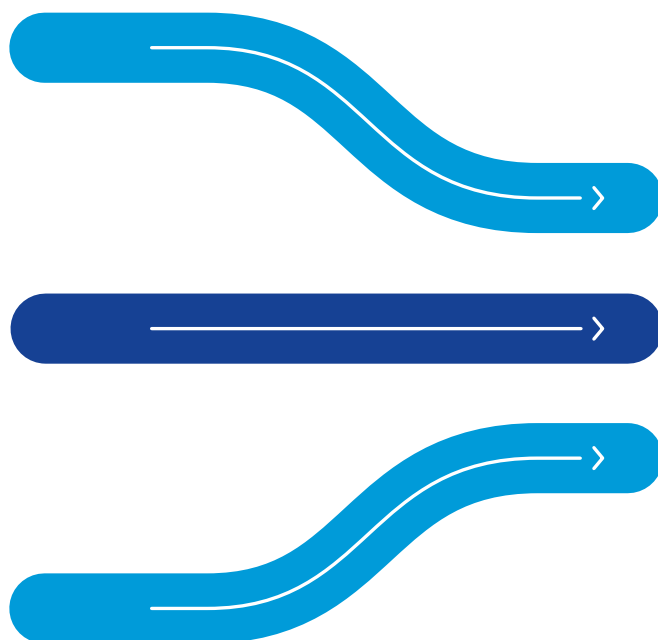


# Legal News

## December 2022

### Central- and Eastern Europe



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# Guidelines from Hungary's Curia on employer's timesheets

Hungary's highest court unifies court practice on records of working time

Employers have to keep **records of working time**. These must be updated on a daily basis and must enable identifying the start and end time of regular and overtime work and stand-by duty. The aim of this obligation is to prove that the rules concerning working time and rest periods are observed in case of inspection by the labour authority or a claim by an employee.

Since the home office has become pervasive and when work is carried out in different places, it is not always clear how to meet the requirement of being updated.

Hungary's Curia reacted to the above in its Uniformity decision No. 1/2022 dated 27 June 2022. This declares that the Labour Code does not expressly oblige employers to keep records of timesheets at the workplace but at the same time records must be kept **updated objectively and authoritatively so these requirements must be possible to supervise**.

What does this mean in real life?

Firstly, **time sheets** definitely **need not be kept at the actual workplace**, so that this task can be centralized by employers.

Secondly, it is not obligatory to record the start of regular working time in real time, so **it is sufficient to record the start and end times together at the end of the day**.

Nevertheless, these examples are meant to be legitimate only as long as the employer can ensure the objectivity and credibility of time sheets by these methods. If the chosen techniques cannot properly ensure the right of supervision of time sheets even for the authority or the employee, the terms of record-



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ing the working time must be modified.

Based on court practice also confirmed by Hungary's Curia, **employers must identify one by one, in line with the specific conditions of their own work, how they can meet the requirements concerning timesheets.**

From now on employers may establish stricter regulation in by-laws compared to the expectations of the Labour Code and the Curia but in that case the stricter rules will prevail during an inspection by the authority or a legal dispute.

Source:

Act I of 2012 on the Labour Code

Uniformity decision No. 1/2022 of the Curia of Hungary (Jpe. IV.60.014/2022/9.) on interpretation of the regulation concerning recording of working time based on the Labour Code

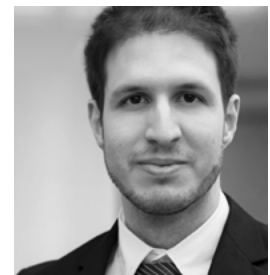
# Substantial amendments to the Romanian Labour Code

The Labour Code has been amended by the entry into force of an organic law from 22 October 2022.

The Labour Code has been amended following the transposition into national law of a series of European Directives.

