



Daňovky

**Tax and Legal
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**Tax and Legal News |
April 2023**

New social security rules for cross-border telework from 1 July 2023

We continually monitor the adoption of a new framework agreement on cross-border teleworking at EU level. The long-awaited framework agreement will enter into force on 1 July 2023, after the end of the current transition period between the signatory EU Member countries. You can find out more details about new social security rules on telework in our updated article.



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During the second half of April 2023, the previously announced coordinated solution for cross-border remote work has been published. The 27 member states of the European Union, Norway, Iceland, Liechtenstein, Switzerland, and the U.K.* have been invited to sign a new draft of framework agreement for social security.

The framework agreement should provide an opt-in to employees and employers to maintain social security coverage in the country of the employer when an employee works from home in another country **less than 50% of the total working time**. This agreement is only applicable to telework, where the employees work from home in their residency country using information technology with an ongoing access to employer's environment.

The date of the framework agreement entering into force is set **as of 1 July 2023 for signatory countries**. (This date is not a random one. It follows the end of the "no-impact policy" period lasting until 30 June 2023, during which, under certain circumstances, the employee remains covered by the social security in the country of employer even if performing telework from country of his residence exceeding 25% of total working time.) If the framework agreement is signed after 1 July 2023 by any country, agreement will be applicable from the date of signature, not retroactively. **Very important condition for application of the framework agreement is filing of an application to opt-in** (if no application is filed, the applicable social security for the employee and the employer would be determined using standard rules / provisions of the EC Regulation No. 883/2004, i.e. the limit of less than 25% for the telework from the country of employee's residence would be applied).

Belgium has actively participated on preparation of the framework agreement wording and has already confirmed their intention to sign the framework agreement. As we informed you [in our previous Article](#), Austria recently signed bilateral framework agreements with several neighboring countries with the limit for the telework up to 40% of time. It is therefore questionable, how Austria would approach this multilateral framework agreement.

For more information (including the link to English wording of the framework agreement), please reach out to the following article [EU - New Framework Agreement for Social Security - KPMG Global](#).

We will keep you updated on further developments in this area. If you are interested in this topic and need more information, do not hesitate to contact us.

**For the U.K., the framework agreement would be applicable with certain limitations.*

Tax regime of corporate bonds is back at its status valid until end of 2022

The Amendment to the Income Tax Act which again changes the provisions on taxation of other than government bonds, was published in the Collection of Laws on 18 April.



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Based on the Amendment to the Income Tax Act valid as of 1 January 2023 income from bonds paid out by Slovak tax residents were considered as income sourced in Slovakia and were subject to withholding tax. The amount of tax withheld ranged from 0% to 19%, in extreme cases up to 35% based on the residence of foreign investors. For more details on the above changes, we refer to [our previous Article](#).

[The amendment to the Income Tax Act](#) which was approved by the Parliament during the March's Meeting **brings back the taxation regime of corporate bonds to its status as at 31 December 2022**. Income from bonds paid to the Slovak tax non residents are not taxable tax in Slovakia as of 18 April 2023.

Reopen discussion on the possibility for a lessee of imported goods to deduct import VAT

The VAT Committee reopened discussion on the possibility for a lessee of imported goods to deduct the VAT paid upon the importation of those goods, when the lessee is designated as liable for the payment of such VAT.



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Criteria for deduction of import VAT

As far as the formal conditions for deduction of VAT are concerned, it appears that these are fulfilled when the lessee holds an import document specifying him as importer and stating the amount of VAT due or enabling that amount to be calculated.

According to CJEU case-law, the substantive conditions to deduct VAT must be seen as fulfilled if the taxable person complies with the following two prerequisites:

- the costs incurred are necessary to carry out the economic activity of the taxable person,
- these costs are included in the cost of his output transactions.

What if the lessee is the importer of the goods?

