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FINANCIAL LAW NEWS

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AMENDMENT TO COMMERCIAL CODE

(Act No. 487/2009 Coll. amending and supplementing Act No. 513/1991 Coll. Commercial Code, as amended and on amending and supplementing of certain acts)

Pursuant to the reasoning report, this Amendment has been adopted for the purpose of implementation of Directive of the European Parliament and Council No. 2007/36/EC the exercise of certain rights of shareholders in listed companies and for the purpose of elimination of some inadequacies of the legal regulations.

Accounting of Entrepreneurs

In connection with the accounting of entrepreneurs, the amendment specifies that business entities and cooperatives shall have the ordinary and extraordinary financial statement in cases stated in special regulation.

Public Joint-Stock Company

The Amendment eliminates the barriers in the cross-border investment, especially those which are connected with the cross-border exercise of shareholder's rights.

Pursuant to this Amendment, the definition of a public joint-stock company is amended. According to this new regulation, a public joint-stock company is deemed to be a company, all or some securities of which are admitted to trading on regulated market situated or operating in some of member states of the Agreement on the European Economic Area. Taking into account the new definition, the Amendment stipulates also the prohibition of transferability of securities admitted to trading on regulated market.

According to the interim provisions to this Amendment, public joint-stock company shall amend its Articles of Association in order to comply with the new regulation within 1 May 2010.

Shareholders Rights

The Amendment to the Commercial Code introduces a new provision according to which the exercise of rights of a shareholder shall not be subject to deposition of shares of a shareholder to the account of the other person, subject to transfer to another person or subject to registration to another person according to special regulation. The Act also regulates determination of a decisive day, determination of a person entitled to exercise the right on dividend as well as the form and place of the dividend payout and a decisive day for exercise of rights belonging to shares in a public joint-stock company.

The Act also stipulates provision of information and explanations at the General Assembly meeting.

The new regulation expressly states that if more shareholders appointed the same proxy in written to represent them at the General Assembly, the proxy may vote at the General Assembly for each such represented shareholder separately.

The requisites of the invitation to the General Assembly or notification on the General Assembly of a public joint-stock company are specified. At the same time, it regulates a new method of their publication on the website of a joint-stock company at least 30 days before the date of the General Assembly meeting together with other required documents and information. The requisites of the minutes of the General Assembly meeting are amended as well.

Correspondence Voting

The Act further stipulates basic requirements for participation of and voting of shareholders at the General Assembly meeting by electronic means and introduces the voting by correspondence

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as a new form of shareholder's voting, before the General Assembly meeting by submitting the vote by postal services.

Winding-up of a Company by the Court

A significant change is also the modification of the court procedure before issuing the decision on winding-up of a company. This Amendment imposes the court the obligation to make public in the Commercial Bulletin the notification that the proceeding on winding-up of a company without liquidation is conducted, whereas the court may issue a decision on winding-up of a company only after lapse of 3 months period from disclosure of such notification in the Commercial Bulletin.

This Act also amends and supplements certain provisions of the Civil Procedure Code, Act on Securities and Investment Services, Act on Stock Exchange, Act on Commercial Registry and Act on European Company.

This Act will come into force on 1 December 2009.

AMENDMENTS TO TAX REGULATIONS

(Act No. 471/2009 Coll. Amending and Supplementing Act No. 222/2004 Coll. on Value Added Tax as amended, Act No. 482/2009 Coll. Amending and Supplementing Act No. 98/2004 Coll. on the Excise Duty on Mineral Oil as amended, Act No. 477/2009 Coll. Amending and Supplementing Act No. 106/2004 Coll. on the Excise Duty on Tobacco Products as amended, Act No. 474/2009 Coll. Amending and Supplementing Act No. 105/2004 Coll. on the Excise Duty on Spirit as amended by Act No. 211/2003 Coll. and Amending and Supplementing Act No. 467/2002 Coll. on the Production and Introduction of Spirit to the Market as amended, Act No. 472/2009 Coll. Amending and Supplementing Act No. 104/2004 Coll. on the Excise Duty on Wine as amended, Act No. 475/2009 Coll. Amending and Supplementing Act No. 107/2004 Coll. the Excise Duty on Beer as amended)

For the purpose of harmonization of the Slovak legislation with the legislation of the European Union and for the purpose of elimination of other inadequacies in the Slovak legislation, the following changes to the regulations in the taxation area were adopted:

Amendment to VAT Act

By Amendment of this Act, the tax rules regarding cross border service supplies and

VAT refunding to foreign taxable persons are modernised and simplified and effective measures against tax fraud are stipulated.

