

# PETERKA & PARTNERS

The CEE Law Firm

CEE Newsletter, January 2014



Countries covered

Czech Republic | Slovakia | Poland | Hungary | Romania | Bulgaria | Serbia | Belarus | Ukraine | Russia |

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### **Justice Ministry's Statutory Instruments for Insolvency Legislation**

The Justice Ministry's Regulation No. 397/2013 Sb., amending Regulation No. 311/2007 Sb., on rules of order of insolvency proceedings and the application of certain provisions of the Insolvency Act, as amended by Regulation No. 70/2011 Sb., and Regulation No. 398/2013 Sb., amending Regulation No. 313/2007 Sb., on insolvency administrators' fee and compensation for their out-of-pocket expenses, remuneration to members and substitute members of creditors' committees and compensation for their necessary expenses, as amended by Regulation No. 488/2012 Sb., took effect on 1 January 2014.

The first regulation defines elements of the file record on information admitted or provided by the insolvency court and the reorganisation plan and the obligatory content of the notice of inclusion of items, rights, claims and other property values in the list of the estate and the notice of the application of claims against the estate or claims equal to claims against the estate. The second regulation regulates insolvency administrators' fees in bankruptcy, reorganisation and the discharge of debts and compensation for out-of-pocket expenses incurred by insolvency administrators.

### **The Act on State Budget of the Czech Republic**

Act No. 475/2013 Sb., on State Budget of the Czech Republic for 2014 and an amendment to Act No. 504/2012 Sb., on State Budget of the Czech Republic for 2013, as amended by Act No. 258/2013 Sb., was published in the Collection of Laws on 31 December 2013. The state budget deficit increased from CZK 100 billion to CZK 112 billion.

### **Tax Licences for Companies**

In December 2013 an amendment to the Income Tax Act effective from 1 January 2014 introduces the minimum tax applicable to resident legal entities (Tax License). The Tax License may range from €480 to €2,880 depending on conditions such as the registration of the entity for VAT and revenues. Newly established companies will be exempt from Tax Licenses in the first year of their business activities.

### **Collective Agreements of a Higher Degree**

National Council of the Slovak Republic broke the presidential veto and re-adopted an amendment to Act No. 2/1991 Coll. on collective bargaining which substantially restricts freedom of employers with more than 20 employees. From January 1, 2014 the employers lost their right to disagree with extending the binding of collective agreement of a higher degree.

The Extension of the collective agreement of a higher degree may occur upon a decision of the Ministry of Labor. Therefore if the collective agreement in company provides employees' standards to a lesser extent than collective agreement of a higher level, the employer will be obliged to provide employees with these higher standards.

### **Electronic Mailbox**

From January 1, 2014 every adult Slovak citizen has own electronic mailbox on the Central Public Administration portal [www.slovensko.sk](http://www.slovensko.sk). Therefore it is currently created around 4,5 million mailboxes. Electronic mailboxes are designed to enable electronic communication of citizens and entrepreneurs with public administration. Access to electronic mailboxes for all Slovak citizens is a further step to the setting up of electronic communication as the preferred form of communication between individuals and the public authorities.

### **Standardised Models of Official Documents to further facilitate Entrepreneurship**

The Polish Government has recently put into place a programme for the standardization of documents in administrative proceedings. This should allow for further digitalization and facilitation of administrative proceedings related to starting up and conducting economic activity by entrepreneurs. Entrepreneurs will choose between filing a standard set of paper documents and submitting them electronically via the Electronic Platform of Public Administration Services (Polish abbreviation: ePUAP).

### **Time for Commencing Economic Activity will be shorter by almost 17 Days**

According to a proposed law adopted by the Government, the time necessary for effectively commencing economic activity will be shortened by almost 17 days. Thanks to automatic exchange of information, the tax ID number, allowing for issuing invoices, will be granted immediately upon registering with the National Court Register. In practice this should allow for the effective registration of a LLC within 7 days of filing the motion to register.

### **Proposed Law on Renewable Energy Sources finalized at the Ministry of Economy stage**

A proposed law focuses on a new system of support for producers of energy from renewable sources. Production of energy will be subsidized through an auction system – the producer which offers the lowest price of such energy, will receive a guarantee of its purchase for up to 15 years. Such auctions will take place once a year. Small producers (installations under 1 MW) will have at least a 25% share in each auction. The costs for the whole subsidized system will be passed on to users via an “RES fee”. The proposed law should come into effect at the beginning of 2015.

