



Heading towards the finish line

CZ: Can employment rights and obligations also be transferred upon termination of the lease?

SK: Increase of the minimum wage in 2017

SK: Simple Joint Stock Company

Saint Martin's Day is behind us, Prague has experienced its first snowfall, and the end of the year 2016 is fast approaching. And as always, December will once again seem to many of you like a race to the finish line. We are doing our utmost to ensure that ongoing transactions are closed successfully, and perhaps all of us, despite occasional complications on the part of other "racers", will arrive at the finish line on time. Some of you are already starting to plan transactions for the next year and believe that the business in the upcoming period will be good. After all, the news has been full of success stories about deals made by Czech and foreign investors. The bar has been set high.

And what if we take a brief glance back? The year 2016 will be remembered for events that caught many of us a little off-guard. It's hard to predict how the world economy will develop. I believe, however, that it will continue to remain open and thus permit further growth in the Czech Republic and elsewhere. But let's keep our feet on the ground. Allow me to wish all of you and your teams a successful end of year and an arrival at the finish line in good health.

Stanislav Servus

SK: New disclosure requirements

From 1 February 2017, the new act will enter into force, establishing a register containing information on the asset structure of natural and legal persons who transact with the state as the end beneficial owner. (SL)

SK: Increase of the retirement age

From 1 January 2017 the retirement age in Slovakia will increase to 62 years and 76 days. However, the retirement age will be increased every year. The actual number for each year will be determined by a measure of the Ministry of Labour, Social Affairs and Family by 31 October each year. (ZH)

CZ: Joint acting of registered proxy holder and member of the statutory body

The High Court in Prague in decision ref. no. 14 Cmo 184/2014 confirmed that the joint acting of a registered proxy holder and a member of the statutory body is not an acceptable method of representation of business corporations and that such manner of acting cannot be registered in the Commercial Register. (PKc)

CZ: Deceptive name of legal entity

According to the ruling of the High Court in Prague, ref. no. 7 Cmo 203/2015, the name of a legal entity (business corporation) can contain the name of a natural person only if that person has a special relationship with that legal entity (e.g. as a founder or partner). (SD)

SK: Increase of the minimum wage in 2017

The Slovak government approved an increase in the minimum wage from 1 January 2017 from the current EUR 405 to EUR 435. The approved regulation also provides for a minimum hourly wage of EUR 2.50. (NJ)

CZ: Can employment rights and obligations also be transferred upon termination of the lease?

A tenant terminated its lease of a commercial space in which it operated a café, and returned the space completely cleared without fixtures, furniture and other items used to operate the business. The new tenant also started to operate a café in this same space. The original tenant informed its employee that the employment rights and obligations automatically transferred to the new tenant. The transfer of employment rights and obligations does not require the approval of the new employer and it is not even necessary to notify it.

An employee described it as a too broad interpretation of Section 338 of the Labour Code and filed a successful lawsuit, in which he sought a declaration that his employment relationship to the original tenant continues.

The Supreme Court, however, in its decision on the appeal of the original tenant stated that even in the event of termination of the lease of commercial space and the subsequent execution of a lease agreement for this space with a new tenant that continues to carry out the tasks or activities of the previous employer (in this case, the original tenant) or a similar kind of activity, **the employment rights and obligations will transfer to the new employer** (i.e. the new tenant).

The issue of whether the lease of commercial space includes items used for activities carried on in these premises is irrelevant, according to the Supreme Court.

Tomáš Jelínek

CZ: The true owners of companies will be newly registered

An amendment to the Anti-Money Laundering Act was published in the Collection of Laws, which with effect from 1 January 2018 will establish a register of data on the actual owners of legal entities and trust funds. (MR)

CZ: Increase to the minimum wage from 2017

From 1 January 2017, the minimum monthly wage will increase from the current CZK 9,900 to CZK 11,000. The minimum hourly wage will increase from CZK 58.70 to CZK 66. In addition, a single minimum wage will be established for all employees, including employees with a disability pension. (KD)

CZ: Demonstration of the origin of property in connection with tax returns

From 1 December 2016, the tax administrator will be entitled to call upon taxpayers to prove the origin of their income if the difference between the income according to the tax return and the increase in assets exceeds CZK 5,000,000. In case of failure to prove the origin of income, the tax administrator may assess additional tax and impose penalties. (LL)

CZ: Even indebted people should be able to get a job

According to the ombudsman, the poor financial situation of a jobseeker should not be an obstacle to finding a position, as long as the job is not one in which the employee will have access to money and could pose a risk to the employer. (MŠ)

SK: Simple Joint Stock Company

From 1 January 2017 it will be possible to establish a simple joint stock company with a minimum share capital of EUR 1, which is combining characteristics of private limited liability and joint-stock companies. The shares must be registered and can only be issued in dematerialised form. (AT)