Rules applicable to determination of the place of the service delivery, respectively taxable place, are newly defined depending on whether recipient is a taxable person or not.

Also provisions on arising of tax liability are amended as well as reporting in the aggregate statement.

Detailed rules on VAT refund to a foreign person from other member state are also determined.

Amendment to Act on Excise Duty on Mineral Oil, Spirit, Vine, Beer and Tobacco Products

The above mentioned regulations were amended in connection with introduction of the electronic control system of goods transport being subject to excise duty.

The Amendments introduced electronic control system of transport of mineral oil, spirit, vine and beer in suspension of taxation or exempted from taxation and tobacco products in suspension of taxation. Tax subjects transporting these goods are obliged to keep electronic administrative shipping document and to communicate with the tax administrator by electronic means regarding submitting and verification of the electronic document.

New regulations determine how taxpayers and tax administrator shall proceed in case of unavailability of the electronic control system of goods transport and stipulate rules for arising of tax liability, return of tax assurance and application of loss on mineral oil, spirit, vine, beer and tobacco products in case of occurrence of inadequacies during their transportation. These regulations also introduce institutes of registered senders of mineral oil, spirit, vine, beer and tobacco products who are authorized under certain condition to despatch these goods in suspension of taxation.

In connection with Amendment to the Act on Excise Duty on Spirit, the tax rate on excise duty on spirit has been increased and a duty on marking of the consumer packaging with the nominal volume up to 0.05 litre has been introduced.

These Acts will come into force on 1 April 2010, with exception of the Amendment to the VAT Act that comes into force on 1 January 2010 and Amendment of the Act on Excise Duty on Spirit that will come into force on 1 March 2010, with exception of certain provisions that will come into force on 1 April 2010, 1 October 2010 and on 1 January 2011.

AMENDMENT TO ROAD TRANSPORT ACT

(Act No. 488/2009 Coll. amending and supplementing Act of the National Council of the Slovak Republic No. 168/1996 Coll. on Road Transport as amended and amending and supplementing several acts)

Pursuant to the reasoning report to this Act, it has been adopted in order to harmonise the national legal regulations with the law of the European Union in the area of business conduct in the road transport, as well as due to the necessity of changes in the legislation regulating regular coach transport in the field of services in public interest and its financing.

As the reasoning report further states, the Amendment harmonises the provisions of the Act on Road Transport with the Regulation of the European Parliament and of the Council No. 1370/2007/EC on public passenger transport services by rail and by road and is taking into account requirements arising from the European Agreement on International Transport of Dangerous Goods and from the Directive of the European Parliament and of the Council No. 2008/68/EC on the inland transport of dangerous goods.

The Amendment regulates the agreement on services substituting the agreement on performance in public interest, the purpose of the agreement, as well as the term for which the agreement shall be concluded and its financing. This agreement shall be concluded by self governing region regarding the inland coach transport or by municipality regarding municipal coach transport with the carrier chosen directly or by a public tender. The Act lays down the

terms of the contract, in which shall be agreed, apart from others, tariff conditions, particularly the maximal price of the travel costs, selected categories of passengers and travel expenses for their transport. The agreement on services shall be financed by the self governing region and the municipality from their own budget.

With regard to the transport of dangerous goods certain obligations are amended, including the obligation to provide written instructions for the event of accident in language which each member of the board understands and to ensure that the members on the board are able to exercise these instructions.

This Act came into force on 3 December 2009.

LISBON AGREEMENT

(Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 486/2009 Coll. on Conclusion of the Lisbon Agreement Amending and Supplementing the Treaty on the European Union and Treaty establishing the European Community)

Lisbon Agreement is amending and supplementing the Treaty on the European Union and Treaty establishing the European Community without their replacement.

