



Veselé Vánoce a šťastný nový rok 2015 | Veselé Vianocce a štastny novy rok 2015

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Veselé Vianocce a štastny novy rok 2015 | Merry Christmas and a Happy New Year 2015

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Frohe Weihnachten und ein gutes neues Jahr 2015 | Merry Christmas and a Happy New Year 2015

dvořák || hager & partners
Attorneys at Law

POUR FÉLICITER 2015

ALL THE BEST IN 2015!

CZ: Child Care in Children's Group – New Type of Service

SK: New Energy Efficiency Act

EU: Fine for Poor Waste Management

In 2014, the new Civil Code forced almost all Czech companies to revise their contractual relationships and corporate documents. 2015 promises to be no less dynamic: businesses will have to deal with several 'urgent amendments' to the new Civil Code and face tougher inspections and increased fines from the state authorities. Besides an increasing number of inspections, the authorities will for example be newly able to impose fines of millions of Czech Crowns for having employees working over permitted limit of work hours or for mistakes in employee termination. The fine for not presenting employment contracts during an inspection is not much lower. I want to thank you for selecting us to help you succeed in the Czech Republic and Slovakia. We now have the largest number of lawyers in our history and, again, you have ranked us high in both Czech and European rankings. But our greatest reward is the trust and success of our clients. All the best in 2015!

Tomáš Procházka

CZ: Copyright Act Amendment

Effective as of 7 November 2014, the amended Copyright Act introduces a new category of 'orphan works' and extends the copyright protection of performing artists' audio recordings and the protection of proprietary rights of audio producers from 50 to 70 years. (LL)

CZ: New Penalty on Non-Compliance with Sec 136 Employment Act

"An amendment to the Employment Act will amend, among other things and effectively as of 1 January 2015, the provision of Sec 136 which regulates the duty to keep copies of the documents evidencing the existence of legal employment at the workplace. The amendment introduces a penalty of up to CZK 500,000 for non-compliance." (MŠ)

CZ: Director's Liability for Not Submitting Insolvency Motion

If a company's director fails to submit an insolvency motion on the company which is bankrupt, the director shall be liable to the creditors for any loss or harm so caused. (JK)

CZ: Employment Act Amendment

Effective as of 1 January 2015, the amended Employment Act is expected to exclude the possibility for a business corporation's member seeking employment to be granted and receive unemployment benefits. (TJ)

SK: Environmental Impact Assessment Act Amendment

Effective as of 1 January 2015, the amended Environmental Impact Assessment Act will give more weight to EIA conclusions and make them subject to courts review. (AT)

EU: Fine for Poor Waste Management

The European Court of Justice imposed massive fines on Italy, (40 million EURO), Greece and Sweden for non-compliance with the EU environmental legislation. The imposed fines may be further increased by late payment fees. (MB)

CZ: Child Care in Children's Group – New Type of Service

Act No. 247/2014 Sb., on Services of Child Care in Children's Group, introduces a new type of service for babysitting and care of preschool age children. The purpose of the new legislation is to make the balancing of work and parental duties easier for parents.

Besides counties, municipalities and foundations, these services will primarily be provided by the parents' employers and such facility may be operated by any employer for the benefit of its employees. The facilities must comply with the hygiene conditions prescribed by the Ministry of Labour and Social Affairs' (MLSA) – which are milder for children's groups of up to 12 children – and ensure the care of properly qualified professionals such as nurses, nursemaids or kindergarten teachers. The duty of registration of each such children's group with MLSA will probably be cancelled and the registration made voluntary. However, the registration will be necessary for purposes of obtaining tax advantages since the costs of operation of such a facility will be tax deductible for employers. The service can be provided to the employees for a consideration or for no consideration. The parents will be able to deduct the costs of placing the child in a kindergarten or a preschool care facility as a tax allowance.

