



## A Darned Hot Winter

CZ: Forthcoming amendment to the law on criminal liability of legal entities

SK: Tightening of the conditions for granting consumer loans

EU: Monitoring employees' private messages

What a strange winter it has been. No sleighing with the kids. No cross-country or downhill skiing – not even my beloved snowboarding! No traffic calamities on only three centimetres of snow. This year's winter was among the hottest on record in the Czech Republic, and not only in terms of temperature... By now you've no doubt already completed your "first ever" VAT control report submission; perhaps you are planning a work shift on Good Friday (which is a new holiday) or are preparing for electronic record of sales. Higher temperatures for the rest of the year are also portended by broader corporate criminal liability, plans of the State Labour Inspection Office to check the provision of equal pay or the extensive amendments to the Labour Code penned by trade unionists.

But there are also much more pleasant reasons to break a sweat this year. By taking part in our April charitable run called Run and Help you will help disabled people via the Konto Bariéry foundation. We will then gladly welcome all participants, regardless of fitness level, to our newly expanded Prague office.

Tomáš Procházka

**CZ: Publication of final balance sheet reports**

From 1 January 2016, the amendment to the Accounting Act will change the categories of accounting entities and obligations in accounting and the compilation and publication of accounts. So-called micro and small entities do not need to republish their statement of profit and loss in the collection of deeds. (SD)

**EU: Tightening the conditions for making a complaint to the European Court of Human Rights**

From 1 January 2016, a new version of Rule 47 of the Rules of Procedure of the European Court of Human Rights in Strasbourg will come into effect, tightening the conditions for complaints. For ex., power of attorney is granted on a prescribed form. If granted separately without good reason, it will not be accepted. (NJ)

**SK: Detention period extended up to 96 hours**

Due to the deterioration of the security situation, from 1 January 2016 a Constitutional Act will apply in Europe that extends the period of detention. A detained person must be released within 48 hours, and for terrorism offences either released or brought before a court within 96 hours. (KL)

**CZ: Confidentiality obligation in the private sphere**

According to the ombudsperson, companies cannot arbitrarily order employees to maintain confidentiality about matters brought to their knowledge in the exercise of the profession. Mandatory confidentiality is determined for employees in the public sector, but in the private sector must be anchored in the employment contract or in an agreement between the employer and the employee. (TJ)

## CZ: Forthcoming amendment to the law on criminal liability of legal entities

**An amendment to the law on criminal liability of legal entities is currently being discussed in the Chamber of Deputies and may lead to big changes.**

Among them is the extension of the enumerated grounds of crimes which can be committed by a legal entity from more than double the current 83 to 216. According to the constitutional committee's draft bill, the list of offences should be extended to include defamation (which is missing from the government bill), while the offence of infringement of competition rules should be excluded from the list. If the amendment is accepted, legal entities will only have six months to adapt their internal rules and procedures in order to reduce the risk of criminalising the activities of the legal entity. A prerequisite for exemption from the responsibility is proving that the legal entity has taken appropriate measures (e.g. internal regulations, training). Nevertheless, the legal entity may be exempted only for acts by their employees, not by the statutory or controlling persons. According to this amendment, however, legal entities should now be able to exempt themselves from liability if they made every effort that could be reasonably required to prevent the offence from being committed. Hence the need to take appropriate measures has increased even more.

Katarína Jendželovská

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**CZ: Will mandatory employee representation return to supervisory boards?**

On 4 September 2015, an amendment to the Act on Business Corporations was submitted to the Chamber of Deputies, which returns mandatory employee representation to supervisory boards. This proposal, however, has yet to be discussed. (MR)

**SK: Tightening of the conditions for granting consumer loans**

From 23 December 2015, the conditions for granting consumer loans were again tightened. For example, a loan can no longer be provided in cash. In this respect, also a definition of crime of usury has been expanded. (ZH)

**CZ: Tax on the acquisition of immovable property will be borne by the buyer**

On 1 April 2016, an amendment should enter into force according to which tax on the acquisition of immovable property shall newly be paid by the buyer. (JŠ)

**CZ: Proposed change in the amount of security deposits on leases**

A draft bill amendment to the Civil Code aims at reducing the security deposit which landlords are entitled to require from tenants, from the current six times the rent to three times. (ER)