This Agreement strengthens the position of the European Parliament by broadening its competence in the adoption process of regulations, European Union budget and international treaties, as well as the position of national parliaments by introducing the solidarity principle. Pursuant to this principle, the European Union in matters, which are not in its sole competence, is acting only if achievement of the purpose is more suitable on the European Union level.

The Agreement introduced the initiative of citizens institute according to which one million of the citizens of significant number of member states may ask the Commission to bring new legislative proposals.

The new regulation expressly provides the right to member states to withdraw from the European Union, creates a function of President of the European Council elected for a period of two and a half years and

High Representative for Foreign Affairs and Security Policy supported by the new European External Action Service.

The scope of powers of the Council is broadened in the areas where the qualified majority applies and from 2014 the qualified majority shall be counted on the double majority, i.e. on decision of 55 % of member states including at least 65% of the population of the European Union.

The Agreement preserves contemporary rights and provides for principles and freedoms laid down in the Charter of Fundamental Rights to which's provisions gives at the same time legally binding force.

The Agreement also strengthens the solidarity between member states particularly in cases of terrorist attacks, natural disasters and in the energy field.

Pursuant to the decision of the National Council of the Slovak Republic approving the Agreement on 10 April 2008, this Agreement is an international agreement according to the Article 7 para. 5 of the Constitution of the Slovak Republic which has priority to acts. The President of the Slovak Republic ratified the Agreement on 12 May 2009.

This Agreement came into force on 1 December 2009.

ACT ON STATE ADMINISTRATIVE BODIES IN AREA OF TAXES AND FEES

(Act No. 479/2009 Coll. on State Administrative Bodies in the Area of Taxes and Fees and on Amending and Supplementing of Certain Acts)

According to the reasoning report, the purpose of this Act is a tax administration reform that will be followed by its merger with the customs administration.

This Act stipulates the position, organization, competences and scope of powers of the state administrative bodies in the field of taxes and fees.

In order to make decision processes more effective, the workstations of the tax headquarters are cancelled, tax offices in

the seat of the self governing region are established and the competence of the Tax Office for Selected Tax Payers is broadened to the entire territory of the Slovak Republic.

This Act enables to establish offices and stations of tax offices by the tax headquarters on the proposal of the tax headquarters director. Offices of the tax headquarters shall be of permanent nature and stations shall be established operatively for the purpose of simplifying the access of the taxpayers to tax authorities, for example when submitting tax returns.

This Act repealed Act No. 150/2001 Coll. on Tax Offices, amending and supplementing Act No. 440/2000 Coll. on Financial Control Administrations as amended by Act No. 182/2002 Coll. and Act No. 534/2005 Coll.

This Act will come into force on 1 January 2012.

AMENDMENT TO ACT ON VIOLATION OF INTELLECTUAL PROPERTY RIGHTS

(Act No. 476/2009 Coll. Amending and Supplementing Act No. 200/2004 Coll. on Measures against Violation of Intellectual Property Rights in Import, Export and Re-Export of Goods as amended)

According to the reasoning report to this Act, the Amendment to this Act has been adopted due to insufficient protection of intellectual property rights on the domestic market.

This Act regulates conditions according to which the measures against violation of intellectual property rights on the domestic market are adopted and in this connection regulates also the right to order the destruction or other devaluation of goods on the domestic market that violate the intellectual property right on the domestic market, as well as offences or other administrative misdemeanours with regard to violation of intellectual property rights.

Definition of goods is extended also to tangible goods manufactured in the Community and measures on the domestic market will not apply to goods not designated for business purposes.

It regulates the simplified process of handling with goods where suspicion of violation of intellectual property rights exists and the prohibition of consent withdrawal with destruction of goods based on the simplified process or filing of objections against such destruction after giving the consent is explicitly stipulated.

The Act imposes to the customs administration to issue a written decision on extension of the period for submitting the petition to the court for determination whether the good is violating the intellectual property right, whereas there is no appeal possible against such decision.

The Act also regulates the case when in the proceeding on determination if a good is violating the intellectual property right the sued party ceased to exist or died. In such cases, provided that other conditions stipulated by law are fulfilled, the good may be provided for humanitarian purposes. If such proceeding is not applicable, the customs authority is obliged to destroy such good on the costs of the authorized person.

This Act came into force on 1 December 2009.

