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COVID-19 legal update – Rent Deferral for Tenants

Developments related to COVID-19 are occurring rapidly. Wolf Theiss will continue to distribute regular Client Alerts via email and publish up-to-date analysis on our website. A list of daily updated resources can be found here: <https://www.wolftheiss.com/covid19/>.

On 8 April 2020, the Czech Chamber of Deputies approved a draft law aiming to mitigate the negative impacts of the COVID-19 pandemic on tenants of business premises. The draft law provides for **a protection period expiring on 31.12.2020, during which the landlord is not allowed to terminate a lease in the event of a tenant's default**. As a result, the draft law allows a **nation-wide rent deferral**¹.

The draft law applies to lease and sublease agreements concerning **business premises**. It is currently awaiting approval by the Senate and will most likely be discussed there within the next few days. It is expected that it will come into force shortly after this date if it is passed by the Senate and published in the official collection of laws.

Protection Period and Its Effects

The draft law provides for a protection period, during which the landlord is not allowed to terminate a lease agreement on the grounds that the tenant finds himself in default on rent payment. **The protection period begins on the day the draft law goes into effect and lasts until 31.12.2020.**

The protection period applies only if the **tenant's default occurs in the period from 12.03.2020 to 30.06.2020 and is caused by the governmental restrictions related to the COVID-19 national emergency** which have made the operation of the tenant's business impossible or substantially more difficult. Fulfilment of the conditions must be certified by the tenant to the landlord within 15 days from the moment the default occurred.

The draft law stipulates that **the landlord's other rights arising from the tenant's default are not affected** (e. g. the right to default interest). However, under another draft law related to the COVID-19 Pandemic (the so-called *Lex Covid*), **the landlord may not be entitled to these rights**, subject to certain conditions (see below).

¹ Payment of other financial obligations, e.g. services connected with the use of the premises, is not affected.

Nonetheless, the landlord still may terminate the lease for other reasons provided by law or agreed by the parties.

The tenant is obliged to pay all due rent instalments within the protection period (i.e. until 31.12.2020)². If the tenant fails to fulfil this obligation, the landlord may terminate the lease after the end of such a period. The landlord also has such a right if the tenant declares that it will not pay. **The notice period is only 5 days.**

Furthermore, the **landlord may ask for cancellation of the lease** if it is not fair to require the landlord to bear the burden of the conditions under the draft law. However, the landlord may cancel the lease only after the end of both the governmental restrictions affecting the tenant's business and the national emergency.

Residential lease

Similar rules were approved to mitigate the negative impacts of the COVID-19 pandemic on tenants of residential premises.

Other relief measures related to the COVID-19 connected default

Finally, another draft law related to COVID-19 Pandemic was approved by the Czech Chamber of Deputies on 9 April 2020 – the so-called **Lex Covid**, which, among other things, aims at relieving contractual parties who are in default of the fulfillment of their contractual obligations due to the extraordinary governmental measures.

Under the draft law, if a party proves that an extraordinary epidemic measure hindered him / her / it in the timely fulfilment of their obligations (or made it substantially harder), the other party **is not entitled to require payment of default interest or any other penalties for later performance**. This exceptional regulation is applicable during the duration of the extraordinary governmental measures, however, at the latest until 30.06.2020.

This means that the **landlord may not be entitled to rights arising from the tenant's default** under the Lex Covid Act despite the above-mentioned fact that the draft law on rent deferral does not affect the landlord's other rights arising from the tenant's default.

Does your business need support in implementing a work from home policy? We are pleased to offer our online collaboration platform WT Space to support you during the current COVID-19 pandemic.

WT Space is a fully customizable, secure collaboration platform that requires no additional hardware or software. Whether you need to collaborate on documents, manage project tasks or communicate more efficiently, WT Space can help bring your team together. Please let us know if you have questions or wish to discuss pricing. space@wolftheiss.com

² If the lease expires prior to the end of the protection period, the tenant is obliged to pay all due rent instalments within 30 days from such end.

About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We have built our reputation on a combination of unrivalled local knowledge and strong international capability. We opened our first office in Vienna over 60 years ago. Our team now brings together over 340 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region.

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