



## BREXIT – Check it!

**SK: Representation  
in labour law**

**CZ: Insanity of  
employee**

**EU: Commission  
vs. Google**

On the 23 June 2016 the United Kingdom (UK) voted for Brexit. Currently, it is unclear whether, when and in which form the BREXIT actually happens. The ideas range from a detached third country to a tight connection, such as the EEA, where in many areas the EU law remains binding. Therefore, all the particular contracts should be examined and adjusted to any eventualities. The possibility of customs duties should be considered and clarified in case of delivery contracts, mainly the clarification who should be responsible for these duties. In case of long-term installation contracts, the possibility that staff from the EU can no longer be used in the UK should be considered. It is uncertain whether the "European" patents, trademarks and designs will remain protected in the UK in the future. If the agreed jurisdiction of a court is in UK, it poses a threat that judgments won't be enforceable in the future. The list of points to be considered by the companies might as well spread to multiple pages. However, we gladly offer our consulting services regarding the BREXIT.

Bernhard Hager

**SK: The Constitutional Court opens Pandora's box**

The Constitutional Court of Slovakia ruled that when assessing the validity of the acquisition of property rights from a non-owner, it will be necessary to take into account the good faith of the purchaser. The Constitutional Court thus acknowledged that title to property can also be acquired by a non-owner. (MSA)

**EU: Comprehensive reform of European law on the protection of personal data**

On 4 May 2016, the final wording of the new General Regulation of the EU on Data Protection No. 2016/679 was published, which will introduce fundamental changes to the European and Czech regulation of personal data protection with effect from 24 May 2018. (RM)

**CZ: Schedules to SPAs must also have officially verified signatures**

In a judgment the Supreme Court concluded that if the schedule to a share purchase agreement contains an agreement on price or the method of its determination, the schedule, as part of the agreement, is subject to the same formal requirements as the share purchase agreement itself, and must therefore be agreed in writing with officially verified signatures. (MG)

**SK: New Expropriation Act effective from 1 July 2016**

The new legislation comprehensively regulates the conditions for the deprivation or restriction of title to real property expropriated under Act No. 282/2015 Coll. (MAB)

**SK: Representation in labour law**

**Who signs employment documents for you? In an era of international companies, HR departments and busy executives who need representation, the Supreme Court of Slovakia has made a surprisingly formalistic decision.**

In a decision, the Supreme Court of Slovakia ruled that the regulation of representation of employers in labour relations in Section 9 of the Labour Code is complete and therefore cannot be granted to a third party outside the company (e.g. the mother of an HR staff member) mandated under the Civil Code. The Court also excluded the representation of employers by proxy.

Under Section 1 (4) of the Labour Code, if not stipulated otherwise in its first part, legal relations between the employer and the employee shall be governed by the general provisions of the Civil Code.

Section 9 of the first part of the Labour Code regulates acting on behalf of the employer. Under this provision, the employer can be represented by the statutory body or an authorised person.

Past practice was clearly based on the possibility of authorising persons outside the company. Although we cannot agree with this strict court decision, for the sake of legal certainty it is advisable to have statements signed by the statutory body or an authorised employee.

Jana Sapáková

**CZ: Insanity of employee**

CZ: Upon termination of employment pursuant to Section 52 (g) of the Labour Code, it is necessary to prove that the breach of obligations was due to conduct for which the employee is at fault. In the case of an insane employee who was unable to control his actions and assess its consequences, the condition of fault is not fulfilled. (TJ)

**SK: Second round of subsidies for house insulation**

Slovakia introduced a second round of subsidies for house insulation. Applications can be submitted from 9 June to 6 July 2016 or until 500 electronically registered applications have been received. (NJ)

**CZ: Family constitution**

Czech family firms are beginning to introduce family constitutions, which are one of the essential elements for building a successful family firm and summarises the basic rules for the functioning of the family as the owner, including incorporation of fundamental values, family bodies and communication rules. (SS)

**SK: Automatic extension of scope of collective agreements unconstitutional**

According to the Constitutional Court of Slovakia, the provisions of Act No. 2/1991 Coll., on collective bargaining, on the automatic extending the binding effect of collective agreements are contrary to the Constitution. These provisions lapsed on 30 May 2016. (PŠM)

**CZ: Decision of the Supreme Administrative Court on the Švarc-systém (misclassification of employees as independent contractors)**

Businesses of a double nature (e.g. accounting, hairdresser) can be performed within an employment relationship and as a self-employed person. Tax optimisation is a legitimate reason for businesses to secure such activities through commercial agreements with weaker contractual partners. (JKol)