### **Discrimination against Mothers who are leading-position Employees ended**

The continuous fine-tuning of the new Hungarian Labour Code introduced in 2012 is still not complete. The newest amendments are concealed in an Act modifying over 180 different Acts pursuant to the new Civil Code. The changes affect female employees working in what are defined as “leading positions” and at the same time engaged in, or preparing themselves for, the role of motherhood.

Currently, the provisions of the employment contract of such a leading-position employee could freely deviate from any of the restrictions of the Labour Code. This wide scope could lead to unreasonable slights in regards to some material restrictions in connection with some protected rights of women, especially mothers. Some of those restrictions, which are naturally significant for the regular workforce, will now be imposed also on leading-position employers.

From the 15 March 2014 on, parties are, for example, not allowed to deviate from the provision regarding the termination of the employment by the employer, which prohibits termination during paid or unpaid parental leaves. Also, in an employment contract, it will no longer be allowed to include the possibility of instructing mothers with a child under three years of age to work during the night.

Due to the fact that these protective changes, restricting both parties, only affect employees in leading positions, the changes are presumably less focused on employees generally being at the mercy of employers, but rather on strengthening and protecting the maternity rights of well-to-do female employees, who are perhaps battling workaholic work-place attitudes.

### **Amendments to Government Emergency Ordinance no. 102/2013 regarding the Amendment to Law 571/2013 approving the Fiscal Code**

As of 1 January 2014 certain amendments to the Fiscal Code have come into force, among which we would like to mention:

An increase to the level of excise tax, indexed to the rate of inflation;

An amendment of the VAT payment mechanism for cash collection beginning 1 January 2014 (i.e., VAT for cash collection became optional);

The introduction of a payment requirement for social security obligations for persons who obtain income from rent, beginning 1 January 2014;

An exemption from land tax by local councils for the owners of degraded or polluted land that has not been included within a perimeter of improvement (with prior favourable approval of the Ministry of Agriculture and Rural Development and the Minister of Environment and Climate Change), beginning 1 January 2014.

### **Amendment of the Thresholds used for Public Procurement Procedures**

A new EU regulation, EC Regulation no. 1336/2013 (Regulation 1336/2013) regarding the amendment of the thresholds used for the attribution of awarding contracts for public works or services has been adopted. It provides, inter alia, the following:

Announcements regarding participation and awards should be published with the Official Journal of the European Union; and

The applicability of the public procurement procedures for contracts that are financed with more than 50% by a contracting authority.

The amended thresholds are as follows:  
for work contracts, from 5,000,000 euro to 5,186,000 euro;  
for services contracts, from 200,000 euro to 207,000 euro.

Regulation 1336/2013 is applicable to all EU member states and entered into force on 1 January 2014.

### **Special Employment Contracts for Interns in Bulgaria**

An amendment to the Bulgarian Labour Code introduced to the National Assembly by the Bulgarian Government focuses on new guidelines for internship contracts. This change is motivated by the necessity of supporting the employment of young people. At present, the internship contract has no explicit legal regulation which, in practice, leads to different approaches. It is anticipated that the internship contract will have the status of a special kind of employment contract.

According to the draft of the law, young people up to twenty-nine years of age who have no experience in a particular field could be recruited by virtue of an employment contract. Such a contract could be concluded with one person, only once, and could have the duration of at least one, and up to nine, months.

It is envisaged that the intern would have a mentor to supervise and support him/her throughout the learning and working process. The mentor shall have at least three years of relevant experience. Successful completion of the internship would be proven through an examination. A respective certificate issued by the employer is to be granted to the intern.

Currently in Bulgaria internships without monetary compensation are very common. In this respect a very important innovation will be the right of remuneration of the intern. The amount of this remuneration shall be negotiable but the draft of the law stipulates that the minimal remuneration due shall not be less than the respective minimum wage of the country. As of 1 January 2014, the minimum wage in Bulgaria has been increased and is now BGN 340 (approximately EUR 170).

### **Serbian Insurance Act to be amended soon**

Amendments to the Serbian Insurance Act will be adopted soon. One of the most important novelties will be the obligation of insurance companies to separate life and non-life insurance activities; also, the market of (re-)insurances for natural disasters such as floods, droughts and earthquakes will be liberalised in line with Serbia's obligations accepted when joining the World Bank project related to re-insurance against natural disasters. The amendments are expected to be elaborated and presented to the Serbian Parliament for adoption by the end of Q2 of 2014.

