

# LEGAL ALERT

## SELECTION OF LEGAL UPDATES

Decemembr 2024



### Relaxation of rules on advertising of prescription medicines?

The Ministry of Industry and Trade is currently preparing an amendment to the Advertising Regulation Act, which could still regulate the provision of information on prescription medicines to the general public. At this moment, under the current legislation, such advertising can only be disseminated to professionals, and only through selected means of communication.

Despite appeals by e.g. patient organisations, this amendment is unlikely to bring significant changes to the advertising of prescribed medicines. After the debate in August, the inter-ministerial comment procedure was concluded, in which most of the comments from the health sector were rejected by the Ministry. The draft amendment, containing only legislative and technical changes, is expected to be submitted to the government and is expected to be discussed in the Chamber of Deputies during January next year. However, in the framework of this discussion, it is still possible to add to the current form of the amendment the requested modification allowing advertising of prescription-only medicinal products for human use.

### Amendment to the Criminal Code: the possibility of imposing penalties prohibiting participation in public procurement for natural persons

The amendment to the Criminal Code, which was submitted to the Chamber of Deputies by the Government at the end of November, proposes that penalties in the area of public procurement, namely the punishment of prohibition to perform public contracts or participate in public tenders and prohibition to receive

subsidies and subsidies, be newly imposed on natural persons.

The amendment is now expected to take effect on 1 July 2025.

### Effect of the absence of a notice of the tenant's right to object to the termination of a lease of business premises on the invalidity of the termination

The applicant, as a tenant, sought a declaration that the termination of the lease of the business premises was unjustified. The applicant argued that the landlord did not include in the notice of termination an instruction on the tenant's right to object to the termination and that the notice of termination was invalid on that ground. That obligation is imposed on landlords by Section 2286 of the Civil Code, which falls under the special provisions on the lease of flats and houses, but not on business premises.

The Supreme Court addressed the question of whether the lack of a notice of the tenant's right to object to the termination results in the (relative) invalidity of the termination of the lease of the business premises, concluding that the notice of termination of the lease of the business premises need not contain a notice of the right to object to the termination and a notice of the right to bring an action to review the validity of the termination. In this case, the absence of an instruction to the tenant does not render the notice absolutely or relatively invalid.

According to the court, it has already been emphasized by previous case law that the regulation on the termination of a lease of premises used for business does not provide for any special requirements for termination of such a lease. It is therefore

sufficient for such a notice to comply with the general requirements of a legal act, in particular the certainty of the legal act.

As far as the termination of a fixed-term lease is concerned, the legislation only requires that the reason for the termination be stated, otherwise the termination is invalid. However, other requirements are not stipulated by the legal regulation and do not result from the provisions of Section 2314 of the Civil Code, which regulates in the context of the lease of business premises the right of the tenant to object in writing to the termination and to file a lawsuit to review the validity of the termination. According to the court, these conclusions may also apply to a lease for an indefinite period.

The purpose of the legislation in question is not to provide increased protection for the tenant, as is the case with some of the provisions of the lease of flats, because in the case of the lease of premises used for business purposes, it is assumed that these premises are at the disposal of entrepreneurs, i.e. subjects who should be more experienced in legal dealings than flat tenants in general, and to whom the law therefore does not grant increased protection in relation to other subjects of legal relations.

*(according to the judgment of the Supreme Court of the Czech Republic, Case No. 26 Cdo 106/2024)*

### **Issues of valorisation of average earnings when providing compensation for loss of earnings after incapacity for work**

In the decision in question, the Supreme Court addressed the question of whether the average earnings that an employee would have earned from the work provided by the employer after an occupational injury or illness within the meaning of Section 271b(5) of the Labour Code are subject to indexation and

whether they must be at least the minimum wage for the period in question.

This was a case in which the plaintiff (the employee) sought payment of severance pay and compensation for loss of earnings following incapacity for work from the defendant (the employer). The claimant had suffered an accident at work, as a result of which he was incapacitated for a long period of time and, as a result of the permanent consequences of that accident, was subsequently awarded an invalidity pension. After being unable to continue to perform any work for his employer (both his previous and newly assigned work) due to his medical limitations, he asked his employer to terminate his employment.

Referring to section 357(1) of the Labour Code, the Supreme Court confirmed that the average earnings that an employee could achieve in the work provided by the employer must follow the development of the minimum wage as its lower limit. Finally, the Court then stated that in the case of application of Section 271b(5) of the Labour Code, not only the average earnings before the damage occurred, but also the average earnings that the employee could have earned in the job that was provided to him are decisive for the calculation of compensation for loss of earnings; therefore, this average earnings are also subject to indexation. If that earnings are nevertheless lower than the minimum wage in the relevant period in which they apply, they must be increased to an amount corresponding to that minimum wage.

*(according to the judgment of the Supreme Court of the Czech Republic, Case No. 21 Cdo 51/2024)*

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If you have any questions or need a consultation, please do not hesitate to contact us via email at [info@sirokyzrzavecky.cz](mailto:info@sirokyzrzavecky.cz).

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