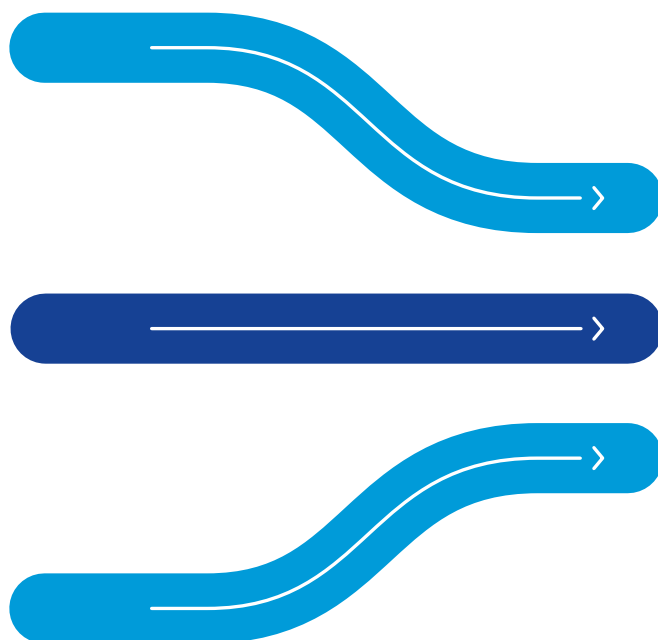


# Legal News

## October 2022

### Central- and Eastern Europe



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# Amendments to the Labour Code enter into force in stages

The first part of the legislative package came into force on 1 August 2022. Others will follow in the coming months.

The majority of the changes adopted are aimed at better reconciling employee's work obligations with their personal or family needs.

Parts of the legislative package therefore include additional rest days for certain employees, an extended right to part-time work and telework, and better protection against dismissal and discrimination.

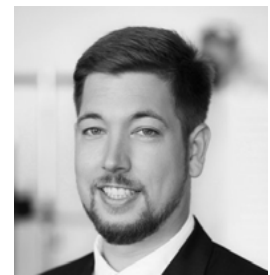
In addition, new regulations for drafting employment contracts have been created, which employers absolutely must observe. These will be described in more detail below.

Since 1 August 2022, if a fixed-term employment contract is concluded for less than 6 months, the probationary period must be reduced in proportion to the duration of the contract. For example, if the employment contract is concluded for 3 months, the probationary period may not exceed 1.5 months; if it is concluded for 2 months, the probationary period may not exceed one month; if it is concluded for one month, the probationary period may not exceed half a month. The employer may terminate the probationary period in writing by 3 working days' notice if the results during the probationary period are not satisfactory.

Moreover, all information about the employment relationship (employment contract and other internal regulations) must now be provided to a foreign employee not only in Lithuanian but also in a language the employee understands if they do not speak Lithuanian. It is therefore advisable to use bilingual (e.g., Lithuanian-English) employment contract templates for non-Lithuanian employees from the outset.

In addition, employers have new information obligations. The following information must now be provided to the employee by the start of work (if not already listed in the employment contract):

- information about the probationary period and its conditions;



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- procedure and payment for overtime;
- regulations on shift schedules;
- information on the right to training;
- data on social contributions as well as social protection, information on authorities if the employer is responsible for them.

Employers should therefore not only keep an eye on these changes when concluding new employment contracts but also check existing contracts to see if they meet the new requirements.

Source:

Law amending Articles 1, 2, 25, 26, 30, 36, 40, 44, 46, 51, 52, 55, 56, 57, 59, 721, 75, 79, 107, 113, 117, 126, 133, 134, 137, 138, 169, 171 and the Annex to the Labour Code of the Republic of Lithuania, 28 June 2022 No XIV-1189

Law amending Articles 14, 25, 27, 30, 52, 58, 139, 144, 221, 222, 223, 225, 226, 227 and 240 of the Labour Code of the Republic of Lithuania, 28 June 2022 No XIV-1187

# Are you sure your company is not affected by the FTST reform?

An amendment to the Fixed-rate Tax for Small Taxpayers ("FTST") has brought great turbulence to the lives of companies.

With the introduction of the FTST tax regime, the intention of the government was to create a new and simple taxation method to increase legitimate employment and reduce the administrative and tax burden on small businesses. This favourable tax regime targeted the smallest group of entrepreneurs who had previously been "working in the black economy" and selling directly to private individuals. In numerical terms, this meant that, for the greater part of the lifetime of the FTST, a small full-time taxpayer with an annual income of HUF 12 million was able to offset compulsory charges by only HUF 50 000 per month. So the burden of taxes and contributions on income could be reduced from 33.5% to 2.9% by opting for the FTST.

In the first few years, the legislative intention was realized, and most of the target group switched to taxation under FTST, and the small business sector started to whiten.

However, employment data and feedback from the relevant associations showed that, increasingly, employers were forcing their employees into the FTST tax regime.

According to a communication from the Ministry of Finance, 40% of new FTST start-ups in 2019 were in reality employees prior to the new taxation method. In addition, the 14 largest employers had 4 700 former employees as FTSTs, mostly in the health and IT sectors.

