardizing their affordability for all customers. Slovak government contemplates to deal with the burdensome circumstances primarily via price regulation. This is based on the idea that certain groups of customers shall be entitled to buy electricity and natural gas for regulated prices.

Price regulation shall newly apply also to some non-household customers, such as customers using electricity for operation of social services facilities or supply gas to owners in an apartment building (“vulnerable customers”).

The procedural rules were also adjusted in order to facilitate the protection of vulnerable customers. Such customers have the right to leave the regulated field (*opt-out model*) or to enter this field (*opt-in model*). The corresponding choice shall

be made until 31 March of each calendar year in question and apply in 2023 for the first time. This mechanism shall secure parallel existence of regulated and non-regulated products for vulnerable customers and in the end contribute to a significant increase of the energy market flexibility.

There is no doubt that new price regulation will support the protection of customers and the affordability of natural gas and electricity. It is however important to mention that price regulation will significantly affect electricity and natural gas suppliers as well. These entities are usually exposed to high input costs, which might even worsen as compensation of such costs might be stricter until the end of the current crisis. Only practical application will prove the actual consequences of price regulation.



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# Preventing Insolvency in Slovakia

by Veronika Kvašňovská and  
Valter Pieger

Slovakia has adopted a new regulation which shall help companies that have run into financial difficulties. Statistics indicate that up to 65 % of the companies which declared bankruptcy, had been having financial problems for a time period of three years prior to declaring bankruptcy. They ignored their non-thriving situation and seemed to believe that their financial problems are only mild and temporary. As of July 17, 2022, companies may no longer irresponsibly ignore such situation.

The whole process of prevention of impending insolvency will be operated electronically and will incorporate two new means:

- a Public Preventive Restructuring, and
- a Non-Public (Private) Preventive Restructuring.

**Public preventive restructuring** can be initiated only via debtor's application in a state of impending insolvency due to impending illiquidity. Impending insolvency means a financial crisis, in which the ratio of equity to liabilities is less than 8 to 100. One of the conditions for submission of the application for approval of public preventive restructuring is the debtors' registration in the Slovak Register of Public Sector Partners. This forces the debtor to provide information about its ultimate beneficiary owner. Another condition is a **public plan concept**, which presents the debtor's idea of how to resolve its impending insolvency.

If the application is accepted, the court may appoint an advisor and an administrator, whose main role is surveillance of the debtor. The advisor plays a new and rather significant role in

preventive proceedings. The advisor shall examine and suggest the need for specific measures, provide respective opinions, in some cases provide consent to the debtor's actions, etc., all in order to help the debtor to get out of its financial difficulties. As soon as the public preventive restructuring is granted, the debtor shall make its concept plan accessible to its creditors and shall initiate an informative assembly of creditors, who shall discuss the **public plan** and possible restructuring measures. The public plan should not significantly divert from the original concept and shall be approved by the creditors. The creditors are divided into various groups. If some creditors do not agree with the public plan, the debtor may ask the court to substitute the creditors' consent. After the consent of the creditors with the public plan is granted, it has to be confirmed by the court. Once confirmed by the court, the public plan is obligatory for the debtor and it may proceed with the fulfilment of the public plan.

The debtors' main motivation for public preventive restructuring is the possibility of **temporary protection**, which is granted by the court provided that the creditors agree. It is granted upon request of the debtor and lasts 3 months. Even though it limits the debtors' dispositive powers with its property, it has various positive effects. The debtor is not obliged to file an application for bankruptcy, bankruptcy may not be declared or restructuring may not be granted. Already opened bankruptcy or restructuring proceedings shall be interrupted, certain time limits for claiming a right or contestability do not run,

enforcement proceedings are no longer possible, etc. This gives the debtor time and is a great opportunity to sort out its financial liabilities. On the other hand, the effects of temporary protection have an enormous impact on creditors and recovery of their claims.

**Private preventive restructuring** only concerns debtors whose creditors are banks. The proceeding is not public and the court interferes only slightly. The only condition for private preventive restructuring is that the debtor may not be in a state of ongoing bankruptcy or restructuring proceedings. The whole process of private preventive restructuring is private, including the private plan. After the private preventive restructuring is announced to the court, the debtor shall submit the private plan for court approval within three months.

The new act is an effective tool that may resolve a debtor's financial issues in a timely manner. The debtor may continue its business activities and may avoid bankruptcy. The new regulation not only helps companies with their liquidity and creditors with their claim recovery, but also sustains the Slovak economy and the employment market.



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## Recent activities of Giese & Partner lawyers

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### General statement regarding this publication:

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