



Winter is coming

CZ: Register of beneficial owners of legal entities

SK: Fight against “straw men”

CZ: Increase of minimum wage

The autumn season has begun and we are finishing up our projects in time for the Christmas holiday. This year we added another task to what is traditionally the busiest period of the year by deciding to establish a new branch in Pilsen. Come over and see it next year! Even during the hectic autumn time we should not forget others, and so this year we are once again helping the Ronald McDonald House Charities. Personally, I will also be making some small donations to others as well. So let's finish the year on a positive note, with peace and joy, and much success in 2018.

Lukáš Zahrádka

CZ: New GDPR explanatory guidelines

In connection with the approaching effectiveness of the GDPR (25 May 2018), other interpretative guidelines of the Working Party (WP) 29 for Automated Decision-making and Profiling were published in order to assess its impact on personal data protection and guidelines on administrative penalties. (RM)

SK: Amendment to the Waste Act

From 1 January 2018, an amendment to the Waste Act will be in force, which will impose stricter requirements on professional competence, changes in the registration of carriers, control bodies with a representative of the Ministry of the Environment in Producer Responsibility Organisations and Coordination Centres, etc. (AT)

CZ: New limitation period for more serious offences

There is a new limitation period for offences, which will be determined according to the seriousness of the offence committed. The standard limitation period is one year. For offences where the upper limit of the fine is at least CZK 100,000; the limitation period is three years. (PKr)

CZ: Payment of court fees

As of 30 September 2017, it is no longer possible to pay court fees after the deadline set by the court has passed. Fees will have to be paid within a period of at least 15 days, and late payment of the fee will be disregarded. (VF)

SK: Revision of the Directive on the Posting of Workers

On 23 October 2017, the Council of the EU approved draft amendments to the Directive on the Posting of Workers, which will subsequently be deliberated in the European Parliament. The posting period should be limited to 12 months, and can be extended by 6 months. (KL)

CZ: Register of beneficial owners of legal entities

An amendment to the Anti-Money Laundering Act and the Act on Public Registers has introduced the obligation for legal entities and trust fund administrators to keep (and regularly update) data on beneficial owners.

To that end, beginning on 1 January 2018 a register will be established in which newly created entities will record relevant data on a continuous basis. Existing trust funds must register by 30 June 2018 and existing legal entities registered in the Commercial Register must do so by 31 December 2018. The deadline for unregistered legal entities is 31 December 2020.

Registration data shall include the name and address of the beneficial owner, his date of birth (or birth registration number), nationality and data on the position held by the beneficial owner.

The data contained in the register will not be entered in statements and the register itself will not be public. Access to the register will be restricted to a limited number of subjects (e.g. courts, prosecutors, police, tax administrators, public financial support providers under the Financial Control Act, the Financial Analysis Office or the Czech National Bank).

Tomáš Mls, Stanislav Dvořák

SK: Extending the deadline for registering an employee for social insurance

From 1 January 2018, employers will have 7 days to register employees for social insurance. However, if an inspection occurs within this timeframe and the employee is not yet registered, this shall constitute illegal employment. (JS)

CZ: Competing liens

When establishing a lien on an enterprise or on things that are part of it (e.g. real estate), the lien on the things must arise before the lien on the enterprise. After its inception, the lien on these things can no longer arise. (JM)

CZ: An employer's claim against an employee cannot be secured by a promissory note

Although securing an employer's claim against an employee by means of a promissory note is not expressly forbidden by law, such a prohibition must be inferred from the principles of labour relations and constitutes the objection of an inadmissible reason for the promissory note for the invalidity of the promissory note agreement. (OB)

CZ: Entrepreneurs will not have their register of legal obligations

The Senate rejected an amendment to the Act on the Economic and Agricultural Chamber, which was to introduce a register of legal obligations of entrepreneurs with effect from 1 January 2018, as unconstitutional. Due to the end of its term, the Chamber of Deputies was no longer able to override the veto of the Senate. (JV)

CZ: Uncertain fee provisions for undrawn credit facilities

According to the Supreme Court of the Czech Republic, the provisions for undrawn credit facilities contained in a consumer credit agreement that refers to a pricelist which is not part of the contract is indefinite, and such a provision on the amount or method of determining the amount of the fee is invalid. (DV)

CZ: Increase of minimum wage

From 1 January 2018, the minimum monthly wage will increase from the current CZK 11,000 to CZK 12,200, and the minimum hourly wage from CZK 66 to CZK 73.20 for a fixed weekly working time of 40 hours. The lowest levels of guaranteed salary will also be increased. (MŠ)