Among the most important amendments that employers should consider are the following:

- New mandatory provisions are to be included in individual employment contracts. For example, they must now include details of whether or not travel between different places of work is covered by the employer and provisions on the conditions under which overtime is worked and compensated or paid.
- A prohibition on establishing a new probation period if, within 12 months, a new individual employment contract is concluded between the same parties for the same position and with the same duties.
- With regard to the existing right of employees to work for different employers under different employment contracts, the lawmaker now requires that their working hours cannot overlap.
- Introduction of carer's leave, which employers must grant to employees for the purpose of providing personal care or support to a relative or a person living in the same household as the employee who is in need of care or support as a result of a serious medical condition.
- Introduction of the employee's right to be absent from work in unforeseen circumstances caused by a family emergency due to illness or accident, which make the immediate presence of the employee indispensable.



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- Two new types of provision must be included in the content of internal regulation, namely rules on notice and information on general employee training policy, if applicable.

The entry into force of the amending law has also introduced the obligation by employers to disclose additional information on the conditions applicable to the employment relationship, under the new regulation – if certain conditions are met – to employees whose employment relationship was established before the date of entry into force of the new law.

These changes also require adaptation of documents governing employment relations between employers and employees.

Source: Labour Code and Law no. 283/2022

# New restrictions on cash payments

Recent legislative amendments introduce a ban on cash payments of more than EUR 5 000 in Lithuania.

On 1 November 2022, a package of legal measures restricting cash payments in Lithuania entered into force. In order to combat the shadow economy and money laundering, as well as to reduce the VAT gap in Lithuania, the Law on Restrictions on Cash Transactions sets a ban on cash payments exceeding EUR 5 000 or the equivalent amount in foreign currency. Parties to a transaction are also prohibited from splitting the transaction if this would avoid application of the cash settlement restriction.

Prior to adoption of the new Law, the Lithuanian Civil Code set separate restrictions on cash settlements, e.g., if the loan amount exceeds EUR 3 000 and the transaction is settled in cash. In these cases, the loan agreement must be concluded in notarial form. However, the restriction in the new law applies to all cash-settled transactions.

The law allows exceptions for cash payments in the following cases.

1. other laws permit it;
2. settlements or payments through payment service providers where customer identification is guaranteed; and
3. cash payment is not possible because payment service providers at the place for settlements or payments do not provide the necessary services and the transaction must be settled immediately. In these cases, the person receiving the payment must notify the State Tax Inspectorate of the transaction within 10 days, with details of the circumstances that prevented non-cash payment and the identity of the parties involved in the transaction.

Failure to comply or properly comply with the requirements set in the Cash Settlement Restriction Act will not invalidate the transaction but may result in the parties being held liable under the Code of Administrative Offences. Depending on the extent and repetition(s) of the violation, persons who do not comply with the cash settlement restrictions may be fined between EUR 100 and 4 000. In addition, the right to participate in public tenders may be restricted.



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Although Bank of Lithuania data shows that 97% of all payments in Lithuania are below EUR 5 000, the effectiveness of the cash settlement restriction measures and their actual impact on businesses and residents can only be assessed next year.

Source: Law of the Republic of Lithuania on Restriction of Cash Settlements, TAR, 2022-07-07, No 14903

# Labour Code amendment that will affect every employer

Extensive employer information duty and other important changes from 1 November 2022.

The Labour Code amendment primarily aims to implement two European Directives (No 2019/1152 and No 2019/1158).

The amendment introduces many changes to the Labour Code, but the most important is the new information duty of employers, which must be fulfilled in a rather broad scope. Employers are now obliged to provide employees with written information on working conditions and terms and conditions of employment. The new legal requirements are so extensive that they are certainly not currently contained in any employment contract. The amendment therefore affects every single employer.

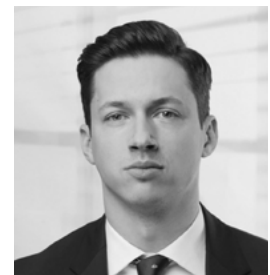
From November, employers will be able to choose whether to enter into a more extensive employment contract with employees or to provide a relatively comprehensive written document which will include the information required by law. The question remains whether concluding a comprehensive employment contract or providing extensive written information will actually make employment relationships more transparent and predictable, which was the primary objective of the European legislator.

