

PETERKA PARTNERS

THE CEE LAW FIRM

NEWSLETTER 03/2020

Czech Republic Slovakia Ukraine Bulgaria
Russia Poland Romania Belarus Hungary

NEWS

FROM PETERKA & PARTNERS



PETERKA & PARTNERS launches Turkish Desk

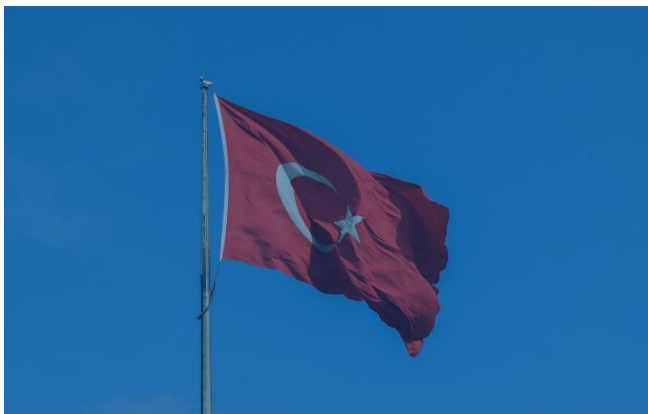
Considering the developing relations between CEE and Turkey, PETERKA & PARTNERS has established a specialized desk focused on such cooperation.

Our Turkish Desk offers comprehensive legal assistance both to Turkish businesses currently operating in the CEE region or new market entrants, as well as to CEE companies expanding to Turkey. This “two-waystreet” process is supported by our “one-stop-shop” approach which helps our clients have their legal services coordinated by the desk regardless of the jurisdiction.

The Turkish Desk will include experts from all of our offices and assistance may be provided under the law of the various jurisdictions in the CEE region where PETERKA & PARTNERS operates, and further, we may cover matters with cross-border implications or origins. Support will be provided in all of the languages used by PETERKA & PARTNERS offices.

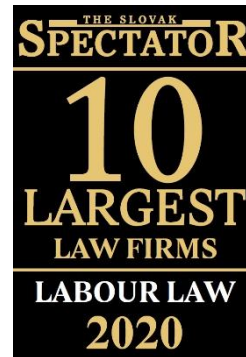
Please do not hesitate to contact our Turkish Desk at the following address: kanev@peterkapartners.bg

You can find more information at [this link](#).



PETERKA & PARTNERS among ten largest law firms in Slovakia

We are proud to announce that in this year’s ranking prepared by The Slovak Spectator, PETERKA & PARTNERS Slovakia has once again been ranked among the ten largest law firms and ten largest international law firms in Slovakia, as well as in a new category, Labour law: 10 largest law firms. We sincerely thank our colleagues on the Bratislava team and all of our clients.



UPCOMING PETERKA & PARTNERS WEBINARS

PETERKA & PARTNERS organizes webinars at its offices on legal topics covering various jurisdictions.

You may look forward to seminars on currently hot topics in tax and labour law as well as in other areas of the law.

Please check our website and LinkedIn profile so as not to miss the latest updates.

LEGAL

NEWS



CZECH REPUBLIC

New state of emergency

On 5 October 2020, a state of emergency was declared in the Czech Republic for the second time because of COVID-19, this time for 30 days (but with the possibility of prolongation). Some measures adopted already before the state of emergency was declared have been gradually supplemented by others, concerning, for example, restrictions on cultural and sporting activities, the operation of restaurants, teaching, etc.

“Kurzarbeit”

The government has approved a draft amendment to the Employment Act, which should introduce “Kurzarbeit”. In the event of serious economic difficulties, this is intended to enable jobs to be maintained and, for a transitional period, to help Czech companies and their employees. The bill passed the first reading in the Chamber of Deputies and will be amended; it could apply from 1 January 2021.

Antivirus and COVID-Rent Programmes

The Antivirus Programme designated for employment protection and its regime A was prolonged until 31 December 2020, the regime B remains in force until 31 October 2020. Given the seriousness of the current situation, a further extension may be made. On 30 September 2020, the COVID-Rent Programme, entitling lessees to a rental discount, ended. Although CZK 5 billion was reserved for COVID-Rent, 18,720 applications were accepted for a total of "only" CZK 2.6 billion, i.e., 50-65% of lessees applied for a discount.