CZ: Use of buildings without approval

The amendment to the Building Act, effective from 1 January 2018, will allow builders to use buildings that previously were subject to reporting obligations without prior notice to the Building Authority. For buildings requiring an occupancy permit, the approval process will remain. (DR)

SK: Fight against “straw men”

An amendment to the Commercial Code effective from 1 January 2018 introduces the so-called factual statutory body. A person who effectively exercises the powers of a statutory body without being appointed to that function has the same responsibility as a statutory body. (MSA)

Personal

Roman Šolc | Attorney | Pilsen

The Dvořák Hager & Partners law firm is opening a branch office in Pilsen, led by Roman Šolc. Prior to joining Dvořák Hager & Partners, he worked as a lawyer at the SCWP Schindhelm law firm.

Roman is an attorney specialising in contract law, commercial law and corporate law. He also has experience in litigation and labour law.

Jan Vučka | Attorney | Prague

On 1 October 2017, the Prague team of our law firm was strengthened by the addition of experienced attorney-at-law and renowned criminal law expert Jan Vučka

He is a member of the Association of Certified Fraud Examiners and regularly publishes in specialist magazines, in particular in the area of criminal proceedings. He has lectured at the University of Economics in Prague, the University of Economics in Bratislava, the Czech Judicial Academy and the Institute of Internal Auditors.



Mark your diary

Dvořák Hager & Partners would like to cordially invite you to a specialized seminar:

Liability for damage – employee

Date: 13 December 2017, 9 am
Place: Hotel Alwyn conference centre, Vítkova 26, Prague 8
Lecturers: Veronika Odrobinová and Tomáš Procházka
Registration: michaela.rutova@dhplegal.com
Participation fee: CZK 750 per person (without VAT)

CZ: Obligations of accommodation services providers

If the accommodation provider uses web-based mediation of accommodation services from abroad, it is obliged to pay VAT in the Czech Republic from the fee charged by the foreign provider of the website. Tax is thus paid by the accommodation provider instead of the foreign intermediary. (LB),

CZ: Encroachment

A small part of a building built on a small part of someone else's land (in Czech: "přestavek") will only become part of the built-up plot if the builder believes in good faith that it is building on its land. This condition is not met if the builder knows that it is building on someone else's land, even if it has title to do so. (VO)

CZ: New payment system regulation

On 13 January 2018, a new Payment System Act transposing the PSD2 Directive will become effective. The law establishes a legal framework for new payment services as an indirect payment order that allows online payments to be made through the interface of non-bank institutions. (JHa)

SK: Amendment to the Public Procurement Act effective from 1 November 2017

The latest amendment to the Public Procurement Act focused on partial changes related to the adjustment of public procurement procedures for below-threshold and low-value contracts (e.g. the introduction of a one-envelope system for below-threshold contracts). (SL)

CZ: Changes to the regulation of occupational healthcare services

As of 1 November 2017, it is possible, for example, to arrange for the provision of occupational healthcare services by a "subcontractor", subject to certain conditions. Also explicitly introduced was the possibility to waive the right to review a medical opinion. (KD)

SK: The Council of the Antimonopoly Office has significantly affected the amount of fines imposed on Škoda auto dealers

The Council changed the first-instance decision of the cartel section of September 2015 on participation in bid rigging agreements. The decision greatly reduced the fines (as well as how they are calculated), and they may no longer act as a threat for breaches of competition law. (MABB)

CZ: Damage caused by a defect in the procurement procedure

If the contracting authority causes the contract to be invalidated in violation of the Public Procurement Act, it is liable to the supplier for the damage caused. The liability of the contracting authority is not relieved by the prior testimonial of the Office for the Protection of Competition that it is proceeding correctly. (TP)

CZ: Country by Country reporting

Companies that are part of a group whose turnover is more than EUR 750 million had to notify by 31 October 2017 which company in the group will submit the Country by Country reporting. The reporting company is then obliged to submit a report containing basic economic information according to the law. (JŠ)

CZ: Employing foreigners

The institute of an unreliable employer (in liquidation, in tax debt or in health/social insurance debt, etc.) has been introduced into the Act on the Residence of Foreigners. Such employers cannot employ foreigners at all, because it is not possible to issue employee cards to foreigners working for them. (PP)

SK: Inadmissibility of effective repentance when returning unjustified deduction of VAT

According to the Constitutional Court's judgment, the punishability of a criminal offence becomes extinct only in the event of additional later payment of the due tax, but not in the case of an unjustified claim for a VAT refund. The refund of a fraudulently made claim for a VAT refund is not a payment of tax due. (PŠM)

**Help us support the Ronald McDonald House Charities**

You can make a contribution to account no. 2700270000/2700.

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