Due to the large number of taxpayers involved, it was not possible for the tax authority to check and identify hidden employment relationships and serious abuses at taxpayer level, so the problem needed to be addressed at legislative level.

As a result of the amendment, the scope of those opting for taxation under the



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FTST has been significantly narrowed: from 1 September 2022, only self-employed persons can opt for taxation under the FTST if they invoice only to individuals.

As a result, tax law and labour law related issues may arise for many companies who previously worked with FTST contractors in order to continue their collaboration.

For example, there may be a question as to whether your company allows its ex-FTST business partners to choose the legal relationship in which further cooperation takes place.

If a decision is taken to continue cooperation in an employer-employee relationship, the employer should be aware that the wide range of benefit packages and payment options may result in a breach of the principle of equal treatment and should prepare for possible employment litigation.

Source: Act CXLVII of 2012 on the Fixed-Rate Tax for Low Tax-Bracket Enterprises and on Small Business Tax

# New regulations on Trade Register Act and Companies Act

Measures to digitalize and facilitate company business activity and the Trade Register in effect from 26 November 2022

The new regulations introduce changes to the activity of the Trade Register as well as to the Companies Act, with the aim of facilitating interaction with the Trade Register and digitalizing its activity.

This means that shareholders can now prepare company articles of association in digital format. The Ministry of Justice will issue an order providing standard forms for articles of association, which founders or their representatives will be able to download from the Trade Register's website, digitally sign and submit online to the Trade Register.

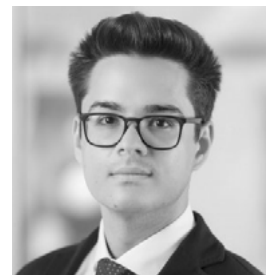
Simultaneously, the content of the articles of association of limited liability companies is amended. The articles of association will have to include provisions on how the resolutions of the general meeting of shareholders are to be adopted, i.e., by unanimous vote of all members if an absolute majority cannot be established due to parity of shareholdings. The articles of association must also include the identification data of the beneficial owners and the manner in which control of the company is being exercised.

For the purpose of digitalising the activity of the Trade Register, the representatives of companies no longer have to submit a specimen signature and, instead, their qualified electronic signature can be used as a means of identification.

Moreover, the company registration certificate can now be issued in digital format directly to the applicant by email.

In addition, the deadlines for processing requests submitted to the Trade Register have been reduced, so that as of November the deadline for handling requests will be one working day from the filing date.

Concurrently, a new procedure is implemented for the winding-up of a company, which can be initiated by the Trade Register in the following



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situations: (a) the conditions for the validity of the registered seat are no longer met - the duration of the usage right has expired, the right of ownership of the premises has been transferred; (b) the activity of the company has ceased or has not been resumed after a period of temporary inactivity; (c) the duration of the company has expired.

The company may lodge a claim with the competent court against a winding-up decision within 15 days of its notification.

Source: Law no. 265/2022 on the Trade Register and on amendment and supplementation of certain normative acts concerning registration in the Trade Register

# Notification of food supplements

Selling food supplements in Slovakia and other EU countries.

The process of notification and/or registration of food supplements with local authorities varies greatly between EU countries as it is not harmonised at the EU level.

In our experience, foreign manufacturers, importers, and distributors consider several factors before deciding in which country they sell their products. These are mainly:

- The complexity of the notification process, i.e. how to register food supplements in Slovakia and other EU countries?
- The volume of documents required by the local authority; What documents are needed for registration of food supplements in Slovakia and other EU countries?
- The time aspect, i.e., how long does it take to register food supplements in Slovakia or other EU countries?
- Commercial, trade and tax considerations are also important factors in the decision to enter a country's market.
- Administrative fees also play a role, especially when it comes to notifying a large number of products.

## What are the benefits for foreign manufacturers, importers or distributors of selling food supplements in Slovakia?

- Power of attorney (PoA) for representation of the manufacturer/distributor before the local authority does not have to be notarized or apostilled.
- The manufacturer, distributor or importer does not have to be authorized and registered in any electronic system or platform.
- No requirement to establish a company or have a warehouse in Slovakia in the case of distance / online sale of food supplements.



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- Initial procedure for registering a dietary supplement does not differ from the procedure if the product is already placed on the EU market.
- Low administrative fee for notifying food supplements (EUR 30/ EUR 15 if filed to the electronic mailbox of the Public Health Authority).
- The process of registration officially takes 30 days but in practice it usually takes up to 2 weeks.
- Unlike many EU countries, a label does not have to be provided to the Slovak Public Health authority (however, a Slovak translation must be affixed to the final product).
- The operator is solely responsible for the safety of their product.
- Slovakia does not have a list of prohibited herbs that cannot be used in food supplements. However, psychotropic substances or unapproved novel food (e.g. CBD) cannot be present in food supplements.

bnt attorneys in CEE has considerable experience not only in notification of food supplements in all countries where bnt is represented, but also, for example, in assessing products, establishing a company, notifying an establishment with the authorities or finding a suitable partner for tax-filing duties.