Remuneration of employees performing work in different regions

According to the judgment of the Supreme Court 21 Cdo 3955/2018, dated 20 July 2020, from the point of view of the principle of equal remuneration, the socio-economic conditions and corresponding costs of living in the place where the employee performs work for the employer are not significant when assessing whether it is the same or equal work. For the same work, but performed in different regions, employees are entitled to the same remuneration.

Statutory employer's liability insurance and factual relationship

According to the judgment of the Supreme Court 21 Cdo 2124/2018, dated 26 November 2019, damage caused by an accident while performing work in a factual (and not employment) relationship is not covered by the statutory employer's liability insurance for damage in the event of an accident at work or an occupational disease.

New Screening of Foreign Investments Act

Based on EU legislation, a new act is being prepared in the Czech Republic to establish a mechanism for verifying foreign direct investments which are in fact carried out by investors from countries outside the European Union and which may pose a risk to the security interests of the Czech Republic. The bill is now being amended in the Chamber of Deputies and could apply in the last quarter of 2020, or the first quarter of 2021. However, three provisions on cooperation from the Ministry of Industry and Trade have been in force since 11 October 2020.

Amendment of Criminal Code

As of 1 October 2020, an amendment to the Criminal Code came into force, introducing several changes that should simplify the work of courts, judges and prisons. One of the most fundamental changes is the change to the classification of theft, which has thus far been a crime if the damage was in the amount of at least CZK 5,000. Today, theft is a crime if there is damage in the amount of at least CZK 10,000. If the amount is lower, it is classified as an offence.

* * *

You can find more COVID-related legal information and updates in the section dedicated to COVID-19 on our website.

SLOVAKIA

Major amendment to Commercial Code effective from 1 October 2020

With effects from 1 October 2020, a major amendment to the Slovak Commercial Code and the Act on the Commercial Register introduced significant changes as well as new obligations that certain entrepreneurs are obliged to fulfil by set deadlines. For further information, please visit the [link](#).

New options for how to increase registered capital of limited liability company

A limited liability company may use its undivided profit or other company resources, the use of which is not regulated, to increase registered capital. A decision on an increase of registered capital must be based on an ordinary individual financial statement not older than six months, and it no longer needs to be audited.

Anti-Money Laundering Act takes into account digital currency

New provisions of the Anti-Money Laundering Act include the regulation of newly obliged persons. Due to the introduction of virtual currencies onto the Slovak market, providers of digital wallets and providers of digital currency exchange points have been included among obliged persons and definitions related to virtual currencies have also been added.

New gambling regulation not in favour of casinos

An amendment to the Gambling Act introduced the possibility for cities to adopt a generally binding regulation stipulating that no casino may be located within 500 metres from certain establishments, e.g., schools. Cities no longer need a petition from residents of the city to prohibit, for example, the placement of casinos in certain buildings.

Simplified energy audit

According to the amended Act on Energy Efficiency, in force from 21 July 2020, if a “major company” can prove a decrease in energy consumption, it is not obliged to have a new energy audit but may simply request confirmation of an update of the previous audit (which will be valid for 4 years). The opportunity to follow such simplified procedure instead of conducting a standard energy audit is motivation for major companies to save energy.

UKRAINE

Changes to legislation on intellectual property

On 21 July 2020, Law No. 815-IX on Strengthening the Security and Protection of Rights to Trademarks and Industrial Designs was adopted. The Law is aimed at ensuring the fulfilment of Ukraine's obligations in regards to European integration.

New financial instruments introduced

On 16 August 2020, the Law on Introduction of New Financial Instruments became effective. The Law eliminates a number of problems adversely affecting the development of capital markets in Ukraine.

New rules for use of electronic money

On 15 September 2020, Resolution of the National Bank No. 133 amending the Regulations on Electronic Money became effective. It modernized the regulation of the electronic money market and harmonized it with the legislation of the EU in the field of financial monitoring.

Supreme Court ruled on invalidity of land lease

On 30 July 2020, the Supreme Court ruled that a lack of essential conditions in the land lease agreement may qualify as a ground for its invalidity only in the case of violation of the rights, freedoms or interests of the person who filed the respective invalidity claim.

