



# Legal update

July 2024

## Weinhold Legal

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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 decisions are made.

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### Legislation News

#### Amendment to the Labour Code introducing indexation of the minimum wage and some other changes

On 28<sup>th</sup> June 2024, the Chamber of Deputies approved in its 3<sup>rd</sup> reading the Government's bill amending Act No. 262/2006 Coll., the Labour Code, as amended, and certain other acts ("Amendment" and Act No. 262/2006 Coll., "Labour Code"). The Amendment transposes the Directive of the European Parliament and of the Council on adequate minimum wages in the European Union by introducing a mechanism for indexation of the minimum wage and regulating, inter alia, the legal form and scope of protection through the guaranteed wage. The Amendment remains to be approved by the Senate, signed by the President and published in the Collection of Laws to become valid and effective. According to the latest information, the Amendment should be effective from 1<sup>st</sup> August 2024.

The minimum wage indexation mechanism is intended to ensure that the minimum wage will reach 47% of the average wage in the Czech Republic in 2029. The current minimum wage of CZK18,900 corresponds to approximately 41% of the average wage. The minimum wage should therefore increase by approximately 6% in relation to the average wage level over 5 years. This mechanism for increasing the minimum wage promises to ensure greater transparency and predictability for employers, who will not have to wait anxiously to see how the annual negotiations on the minimum wage for the coming calendar year between the Ministry of Labour and Social Affairs, trade unions and employer representatives will develop.

The calculation of the minimum wage would be based on the predicted average wage for the next calendar year, which the Ministry of Finance would announce annually by 31<sup>st</sup> August. The predicted average wage for the following calendar year would then be multiplied by a coefficient that would take into account several parameters such as the purchasing power of the minimum wage with respect to the cost of living, the general level of wages and their distribution, the rate of wage growth, and the development of labour productivity. The parametric setting of the indexation mechanism would be specified in a government regulation, which would also adjust the coefficient for multiplying the forecast of the average wage for the calendar year. The coefficient would be revised by the government every two years. The specific amount of the minimum wage for the coming calendar year would then be announced by the Ministry of Labour and Social Affairs by a notification in the Collection of Laws by 30<sup>th</sup> September.

If there is a risk that the minimum wage for the upcoming calendar year will be lower than the minimum wage for the previous calendar year, the mechanism of the Amendment provides for the announcement of the last announced minimum wage in such a situation. The minimum wage will therefore not be reduced.

The amendment also affects the institution of guaranteed wages by abolishing it without replacement and leaving only a guaranteed salary for employees in public services and administration. The Amendment proposes to set the minimum monthly and hourly guaranteed salary in 4 levels, so that it is:

- ▶ in job group 1 1 times the minimum wage,
- ▶ in job group 2 1.2 times the minimum wage,
- ▶ in job group 3 1.4 times the minimum wage and
- ▶ in job group 4, 1.6 times the minimum wage.

For employees remunerated by wages, only the minimum wage threshold would apply.



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During the discussion of the Amendment on the floor of the Chamber of Deputies, several amendments were introduced to the text of the Amendment, the most interesting of which is a proposal to supplement the current Section 138 of the Labour Code, which regulates remuneration from agreements on work performed outside the employment relationship. The amendment would introduce the possibility to negotiate remuneration from the agreement already taking into account possible night work, work in a difficult working environment or weekend work, if the scope of work in these working modes has already been agreed upon when the agreement on work outside the employment relationship was negotiated and if the amount of additional payments that would otherwise be granted to the employee for work in these working modes has been agreed upon.

### **Contribution to digital training of employees**

From 23<sup>rd</sup> May 2024, employers can apply for a National Recovery Plan grant to train their employees in digital skills.

The contribution can be used to develop digital skills, such as knowledge and skills to operate, create and manage programs or computer networks. However, support can also be used for basic computer training, which can be particularly useful for older employees. Companies can also use the grant to prepare their employees to work with robots and use autonomous systems and artificial intelligence, i.e. for so-called Industry 4.0.

Business corporations, natural persons engaged in business, state and national enterprises, legal entities established by special law, municipalities, regions, contributory organizations of local self-government units, associations, cooperatives and other eligible applicants may apply for the contribution.

The contribution is granted and reimbursed ex-post on the basis of documents submitted by the eligible applicant.

The total maximum support that can be provided to an employer as a contribution to the cost of digital training for one employee is set at CZK 42,888.80. The contribution must be applied for on-line via the web application on the website of the Labour Office of the Czech Republic.

## Case Law

### **Can post-traumatic stress disorder be a work-related injury?**

(Supreme Court Judgment of 26<sup>th</sup> January 2024, Case No. 21 Cdo 3408/2022)

In the above decision, the Supreme Court addressed the question of whether and under what conditions post-traumatic stress disorder can be considered a health impairment caused by an accident at work.

This issue was addressed by the Supreme Court after an employee who worked on the construction of the Blanka Tunnel as a tunnel worker - construction worker - sought compensation. The employee sought compensation after he witnessed a landslide during the tunnel excavation and the collapse of a colleague responsible for handling an excavator inside the tunnel complex. The landslide occurred as the employee claiming compensation was about to drive his truck into the excavation pit.

After this tragic event, which the employee witnessed, the employee began to develop health disabilities (breathing difficulties, limited

mobility, repeated loss of consciousness) which eventually resulted in his inability to work as his health problems got worse. The employee developed post-traumatic stress disorder, for which he was also declared disabled 'for disability of the third degree'.

The employee therefore claimed compensation from the employer for loss of earnings during and after the period of incapacity for work and compensation for social disadvantage. The employer rejected the employee's claims. The insurer, intervening in the proceedings, stated that it considered that the claim brought by the employee was unfounded as the elements of an industrial accident had not been met.

In its decision on the question whether post-traumatic stress disorder can be considered a health impairment caused by an accident at work, the Supreme Court stated the following:

*"a post-traumatic stress disorder which developed in the injured employee as a result of an extremely intense stressful experience caused by an event which took place in the workplace to which the employee was exposed as a direct participant or observer (witness) in the performance of his work tasks or in direct connection with it, and which at the same time was extremely out of the normal, everyday conditions of his work, is an injury to health caused by an accident at work for which the employer is liable (...)."*

Thus, the Supreme Court, in general terms, has stated that the consequences of traumatic situations in the workplace, such as post-traumatic stress disorder, can be assessed in judicial practice as an accident at work for which the employer is subsequently liable. In this case, however, the employee was not a direct witness to the tragic event, as the employee only perceived the collateral (secondary) manifestations of the tragic event in the form of animal dust, the emotional processing of which led to damage to the employee's mental health. Specifically, the Supreme Court stated the following in support of this conclusion:

*"In the present case, the courts' findings of fact show that the plaintiff was not at the site of the cave-in that occurred in the Blanka Tunnel on 6 July 2010. He was outside the tunnel at the time of the cave-in, so that he did not observe the cave-in itself (and the collapse of his fellow employee), but only saw the dust which appeared in the air as a result of the cave-in. However, according to the above interpretation, the applicant's perception of the collateral manifestations of the unfortunate event and his emotional processing of them (which resulted in his realisation that he could have died in the cave-in) do not fulfil the characteristics of an accident (...)."*

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