

Providing Comfort for Alterations to Residential Properties

Wilson & Partners has made a name for itself across a broad range of disciplines. Senior Counsel Daniel Navrátil, a specialist in real estate law, speaks about some of the recent changes to the Civil Code and why they matter.

What are the categories of real estate leases recognized under Czech law?

There are several categories, depending on the subject and purpose of the lease. The Civil Code provides for a general regulation of leases, which applies (with some exceptions) to all leases notwithstanding their nature. It also contains special regulation for business leases and housing leases.

What are the major differences between a general / apartment lease and a business lease in terms of formalities?

A lease agreement for an apartment must be concluded in writing. However, the landlord cannot claim invalidity of the lease due to lack of a written form. Also, if the tenant uses the apartment for at least three years in good faith that the lease is valid, the lease agreement is deemed to be duly concluded.

As to a business lease (if the subject of the lease is space or premises to be used for the purposes of a tenant's business operation), there are no special

requirements apart from general requirements for validity of a legal act – i.e. the parties to an agreement and the subject matter of the agreement.

What are the major differences between a general/apartment lease and a business lease in terms of landlord and tenant obligations?

For general leases, the respective parties' obligations can be basically described as the landlord's obligation to maintain the premises in a suitable condition for the purpose of the lease, and carry out maintenance of all matters that are not the obligation of the tenant, and the tenant's obligation to pay rent and to use the premises in a diligent manner.

The tenant must also allow for necessary inspections of the premises by the landlord, and must ask consent before making any alterations to the property. With business leases, the parties' rights and obligations are more detailed and specific and at least the following few modifications of the parties' rights should be noted:

- If the landlord provides any services related to the lease, the regulation of apartment leases shall apply appropriately unless the lease stipulates otherwise.
- The tenant may carry out other than agreed activities in the premises if they do not impair the state of affairs in the property.
- If the tenant wishes to place signs in/on the premises or the property, the landlord may refuse consent only for material reasons. Furthermore, if the landlord does not respond within one month, the consent is deemed granted.
- If the lease terminates due to the landlord's notice given for reasons other than a gross breach of the tenant's obligations, the tenant is entitled to claim compensation for its customer base established on the premises (if any).

Finally, what are the major differences between a general/apartment lease and a business lease when terminating a contract?

If a general lease of real estate is agreed for an indefinite period of time, it may be terminated by either party without giving a reason subject to a 3-month notice period. If a lease is agreed for a definite period of time and the tenant uses the premises or at least one month following the expiry of the term without the landlord requesting to hand back the premises, the lease term is automatically prolonged by one year (or the period of the original lease term). It can also be terminated by the landlord if the tenant has violated any of the terms of the lease (such as subletting without consent, causing excessive wear of – or modifying – the premises).

Under a business lease, either party may terminate the agreement in respect of the lease concluded for an indefinite period without stating a reason subject to a 6-month notice period.

However, if the relevant party has a material reason for the termination; the notice period is only three months (this does not apply if the lease has continued for a period longer than five years and the other party could not foresee the termination – in such cases, the notice period will always be six months). A business lease concluded for a definite period of time can be terminated by a landlord with a 3-months' notice by the landlord if:

- a) the property is to be demolished or reconstructed (and this could not have been foreseen when entering into the lease); or
- b) the tenant grossly breaches its obligations towards the landlord (e.g. if rent or service charges are not paid for over one month).

A business lease can also be terminated by the tenant with a 3-months' notice if:

- a) it loses its capacity to carry out activities for which the premises are leased;
- b) the premises become unsuitable for the activities for which they were leased; or
- c) the landlord grossly breaches its obligations towards the tenant.

Daniel.Navratil@wilsonscee.com