LEGAL ALERT

SELECTION OF LEGAL UPDATES

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Changes to the Labor Code effective from 1 August 2024 and 1 January 2025

Act No. 262/2006 Coll., the Labor Code (hereinafter referred to as "the Labor Code") was again affected by some changes at the beginning of August. These include changes to the indexation mechanism, the procedure for concluding collective agreements, and adjustments to the minimum wage and guaranteed salary. Also new is a supplement for increased workload of employees in the health care sector.

Also, as of 1 August 2024, the employer is no longer obliged to prepare a written leave-taking schedule (as required under Section 217 (1) of the Labor Code).

As of 1 January 2025, a non-home office employee will also have the possibility (after a written agreement with the employer) to schedule his/her own working hours. It will also be irrelevant whether the employee is an employee with an employment relationship or an employee working under one of the agreements (Agreement to complete a job or Agreement to perform work). It will be possible to terminate the employee's working time arrangement at any time, either by agreement between the employee and the employer or by giving notice (with a 15-day period of notice), which the parties may give without providing any reason.

Corporate sustainability due diligence - the adopted directive and the impact of the German law on Czech entities

In April this year, the EU Corporate Sustainability Due Diligence Directive, also known as CSDDD, was adopted. The Directive entered into force at the end of July 2024 and the Czech Republic now has 2 years to transpose the contents of the Directive into its legal system.

The CSDDD establishes obligations for larger companies regarding actual and potential adverse human rights and environmental impacts related to their own operations, those of their subsidiaries, and those of their business partners in their chains of operations.

In particular, the EU seeks to prevent the promotion of third country (i.e. non-EU) companies that use child labor, exploit workers or cause excessive environmental damage in order to lower production costs. The companies in question will also have to put in place a transformation plan to mitigate climate change. The companies' business model and strategy should be compatible with the transition to a sustainable economy and the efforts to limit global warming to 1.5 °C (as set out in the Paris Agreement).

These obligations will apply to companies (incorporated under the laws of an EU Member State) with more than 1000 employees and a net worldwide turnover of more than €450 million. In addition, these obligations will also apply to companies from third countries (i.e. established outside the EU), if they meet the conditions set out in Article 2(2) of the Directive. This will include, for example, companies with a net turnover of more than €450 million within the EU.

Changes in cybersecurity

At the end of July, the government introduced a draft amendment to the Cyber Security Act (in the form of a new law). It is a response to the so-called NIS II Directive. The deadline for transposition of this directive into national law expires on

18 October 2024, so some haste can be expected regarding its adoption in Parliament.

The main purpose of this regulation is primarily to protect so-called "regulated services", the disruption of which could have an impact on the security of important social or economic activities or security in the Czech Republic. These include, for example, the energy sector, the chemical industry, the financial market or the health sector.

The new regulation should bring, for example:

1) expansion of the number of obliged persons (by expanding the regulated sectors and by adding new regulated services to the existing regulated sectors),

2) a change in the way obliged persons are identified,

3) the addition of new requirements for the implementation of security measures and the process for reporting cyber security incidents,

4) greater accountability of senior management for ensuring cybersecurity or

5) increased fines and new forms of administrative punishment.

The government's proposal also elaborates on the supply chain security vetting mechanism.

Regulated persons will be divided into two groups for the purposes of the law. Regulated service providers that are of significant economic, social or security importance to the country will be in the higher obligation regime. Other providers will fall into the lower obligation regime.

In this context, it is also worth mentioning the so-called DORA Regulation, which was also adopted at the end of 2022 and which overlaps in several areas with the content of the NIS II Directive.

The financial sector should therefore be particularly alert. The DORA regulation (= Digital Operational Resilience of the Financial Sector) will be effective from 17 January 2025. This regulation, which has the same purpose as the NIS II Directive, will apply to almost all financial entities (credit institutions, insurance companies, investment firms and providers of cryptocurrency services).

The EU regulation seeks to ensure comprehensive digital operational resilience of financial entities in the EU. However, it will more significantly affect those entities that have not been overly burdened with obligations under current cybersecurity arrangements (e.g. insurance companies).

The obligations to be introduced include, for example, an incident reporting process, the establishment of internal third-party risk management systems or rules for the establishment of preventive digital operational resilience testing programs. The above-mentioned obligations (and many others) should apply uniformly to all financial entities. In particular, the difference will lie in the scope of compliance (differentiated according to the size of the entities concerned, the nature and complexity of the services provided or their overall riskiness).

Is it possible for the court to consider the alleged investments of the interveners in the immovable property when determining the content of the contract of sale?

The Supreme Court negatively answered this question. In this case the situation was one in which a real estate agent (representing the seller of the real estate) had concluded a contract for a future purchase agreement. The (prospective) purchaser subsequently (and in accordance with the terms of the contract) invited the seller (now the

defendant) to enter into a sale and purchase agreement. However, the defendant failed to do so. On the contrary, he allowed the interveners to live in the property in question, who then went on to invest in repairs and improvements to the property.

The defendant subsequently requested, in the proceedings before the Court of First Instance to determine the content of the contract of sale, that the contract of sale should contain a settlement of the investments made by the third parties in question, which were made only after the defendant had failed to fulfil its obligation to enter the implementation contract when called upon to do so.

The Supreme Court fully agreed with the reasoning of the Court of Appeal, i.e. that the alleged investments made by the interveners in the immovable property could not be considered in determining the content of the implementation (purchase) contract. It follows from the provisions of Section 1787(2) of Act No. 89/2012 Coll., the Civil Code, that the circumstances prevailing at the time when the future contract was concluded are particularly decisive for determining the content of the sales contract. In a situation where the defendant failed to fulfil its obligation to accept the proposal for the conclusion of the contract (based on what it had agreed with the applicant in the future contract) and subsequently allowed the immovable property to be used and repaired by third parties, it is, according to the Supreme Court, precluded from benefiting from this dishonest behavior. Certainly, the costs thus incurred cannot be attributable to the applicant (the purchaser) and there is no reason to take them into account in determining the content of the implementation contract.

(according to the judgment of the Supreme Court of the Czech Republic, Case No. 33 Cdo 2889/2023)

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If you have any questions or need consultation, please do not hesitate to contact us via email at info@sirokyzrzavecky.cz.