**CZ: Tax penalties have the nature of punishment**

According to the decision of the Supreme Administrative Court 4 Afs 210/2014, under Section 251 of the Tax Code penalties have the nature of punishment. In criminal proceedings it is therefore necessary in this context to respect the principle of "ne bis in idem", i.e. not to be tried and punished twice for the same offence. (PP)

**CZ: Bills and arbitration**

In the case where the acquirer of the bill is not the legal successor of the previous owner of the bill, he shall not be bound by the arbitration agreement concluded by the previous owner of the bill. (JK)

## Personal

**Lucie Luptáková | Attorney-at-law | Prague**

On 1 June 2016, Lucie Luptáková joined Dvořák Hager & Partners in Prague as an attorney-at-law. Lucie has been working at our office as an associate since 2014 and in April she successfully passed the bar exam. She graduated from the Faculty of Law of Charles University in Prague and from the Faculty of International Relations of the University of Economics, Prague and specialises in contract law and corporate law.

**EU: Commission vs. Google**

In April 2016, the European Commission notified Google of its opinion that the company is abusing its dominant position. The Commission does not like the fact that Google Search is preinstalled and set as the default / exclusive search engine and that due to Google's practices competing search engines do not have the opportunity to enter the market. The Commission is continuing to investigate the case. (MABB)

**CZ: Proposal to repeal the law on the registration of sales**

A proposal was submitted to the Constitutional Court by opposition MPs to repeal the law on the registration of sales. According to the proposal, when adopting the law ordinary legislative procedures were not upheld and the law unduly interferes with the right to business ownership and privacy. (KJ)

**CZ: Scope of arbitration clause**

When all disputes in connection with a contractual relationship are covered by an arbitration clause, it also applies to disputes for damages incurred after termination of the contract (Supreme Court, ref. no. 25 Cdo 4840/2014). (TM)

**CZ: The new law on gambling**

The new lottery legislation restricts the operation of technical games (slot machines) at casinos and gaming clubs, and also requires player registration. It also newly permits and regulates gambling on the internet. The new law enters into force on 1 January 2017. (SD)

**EU: With Decision C – 345/14, the ECJ strengthened the rights of key tenants in shopping centres**

The fact that the lease agreement for retail space in a shopping centre includes a clause granting the tenant the right to prevent the landlord from leasing retail space in the shopping centre to other tenants does not mean that the purpose of the agreement is to restrict competition. (AJ)

**CZ: "Trial work" is permissible**

The Supreme Administrative Court of the Czech Republic confirmed (4 Ads 27/2016), that trial work can be accepted, e.g. in the hiring process, but it must be a time-limited test aimed only at determining the job skills of candidates, rather than the provision of regular activities. (VO)

**CZ: Changes regarding Health and Safety**

The amendment, effective from 1 May 2016, among other things introduces higher demands on the qualifications of competent persons and the coordinator for occupational health and safety as well as the rule that the coordinator for occupational health and safety at the site cannot be the contractor, its employee or another person in charge of implementing the construction. (JV)

**SK: Old tyres can be returned free of charge to the garage**

Under the new law on waste, a person who sells tyres separately or as part of general auto services is required to ensure the free collection of old tyres. This obligation also applies to services that exchange tyres without selling them. (KL)

**CZ: From 1 October 2016 a central register of offences**

The register should help authorities take into account previous crimes committed by persons when imposing additional penalties. For now the register will include a limited number of offences; data will be recorded by the administrative authority that made the first instance decision on the offence, the municipal authority or the municipal police. (LKU)

**EU: Ban on Muslim headscarves in the workplace**

According to the opinion of the Advocate General, European law does not preclude employers banning the wearing of Muslim headscarves in the workplace. It must, however, be part of a general ban on all religious symbols by the employer directed at achieving the religious neutrality of the company. (TP)

**EU: Remuneration of sales representatives**

According to the ECJ, customers acquired by a sales representative are considered new customers, even if they had a business relationship with the principal for other goods, where the sale of other goods by the sales representative requires the creation of a special trade relationship. For new customers, the representative is entitled to remuneration. (AT)

**CZ: Tax consultation an offence?**

There are fears that penalties for the offence of preparing tax evasion will be re-introduced from 1 July 2016, due to the blurred boundary between optimising taxes and committing a crime. (KD)

**SK: Central Register of Executions from 1 July 2016**

The Register will be available on the website of the Slovak Chamber of Executors and will contain details on pending executions. Executors are required to enter information on new executions within 7 days. (ZH)

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