CZ: Determining one of several agreed places of work

If the employer and the employee have agreed on a plurality of places of work, it is the employer who shall determine where the employee will work. (LKu)

CZ: Return of the pre-emptive right of co-owners of immovables

The Chamber of Deputies has approved an amendment that will reintroduce into the Civil Code the pre-emptive right of co-owners to transferred shares in real estate. The amendment must still pass through the Senate and be signed by the President. (TM)

CZ: Administrative action to protect the public interest

The Supreme Administrative Court in its judgment ref. no. 10 As 59/2015 decided that associations whose purpose is to protect nature are entitled under specific conditions to file an action against an administrative decision in the public interest pursuant to Section 66 (4) of the Code of Administrative Procedure. (JP)

CZ: Is the consumer able to repay the loan?

According to the new Act on Consumer Credit, from 1 December 2016 if a lender has not evaluated the borrower's ability to repay, the loan agreement will be invalid. Consumers will not have to pay interest and will be able to repay the loan only according to their financial possibilities. (ER)

Personal

Petra Kratochvílová | Attorney | Prague

On 1 December 2016 our Prague office was strengthened by Petra Kratochvílová. Petra is focusing especially on contract law and corporate law and also has extensive experience in litigation, representing clients before civil, insolvency and administrative courts. Before joining Dvořák Hager & Partners she worked at the law firm Schaffer & Partner.

Petra graduated from the Faculty of Law at Charles University in Prague. In addition to Czech, she is fluent in English and conversant in German.



Mark your diary

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

New Draft Amendment to the Labour Code

Date: 20 December 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: petra.vyskocilova@dhplegal.com

Participation fee: CZK 750 per person (without VAT)

Awards

We are pleased to announce that Dvořák Hager & Partners was again awarded for its excellence at the **Law Firm of the Year 2016** ceremony organised by EPRAVO.CZ under the auspices of the Minister of Justice and in cooperation with the Czech Bar Association as a highly recommended law firm in the category of Employment Law and as a recommended law firm in the categories of Corporate Law, Restructuring and Insolvency and Capital Markets.

The 2017 edition of **IFLR1000**, a guide to the world's leading financial law firms, again ranked and recommended our Prague office for the areas of M&A, banking and finance and energy and infrastructure. Our office in Bratislava is recommended for the areas of banking and finance and M&A.

We would like to thank our clients for the opportunity to work with them and for their favourable recommendations.

CZ: New Central Registry of Offences established

From 1 October 2016 a Central Registry of Offences was established. This registry so far applies only to certain offences (e.g. offences against public order and peaceful coexistence) and will be used mainly to punish repeated offences. (MG)

SK: Changes related to packaging

From 1 January 2017, Section 58 of the Waste Act, which burdened entrepreneurs with a special reporting obligation relating to industrial packaging, will be repealed. On 8 November 2016, the Ministry of the Environment announced the establishment of Coordination Centres for packaging, old vehicles and electrical waste. (BH)

SK: Increase in flat rate expenditures for self-employed persons

Under the proposed amendment to the Income Tax Act, flat rate expenditures should increase from 1 January 2017 from the current 40% to 60% and the maximum amount of flat rate expenditures should increase from the current EUR 5,040 to EUR 20,000. (PSM)

EU: IP address as personal data

In order to defend against cyber-attacks, website operators in Germany may keep the visitor's IP address, which in the event of a cyberattack constitutes personal data that can be used to obtain information to begin criminal proceedings. (MAB)

CZ: Nervous year end for operators of installations producing renewable energy built before 2012

The Energetic Regulation Authority received the decision of the European Commission on the approval of the support of these installation but the price decisions for 2017 will be issued only after the verification that no changes to the existing legislation are required. In such a case, the price decision could be issued by the middle of January 2017. (VO)

SK: Blocking of debtor's account

The draft law on the European Account Preservation Order should be effective from 1 March 2017. In cross-border cases the creditor will be able during the trial to obtain a European Account Preservation Order and to prevent the transfer or withdrawal of the debtor's funds from accounts in various Member States. (JS)

SK: Local tax for development

From 1 November 2016, municipalities may establish a local tax for development in their territory. This fee shall serve as a resource to build new infrastructure in the development of communities and shall represent a transparent solution for building infrastructure. (KL)

SK: New law on the support of small and medium enterprises

The Act aims to enforce the principle of "Think Small First" in the Slovak legal environment. The Act regulates the conditions for the provision of support for small and medium enterprises, and defines areas and forms of support. (MSA)

CZ: The Constitutional Court challenged the ban on "overlapping functions" of a statutory body and an employee

According to the judgment of the Constitutional Court ref. no. I ÚS 190/15, Czech law never explicitly banned the so-called overlapping of functions and the ban was merely inferred by the general courts. The Constitutional Court questioned the existing case law and opened a space for rethinking the hitherto universally accepted prohibition of overlapping functions. (DV)



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