Source: Act No. 152/1995 Coll. of Laws on Foodstuffs as amended; Decree of Ministry of Agriculture of the Slovak Republic and Ministry of Health of the Slovak Republic No. 16826/2007

# Taxation of real estate and fees connected with holding of real estate by entrepreneurs

Remarks for investors

In Poland, the owner, a perpetual usufructuary, but also a so-called independent holder of a building object or a property pays so-called real estate tax annually, a regional tax that benefits the municipal treasury and the amount of which is adopted annually by decision of the municipal council. The amount of this tax depends on the area and the type of use of the property. Until now, the rules blindly assumed that any property owned by an entrepreneur would be taxed at the tax rates for commercially-used land, regardless of whether it was used by the entrepreneur at all. This was only changed by judgment of the Constitutional Court of 24.02.2021 SK 39/19, in which this interpretation was declared to be in error. Currently, real estate tax is paid at a higher rate only for properties that are actually used for business purposes. However, you can now fall into a trap if you rent to an entrepreneur a part of a property that has not been used in any way so far: in this case, you may have to pay tax on the entire property at a higher rate, even though someone rents only a part of it.

The most expensive legal form of holding a property in Poland is perpetual usufruct, from which the user pays a so-called annual fee in addition to the above-mentioned tax. The annual fee in the case of real estate for business purposes is 3% of the property's value. This fee may also be updated every 3 years, so that 3% of the current market value of the property is charged. Nevertheless, the price per sqm of perpetual usufruct is the same as the price for 1 sqm of land ownership.

Before buying real estate, it is also recommended to check the local zoning plan. This plan i.a. sets the so-called zoning fee, i.e., the percentage fee (up to 30% of the value increase of the property as a result of adoption of a local zoning plan), which the municipality can charge within 5 years after adoption of the local zoning plan if the owner sells the property. This fee increases the price of the property or even blocks the transaction for several years. The legislative authority has noticed this problem, but according to the information that has come to public attention, a zoning fee would in future be paid by every owner/perpetual usufructuary after adoption of the local zoning plan, regardless of whether they want to sell the property at all (and when they do



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it) or if they want to take advantage of the investment opportunities at all. A zoning fee understood in this way would introduce another tax and enhance gentrification – so let us hope that the authorities will abstain from this change of law.

Source: judgment of the Constitutional Court of 24.02.2021 SK 39/19– Official Journal of 03.03.2021 pos. 401

# “Energy efficiency first!”, origin of natural gas and more: new energy package in Latvia

[Latvia adopts a series of laws in the energy sector](#)

In summer 2022, Latvia adopted far-reaching amendments to its energy laws. The Energy Law, the Law on Energy Efficiency, and the Electricity Market Law were amended.

The principle of "Energy efficiency first!" is anchored in the Law on Energy Efficiency. This includes measures for improving energy efficiency in state authorities, municipalities, public companies, as well as in large companies and large energy consumers. The amendments also implement European law (in this case, the Energy Efficiency Directive) and to correct errors that the European Commission had identified, in that Latvia had not correctly implemented certain European legal acts. The "energy efficiency first" principle states that planning or financing decisions must consider how energy efficiency can be improved, such as through energy savings by the end user, use of demand- response- initiatives, or through more efficient energy conversion, transmission, and distribution. This means that it is imperative for the state and large companies to take the issue of energy efficiency into account in their decisions. By December 31, 2022, the Ministry of Economy of Latvia will prepare relevant guidelines.

Also coming into force in August 2022 are amendments to the Energy Law. These were introduced to diversify supply chains for natural gas and strategic gas reserves, thereby strengthening Latvia's energy market and reducing supply dependencies. Gas imports from Russia are prohibited; a transitional arrangement is in place until January 1, 2023. Furthermore, the public trader "Latvijas Gāze" is required to store the amount of natural gas needed for consumption by connected consumers in the period from October 1 of the year in question to April 30 of the following year – the deadline for doing so being no later than August 31 of each year. Furthermore, an electronic certificate of gas origin will also be introduced, which producers of natural gas, bio-methane or synthetic gas from renewable energies can apply for. The certificate will be issued for one megawatt hour. These changes will come into force on July 1, 2023.



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Finally – also at the beginning of August 2022 – amendments to the Electricity Market Law came into force. Here, too, it was a matter of implementing EU law, specifically the internal energy market directives and those on renewable energies. The core of the changes is the transition from the so-called net metering system to the net billing system. This involves recording electricity produced, consumed and released to the grid by the consumer. The net billing system will not only record the amount of electricity generated and consumed from renewable sources, but will also determine the value of the electricity. Surplus energy will be monetized and credited for the next billing period. It is also envisaged that electricity generated at one user's site can be used at other sites belonging to the same user. By September 30, 2022, Latvia's Cabinet of Ministers will prepare a regulation on the net billing system.

Source:

Amendments to the Energy Efficiency Law, OP No. 2022/137A.2 v. 07/19/2022.

Amendments to the Energy Law, OP 2022/144.5 v. 28.07.2022.

Amendments to the Electricity Market Law, OP 2022/137A.1 v. 19.07.2022.

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