**CZ: Simultaneous performance of position in bodies of monistic joint stock company**

The Czech Supreme Court has confirmed that the sole member of an administrative board may be at the same time the statutory director of a monistic joint stock company. It has also clarified that, in the case of a collective administrative board, the statutory director can be not only the chairman, but also any other member. (VO)

**CZ: Regulation No. 308/2015 – Definition of minor repairs in apartments**

Effective from 1 January 2016 is a government regulation that defines minor repairs and maintenance paid by the tenant of an apartment. Compared to the regulation before the recodification, repairs up to CZK 1,000 are considered minor repairs. (JKol)

**CZ: Amendment to the Consumer Credit Act in the Chamber of Deputies**

The bill mainly transposes the relevant EU legislation and strengthens consumer protection in the housing loan segment. It should also improve the quality of services in the retail credit market, reduce the incidence of irresponsible lending and unify regulations for the distribution of consumer loans. (LZ)

**CZ: Criminal liability for insolvency petition**

According to the Supreme Court, filing an insolvency petition may mean committing the offences of extortion and defamation. For such an offence to be committed, however, other conditions must also occur, such as the insolvency petition being based on knowingly false or fictional information. (JM)

**Mark your diary** 

Mazars and the law firm Dvořák Hager & Partners would like to cordially invite you to a specialized seminar:

**EMPLOYEES: QUALIFICATIONS, REQUIREMENTS, WORK DISCIPLINE****clear, practical and with reference to case law**

- Can an employee be fired for an insufficient knowledge of English?
- Or for poor organisational skills?
- What about a physical attack by another employee during a business trip?

You will easily answer these questions after completing our seminar. Learn how to use the Labour Code for your work with assumptions, requirements and work discipline. 90% of Czech companies make mistakes in this area. We will also take a look at the potential tax, social security and health insurance consequences of a breach of duty by an employee.

**Date:** 16 March 2016, 9 am

**Place:** Hotel Alwyn conference centre, Vítkova 26, Prague 8

**Lecturers:** Veronika Odrobinová and Tomáš Procházka, Dvořák Hager & Partners, Gabriela Ivanco, Mazars

**Registration:** zuzana.navratilova@dhplegal.com

**Participation fee:** CZK 750 per person (without VAT)

After the successful launch last year we again invite you to the

**RUN AND HELP CHARITY RUN**

**Date:** 8 April 2016 at 2:00 p.m. We will start at the Dvořák Hager & Partners office at Pobřežní 394/12, Prague 8

**Length:** 2 km up to a half marathon.

**Registration:** renata.vrzakova@dhplegal.com

Refreshments will be provided during and after the race.

Runners donate CZK 5 for each kilometre that they run and our office will add twice that amount. Last year we succeeded in raising more than CZK 20,000, which we donated to the Konto Bariéry charity.

Join us and together we can support a good cause! You are all invited!



**CZ: Landmark decision of the Constitutional Court regarding change of employment contracts**

According to a December 2015 judgment of the Constitutional Court, in order to change the employment contract to an indefinite term in the case of an invalidly concluded contract for a fixed term, all that is required is notification from the employee and it is up to the employer, where appropriate, to bring an action if it disagrees with the notification and change in the employment contract. (RM)

**EU: Monitoring employees' private messages**

If employees are forbidden to use the Internet on their work PC for private purposes, then according to the European Court of Human Rights, the employer may, under certain circumstances, investigate private communications made by employees during working hours on this computer. (KD)

**CZ: VAT inspection reports**

VAT payers have a new obligation to submit an inspection report together with their VAT return. The aim of the report is to missing trader (carousel) fraud and to prevent tax evasion. The inspection reports replace the existing extract from the register for VAT. (LKu)

**EU: Reference document on best available techniques for waste management**

Representatives can participate in commenting on the draft of the reference document by 18 March 2016. The document refers to any establishment where waste is generated. (AT)

## Personal

**Petra Štrbová Marková | Attorney | Bratislava**

Our Bratislava office has been strengthened by the addition of Petra Štrbová Marková, who specialises mainly in financial, commercial and labour law. Prior to joining Dvořák Hager & Partners, she was a senior lawyer in the industry and trade section of the Ministry of Economy of the Slovak Republic, and also worked as a lawyer at Rödl & Partner and for the financial consulting company Accenture. Petra studied at the faculty of law of Comenius University in Bratislava.

