

### **The latest amendment of the Civil Code affects the status of lien holder creditors**

**According to the expert of Kovács Réti Szegheő Attorneys at Law, the amendments of the Civil Code in force as of 28 February 2015 have terminated the right of the court of registration to impose fines automatically, and amended the transitional provisions regulating liens**

Dr Enikő Vida pointed out that the deadline has been set for 15 March 2015 for limited and general partnerships to bring their determinations regarding the alignment of their future operations with the provisions of Civil Code and to communicate this decision, while for private limited companies and limited companies the same deadline is 15 March 2016.

Pursuant to the transitory Civil Code provisions previously in effect, the courts of registration were bound to impose fines on companies failing to comply with these obligations. The amendment has eliminated this automatic obligation of the courts of registration. In other words they are no longer entitled to impose fines automatically – emphasised the expert of Kovács Réti Szegheő Attorneys at Law.

### **Delays in complying with the reporting obligation may be penalised**

This obviously does not mean that the penalty imposed on delayed reporting would be eliminated. Judicial oversight proceedings may still be initiated against the company in default, and fines may also be imposed, which is why it is advisable to get the attorney of the company to prepare and submit the necessary documents.

### **Limited security lien**

It was clear pursuant to previous Civil Code provisions that the provisions regulating lien applied only to liens established by pledge agreements executed after the entry into force of the Civil Code, and to those originating as statutory lien created after the entry into force of the Civil Code.

The Civil Code amendment clarified the transitory provisions regulating lien contracts establishing limited security lien, and stipulated that limited security lien established prior to the entry into force of the Civil Code will secure claims arising after the entry into force of the Civil Code only if the contract underlying the claim does not exclude this possibility, and the claims satisfy the criteria laid down by the lien contract.

In other words, contracts establishing limited security lien should be reassessed in order to establish which claims may be included in the secured category – highlighted Dr Enikő Vida.



### **Seceded lien**

Pursuant to the Civil Code amendment, liens created by contracts concluded prior to the entry into force of the Civil Code are also transferrable, without having to transfer the secured claim, compliant to the rules governing seceded lien.

It is vital however, that in the above case the seceded lien holder may only exercise its right out of court, if the original lien holder had been entitled to do so, or if the parties have specifically agreed to that separately.

In practice the enforcement of the pledged property may be conducted compliant to the pledge contract as opposed to the new Civil Code provisions, except where the parties subsequently agree to exercise the right to satisfaction outside judicial claim enforcement – concluded the expert of Kovács Réti Szegheő Attorneys at Law.