

LIMITATIONS ON CASH PAYMENTS DURING REAL PROPERTY TRANSFERS

Cash Payment Limitations in General

The Czech legal regulation of cash payments limitations exists in the form of the Act No. 254/2004 Sb., on limitation of cash payments and on modification of Act No. 337/1992 Sb., on administration of taxes and charges, as subsequently amended. This regulation is legally effective as of 1st July 2004.

This act stipulates that cash payments exceeding the amount EUR 15,000.00 are forbidden¹ (payments over this limit can only be made cashless). This restriction also includes payments by using precious metals and gemstones in the worth over this amount. On the contrary, cash payments do not include depositing of money in the bank and withdrawal of money from the bank – they are not even considered to be cash payments.² Disobedience of this regulation may result in an administrative penalty from CZK 10.000 to CZK 5.000.000 issued by the territorial financial bodies – the penalty does not depend on the guilt, the regulation constitutes the objective responsibility.

When the payer (debtor) has to pay more than EUR 15.000,00 and asks payee (creditor) to get payee's bank account number, the payee is obliged to give his bank account number to the payer. As long as the payer does not get payee's bank account number, the creditor's delay is present³.

1 Vide Section 4(1) of the Act No. 254/2004 Sb., on limitation of cash payments and on modification of Act No. 337/1992 Sb., on administration of taxes and charges, as subsequently amended.

2 See Section 2(2) of the Act No. 254/2004 Sb., on limitation of cash payments and on modification of Act No. 337/1992 Sb., on administration of taxes and charges, as subsequently amended.

3 Vide R. Kulková, Právní regulace hotovostních plateb – zákon o omezení plateb v hotovosti, "Právo a podnikání" 2004, no. 6, p. 6.

Cash Payment Specially Used for Real Property Transfers

There is a method of cash payment often used for real property transfers which is approved by the Czech legal regulation: notarial safe deposit⁴. A usual scenario works this way:

- A buyer using this method of payment stores the money for the real property transfer in the notary office at the time specified by contract (before the transition of ownership).
- The notary secures the money in the safe or in the bank account.
- Second side of the contract is fulfilled (for example ownership of the real property is transferred to the buyer – effectively in the Real Estate Register, i.e. Cadastre).
- A seller retrieves the money stored in the notary office.

Notarial safe deposit still remains the lawful way how to transfer money for the real property and from the legal effectivity of this regulation (1st July 2004) the number of notarial safe deposits for transferring the real property increased.

It is important to remark that the real-estate transfer tax payment for real property transfer is also the part of the transfer (although the payment of this tax is separated from the payment for the real property itself) but it is not limited to be paid in cash by the law.

Payments in the Currencies Different from EUR

Because the Czech Republic is still not the part of the Eurozone (the area using the common currency EUR), EUR is used only in the minority of transactions. Therefore all cash payments have to be calculated from CZK or any other currency used to EUR for the purpose of verifying the amount – the exchange rate used is the rate as of the day of the payment.

⁴ See Sections 85 – 89 of the Act No. 358/1992 Sb., on Notaries and their Activities (Notaries Act), as subsequently amended.

Streszczenie

Celem niniejszego opracowania jest analiza zawartych w czeskim prawie ograniczeń dotyczących wpłat gotówkowych za przeniesienie własności nieruchomości. Co do zasady czeskie przepisy zabraniają dokonywania wpłat gotówkowych przekraczających kwotę 15,000.00 EURO. Autor opisuje wyjątki od tej zasady.