## Digital nomads also in Slovakia?

The second major change is the possibility for the employee to set the place of work. What does this mean? For example, the employee can choose a place of work outside Slovakia. Of course, this entails certain risks for the employer in terms of social security, taxes and many other areas.

## New trade union rights

Trade unions are now entitled to contact employees in an appropriate manner in order to offer them membership and to inform employees about their activities.



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The way in which employees are approached and informed about union activities is to be based primarily on the agreement with the social partners. In the absence of agreement, employers will be obliged to inform employees in writing of the existence of the local trade union to the extent provided for by law.

In addition, the amendment also introduces further changes, e.g.:

- changes concerning postal delivery of documents (storage period minimum 10 days);
- the possibility also to deliver the above mentioned written information by e-mail;
- changes relating to termination of employment;
- the same protection for fathers on paternity leave as for mothers on maternity leave.

Source: Act No. 311/2011 Coll. Labour Code

# Work-life balance directive

Poland: Will it contribute to equality between women and men in the workplace in Poland?

Research shows that the Polish worker is in the lead in terms of the number of hours worked yearly. In 2021, he or she spent an average of 1,830 hours at work – 481 hours more than a German worker.

In view of the prevailing trends regarding finding harmony in life and work, the European Union has obliged Member States to introduce into their national legal order a directive, commonly referred to as the work-life balance directive (i.e. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU), which aims to introduce work-life balance for workers with children in the Member States - but also to achieve gender equality by promoting women's participation in the labour market, equal sharing of caring responsibilities between men and women and reducing the gender pay gap. The deadline for the directive was 2 August 2022.

The most important changes that the above directive establishes:

1. grant of the right to paternity leave of a minimum of 10 working days, to be taken on the occasion of the birth of an employee's child;
2. the grant of an entitlement to care leave of 5 working days yearly;
3. the grant of the right to request flexible working arrangements (remote or hybrid) to provide care for employees with children up to the age of 8;
4. grant of the right to return to their previous or equivalent positions at the end of the leave provided for by the regulations - under conditions no less favourable than those enjoyed to date;



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5. additionally establishing sanctions in the event of breaches of the national provisions adopted under the Directive.

So, what positive changes will the new directive bring to the Polish Labour Code? First of all, it will increase the number of days off for fathers and contribute to greater equality between men and women in the workplace. However, critical voices are already claiming that the current act does not provide a satisfactory alternative for fathers and still - despite everything - most of them will not take advantage of the newly granted rights.

Source: Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU

# Supreme Court of Latvia publishes long-awaited digest of case law on corporate law

A Digest of Case Law on the practice of the Latvian Register of Enterprises has been published by the Supreme Court Senate

The Register of Enterprises of the Republic of Latvia is a state institution that registers all trading companies in Latvia, as well as any changes to those documents.

In view of the increasing number of registrations of new commercial companies in Latvia, the Latvian Supreme Court Senate has published a Digest of Case Law on the practice of the Commercial Register over the last six years.

The Senate defines the role and functions of the Register in the process of registration of a new company, registration of changes and liquidation, as well as other issues of interest to businesses, lawyers and the interested public. This also applies to information on company beneficial owners.

The Digest highlights that the Commercial Register is not required to verify the factual circumstances related to documents to be registered. This means that the register has no competence to assess the factual circumstances of a trading company's decision-making process. The Senate has indicated that only in exceptional cases may the Commercial Register question the legal validity of a document.

The Senate explains that most of the entries in the Commercial Register are declaratory. The purpose of including information in the Register is to protect the rights and interests of third parties.

By making an entry, the Register does not confirm that the decision or information in question is to be regarded as lawful. Rather, the Commercial Register fulfils a statutory obligation and makes information publicly available.

Trading companies must notify the Register of recent changes in the company and file documents drawn up in line with legal requirements, actual



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circumstances and containing correct information.

Disputes concerning decisions of shareholders or between shareholders and the company board are disputes between private persons and thus are to be settled between private parties in civil proceedings.

Source: [www.at.gov.lv/tiesu-prakse](http://www.at.gov.lv/tiesu-prakse)

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