### **Curfew as new Sanction**

Curfew will be introduced in Serbia's system of sanctions as a new "alternative sanction" (alongside the already applicable community service and probation). At this, a new regulation on curfew will be adopted soon and special enforcement and surveillance bodies will be established gradually in about 15 cities throughout Serbia. The introduction of curfew as an alternative sanction for minor criminal offences will generate considerable savings in the State budget (as alternative sanctions are less expensive than maintaining convicts in prisons) and optimise re-integrations of criminals into society.

### **Serbia's moves towards WTO Membership**

Recent amendments to Serbian Acts regulating genetically modified organisms and excise duties levied on alcohol make accession to WTO membership faster. Especially in terms of GMO's, a number of restrictive provisions of Serbian legislation are removed, entailing a liberalization and further transparency of the Serbian market.

### **Tax Law Changes**

As of 2014, advocates and notaries can use the simplified tax system (STS). Some entrepreneurs, on the contrary, will be deprived of this opportunity. Those entities which transfer property rights on trademarks, licenses, and service marks will be unable to use STS.

The reduced rate of 2% for companies which use STS (applicable to the revenue from sales outside Belarus of goods, property rights, intellectual property) in the implementation of export has been canceled. Payment of income tax: in 2014, instead of bonus depreciation in costs accounted for, taxation can include investment deduction. This is calculated as a percentage of the original value of fixed assets, as well as formed in the accounting value of investments in fixed assets in connection with their reconstruction, modernization and restoration.

The reporting period for income tax from January 1 of the calendar year has been changed to reporting quarterly.

The tax on imputed income will be applied to the smallest of organizations providing services for the maintenance and repair of vehicles. The base will be the imputed income established in legislation plus the exceeding of that temporary income fixed by legislation.

A new kind of control – the observation chronometer method was introduced. The introduction of this method is aimed at strengthening the control of business entities that operate in the field of catering, consumer services and medical services. The principles for determining the selling price of goods for tax purposes has been fixed.

Foreign trade transactions for the sale of goods are subject to tax control if the price of the transaction (with one entity/individual) is greater than 60 billion BYR during the calendar year and deviates by more than 20% of the market price on the date of sale.

### **Law on Additional Measures to Protect the Security of Citizens**

On 17 January 2013, the President signed Law No. 721-VII “On Amendments to the Law of Ukraine ‘On Judiciary and the Status of Judges’ and Laws of Procedure Regarding Additional Measures to Protect the Security of Citizens”. The law maps out administrative liability for participation in meetings, demonstrations and other public events in masks, helmets and other methods of disguise, criminal liability for slander, and toughens the liability for intentional failure to obey a court decision that came into force. The law states that provision of access to the Internet is subject to licensing and that telecommunications operators may limit access to Internet resources to its subscribers on the basis of the decision of an authorized body where the dissemination of certain kinds of information is concerned.

### **Criminal Proceedings in Absentia**

On 17 January 2013, the President of Ukraine signed Law No. 725-VII “On Amendments to the Criminal Procedure Code Regarding Criminal Proceedings in Absentia”. The law provides the possibility of conducting criminal proceedings without a person who has avoided arrival to a pre-trial investigation or trial.

### **Criminal Liability for Denial or Attempted Justification for the Crimes of Fascism**

On 17 January 2013, the President signed Law No. 729-VII “On Amendments to the Criminal Code of Ukraine Regarding Liability for Denial or Attempted Justification for the Crimes of Fascism”. The law determines that public denial or attempted justification for the crimes of fascism, and production or the distribution of materials which attempt to justify fascist crimes are subject to criminal liability.

### **Changes to the Russian Notaries Act**

Federal Law No. 379-FL, of 21 December 2013, amends articles of Fundamental Principles of Legislation of the Russian Federation concerning Notary Services (the Russian Notaries Act). This law adds new provisions for a Single Notary Information System to the Russian Notaries Act. This new system is an automated information system owned by the Federal Notary Chamber, intended for automation of data collection and processing of information on notary activity. The Law prescribes that for notarization with electronic documents and transferring data to the Single Notary Information System, the notary uses a certified digital signature, and that notary activity can be completed on the basis of an electronic document signed with the certified digital signature of a person who has applied for the notary’s services.

### **Liberalization of Antitrust Laws: Exceptions for Notification Procedures for a Number of Economic Concentration Transactions**

Federal Law No. 423-FL “On Amending the Federal Law ‘On Protection of Competition’” shall come into force on 30 January 2014. This law eliminates the need to notify the antitrust authority on transactions (operations), except for a number of intra-group transactions. Now, certain intra-group transactions will not require any notification given to, or consent from, the antitrust authority. An example of such a transaction would be a transaction between a parent company and its subsidiaries in which it owns directly or indirectly more than 50% of shares (stakes).

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