Jana Kolářová

CZ: Corporate Criminal Liability Act Amendment

The scope of crimes for which corporations may be made criminally liable is expected to become much wider and include, amongst others, usury or consumer harm in general. The bill is being discussed in the Chamber of Deputies. (KD)

CZ: Will a Timely Constitutional Complaint Suspend Registration Proceedings Pending before the Land Registry?

The Supreme Court concluded (see Judgment ref. no. 21 Cdo 3399/2013) that a constitutional complaint against a court's decision invalidating a legal act (such as a contract) on the basis of which a motion for registration of title in a land register was filed, shall be a reason to suspend the registration proceedings. (OH)

CZ: EU Brussels I Regulation Amendment Effective as of 10 January 2015

The amended Brussels I shall apply to proceedings to be commenced as of 10 January 2015 and will cancel, amongst others, the exequatur requirement, i.e. the requirement for a domestic court's declaration of enforceability which has until now been necessary for the enforcement of a decision in another Member State. (TL)

CZ: Arbitration Clause with a List of Ad Hoc Arbitrators for Plaintiff to Choose From

According to the Supreme Court's decision, an arbitration clause under which a dispute shall be decided by one of eight ad hoc arbitrators to be selected by the plaintiff may be agreed between parties. (TM)

CZ: Employment Act Amendment – Penalties for Employing Illegal Workers

Effective as of 1 January 2015, the amended Employment Act will prescribe the minimum statutory penalty for allowing illegal employment at CZK 50,000. (MG)

CZ: Protection of Good Faith in Land Register (LR) Records

As of 1 January 2015, the New Civil Code will protect persons who, relying in good faith on incorrect LR records, acquire real estate for a consideration from a non-owner. The actual (original) owner's defence will be the filing of an application to LR for a note of dispute with the relevant entry within 1 month after finding out about the change of title registered in LR but no later than 3 years after the registration has changed in LR, and simultaneous filing of a lawsuit. (JM)

CZ: Investment Fund Income Taxation Changes

As of 1 January 2015, the favourable tax regime of 5% income tax will only apply to open-ended mutual funds, investment funds investing only in financial assets under their statutes and comparable foreign investment funds. 19% income tax will apply to all other investment funds. (SD)

CZ: Foreigners Residency Act Amendment

Effective as of 1 January 2015, the amended Foreigners Residency Act will extend the employers' duty to notify the Labour Office of the Czech Republic regarding foreigners' commencement of employment. The notification duty will newly include foreigners that are holders of green or blue cards. (JH)

SK: Whistleblowing Act

As of 1 January 2015, a new act on whistle blowing will take effect (Whistleblowing Act). The purpose of the Whistleblowing Act is to encourage employees to reveal the corporate crime and offences and reduce the ensuing losses. (NJ)

SK: Cyanide Banned in Mining

The amended Mining Act prohibits the use of cyanide in mines. The possibility to get a permission for the use cyanide on the basis of a local referendum is cancelled. (BEH)

Personal

**Lukáš Zahrádka**

Dvořák Hager & Partners Prague team was expanded on 1 December 2014 by the addition of Lukáš Zahrádka as a Managing Attorney.

Lukáš practiced at Weinhold Legal for over 11 years where he provided legal advice to a number of leading Czech and international corporations.

Lukáš graduated from the Charles University, Faculty of Law and is admitted to the Czech Bar Association. Besides his legal practice, he also publishes and lectures and has been a lecturer of an MBA Programme at Jan Amos Komenský University in Prague.

**Ondřej Huml**

On 1 December 2014 we welcomed Ondřej Huml as a newly qualified attorney. Ondřej has cooperated with our firm since 2011 and, in October of this year, he passed the Bar Examination. Ondřej graduated from the Charles University, Faculty of Law and studied also at the University of Sheffield School of Law. He focuses on representing clients in litigation and arbitration matters and on the corporate law and law of contractual obligations.

**Jitka Stránská**

Our team was expanded on 1 October 2014 by the addition of Jitka Stránská as an attorney. Jitka practiced in DLA Piper and focuses on corporate law, intellectual property law, labour law, personal data protection and also litigation. Jitka graduated from the Charles University, Faculty of Law.

