



Labour law before the elections

CZ: Less than a year until the GDPR

SK: Fundamental changes in State aid

EU: Prohibition of Islamic headscarves in the workplace?

The Czech elections slated for this autumn are nearing and pre-election campaigns are gaining momentum. For example, the pardoning of the "most famous Czech killer" got a lot of attention. Less exciting for readers are stories about which laws politicians will succeed in passing before the elections and which will fall by the wayside. A large-scale amendment to the Labour Code with dozens of parliamentary motions to amend it remains a sensitive point. Czech employers may be surprised not only by proposals to add an extra week of holiday and increased severance pay, but also by the right of trade unionists to prohibit agency employees or to suspend production for safety reasons. By contrast, the proposal that employers be obliged to provide mandatory bicycle storage seems quite acceptable. We can only hope that this year the MPs will prefer to enjoy their last parliamentary holiday rather than to think up ways to get votes by "improving" the Labour Code.

Tomáš Procházka

CZ: Retention right on debtor's accounting documents

According to the Supreme Court of the Czech Republic, creditors cannot retain debtors' accounting documents. As an accounting document cannot fulfil the recovery function of a lien, it cannot be retained to secure debts. (DV)

CZ: Amendment to the Insolvency Act

The extensive amendment (effective from 1 July 2017) significantly tightens the conditions for the successful submission by the creditor of an insolvency petition and increases the debtor's protection against petitions aimed at bullying them. (JK)

CZ: Supreme Court judgment on severance pay and basic unseizable amounts in execution

For the calculation of the unseizable amount, a one-off severance payment is to be treated as a payment of several months' salary at one time according to the number of monthly average earnings from which the severance payment was derived. (VO)

CZ: Extension of the VAT reverse charge from July

In the context of the amendment to the VAT Act, with effect from 1 July 2017, the VAT reverse charge system will be extended to include mediation of the delivery of investment gold, supply of real estate in forced sale, provision of workers for construction or assembly works, delivery of goods originally provided as a warranty and delivery of goods after assignment of reservation of property. (JV)

SK: Amendment to the Court Fees Act effective from 1 July 2017

If a taxpayer fails to pay the court fee by the deadline set by the court, under the amendment to the law the court shall terminate proceedings. The additional payment of the court fee in the appeal period will not lead to cancellation of the ruling on termination of the proceedings, as was the case under the previous law. (EC)

CZ: Less than a year until the GDPR

The new European Regulation on Personal Data Protection (GDPR) will come into effect on 25 May 2018, and therefore it is high time to start preparing for the new obligations that the GDPR will introduce for every company in this area.

The difficulty of implementing the GDPR and the scope of the new obligations will naturally vary greatly according to the extent, intensity and especially the riskiness of the personal data processing. While there is no urgency for a normal production enterprise, banks, mobile operators or healthcare facilities may have to act quickly before it's too late.

To all our clients, regardless of their line of business, we recommend that you first conduct a comprehensive review of the current handling of personal data and the mapping of individual processing in the company, i.e. answering the seven basic "criminological" questions: who, what, when, where, how, with what and why. Usually this is the only way to proceed to risk analysis, identification of deficiencies, setting of priorities and a timetable for the actual implementation of the GDPR.

We also recommend that you allocate your own internal team to implement the GDPR, or at least a coordinator, who will act in close cooperation with all departments concerned, IT and in-house or external lawyers. Our team of legal specialists dealing with personal data protection and the GDPR are, of course, available to you if needed.

Radek Matouš

CZ: Supreme Court assessing validity of resolutions of the general meeting

In the procedure for authorising registration in the Commercial Register, the Commercial Court is not competent to judge the validity of resolutions of a limited liability company's general meeting, whether due to lack of quorum or absence of the votes necessary to adopt a resolution. (DR)

CZ: Beware of the Contract Register!

For almost a year, private contracts concluded with the Czech Republic, territorial self-government units or legal entities controlled by them must be published in the Contract Register. As at 1 July 2017, such contracts concluded after 1 July 2017 which are not published in this Register shall become invalid. (MR)

CZ: Contractual penalties may secure all obligations under a particular contract

The Supreme Court has unequivocally declared as valid contractual penalties securing that all obligations arising under a particular contract are fulfilled. (TM)

CZ: Termination of employment due to gross violation of obligation to remain at home when sick ruled constitutional

The Constitutional Court dismissed a proposal to abolish a provision of the Labour Code under which employees incapacitated for work may be terminated for an especially gross violation of their obligation to stay at home. This termination reason thus remains in place. (PP)

EU: Best available technology for large combustion plants

In April 2017, BAT conclusions for large combustion plants were approved. Following the issuance of the relevant decision of the EU Commission, businesses will have four years to meet the newly approved emission limits. (AT)

CZ: Alcohol in the blood is not an automatic reason for termination

A positive blood alcohol finding does not automatically constitute a serious violation of the employee's duty justifying termination of employment. The blood alcohol content must be high enough to impede the employee's mental functions and general alertness. (PKc)

CZ: Change in vehicle registration

The Amendment to the Road Traffic Act of 1 June 2017 introduces the possibility to register vehicles and changes relating to vehicles at any municipal authority of a municipality with extended powers, regardless of the place of residence or registered office of the operator of the vehicle. (LL)

EU: Prohibition of Islamic headscarves in the workplace?