BULGARIA

New rules on payment of dividends by publicly listed entities

On 16 September 2020, a new ordinance regarding the work of the Central Depository issued by the Financial Supervision Commission came into force. The new legislation prescribes, among other things, how publicly listed companies and other issuers of securities should make payments of dividends, interest and other payments through the Central Depository.

New shared platform for company and property register now available

Since July 2020, the company register and the property register in Bulgaria are accessible through one common platform at the following web address <https://portal.registryagency.bg/>. In order to have full access to all of the functionalities, users need to sign up and be identified through one of the following means: electronic signature, personal identification code provided by the National Revenue Agency, or a certificate issued by the Registry Agency.

Draft amendments regarding use of videoconferencing in various proceedings

Draft amendments regulate the use of videoconferencing for procedural steps for civil, administrative and criminal proceedings. Among the most important aspects concerned are language interpretation and collection of evidence through videoconferencing. This is a major step towards making court proceedings in Bulgaria faster and more efficient.

RUSSIA

Geographical Indication

On 27 July 2020, amendments to the Civil Code of the Russian Federation came into force which allow registration of geographical indication (GI). The new amendments are aimed at providing legal protection in Russia to foreign manufacturers which have registered the geographical indication in the country where the goods have been produced. The Federal Executive Authority for Intellectual Property issued the Guidance on Registration of Geographical Indications and Appellation of Origin (<https://rospatent.gov.ru/>).

Persons without legal education can represent companies in court

The Constitutional Court has ruled to allow employees, directors and other representatives of companies, without a legal education, to represent their companies in State Commercial Courts. According to the Constitutional Court Decision, current law does not imply restrictions on the right of an organization to entrust the representation to a person related to it, in particular to its founder (participant) or an employee, who does not have a higher legal education or academic degree in law.

“On Digital Financial Assets” Law

On 31 July 2020, Federal Law No. 259-FZ "On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation" (hereinafter – the Law) was published. The Law regulates relations arising from the turnover of digital currency in the Russian Federation, as well as relations arising from the issuance, accounting and circulation of digital financial assets, certain aspects of activities of information system operators and operators of exchanges of digital financial assets. The Law comes into force on 1 January 2021 (with the exception of certain provisions).

Prolonged moratorium on insolvency

On 7 October 2020, the Government prolonged the moratorium on insolvency for another three months. The moratorium applies to organizations and individual entrepreneurs, whose main activity, as of 1 March 2020, is included in the list of industries affected by COVID-19.

POLAND

New construction law – maximum of 5 years to declare building permit invalid

On 19 September 2020, the newly adopted provisions of the construction law came into force. The new law provides that after five years from the date of issuance of the decision on the construction permit, such decision cannot be declared invalid by the authorities. Prior to the introduction of the new law, such decisions were subject to the examination of their validity even after ten years of their issuance.

Registration of project contracts

From 1 January 2021, each entity ordering a project shall be obliged to inform the Social Security Institution about the conclusion of any project contract with a person with whom there is no employment relationship.

The Social Security Institution shall be informed no later than within seven days after the conclusion of a contract. This information will be passed on to the tax authorities in order to check whether the tax has been properly paid.

Reimbursement of overpaid social security contributions

If an entrepreneur registered an overpayment in social security contributions, then on the basis of the Anti-CrisisShield 1.0. it was not exempted from contributions for a full three months (March, April, May 2020). The Social Security Institution recognized the previous overpayments towards current contributions and applied the exemption only to the remaining amount due. In accordance with the latest regulations, the Social Insurance Institution will release entrepreneurs for the full three months, and any previous overpayments may be recognized towards future contributions or be returned at the payer's request.

ROMANIA

New condition regarding enforceable titles

As of 11 September 2020, according to Law 196/2020, documents under private signature that are validly concluded and qualify as enforceable titles can be enforced only after being registered with the National Register for Movable Property.

New rules for companies

According to Law 102/2020, as of 5 July 2020, a natural person/legal entity can be a sole shareholder in more than one limited liability company and a limited liability company can have another limited liability company as sole shareholder even if the latter consists of one person.

