



## The Legal World Never Sleeps

CZ: Minimum wage increase

SK: Copyright law news

EU: The Fourth Anti-Money Laundering Directive

As always the summer holiday has quickly passed and the fast pace of work has again resumed. Those who relished their mornings with their children and driving them to school or kindergarten perhaps remember with a sigh a time not determined by the school bell.

And what can we really expect soon? Many clients will want to enter into transactions that could not be completed during the summer when many companies are on holiday. Many clients will hope that their lawsuit will finally move forward, and that unless a judge gets sick, their case will have been decided by the end of the year. We will also see whether the Ministry of Justice will focus on laying the groundwork for a possible transfer of most of Prague's courts to the country, and the plans for a major re-codification will be postponed even further into the future. If you haven't yet subordinated your company to the Business Corporations Act you should visit a notary as soon as possible.

As you will see from the interesting contributions of my colleagues, the legal world never sleeps. So, how to end on a positive note? Enjoy the Indian summer and the growing economy, and leave the problems to the lawyers.

Stanislav Servus

**EU: New Council Regulation in succession matters**

The European Regulation regulating the issue of cross-border inheritance is effective from 17 August 2015. If a testator does not choose the applicable law in his will, the entire inheritance proceedings will be heard pursuant to the law of the country of habitual residence at the time of his death. (JKol)

**CZ: Sell out – A new right of minority shareholders**

If a majority shareholder holds more than a 90% share in a joint-stock company, the minority shareholders can require the majority shareholder to buy their shares. In that case, the price must be appropriate to the value of the shares and enclosed with an expert opinion. (SD)

**SK: Jurisdiction in labour disputes**

A new civil disputes procedure establishes a causal jurisdiction of eight selected courts in individual labour disputes (dispute between employers and employees arising from labour or other similar work relationships). (KLieb)

**CZ: New information from the General Financial Directorate (GFD) on the implementation of the VAT Act on immovable property after 1 January 2015**

The information of the GFD specifies some terms and criteria which are decisive for VAT exemption or to determine the tax rate. The information emphasises the concept of a "functional unit". It also states that another decisive criterion for the VAT regime is the goal of the transaction pursued by the contractual parties. (DV)

**CZ: The Introduction of "Kurzarbeit" in the Czech Republic**

**Beginning in October, employers affected by an economic crisis or natural disaster may ask the Labour Office for a contribution to their employees' wages. The "Kurzarbeit" program, which some employers have for a long time been calling for, will be introduced by an amendment to the Employment Act.**

But what exactly is the Kurzarbeit system? If an employer does not have enough work, but does not dismiss its employees and pays them at least 50% of their wages, the state will add another 20% to the employees' wages under an agreement with the employer.

This can be useful for example in situations where an employer does not currently have a sufficient number of orders, but it assumes that this situation is only temporary and that its capacities will be fully occupied again in the medium term. Dismissal of a part of the staff and its subsequent acquisition is rather problematic in the labour market, especially for skilled technical jobs. The Kurzarbeit system can help address these situations.

With regard to the need for prior approval of each agreement by the government, however, it is questionable how effective the Czech Kurzarbeit model will be in practice in comparison to the German model, which proved successful during the economic crisis.

Kateřina Demová

**CZ: Amendment to the Act on Credit Unions**

Since 1 July 2015, interest will only be paid on clients' account(s) balance up to ten times the value of their membership contribution for savings cooperative. For deposit accounts opened before 30 June 2015 this rule shall apply only from 31 December 2017. (JH)

**SK: Toughening up on environmental offences**

Since 1 September 2015, multiple environmental offences are punishable even in case of unintentional actions. (AT)

**CZ: Expungement of conviction and obligation to inform the employer**

An employee is not obliged to inform their employer about their past criminal convictions if they are not considered convicted under the law, nor is the employer entitled to require such information from the employee. (ER)

