Employment Law Newsletter

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Draft Labour Codes – the Labour Code and the Collective Labour Law Code

In March 2018, the Codification Commission ended its work on the new draft labour law codes, i.e. the Labour Code (covering individual labour law) and the Collective Labour Law Code. The drafts include, among others, changes in: granting vacation leave; modifying the employment agreement system; and shortening the payment period of sick pay.

The draft Act provides for the unification of vacation leave – every employee will be entitled to annual vacation leave of 26 working days. It also reverts to the regulations enabling the use of outstanding vacation leave only until the end of March (currently, any outstanding leave should be used up until 30 September of the following year). If the vacation leave is not granted within the specified deadlines, the right to the vacation leave expires and the employee is entitled to compensation.

Moreover, the introduction of three new types of employment agreements is being proposed (agreements: *(i)* for the duration of occasional work; *(ii)* for the duration of seasonal work; and *(iii)* for the duration of work based on a non-permanent agreement), as well as new rules for cooperating with the self-employed.

The draft Act on Employee Capital Plans

The draft Act on Employee Capital Plans (**PPK**) was made public on 15 February 2018. The aim of the PPK is to accumulate savings that will be paid to participants after they reach the age of 60. The PPK system will be universal; however, there are several exceptions, in particular for employers who run Occupational Pension Schemes (**PPE**) and pay contributions to such schemes of at least 3.5% of an employee's remuneration. Participants will be automatically registered to the PPK; however, they have a right to opt-out. The draft Act is currently at the consultation (evaluation) stage.

Shortening the period employee documentation is held from 50 to 10 years

In February 2018, the President signed the Act Amending Certain Acts in Connection with Shortening the Storage Period of Employee Files and their Electronisation. The Act shortens the period employee documentation is to be held to ten years, counted from the end of the calendar year in which the employment relationship ended. The shorter period applies to all employees hired after the effective date of the Act, i.e. after 1 January 2019. The documentation of employees hired from 1 January 1999 to 31 December 2018 must still be kept for 50 years. However, the employers will have the possibility to shorten the retention period to 10 years.

The Act also allows employers to keep and store employee documentation in an electronic form. Moreover, it introduces a general rule of payment of remuneration to the employee's bank account.

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CJEU judgment – stand-by times at home are classified as working time

In its judgment of 21 February 2018 (C-518/15), the Court of Justice of the European Union stated that stand-by time during which a worker spends time at home with the duty to respond to calls from his employer and reach his place of work within 8 minutes must be regarded as 'working time'. It was indicated that the determining factor to classify 'working time' (within the meaning of Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time) is the requirement that the worker be physically present at the place determined by the employer and to be available to the employer. The situation is different where the worker performs a stand-by duty which requires that the worker be permanently accessible without being required to be present at the place of work. In those circumstances, only time linked to the actual provision of services must be regarded as 'working time' within the meaning of Directive 2003/88.

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