New conditions for sale and purchase of certain agricultural land

As of 13 October 2020, new conditions for the sale and purchase of agricultural land outside of built-up areas will be introduced through Law 175/2020.

Additional supporting measures for employees

According to Emergency Ordinance 132/2020 On Supporting Measures for Employees and Employers During SARS-Cov-2 and for Increasing Employment, as of 10 August 2020, there are new provisions on the temporary reduction of activity, and teleworking.

New measures meant to ensure equality and non-discrimination at workplace

Law no. 151/2020, amending Law 53/2003 – the Romanian Labour Code, introduced new measures for ensuring equality and non-discrimination at the workplace, effective as of 27 July 2020.

BELARUS

Changes in Labour Law

From 28 June 2020, an employer shall reimburse employees for the costs of a preliminary mandatory medical examination upon employment. The labour legislation also newly defines the specifics of labour protection for homeworkers.

Belarusian Medicines with Quality Certificate

On 20 November 2020, the Regulation On the Procedure for Issuing a Certificate of a Pharmaceutical Product for International Trade comes into force. Belarusian companies receive a certificate for a medicine intended for industrial production for export, in order to register it in those countries whose legislation requires the submission of such a document.

New International Convention Ratified

On 10 July 2020, the Republic of Belarus ratified the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health.

System of Registered Exporters

Legal entities and individual entrepreneurs of Belarus that will export goods from the customs territory of the Eurasian Economic Union to the territory of Norway or Switzerland have the right to apply to the Belarusian Chamber of Commerce and Industry for registration in the system of registered exporters used in these countries.

HUNGARY

HETA issues guidance on air passengers' rights

The Hungarian Equal Treatment Authority (HETA) are the competent authority to examine applications for the enforcement of damages from disabled persons and persons with reduced mobility traveling by air, if the legal basis for their compensation is based on the fact that they were treated differently due to their disabilities.

New opening hours for restaurants/catering businesses/bars in order to decrease COVID-19 infections

Pursuant to a newly-introduced regulation, no one is allowed to be present between 11 pm and 6 am in restaurants/catering businesses/bars, except for the employees of such enterprises. An exemption from the aforementioned rule is staying in such premises for the purpose and for the duration of (i) ordering and receiving food for take away, or (ii) for paying the purchase price.

Based on COVID-19 lockdown experience, Hungarian government aims at introducing new teleworking regulations

The Hungarian government is allegedly working on an amendment to the Labour Code with a focus on teleworking (home office) rules. Details are currently unknown, but likely such amendment would finally introduce not only a definition for teleworking, but detailed flexible regulations.

Retailers required to introduce electronic payments for customers as of 1 January 2021

Customers shall be able to pay for products and services by credit or debit cards, mobile phones or instant payment methods instead of cash. This change is aimed at both making the life of customers more comfortable, and reducing cash transactions and black-market sales.

Anonymous Public Procurement Authority information channel launched in September 2020

A new channel provides an opportunity for anyone to share information anonymously with the Public Procurement Authority regarding alleged or actual breaches of public procurement rules. This new channel augments but does not replace the currently effective whistleblowing process.



TAX NEWS

CZECH REPUBLIC

Abolishment of real estate acquisition tax

The bill to abolish the tax has a retrospective effect. No tax is paid on acquisitions when the ownership right was entered into the cadastral register in, and after, December 2019. In most cases, the tax rate was four percent of the agreed price and this significant savings may help to improve the real estate market.

Loss carryback

In general, tax losses may be carried forward for up to 5 years. Now, tax loss recorded in 2020, may be off-set against corporate income tax liabilities for 2018 and 2019 (subject to conditions). Based on this revolutionary measure, taxpayers may claim back tax paid for 2018 and 2019.

Proposed changes to taxation

Abolition of super-gross salary

Since 2008, the tax on employment income has been calculated based on super-gross salary, which is the gross salary increased by social security and health insurance contributions payable by the employer. No other country has this criticized, and complicated, concept. A new proposal abolishes this concept, and the 7% solidarity tax surcharge, and introduces a first rate of 15% and a second rate of 23% applicable to income exceeding a cap.