**CZ: Amendment to the Executory Code**

The amendment to the Executory Code limited the possibility to sanction the assets of a debtor's spouse. The emphasis is on the possible narrowing of common property and the wage of the debtor's spouse can no longer be sanctioned. An executory lien on the real property is now established by a creditor's proposal and thus does not fall under the basic list of procedures for carrying out the execution. (JStr)

**CZ: Will the benefit of instalments according to a notarial deed with consent to enforceability be lost?**

It is common practice for debtors to repay their debts in instalments according to a notarial deed with consent to enforceability with a loss of instalments benefit. If a debtor fails to repay an instalment by an agreed deadline, the creditor is entitled to claim satisfaction of the entire debt with a proposal for execution no later than the next closest instalment due date. The Supreme Court stated in its decision that a creditor may apply the aforementioned authorisation by the time of the next closest instalment due date regardless of whether the debtor repaid the instalment in question after the due date. (OH)

**EU: Jurisdiction for compensation of damage from cartel agreements**

A CJEU judgment regarding *CDC Hydrogen Peroxide*, C-352/13 gives victims of cartel agreements a wealth of possibilities in the courts of the member state where they will claim their rights. Besides the courts of the defendant's domicile, they can also choose the courts of their domicile or the courts of the place where the agreement in question was concluded. (MABB)

**CZ: Interim measure for vexatious insolvency motion granted**

In July, an interim measure in the amount of CZK 10,000,000 was granted to cover damage caused to a debtor by a vexatious insolvency motion. Such interim measures are not commonly granted and might indicate a shift in decision-making practice. (JM)

**CZ: Forms of cashless payments for metallic waste**

On 1 October 2015, an amendment to Waste Act will enter into effect which defines that payments for metallic waste can be made by transfer from bank account or postal money-order. It will not be possible anymore using cheques or promissory notes. (VO)

**CZ: Immediate termination of employment (NS CR case no.: 21 Cdo 1229/2014)**

Failure to expand the employer's assets (e.g. transfer of the contracts awarded to another company's employer) due to the actions of an employee may be considered an attack on the employer's property, which is a particularly gross breach of work duties and a reason for immediate termination of employment. (TJ)

**SK: Copyright law news**

The new Copyright Act will enter into force on 1 January 2016. Among other things it will have a major impact on importers of the latest technologies or certain operators of catering and accommodation facilities. (ZHn)

**CZ: Upcoming changes for employment agencies**

An amendment to the Employment Act is headed to the Chamber of Deputies. It should introduce stricter rules for agency employment from 1 January 2016, among other things, stipulating the maximum proportion of agency employees at 15% or an obligation for agencies to make a deposit to the Labour Office in the amount of half a million Czech crowns. (MG)

**SK: Simple joint-stock company**

A draft amendment to the Commercial Code was submitted to the parliament introducing a new form of company: the simple joint-stock company. This kind of company could be set up with registered capital of just EUR 1. (MSad)

**EU: The Fourth Anti-Money Laundering Directive**

The registers of Member States will state information about the ultimate owners of business entities registered in their territory (e.g. name, country of residence, extent of the share). The registers will be publicly accessible. (JS)

**CZ: Amendment to the Civil Procedure Code and Enforcement Code**

The amendment determines which things are automatically exempt from enforcement by means of a specific list, which should result in an effective way to prevent abuse of rights by some executors. (LZ)

**CZ: Market value during expropriation**

The Constitutional Court of the Czech Republic decided that in the event of expropriation, the state has to pay compensation in a reasonable relation to the market value of a property at the time when the withdrawal of ownership occurred. (PKc)

**EU: New interpretation of the minimum wage law**

According to the current official interpretation, the German minimum wage law does not apply to assembly operation within the meaning of Directive on the Posting of Workers No. 96/71/EC, where the period of posting does not exceed eight days. (AJ)