The European Court of Justice has ruled that an employer may forbid the wearing of all political, philosophical or religious symbols in the workplace. However, there is a risk that such a measure will, depending on the circumstances, constitute indirect discrimination. (PM)

Personal

Lukáš Zahrádka | Partner | Prague

Lukáš Zahrádka, who previously served as a senior lawyer, was named a new partner of Dvořák Hager & Partners on 1 May 2017. In his practice Lukáš focuses in particular on M&A, banking and finance law, real estate law and company law. He has been working at Dvořák Hager & Partners since 2014 and previously worked for more than 11 years at Weinhold Legal.

**Tomáš Richter Urban | Managing Attorney | Bratislava**

There was also a promotion in our Bratislava office, where Tomáš Richter Urban was named a managing attorney. In his practice, Tomáš focuses in particular on private equity, banking & finance, project finance, PPP and public procurement, business contracts and M&A transactions. Earlier he worked at Čechová & Partners, and prior to that at Clifford Chance and Balcar Polanský Eversheds.

**Jiří Mačát | Attorney | Prague**

On 1 June 2017, Jiří Mačát became an attorney-at-law at Dvořák Hager & Partners in Prague who successfully passed the bar exam in April. In his practice, Jiří focuses on investment fund and capital markets law, corporate law, M&A, administrative law and litigation. He has also participated in several projects for the creation and transformation of fund structures

Mark your diary

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

Working hours

Date: 19 September 2017, 9 am
Lecturers: Tomáš Procházka and Tomáš Jelínek
Place: Hotel Alwyn conference centre, Vítkova 26, Prague 8

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GDPR in Practice

Date: 27 September 2017. 9 am
Lecturers: Radek Matouš and Tomáš Procházka
Place: Hotel Alwyn conference centre, Vítkova 26, Prague 8

CZ: Renewable energy

According to a decision of the Supreme Court, the right to a subsidised purchase price for electricity does not arise if, at the decisive time, the operator of the source produced the electricity, but delivered it to the network without a contract or without being properly connected by the distribution system operator. (SD)

CZ: Invalidity of the arbitration clause

According to a decision of the Supreme Court, in an arbitration agreement it is not possible to agree on a method of selecting an arbitrator where the arbitrators will be determined by only one party to the dispute. An invalidly agreed procedure for determining an arbitrator will also invalidate the arbitration clause as a whole. (PKr)

CZ: Cancellation of investment limits for Qualified Investor Funds

The investment rules for Qualified Investor Funds were repealed by a new government regulation on investment by investment funds. These funds are therefore no longer forced to diversify their portfolio and can invest in a single investment instrument. (JM)

SK: Fundamental changes in State aid

A large-scale amendment to the Act on Contributions from the European Structural and Investment Funds is effective from 1 June 2017. The reporting of expenditures has been simplified and the procedure for violations of public procurement rules and procedures revised. (BEH)

CZ: ATAD – The EU's Anti-Tax Avoidance Directive

The Directive, which among other things regulates the rules on the tax deductibility of interest, entered into force on 12 June 2017. The determination of non-taxable interest is at first sight more complicated and will greatly depend on the resulting implementation of the Directive into Czech law. (LB, MŠt)

EU: European Commission to further investigate the practices of internet retailers

The recently released final report on the investigation of the internet retail market identifies commercial practices that may restrict competition. The knowledge gained by the European Commission will probably lead to further investigations in this area. (MABB)

CZ: Bird strikes judged an extraordinary circumstance

The European Court of Justice has ruled that a collision between an aircraft and a bird is not inherent in the normal exercise of an air carrier's activity, is beyond its control and is therefore an extraordinary circumstance. Passengers cannot claim compensation from the carrier for delays caused by such a collision. (JP)

CZ: Statutory body and responsibility after recall

If an executive who has been recalled from office continues to act as the company's statutory body, his actions are subject to the same legal requirements as those of the actual executive. (LKu)

SK: Express amendment means motorways also can be built on third party land from June

The acquisition of building permits and the execution of construction works on motorways is possible on the basis of the preliminary possession prior to the expropriation of the land. (PŠM)

We wish you
a beautiful summer!

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