Shorter depreciation periods

There will be a reduction of some tax depreciation periods to 12 and 24 months, double the limit for treating an investment as a tangible asset, and abolishment of intangible assets for tax purposes. To reboot the economy, new depreciation rules have been proposed. The shorter extraordinary depreciation periods apply to certain assets acquired in 2020 and 2021.

SLOVAKIA

DAC 6 – postponement of notification obligation

The notification obligations arising from Act no. 442/2012 Coll. on International Assistance and Cooperation in Tax

Administration, which implements the EU Directive on Mandatory Exchange of Information (DAC 6) into Slovak law, have been postponed due to the COVID-19 pandemic. The obligation applies to entities using cross-border schemes to optimize taxes. Entities must report to the financial administration information on cross-border measures that pose a risk of tax avoidance. The notification obligation is postponed from 1 July 2020 to 1 January 2021. Information on a specific measure shall be provided through the financial administration portal, where the necessary forms are available.

Prolongation of period for statement of taxpayer

Since 21 July 2020, a taxpayer may now provide a statement related to a tax control protocol over an extended period of time, i.e., within 30 business days instead of 15 business days. This applies only to protocols that are drawn up after the abovementioned effectiveness of the amendment to the Tax Procedure.

UKRAINE

Risk criteria updated

The State Tax Service of Ukraine, by Order No. 479 of 8 September 2020, restated the List of goods which are used for automated monitoring to test VAT invoices against the risk criteria. The updated list became effective as of 8 September 2020.

Updates for import-related VAT payments

On 23 September 2020, the Cabinet of Ministers adopted the long-awaited Resolution No. 878, which resolves legislative gaps in regards to import-related VAT. The Resolution resolved certain problems with deferred VAT payment when importing equipment for one's own production in Ukraine.

Simplified e-document flow

Law No. 786-IX of 14 July 2020 amending the Tax Code will come into effect on 7 November 2020. As a result, taxpayers will no longer have to enter into a specific agreement with the tax authority on the recognition

of e-documents; they will receive automatic access to the e-document system instead.

Reporting on taxation objects amended

On 27 July 2020, Order of the Ministry of Finance No. 323 became effective. Among others, it establishes more detailed regulation on reporting objects of taxation though which business activity is carried out (such as plots of land, premises, vehicles, etc.).

BULGARIA

Reduced VAT rates

On 1 July 2020, a reduced VAT rate of 9% was introduced for books, restaurant and catering services, accommodation services provided by hotels and similar establishments, baby food and diapers. Since 1 August 2020, the same reduced rate applies to certain tourist and sport-related services. The tax authorities have reported on the first violations established and linked to improper application of the reduced rate (which involved take-away food delivery).

Projected cancellation of requirements on sales software

The provisions regarding the controversial requirements on software for the management of sales for commercial sites are about to be revoked as per published draft amendments of the VAT Act. The entry into force of the provisions aimed at implementing the requirements at the level of Ordinance No. 18 had earlier been postponed several times (since 2018) due to heated public debates.

Proposed changes concerning advance payment of corporate income tax

Draft legislation provides for a new time limit for modification of the amount of corporate income tax payable in advance by businesses in Bulgaria. While under the current framework, the amounts paid in advance may be modified by mid-December of each year, the draft sets November 25 of the respective year as the final date for declaring such modifications.

RUSSIA

Decreased VAT for electronic books and audiobooks

A decreased 10% VAT rate has begun to be applicable to the following goods: electronic book products connected with education, science and culture, including in audio form, particularly those available on the Internet; books on disks and for other devices, and e-books.

Improvement of VAT payment procedure for cases of bankruptcy

As of 1 January 2021, the list of VAT exceptions will be specified, in particular, the current operations of bankruptcies will not be subject to VAT.

POLAND

Tax-free reinvestment to be introduced in Poland

A draft law has been published, which provides, starting from 2021, for a new and voluntary system (known as “Estonian CIT”) to postpone the payment of income tax only at the moment of the distribution of profit by a capital company to its shareholders. The possibility of using “Estonian CIT” will be subject to a number of conditions, e.g., the shareholders of the eligible company are, exclusively, natural persons. These regulations will not be available to financial enterprises, loan institutions and companies operating in the Polish Investment Zone.