**Tereza Leníčková**

Our team was enhanced on 1 October by the addition of Tereza Leníčková as a junior lawyer. Tereza worked in Majer a partneři law firm and was an intern at the District court of Praha 1. Tereza graduated from the Charles University Prague Faculty of Law.

**Martina Šumavská**

On the same date, we also welcomed Martina Šumavská as a junior lawyer. Martina worked at the State Labour Inspection Office, Illegal Employment Section as an in-house lawyer. Martina graduated from University of West Bohemia Pilsen, Faculty of Law.

CZ: Change of Liability for VAT Payments

The above new legal regulation will also impact the taxable transaction recipient's (i.e. the payer's) liability for proper payment of the VAT imposed on the transaction. The payer's duty to guarantee the proper payment of VAT will impact on much more transactions as the transaction threshold will be lowered from CZK 700,000 to CZK 540,000. (MB)

SK: New Energy Efficiency Act

The Act introduces a number of new duties for building owners and company owners. The energy costs of buildings with an area over 1,000 sq. m. will have to be accounted separately from other services. Larger companies will have to perform an energy audit once every four years. (BEH)

CZ: New Feed-In Tariffs

The Energy Regulatory Office has published the Feed-In Tariffs for 2015. A higher tariff will apply to incinerator plants and heating plants. A lower tariff will apply to wind power plants and the green bonuses are cancelled. The changes will not affect the power generation plants currently in operation. (BEH)

SK: Amended Construction Act to Take Effect on 2 January 2015

Besides other matters, the amended act defines an advertising structure and makes the permission procedure for outdoor advertising more strict. The advertisement area of an advertising structure shall determine whether a building notification, building permission or building permission plus an approval for use and operation will be required. (JS)

SK: New Act on Consumer Arbitration

The Act provides for the possibility to conclude 'consumer arbitration agreements' under which consumer disputes can be settled out of the court by way of 'consumer arbitration'. The Act will take effect as of 1 January 2015. (ZH)

CZ: Royalties for Playing Music in Shops

In its Finding II. ÚS 3076/13, the Constitutional Court concludes that a collective rights manager is not entitled to demand payment of royalties for the use of copyrighted works unless the manager can prove that such works have in fact been released to the public (i.e. not merely for the personal pleasure of the employees, for example) and that the copyrights to such copyrighted works released to the public are in fact managed by that collective rights manager. (JS)

CZ: Preparation of Money Laundering to be Punishable under Criminal Code Amendment

The Government has approved an amendment to the Criminal Code which, amongst others, amends the rules on legalization of the proceeds of crime (money laundering) in line with the EU anti-corruption legislation so that, after the amendment takes effect, even the creation of the conditions for the concealment of the source of the money will be punishable. (LV)

SK: Publicly Accessible Central Register of Enforcement Proceedings against Property Approved

The amended Enforcement Procedure Act provides for a central register of enforcement proceedings against property to be maintained by the Slovak Chamber of Enforcement Officers and to be publicly accessible at the Chamber's official website. As of 1 July 2016, the Chamber will issue copies of entries in the register and acknowledgments that there is no entry in the register vis-à-vis certain property for a fee. (ZŠ)

CZ: Severance Pay still without social security and health insurance contributions

Without ever taking effect, the adopted amendments to the act on contributions to social security and public health insurance, which should have subjected severance pays (so far exempted) to these contributions, were repealed in November. The regulation thus preserves the advantageous regime for severance payments. (VO)

CZ: Deputies Approving Large VAT Act Amendment

Effective as of 1 January 2015, the regime of transferred tax liability will be extended to transactions such as supplies of mobile phones and tablets (for deliveries exceeding CZK 100 thousand on any one invoice). The VAT rules applicable to the conveyance and lease of real estate will also change. (DV)

CZ: Lowering Cash Payments Limit

Effective as of 1 December 2014, the amended Cash Payment Restrictions Act will lower the cash payment limit from CZK 350,000 to CZK 270,000. (MR)

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