



Legal update

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The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics listed in this bulletin should be consulted before any investment decisions are made.

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Disguised employment mediation

The fines now also apply to client of work

The offence of disguised employment mediation was implemented into the Czech legal system in 2017, so it is still a relatively new institute. The Employment Act defines it as an activity consisting in hiring labour to another person without meeting the conditions for employment mediation.

In practice, disguised mediation occurs especially in cases where the company needs a new workforce quickly. In these situations, the company wants to cover a certain activity by ordering a service, i.e. it concludes a contract with another (supplier) company, for example, a contract for the provision of IT services. In such a case, this supplier company should itself give instructions to its employees who provide the service so that they perform the relevant work respectively the relevant service according to the conditions specified by the customer. If this does not happen, and this supplier company actually lends its employees to the client, i.e. the employees work on the client's instructions and at the same time meet other features of dependent work, the factual basis of disguised employment is fulfilled.

In this respect, it is problematic that paid employment mediation can be performed only by employment agencies on the basis of a permit issued by the General Directorate of the Labor Office under the fulfillment of other legal conditions.

It may not be worthwhile to succumb to the vision of quickly and easily recruited "employees" through disguised employment, as labour inspectorates are relatively active in their control activities.

After the amendment effective from 2 August 2021, the Employment Act newly extends the offence of disguised employment to the client as well. The amount of the fine, which can be imposed on both the supplier and the client, can be up to **CZK 5,000,000** in the case of a natural person. In the case of legal entities (which will probably be a more frequent situation), the fine can reach up to **CZK 10,000,000**, while the lower limit of the fine is **CZK 50,000**.

At this point, it is therefore appropriate to check the already concluded contracts with suppliers and subcontractors of labour and to verify whether there is no disguised placement through these contracts. In the case of using an employment agency, it is then appropriate to verify whether the agency is indeed an employment agency within the meaning of the Employment Act and whether it meets all legal requirements for the operation of this activity.

Extension of paternity leave

Implementation of work-life balance into Czech law

The Chamber of Deputies approved an [amendment](#) to Act No. 187/2006 Coll., On Sickness Insurance, as amended. The amendment will now be dealt with by the Senate. This is a proposal from a group of Members responding to Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on the work-life balance of parents and carers and repealing Council Directive 2010/18 / EU. The amendment regulates long-term nursing, nursing and benefits of paternal postpartum care.

One of the changes introduced by the amendment is the adjustment of the paternity postpartum care benefit (so-called "paternal"). It will be newly extended from 7 to 14 days. Another novelty is that the period of 6 weeks from the date of the child's birth or taking it into care, in which the paternity can be taken, can be extended by the days on which the child



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was hospitalized so that the child's father could make the most of the purpose of this benefit, namely child care. The rules for obtaining paternity remain the same. The applicant must be registered as the father of the child. Furthermore, such a person must participate in sickness insurance on the day of joining paternity, which is paid by the employer under social insurance (in the case of employment). For work performed outside the employment relationship, it is important to keep in mind that the employer pays for health insurance only when a certain earnings limit is exceeded (for an agreement on the performance of work it is CZK 10,000, for an agreement on work activities it is CZK 3,500). The right of self-employed persons to paternity benefits then arises if the father voluntarily paid sickness insurance 3 months before joining paternity.

The application for the paternity postpartum care benefit is submitted via a [form](#) of the Czech Social Security Administration. The benefit is paid retrospectively.

New building act

The recodification will bring, among other things, a new system of building authorities

On July 29, 2021, a new Building Act was published in the Collection of Laws under No. 283/2021 Coll. Its individual parts will take effect gradually until 1 July 2023, when the last part of it will take effect.

One of the fundamental changes brought by the new Building Act will be the new system of building offices based in Ostrava. At their peak will be the Supreme Building Authority. Furthermore, the so-called specialized and appellate office will appear in the newly emerging system. However, the cornerstones of the entire system are to be regional authorities with their territorial offices. In order to ensure the operation of the new system of building authorities, it will then be necessary to transfer officials from the current building offices to a new structure, which will be managed by the state.

Decisions within the construction procedure will be taken by more authorized persons within this integrated system, and therefore it should not be necessary to process other documents for the construction procedure (e.g. in the field of hygiene or the environment) through separate procedures. However, the adoption of the new law failed to achieve full merger, as some permits (e.g. the opinion of the fire brigade, the statements of the mining authorities) will still need to be obtained at a specialized office.

The fact that the appellate building authority will not be able to return the contested decision to the lower authority, but will have to make a final decision on the matter, should also help speed up the construction procedure.

It will be possible to submit all applications electronically. Spatial planning documentation will also be in electronic form and its selected parts will have a so-called uniform standard. From 2023, the Builder's Portal should also operate, in which it will be possible to identify oneself with the help of the so-called National Identity Authority. The changes will also affect the so-called black buildings, for which it will no longer be possible to obtain an additional building permit.

A new form of ID cards

The changes will affect the recorded data

New Act on Identity Cards No. 269/2021 Coll. entered into force on 2 August 2021, and from that date the authorities began to issue identity cards under this new law.

The new legislation follows Regulation (EU) 2019/1157 of the European

Parliament and of the Council on strengthening the security of Union citizens' identity cards and residence permits issued to Union citizens and their family members exercising their right to free movement. The new law therefore introduces, among other things, rules to strengthen the security of EU citizens' identity cards. Newly issued ID cards thus contain biometric data compared to older ID cards, which should make it more difficult to forge identity documents and at the same time biometric data ensure that the ID card can continue to serve as a travel document within the Schengen area and as an identity document outside the Czech Republic. It will be possible to travel with identity cards issued on the basis of previous legislation until the end of their validity.

A face and two fingerprints will be recorded on the identity card as a biometric for the holder. Biometric data will be stored in the information system only for a period of 90 days, due to possible complaints, then they will be deleted from this system and will thus remain recorded only on the identity card.

On the other hand, the academic title of the holder and any scientific degrees will disappear from the newly issued identity cards. Since the end of 2023, we will not find a birth number on our ID cards.

It will be possible to process an application for the issuance of an identity card or its receipt both at the municipal authorities of municipalities with extended powers and at authorized embassies. It will also be possible to apply for an identity card outside the office of the filing office, in the event that serious health problems, restrictions on personal liberty or other serious reasons prevent the applicant from appearing in person at the office.

For persons over 15 years of age, the document is valid for 10 years. For children up to 6 years of age, the validity period will be extended from the current 2 years to 5 years and will thus be uniform for all persons up to 15 years of age. For persons over 70 years of age, the document will be valid for 35 years. When receiving a new ID card, the citizen is obliged to surrender the existing ID card, which will be invalidated by the administrative authority. At the request of the citizen, the administrative authority will then retain the depreciated ID card for the holder.

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