Limited partnership (spółka komandytowa) as taxpayer for CIT purposes

Also, according to the draft law, the prospective changes will involve CIT taxation of limited partnerships having their registered office or management on the territory of Poland and, of general partnerships whose partners are not only natural persons – although this will only be the case where the identity of their partners who are subject to tax on income generated by the partnership is not known to Polish tax authorities and will not be disclosed to these authorities.

ROMANIA

Several tax reductions

According to Emergency Ordinance 153/2020 On Establishing Fiscal Measures to Stimulate the Maintenance/Increase of Equity and Completing Normative Acts, as of 1 January 2021, reductions for profit tax, microenterprise revenue tax, and activity-specific taxes will be granted.

New instructions for applying VAT exemptions

As of 17 July 2020, clarifications were provided by Order 2148/2020 regarding the applicability of “Quick Fixes” with respect to the VAT exemption applicable to intra-community transactions involving goods.

New deadlines regarding DAC 6

On 1 July 2020, Government Emergency Ordinance no. 107/2020 entered into force. The GEO provides the extension of certain deadlines by which the information on reportable cross-border arrangements under the DAC6 Directive must be filed.

Tax discounts

According to GEO 99/2020, as of 25 June 2020, a 10% discount is granted to corporate tax payers and micro-enterprise revenue tax payers who pay the tax due quarterly/by a quarterly advance payment by the due dates of 25 July 2020, for Q2, and by 25 October 2020, for Q3.

Fiscal facilities for employers

According to Emergency Ordinance 132/2020 On Supporting Measures for Employees and Employers During SARS-Cov-2 and for Increasing Employment, as of 10 August 2020, employers are granted, under certain conditions, a deduction of 41.5% of the gross salary of their employees.

BELARUS

Electronic invoices

From August 2020 on, an electronic invoice (ESCF) is now created and issued by the buyer in cases of:

- purchasing objects on the territory of Belarus from a foreign company;
- import of goods into the territory of Belarus;
- acquisition of objects from a resident of an offshore zone, from an interrelated party – a foreign company or foreign citizen;
- issuing VAT amounts.

HUNGARY

Changes in online invoice reporting

As of 1 January 2021, as a general rule, the online invoice reporting obligation would cover invoices issued by a taxable person over supplies of goods/services, provided the Hungarian VAT Act applies to the invoice. This would cover invoices issued to non-taxable private persons, and invoices over Intra-Community supplies of goods and exportation, as well.

Tax authority to take over drafting of VAT returns

With the expansion of the online invoice reporting scheme, in a bid to reduce the administrative burden of VAT taxpayers, the tax authority would prepare the draft VAT returns from the second half of 2021. Although the draft would be prepared by the tax authority, the VAT taxpayers would still be responsible for the accuracy of the data and figures.

No taxation of COVID tests for employees

The tax authority has informed the general public that despite the end of the state of emergency, COVID tests would not result in tax liabilities on the employees’ side if the provision of the tests by the employer occurs within the framework of occupational health and safety rules.

Crackdown expected over KATA-scheme

The Hungarian tax authority is widely expected to launch a series of audits into the flat-tax system of freelancers, nicknamed KATA, in a drive to filter out hidden employment relationships, by applying the “substance-over-form” approach. This would come as a second step after the recent revamp of KATA rules which were also aimed at achieving the same goal.

CONTACT

PETERKA & PARTNERS is an independent full-service law firm with a special commitment to the region of Central and Eastern Europe. The only truly Central Eastern European law firm that has built its own strong regional presence in key markets, PETERKA & PARTNERS offers a pan-regional legal and tax competency and dynamic alternative to the top law firms, both international and purely local, on these markets.

Operating nine fully-owned offices across the region, in the Czech Republic, Slovakia, Poland, Hungary, Romania, Bulgaria, Belarus, Ukraine and Russia, PETERKA & PARTNERS is organized and acts as “one firm” and leverages its unique integrated infrastructure, legal excellence, industry insight and deep local expertise to deliver complex legal solutions with exceptional commercial value to its clients.

For further information on any of the issues discussed in this edition of the Newsletter, or if you should have any other enquiries, please contact us through the contacts listed below or visit our website at www.peterkapartners.com.

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