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The Czech Republic is among the countries that have set a national definition of a family business. Deloitte Legal was involved in its preparation

Family businesses have to be considered a significant element of the Czech economy which is worth supporting. They often operate in regions, where they create additional jobs and maintain regional products, increase local employment rate and work as a prevention of depopulation of the countryside. They also show a relatively high stability and they can therefore support the economy even in times of recession. Until now, however, we have lacked a national regulation that would clearly define a family business as such.

This changed in mid-May, when the Government ruled to approve the definition of family business. The Czech Republic thus joined the ranks of countries having a national regulation of family business. This opens the way to better support for companies in the future, whether it involves obtaining grants or employing family members, although in the first stage the definition will be used primarily for a statistical tracking of family businesses. The authors of the definition included a team of lawyers from Deloitte Legal who helped with a survey of tried and tested foreign methods in this area and subsequently with the creation of the definition itself.

How did we look for the definition? We involved the international network [Deloitte Legal](#) – first of all we mapped whether family business is regulated in other European countries, and if so, how. This research showed that no EU country currently has a comprehensive regulation of family business, but in certain aspects family business is often taken into account in the laws of other countries. In Slovakia, an entire draft bill was prepared on family business, but it was ultimately not adopted. This proposed Slovak regulation became an inspiration for the Czech definition, given the similarity of the Czech and Slovak law.

The Czech Republic has so far not opted to define family business in a legal regulation (the definition was adopted by a Government resolution), but it is certainly not ruled out in the future.

A family business is a family business corporation or a family trade

The Association of Small and Medium-Sized Enterprises and Crafts of the Czech Republic, which has long been fighting for a better support of family business by the state, contacted Deloitte Legal lawyers with the objective of defining what exactly is meant by a family business. Bohumil Havel, the author of the Business Corporations Act, was also invited to cooperate.

The final Czech definition of a family business includes a family business corporation and a family trade and its literal wording is as follows:

1. A family business corporation is a business corporation where more than a half of the owners are members of a family and at least one member of this family is the corporation's statutory body, or where the members of a family directly or indirectly perform most of the voting rights and at least one member of this family is a member of the business corporation's statutory body. A family business corporation is also a business corporation where the majority of voting rights are performed in favour of a family by a foundation or the trustee of a trust fund, provided that at least one member of this family is simultaneously a member of the statutory body of the foundation or the trustee of the trust fund.
2. A family trade is a business where at least two members of a family are involved through their work or assets and at least one of the members of this family holds a trade or similar licence or is authorised to perform business for another reason.
3. For the purposes of a family business, the members of a family refer to spouses or partners working together or at least one of the spouses or partners with their relatives up to the third degree, persons related by affinity to the spouses or partners up to the second degree, lineal relatives or siblings. If one of them is a person who is not fully legally competent, this person is represented in voting by a legal representative; if the person is underage, he or she is represented by a guardian.

Have a look at how our flagship [Deloitte Private](#) works with family businesses.

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Future challenges of fast growing businesses: What happens if you ignore red flags?

If you type “compliance” into your browser, you instantly get almost 1 billion search results. In the last few years, many corporate scandals went public and got us all thinking about compliance more than ever before. Especially if your company is among the fastest growing on the market. How to prevent complications that can lead to prosecution, huge financial losses, or even extinction of your company?

You probably had a great idea a few years back and a few motivated colleagues, an office or a garage where you spent all your day. Now, you may have hundreds of employees, you do not meet your old team mates that often, you are no longer a small company where a “gentlemen’s agreement” was a way of doing business. You are realising that although you hated all those systems and policies of big corporations, you actually need some of them.

You are probably asking yourself a question: Is it sustainable to work and do business the same way as a couple years back or does something need to change the bigger and wealthier you get? You might not sleep well because the competition also does not sleep and you never know who could misuse, or leak your know-how, IP or other assets which are worth a fortune. And if you have not thought about it yet, well... Maybe this is the right time. Because if you do not prepare for current and future challenges, in the worst case, your business may not even be here in a couple of years.

Five benefits of being compliant

Thinking about compliance today may not only protect your company but also grow your company’s value in the future.

Nowadays, being compliant is getting more and more important (as well as complicated) due to heavier regulation companies have to comply with. We know creating a compliant organisation might be a bit of a challenge. However, implementation of or enhancement into an effective compliance programme actually provides **attractive benefits and competitive edges such as:**

1. Creating a detailed in-house manual for everyday processes and regular internal controls – the **company works transparently with clearly defined duties and responsibilities;**
2. Supporting **respectful corporate culture;**
3. **Empowering trustworthiness and brand loyalty** towards the investors, business partners and customers;
4. **Reducing reputational risk and mitigating the damage** by protecting the company from criminal liability and other types of liability; and
5. **Increasing value of the company** in an acquisition process or when seeking an investor.

Looking for a needle in a BIG DATA haystack

We are often facing clients telling us: We never thought or expected this could happen to us. We never thought that our

loyal employees would leave our company, take sensitive corporate information with them and start working for the competition building on our unique ideas. How come our whole customer database was lost or stolen? Who leaked our idea that we just wanted to get a patent on? Why do our employees collaborate with our suppliers and conclude contracts disadvantageous for our company? Why did the police raid our offices and take our computers and servers? and so on and so forth...

Poorly trained employees causing data breaches and white-collars participating in bid rigging or financial statement frauds are just a few examples of individuals’ misconduct that may lead to severe damage to a company. Usually, a company detects misconduct after the damage is done and going public is just too risky.

In such situations, we can of course help you find out what happened, how it happened and who the perpetrator is. It may sound very simple, but finding a needle in a big data haystack may take some time, despite all the tools and technology we employ. The most challenging is the aftermath: Should I claim damages? Should I file a criminal complaint? How do I get rid of an unfaithful employee? Can I sue that person? Is the evidence strong enough to go to battle?

No effective compliance? Prosecution as the worst scenario

You can try to file a claim against the employee and you end up being told by the court that your company actually “enabled” your employee to cause damage to your company due to having insufficient precautions, lack of control mechanisms. You have ignored red flags and alerts that something is going on many times and you might have easily missed the statutory deadlines to dismiss the employee.

Companies with no effective compliance mechanism cannot simply step aside from its employees or management misconduct but in the worst case (which statistically happens quite often), the companies themselves end up being sued or prosecuted. Companies charged with criminal offence have a tough task proving such misconduct is a mere individual’s failure, not the company’s “best practice” and that the company has a sufficient compliance programme in place. Nevertheless, forensic investigations that we work on with our Deloitte forensic experts usually discover many “back doors” in corporate systems and a lack of control mechanisms, hence in real cases companies are lacking a proper compliance programme.

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