

November 2020

Czech Republic: Insolvency Proceedings under the new Lex Covid Justice II – Covid-19 legal update

In connection with the second wave of the COVID-19 pandemic in the Czech Republic, the Czech Government has already extended some of the support measures from the spring of 2020, as well as adopted new ones.

On 10 November 2020, the Czech Parliament approved an amendment to Act No. 191/2020 Coll., on Certain Measures to Reduce the Impact of the Coronavirus SARS CoV-2 Epidemic on Participants of Court Proceedings, Injured Persons, Crime Victims and Legal Persons and on Amendment of the Insolvency Act and the Civil Procedure Code (known in Czech as the **Lex Covid Justice**). This amendment (in Czech known as **Lex Covid Justice II**) extends the duration of some measures in the area of insolvency introduced by the Lex Covid Justice. *For more information regarding Lex Covid Justice, please see our legal update from spring 2020 [here](#).*

Below is a brief summary of the major changes affecting corporates introduced by the newly approved Lex Covid Justice II.

1. DEBTORS' INSOLVENCY PETITION

In spring 2020, the Lex Covid Justice **suspended the duty to file an insolvency petition** for debtors and their directors in the event of the debtor's insolvency (in Czech *úpadek*) until the expiry of 6 months after the COVID-19 pandemic emergency measures expire or are repealed. The aim of the Lex Covid Justice II is to **extend the long-stop date applicable to this suspension from 31 December 2020 until 30 June 2021**.

Only debtors which were not insolvent already before the emergency measures were introduced, and which became insolvent predominantly as a consequence of circumstances connected with the adoption of those measures which prevented the relevant debtor from discharging its monetary obligations or made it substantially more difficult to do so, can benefit from this suspension. All other debtors have the same obligation to file an insolvency petition as they had before the emergency measures were adopted.

2. CREDITORS' INSOLVENCY PETITION

Under the Lex Covid Justice, no insolvency petitions filed by creditors from 24 April 2020 until 31 August 2020 were "taken into account". This means that an insolvency petition filed by a creditor was deemed not to have been filed. This measure has already expired, and the Lex Covid Justice II **does not further extend it**.

3. EMERGENCY MORATORIUM

Under the Lex Covid Justice, a debtor-entrepreneur, who was not insolvent on 12 March 2020 could file an application with the insolvency court until 31 August 2020 for the (newly introduced) emergency moratorium. It has been reported that so far, the emergency moratorium has been approved for more than 50 companies.

Under the Lex Covid Justice II, **a debtor-entrepreneur, who was not insolvent on 5 October 2020 may file an application with the relevant insolvency court for an emergency moratorium until 30 June 2021**.

The maximum duration of the emergency moratorium is three months, but the debtor may request the insolvency court to extend it for another three months. **Creditors' consent to an extension of the emergency moratorium is not required if the debtor filed an application for an emergency moratorium on or before 31 August 2020** (i.e. still under the Lex Covid Justice). However, if the debtor applies for an emergency moratorium under the Lex Covid Justice II, the consent of creditors will be required.

4. REORGANISATION PLAN

Under the Lex Covid Justice, if a reorganisation plan was approved earlier than 12 March 2020, a debtor could file an application for a temporary suspension of the implementation of the reorganisation plan. The debtor could file the application within a period of six months after the national emergency status was cancelled, but by no later than 31 December 2020. **The Lex Covid Justice II does not further extend this time limit**.

About WOLF THEISS

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

For more information about our services, please contact:



Robert David

Partner

robert.david@wolftheiss.com

T: +420 234 765 227



Katarína Kolbenhayerová

Associate

katarina.kolbenhayerova@wolftheiss.com

T: +420 234 765 256

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss
Schubertring 6
AT – 1010 Vienna

www.wolftheiss.com