AMENDMENT TO ACT ON LOCAL TAXES AND LOCAL CHARGE FOR MUNICIPAL WASTE AND SMALL CONSTRUCTION WASTE

(Act No. 467/2009 Coll. Amending and Supplementing Act No. 582/2004 Coll. on Local Taxes and Local Charge for Municipal Waste and Small Construction Waste as amended)

This Act clarifies the subject matter of the tax for nuclear unit and also the taxpayer of such tax.

The subject of the tax for nuclear unit is a nuclear unit, in which the cleavage reaction in the nuclear reactor is in progress and in which the electric energy is produced, even if only for the part of the year.

The taxpayer of the tax for nuclear unit is a holder of permission for introducing of the nuclear unit into process and of permission for nuclear unit operations for manufacture of electric energy issued by the Nuclear

Regulatory Authority of the Slovak Republic.

The Amendment also regulates the tax rate, which is determined in several zones, as well as the maturity of the imposed tax, which in made compliant with other local taxes.

This Act came into force on 1 December 2009.

ACT ON INTERNATIONAL COOPERATION IN CERTAIN FINANCIAL CLAIMS ENFORCEMENT

(Act No. 466/2009 Coll. on International Cooperation in Enforcement of Certain Financial Claims and Amending and Supplementing Certain Acts)

This Act was adopted for the purpose of simplifying the claim enforcement, when debtor is outside of the territory of the Slovak Republic and does not own any property located in the Slovak Republic.

The Act regulates the method and conditions of provision, request and acceptance of international support at enforcement of certain financial claims between the respective authority of the Slovak Republic and the respective authority of the member state of the European Union in compliance with the special rules or the respective authority of the contractual state in accordance with the international treaty, ratified and published by statutory method.

The Act refers to enforcement of claims such as taxes, customs, levies, fines, interest rates, penalty interests compensation interests, penalties or costs related to claims on taxes or customs stipulated by law, as well as to enforcement of compensations, interventions and other measures creating a part of the system of the total or partial financing of the European Agricultural Guaranty Fund and European Agricultural Fund for Development of Countryside including sums collected in connection with these activities.

International support, applicable on the principle of reciprocity, includes information exchange, documents delivery, enforcement and guaranty of claims and other related activities.

The Act stipulates cases, when the respective authority of the Slovak Republic may refuse the cooperation at enforcement of the claim and imposes the obligation to the member state to inform the Commission about such refusal.

The Act stipulates also the governing law regarding calculation of periods, the language in which documents and applications shall be submitted, as well as communication means of the international cooperation.

This Act repeals the Act No. 446/2002 Coll. on Mutual Assistance in Collection of Certain Financial Claims as amended.

This Act came into force on 15 December 2009.

DECREE ON EXECUTION OF CADASTRAL ACT

(Decree of the Geodesy, Cartography and Cadastre Authority of the Slovak Republic No. 461/2009, by which Act No. 162/1995 Coll. on the Real Estate Cadastre and Registering of Ownership and Other Rights to Real Estates is executed (Cadastral Act) as amended)

This Decree has been issued on the basis of the empowering provision of the Cadastral Act and is related to the electronisation of the cadastral proceeding.

Pursuant to the Decree in proceeding on registration of ownership, it will not be investigated, whether application has been filed in a period of three years from the date of contract conclusion.

The Decree further stipulates, that notification on intended application on registration of the ownership right shall be submitted in electronic form by electronic application on the website of the Geodesy, Cartography and Cadastre Authority. This notification is only informative for the Cadastral Office and does not have any impact on the sequence of the submitted registrations on ownership right registrations to the same real estate. In case the application for ownership registration is submitted in electronic form, this application indicates the number under which the notification on intended

application on registration has been received. This notification is not deemed to be an annex to the application for ownership registration if it does not comply with the data provided in the contract.

The Decree imposed the obligation to deliver one counterpart of the decision on ownership right registration to each party to the proceeding.

For change of the data in the ownership certificate, it is not necessary to submit supporting documents, if the proposed change is proved by the identity card.

The Decree also regulates set of geodetic information, set of descriptive information, method of recording of the cadastral territories and real estates, restoration of cadastral operate by new mapping as well as administration and update of the cadastral operate and provision of information from the real estate cadastre.

