

## **Petr Roith (provider of cleaning services) / Embassy of the Republic of South Africa in the Czech Republic**

### **Appendix**

The plaintiff (P. R., provider of cleaning services) applied to the Regional Commercial Court in Prague and claimed from the defendant (Embassy of the Republic of South Africa in the Czech Republic) the payment of CZK 30,000 in compensation for losses the plaintiff allegedly incurred due to the fact that he was not allowed to provide cleaning services for a period of six months. The Regional Commercial Court stopped the proceedings stating that the plaintiff identified as the defendant an inexistent entity, i.e. an entity which, under Czech law, does not have the capacity to be a party to the proceedings. The plaintiff lodged an appeal against this decision and claimed that the party he had identified as the defendant had acted in the contractual relation under the name which had been stated in the petition initiating the suit; the plaintiff therefore held the view that the defendant does exist as a legal person. The Superior Court in Prague dismissed the appeal by the plaintiff and upheld the decision of the Regional Commercial Court. According to the Superior Court, the diplomatic mission of a foreign state is neither a natural nor a legal person and therefore has not the capacity to be a party to the proceedings. With reference to Section 47, para 1, of Act No. 97/1963 concerning private international law and the rules of procedure relating thereto, under which foreign states and individuals enjoying in the Czech Republic immunity in conformity with international treaties or other rules of international law or in conformity with special Czech legal regulations shall not be subject to the jurisdiction of Czech courts, the Superior Court further stated that even if the plaintiff identified as the defendant an existing entity, i.e. a state, the proceedings against such a state would have to be stopped on the grounds of the want of jurisdiction of the courts of the Czech Republic.