

Legal News

Overview of important legislative changes in the Czech Republic and Slovakia

April 2022

Articles

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Change of rules for distribution relationships

With effect from 1 June 2022, there will be a fundamental revision of the EU Block Exemption Regulation and the rules for assessing vertical agreements from the point of view of competition law. The new rules will be fully reflected in the application practice of the Czech and Slovak competition authorities. The change will primarily affect distribution relations, which will be appropriate to re-adjust so that their business potential is fulfilled within the limits of competition law. The new regulation, which provides for exceptions to otherwise prohibited agreements, does not only change the rules for online trading. At the same time, the amendment is most often mentioned in this context and introduces some completely new elements (e.g. regulation of online brokers, more precise definition in connection with online comparators, vertically integrated online platforms). It changes, among others, the access to non-compete clauses, MFN arrangements (a party's obligation to offer the other party the same or even better terms than others), dual distribution (the manufacturer sells its goods itself as well as through distributors), the definition of an exclusive distributor and/or short-term setting of final prices for customers.

Michal Hrabovský | Counsel
Paulína Macháčová | Associate

Data box news

As of 6 February 2022, automatic authorisation of the receipt of postal data messages has been set up for all data boxes of legal entities, natural persons and entrepreneurs. However, non-business individuals will continue to be able to opt out of receiving these messages.

The institute of "fiction of delivery" has also been introduced for private law communication via a data box, and the document is now considered delivered on the tenth day from the day the document was delivered to the data box (without anyone logging in to the data box).

Michal Růžička | Senior Associate



In brief

Czech Social Security Administration launches "Informative Pension Application"

After logging in via the identity of the citizen or the data box, the application calculates the current estimate of the user's old-age pension and states the date of retirement. <https://eportal.cssz.cz/web/portal/-/sluzby/informativni-duchodova-aplikace>.

Ondřej Beneš | Senior Associate

Unit owners' associations (UOA) have no right to restrict short-term leases

The High Court in Prague has ruled that UOA are not entitled to limit the exercise of the owner's property right by prohibiting the provision of short-term leases (typically Airbnb). An appeal has been lodged in the case, which will be assessed by the Supreme Court.

Jiří Brabec | Senior Associate

Interference with the good reputation of a legal person

The Supreme Court has ruled that if a legal person's good reputation has been interfered, that legal person is not entitled to compensation for non-pecuniary damage, including the provision of adequate monetary compensation. The decision provoked an expert discussion. (file no. 23 Cdo 327/2021).

Stanislav Dvořák | Partner

Dishonest intention in insolvency proceedings

Conduct by which a debtor has consistently failed to meet its due obligations, even based on enforceable court decisions (including maintenance debts for a minor son), has acquired a shareholding in a company during insolvency proceedings and has not duly and timely fulfilled the obligations imposed on him by the insolvency court, constitutes dishonest intention.

Tomáš Jelínek | Senior Advokát

Postponement of the new Construction Act

According to the proposal, the new Construction Act should apply from 1 July 2023, but only in relation to so-called "reserved buildings", i.e. nationally significant buildings. For other buildings, during the transitional period from 1 July 2023 to 30 June 2024, the "old" Construction Act will be followed.

Katarína Jendželovská | Senior Associate

Offsetting – bank guarantee (BZ)

A bank issuing a bank guarantee may offset its claim against the creditor from the other title than the bank guarantee itself against the creditor's claim against the bank, only if this is specified in the bank guarantee. - 29 Cdo 3267/2019.

Maroš Kandrík | Associate

Be aware of international sanctions

The law requires everyone to check whether the subject of performance or the contractual partner is not subject to international sanctions. Any suspicions must be reported to the Financial Analytical Office. Failure to notify may result in a fine in the order of millions of crowns.

Jan Kohl | Associate

Failure to lend the court file as delay in the proceedings

According to the Supreme Court of the Czech Republic, the time when a court was not lent court files by another should be considered as delay in the court proceedings. The parties to the proceedings are thus entitled to compensation for damages (file no. 30 Cdo 267/2021).

Petra Konečná | Counsel

Flat-rate compensation for employers – deductions from wages

A flat-rate compensation of administrative costs in the amount of CZK 50 per employee per month is introduced for employers who are obliged to make deductions from employees' wages due to a court decision or an enforcement order.

Petra Kratochvílová | Counsel

Termination due to redundancy

Before submitting a notice of termination due to redundancy, make sure that you cannot offer the employee a position where they will apply their type of work even partially – the director of a branch that is not specifically specified may be the director of another branch of the employer within the agreed place of work.

Šárka Kuchařová | Senior Associate

Office for Personal Data Protection published inspection plan for 2022 in anonymised form

This year's priorities will include checking the processing of personal data via cookies (user consent required from 1 January 2022, except for necessary cookies), sending unsolicited commercial communications or inspections of enforcement authorities.

Radek Matouš | Partner

Clients have the right to expect professionalism from contractors

Decision of the Supreme Court No. 33 Cdo 77/219 confirmed that the contractor must act professionally in carrying out their work. In this case, this meant that the contractor should have checked the properties of the subfloor before laying the floor.