**CZ: Punishability of planning money laundering**

In cases of money laundering and accessoryship, even the planning of such criminal acts will now be considered a criminal act. The amendment that introduces it was signed by the President on 23 June 2015. (JK)

**CZ: New obligation for VAT payers coming**

With effect from 1 January 2016, VAT payers will be newly obliged to process and electronically submit "checking reports" to their tax administrators. (MR)

**CZ: Automatically processed data from the Insolvency Register cannot be trusted**

**Besides the widely known Internet version of the Insolvency Register (InsR), the Ministry of Justice also operates an InsR Web Service, which enables automatic communication and exchange of InsR data and is mainly used by institutions that administer a large number of claims. Nevertheless, data from InsR can be incorrectly taken by the web service.**

In a recent case judged by the Supreme Court of the Czech Republic (see case 29 NSCR 41/2015 dated 27 May 2015) the web service incorrectly stated a later date of the debtor's bankruptcy. As a result, a creditor relying on the information from the web service submitted its claim application to the insolvency proceedings late and the insolvency court rejected it.

In the end the creditor even failed before the Supreme Court of the Czech Republic. It concluded that the insolvency court acted correctly when it rejected the claim application submitted late, even though this occurred due to an error in the InsR Web Service (note: the relevant information was correctly published in the InsR). According to the Supreme Court, admitting the application would lead to an undesirable condition which would admit that the deadline for submission of claims for individual creditors began to run differently, which would affect in an inadmissible way the rights of other creditors who submitted their claims against the debtors on time.

Vojtěch Faltus



**CZ: Amendment to the Act on Regulation of Advertising**

With effect from 17 August 2015, the regulation of advertising that is an unfair commercial practice was eliminated from the Act on Regulation of Advertising. From now on this kind of advertising will be regulated only in the Consumer Protection Act. The list of administrative offences has been changed as well. (LL)

**CZ: How to exclude application of the Vienna Convention on the International Sale of Goods**

Sale of goods agreements between parties based in different countries shall be governed by the Vienna Convention. Its application can be contractually excluded according to the judicature of the Supreme Court of the Czech Republic merely by reference to the relevant provisions of the Czech Sale of Goods Act. (TL)

**CZ: Amendment to the Act on Capital Market Undertakings**

The Chamber of Deputies is discussing an amendment which, in addition to harmonization with EU legislation, lowers the threshold from which shareholders are obliged to announce that they have reached the proportion of voting rights from 3% to 1%. (KJ)

**SK: Waste Management Program for 2016 – 2020**

The Ministry of the Environment presented a new draft of the waste management plan for the years 2016 – 2020, which should lead to big changes in the current waste management plan. The public has the opportunity to comment on this draft. (BH)

**SK: New regulation to the Act on Integrated Prevention and Pollution Control**

A draft amendment to the regulation resolves the requirements resulting from the EC guideline for the preparation of the initial report, defining individual phases and data that should be included in the initial report. (AT)

**CZ: Implementation of the Central Register of Offences**

The President signed an amendment introducing a central register of selected offences. The Register of Offences should serve together with the Criminal Register and authorities should use it to record offences against property, public order and civil coexistence. (MS)

**CZ: Deadline for misdemeanour hearings now two years**

On 1 October 2015, an amendment to the Act on Misdemeanours will come into effect, which among other things extends the deadline for misdemeanour hearings from one to two years. (TM)

**SK: Criminal liability of companies**

A draft of the Act on the Criminal Liability of Legal Persons, submitted for approval to the National Council of the Slovak Republic, proposes a further amendment to the criminal liability of legal persons. The law mainly regulates the types of punishments and the procedures of the bodies concerned in criminal proceedings. (EŠ)

**CZ: Minimum wage increase**

The government has approved a minimum wage increase to CZK 9,900 per month and CZK 58.70 per hour (about EUR 360 and EUR 2.13). The increase will take effect from 1 January 2016 and partially affects disabled employees. (TP)

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