This Decree repeals Decree of the Geodesy, Cartography and Cadastre Authority No. 79/1996 Coll. by which Act of the National Council of the Slovak Republic on the Real Estate Cadastre and Registries of Ownership and Other Rights to Real Estates is executed (Cadastral Act) as amended.

This Act came into force on 1 December 2009.

INTERNATIONAL TREATY ON SUPPORT AND MUTUAL PROTECTION OF INVESTMENTS WITH BOSNIA AND HERZEGOVINA

(Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 455/2009 Coll. on conclusion of Treaty Between Slovak Republic and Republic of Bosnia and Herzegovina on Support and Mutual Protection of Investments)

This Notification informs about conclusion of the international treaty for the support and mutual protection of investments with Bosnia and Herzegovina.

Under the above-mentioned international treaty the contracting parties are obliged to create favourable conditions for the investments of investors of the other

contracting party and to provide them proper and fair treatment and full protection and security on the territory of the other contracting party. Neither contracting party will in any way on its territory by any method, by unreasonable or discriminatory measures deteriorate acquirement, operation, management, maintenance, use or other exploitation with investments of the other contracting party by groundless or discriminatory measures.

Pursuant to the decision of the National Council of the Slovak Republic, which approved this Treaty on 24 July 2009, this Treaty is an international treaty according to the Article 7 para. 5 of the Constitution of the Slovak Republic, which has priority to acts. The President of the Slovak Republic ratified the Treaty on 12 August 2009.

This Treaty came into force on 19 November 2009.

AMENDMENT TO TREATY ON MUTUAL SUPPORT AND PROTECTION OF INVESTMENTS WITH CROATIA

(Notification of the Ministry of Foreign Affairs of the Slovak Republic No. 453/2009 Coll. on Conclusion of the Amendment Protocol Between the Government of the Slovak Republic and Government of Croatia on Amendment of the Treaty Between the Government of the Slovak Republic and Government of Croatia on Support and Mutual Protection of Investments)

The Ministry of Foreign Affairs of the Slovak Republic hereby notifies that on 1 July 2008 was signed the Protocol Amendment between the Government of the Slovak Republic and Government of Croatia on amendment of the Treaty between the Government of the Slovak Republic and Government of Croatia on support and mutual protection of investments.

The National Council of the Slovak Republic approved this Amendment Protocol by resolution No. 1521 of 24 July 2009 and the President of the Slovak Republic ratified the Treaty on 12 August 2009.

Pursuant to this Amendment Protocol, each contracting party may accept or maintain measures concerning cross-border capital transactions in events of significant difficulties with payment

balances and external financial difficulties or their threat or in case, when by exceptional circumstances the capital movement causes or may cause significant difficulties in the macroeconomic conduct, particularly in the currency and foreign exchange policy.

The above mentioned measures may be applied only to the required extent, temporarily and provided they will be immediately notified to the other contracting party.

The Amendment Protocol also clarifies obligations of the contracting parties regarding national treatment and most favored nation treatment.

This Amendment Protocol came into force on 18 November 2009.

Other significant legal regulations, published in the Collection of Laws in the month of November 2009, are as follows:

- Notification of the Ministry of Defense of the Slovak Republic on Issue of Ordinance No. 491/2009 Coll. on executing of certain provisions of Act No. 179/1998 Coll. on Trade with Military Material and on Supplementing of Act No. 455/1991 Coll. on Trade Licensing (Trade Licensing Act) as amended as amended,
- Decree of the Regulatory Office for Network Industry No. 490/2009 Coll., stipulating Details on Support of Renewable Energy Sources, Highly Effective Combined Produce and Biomethan,
- Regulation of the Government of the Slovak Republic No. 485/2009 Coll. Amending and Supplementing the Regulation of the Government the Slovak Republic No. 373/2008 Coll. Setting the Requirements for Introduction of Preparations for Protection of Plants on the Market as amended,
- Regulation of the Government of the Slovak Republic No. 484/2009 Coll. Amending and Supplementing Regulation of the Government the Slovak Republic No. 264/2009 Coll. on Supportive Measures in Agriculture in

wording of the Regulation of the Government of the Slovak Republic No. 381/2009 Coll.,