Eliška Miklíková | Senior Associate

The care of a good manager must be assessed also with regard to the object of the company's line of business, not only its profitability

The member of the statutory body is responsible for the decision and not for the result, at the time the decision was made according to the documents and information at hand and with regard to the nature and purpose of the company.

Hana Mikulková | Senior Associate

The CNB's new opinion on anti-money laundering of investment funds under the AML Act

In its opinion, the CNB specified that the obligated person (investment funds sector) under the AML Act is the administrator, but in some cases, it may also be a manager, an investment company and a non-self-governing investment fund.

Lukáš Šikel | Associate

Remuneration for overtime work only with the consent of the employer

An employee is entitled to remuneration for overtime work only if the employer has clearly given its consent, even tacitly, to such overtime work. If it is up to the employee how to organise and when to perform the work, it cannot be regarded as overtime.

Martina Vodičková | Associate

Amendment to the Addictive Substances Act - cannabis business

With effect from 1 January 2022, the conditions for doing business with cannabis are changing. The legislation is now very favourable for growers and will create a competitive environment. The most significant changes include raising the THC content of medicinal cannabis to 1% and abolishing the selection of growers only in the tender procedure.

Karolína Rehtorovičová | Associate

Withdrawal from purchase contract and right to refund of blocking deposit according to reservation contract

If nothing is agreed in the reservation contract regarding the return of the blocking deposit upon withdrawal from the purchase contract concluded on the basis of the reservation contract, the buyer is not entitled to the return of the blocking deposit from the agent if the agent has fulfilled everything it has committed to in the reservation contract.

Dominika Veselá | Partner





EU

(In)direct effect of EU law

In its preliminary ruling, the CJEU has ruled that a national court deciding on a dispute between individuals is not required to refrain from applying national legislation contrary to EU law if that applicable EU law does not have direct effect.

Barbora Bugová | Associate





Employer's duty of offer

One of the most frequently underestimated obligations in termination of employment by giving notice is the so-called offer obligation (Section 63 (2) of the Labour Code). This is also one of the most common reasons for the court to find a termination to be invalid, because the fulfilment of the offer obligation is a so-called substantive condition for the validity of the termination. Situations where the employer has several vacancies and does not know whether they are obliged to offer the employee all of them or whether offering only one of them is sufficient are especially problematic. The Labour Code does not address this situation, but the case law has concluded that it is not necessary for the employer to offer the employee all suitable vacancies. It is sufficient for the employer to offer the employee only one of several suitable vacancies. However, in the event of similar vacancies, a dispute may arise as to which is most suitable for the employee, particularly in view of their qualifications. For this reason, in the event of similar vacancies it is appropriate to offer the employee all such vacancies to avoid any dispute as to whether the duty of offer has been fulfilled.

Štefan Palkovič | Senior Associate

In brief

Deposits on disposable packaging will be now more transparent

The administrator may dispose of unpaid deposits up to a maximum of 50%. For more, it will need the consent of the Ministry of the Environment, to which it must also submit regular reports on its activities.

Katarína Brath Liebscherová | Senior Associate

A new type of agreement in labour law on the horizon

A parliamentary proposal regarding the introduction of a new law governing employment agreements for the performance of seasonal work is currently undergoing the inter-ministerial comment procedure. For social security purposes, the natural person concerned should be regarded as an employee.

Daša Derevjaniková | Associate



The Ministry of Labour has launched an information website in connection with the introduction of the so-called "kurzarbeit" in Slovakia

The Ministry of Labour has launched the information website www.skratenapraca.gov.sk where employers and employees can find information on how the short-time work system works, who can apply for support, what the conditions for granting it are and what the amount is.

Filip Kozoň | Associate

What is considered overtime work

According to the Supreme Court of the Slovak Republic, overtime work is also considered to be work performed outside normal working hours without an explicit order from the employer, even in the long term. It is important that the employer knows that the employee is working longer and uses the results of their work.

Ján Macej | Senior Associate

New minimum wage from 1 January 2022

The monthly minimum wage at the first level of work intensity is EUR 646. The base minimum hourly wage is EUR 3.713.

Petra Marková | Senior Associate

"Kurzarbeit" law in effect from 1 March 2022

Does not apply to sole traders. The state will partially reimburse employee costs at a maximum of EUR 7.81 / hour in 2022. The following ratio will apply: 60 (state) : 20 (employer) : 20 (employee).

Jana Sapáková | Counsel

Employers can also apply for contributions from the First Aid + project, including measure 3B, for the months of January and February 2022

Only those employers who employ a maximum of 49 employees and have recorded a decrease in sales of at least 40% will be able to apply for contributions from measure 3B in January and February 2022. Depending on the decrease in sales, the amount of the contribution per employee ranges from EUR 450 to EUR 810. The application for January can be submitted until 31 March 2022.

Paulína Šlauková | Associate

Support for renewable energy sources from the Recovery Plan

The Ministry of Economy of the Slovak Republic has published the schedule of calls for the Recovery Plan concerning support for renewable energy sources. The first call is planned for April 2022 and will cover EUR 51 million.

Annamária Tóthová | Partner

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