**Kateřina Demová | Attorney | Prague**

On 1 February 2016, Kateřina Demová joined Dvořák Hager & Partners in Prague as an attorney-at-law. Kateřina has been working at our office as an associate since 2012 and in December of last year successfully passed the bar exam. Kateřina specialises in labour law, company law and contractual relationships. She graduated from the faculty of law of Charles University in Prague and also studied at the faculty of law of the Dresden University of Technology.



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**CZ: Out-of-court settlements of consumer disputes**

The amendment to the Consumer Protection Act introduces consumer rights to out-of-court settlements of disputes from 1 February 2016. It is connected with the duty of businesses to notify about the subjects for settlement of the dispute and its internet address, among others in its business terms and conditions and on its website. (LL)

**CZ: Limitation of the right to enforce a decision imposing the obligation to tolerate the use of things**

According to the Supreme Court, the legitimate right of co-owners to seek enforcement of a decision imposing an obligation to tolerate the use of common things in the prescribed manner is limited (see the resolution in File No. 26 Cdo 166/2014, dated 23 September 2015). (TM)

**CZ: Prepared amendment to the Act on the Protection of Agricultural Land**

In order to withdraw from the agricultural land fund for the purpose of building a house, landowners must now pay a levy fixed by the competent municipal authority (this will vary by location and can reach up to several hundred crowns per m<sup>2</sup>). The amendment abolishes this obligation. (TL)

**CZ: Validity of lease agreements for commercial premises entered into prior to issuance of approval of premises to be occupied**

A lease agreement concluded prior to the effect of the new Civil Code, where the condition for the agreement was the issuance of an occupancy permit, is valid even though it was concluded when the occupancy permit had not yet been issued if the effectiveness of the agreement was linked to the legal power of the occupancy permit decision. (DV)

**SK: New Act on Sport**

From 1 January 2016, a new Act on Sport came into force which streamlines the financing of sport. The Act also amends regulations, for example, by introducing the offence of corruption of sport. (MAB)

**CZ: Discussions on the new Act on Public Procurement**

The aim of the completely new regulation is primarily to reduce administrative burdens and increase transparency and efficiency. Among the most notable changes are: simplification of the tender regulations, demonstration of real economic strength and stability of the supplier, greater transparency of ownership structures of suppliers, limitation of price of the bid as the main evaluation criterion, new possibilities regarding set-offs of works. (MABB)

**CZ: Officially verified signatures for the transfer and pledge of shares in a corporation**

In its opinion (File No. Cpjn 204/2015) the Supreme Court confirmed the current practice and stated that the signatures on a contract for the transfer and pledge of share in a limited liability company must be officially verified, though this does not expressly follow from the law. (VF)

**CZ: Possibility of refusing vaccinations due to freedom of conscience**

The Constitutional Court has defended parents fined for not having their children administered with the compulsory hexa vaccine. The reason for refusing vaccination can be not only religious, but also freedom of conscience. (MŠ)

**SK: Special arrangements for payment of VAT**

From 1 January 2016 some businesses may pay VAT only on invoices that have already been paid. The invoice must state "tax applies upon receipt of payment." Otherwise the payer faces a fine and the tax liability arises from the day of delivery. (JS)

**SK: New law on alternative dispute resolution**

The new law introduces new obligations for businesses in relation to alternative dispute resolution. The alternative dispute resolution can be started only upon a proposal from the consumer and the business is has a duty to cooperate, otherwise it may be penalised. (MSA)

**CZ: End of 2nd pillar of retirement savings**

In connection with the termination of the so-called 2nd pillar of the pension system, by 31 March 2016 pension companies shall send savers a notice regarding the procedure for the termination of pension savings. The disbursements will occur between 15 October 2016 and 31 December 2016. (JStr)

**CZ: Liability for defects**

A prerequisite for the smooth delivery of goods is not only handing over documents needed to use the goods, but also other documents stipulated in the contract. If the documents specified in the contract contain defects or are not handed over, the goods will not be properly delivered. (JK)

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