- Act No. 483/2009 Coll. Amending and Supplementing Act No. 346/2005 Coll. on the State Service of the Professional Soldiers of the Armed Forces of the Slovak Republic and on Amending and Supplementing of certain Acts as amended,
- Regulation of the Government of the Slovak Republic No. 480/2009 Coll. Amending and Supplementing Regulation of the Government of the Slovak Republic No. 199/2005 Coll. on Protective Measures against Distribution and Spread of Organisms Harmful for Plants or Plants Products as amended,
- Act No. 478/2009 Coll. Amending and Supplementing Act No. 171/2005 Coll. on Gambling Games and on Amending and Supplementing of Certain Acts as amended and on Amending and Supplementing of Certain Acts,
- Act No. 473/2009 Coll. Amending and Supplementing Act No. 319/2002 Coll. on Defense of the Slovak Republic as amended and on Amending and Supplementing of Certain Acts,
- Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 470/2009 Coll. Amending Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 413/2007 Coll. stipulating the Sections of Motorways, Expressways and First-Class Roads with Electronic Toll Collection,
- Act No. 469/2009 Coll. Amending and Supplementing Act No. 338/200 Coll. on Inland Nautics and on Amending and Supplementing of Certain Acts as amended,
- Act No. 468/2009 Coll. Amending and Supplementing Act No. 139/1998 Coll. on Narcotic Drugs, Psychotropic Substances and Preparations as amended,
- Act No. 465/2009 Coll. Amending and Supplementing Act No. 652/2004 Coll. on State Administration Authorities in the System of Customs and on Amending and Supplementing of

Certain Acts as amended and on Amending and Supplementing of Certain Acts,

- Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 464/2009 Coll. stipulating Details on Conditions of Vehicles Operations on Road Communications,
- Act No. 463/2009 Coll. Amending and Supplementing Act No. 5/2004 Coll. on Employment Services and on Amending and Supplementing of Certain Acts as amended,
- Measure of the Ministry of Construction and Regional Development of the Slovak Republic No. 458/2009 Coll. stipulating the Temporarily Suspension of Applications Acceptation on Provision of Support from State Housing Development Fund,
- Decree of the Ministry of Transport, Post and Telecommunications of the Slovak Republic No. 457/2009 Coll. Amending and Supplementing Decree of the Ministry of Transport, Post and Telecommunications No. 578/2006 Coll. stipulating Details on Certain Provisions of Act No. 725/2004 Coll. on Conditions of Vehicles Operations in Road Traffic and on Amending and Supplementing of Certain Acts as amended,
- Notification of the Ministry of Health of the Slovak Republic No. 451/2009 Coll. on Issuance of Ordinance Issuing the Risk Index on Expenses for Health Care for 2010.

JUDICIAL DECISIONS

In this part are stated quotations from opinions of selected judicial decisions and statements in civil and business matters, which were recently published in From Court Practice journal (in Slovak: Zo súdnej praxe):

GUARANTOR'S UNDERTAKING

(Decision of the Supreme Court of the Slovak Republic No. 1 Obo V30/2006, published in the Journal from Court Practice No. 5/2009, No. 53)

In case of assignment of receivable secured by guarantee, the rights arising from the guarantee shall pass to the assignee at the



time when the assignor informs the guarantor of the assignment or the assignee proves the assignment to the guarantor. By assigning the receivable, the guarantor's undertaking is changing without the guarantor's declaration being changed

or without the guarantor being obliged to express its approval on the assignment in another way. The undertaking changes only in the person of the creditor, the content thereof shall remain unchanged.

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Advokátska kancelária Čechová & Partners

Združenie advokátov: JUDr. Katarína Čechová (evidenčné číslo v zozname advokátov vedenom Slovenskou advokátskou komorou: 0339/317 831 63) poverená vedením účtovníctva združenia pod IČ DPH SK1020333083, JUDr. Jana Ďurišová (4260/307 989 73), JUDr. Simona Haláková (5503/318 195 41), Mgr. Ing. Michaela Jurková (4286/307 989 57), Mgr. Tomáš Mareta (1601/318 172 11), Mgr. Tomáš Rybár (3988/307 967 76), Mgr. Tomáš Zárecký (4020/360 754 18)

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