The VAT Committee referred in Working Paper No 1061 to its previous Working paper No 762 dealing with an aircraft lease, where it was stated that the lessee does not actually bear the (overall) costs of the aircraft, simply the amount of the lease to be paid to the owner. Therefore, while the costs of the lease are included in the price of the output transaction of the lessee, that is not the case with the costs of the aircraft itself. The costs of the aircraft are costs for the owner, who passes them on to the lessee as part of the price charged for the lease.

The costs of the aircraft are borne by the owner only, not by the lessee. In the discussed case, an operational lease was concerned. Within the EU, such leases are clearly regulated and subject to strict time-limits. These elements are relevant for the VAT analysis as they determine the economic background of the transaction.

The EU VAT Committee holds the view that under these circumstances, allowing a full deduction to the lessee would be disproportionate and therefore, the previous conclusions expressed in Working paper No 762 should be maintained. For the importer to be allowed to deduct the VAT paid on the importation of goods, the goods imported must be necessary to carry out the economic activity of the taxable person and the costs of the importation need to be included in the cost of his output transactions.

In the case of importation of an aircraft by the lessee, while the first condition is fulfilled, the second is not, as only the price of the lease and not the costs of the importation of the aircraft are included in the cost of the lessee's output transaction.

Next developments

However, the Commission services are aware that some EU Member States are applying a different criterion to these situations, nevertheless granting a right to deduct the import VAT to the lessee. Furthermore, several rulings of the CJEU have addressed situations whereby deduction of the VAT paid is allowed for persons who are not the owner of the goods.

Therefore, the Commission services think that it is now necessary to return to this topic and requested delegations to give their opinion on this matter. Albeit the working paper deals with a specific case of lease of aircraft, developments of the discussions should be monitored as they may be relevant for other types of import transactions as well.

About the VAT Committee

The VAT Committee was set up to promote the uniform application of the provisions of the VAT Directive in the EU. Because it is an advisory committee only and has not been attributed any legislative powers, the VAT Committee cannot take legally binding decisions. It can however give some guidance on the application of the mentioned Directive.

Charging of electric vehicles constitutes supply of goods (electricity)

The Court of Justice of the EU (CJEU) released judgement C-282/22 *Dyrektor Krajowej Informacji Skarbowej* which is dealing with the question, whether provision of devices for recharging electric vehicles, electricity, technical support and IT services constitutes for VAT purposes supply of goods or provision of services.



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According to the CJEU, transaction encompassing of:

- access to recharging devices for electric vehicles (including integration of the charger with the vehicle operating system);
- the supply of electricity, within duly adjusted parameters, to the batteries of that vehicle;
- the necessary technical support for the users concerned; and
- the provision of IT applications enabling the user concerned to reserve a connector, view his or her transaction history, and purchase credits which are then accumulated in an e-wallet and used to pay for recharging sessions;

is a single complex supply that is supply of goods (electricity).

Charging of electric vehicles thus for VAT purposes constitutes supply of goods (electricity).

More information can be found on the following link: [Judgement of the CJEU C-282/22 *Dyrektor Krajowej Informacji Skarbowej*](#)

One sentence summary | April 2023

Last month's tax and legal news in brief.



Daňové a právne oddelenie

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- The Ministry of Labour, Social Affairs and Family of the Slovak Republic released [a draft decree on the increase the amounts of meal allowances](#) to EUR 7.30 (for the time zone 5 to 12 hours), EUR 10.90 (for the time zone 12 to 18 hours) and EUR 16.40 (for the time zone over 18 hours). We will keep you informed of any new developments in this respect with the expected effective date on 1 June 2023.
- Amendment to the Act on subsidies under the purview of the Ministry of Labour, Social Affairs and Family will bring changes in the provision of meals subsidies from 1 May 2023 (re-introduction of so-called free school meals). You can apply for a meal subsidy regardless of the tax bonus for children or irrespective of the amount of household income. For more information see the [frequently asked questions section](#).
- Individuals - employees do not forget to assign 2% of your taxes until 2 May 2023 at the latest. You must submit to the tax authority the Confirmation of Tax Paid and Declaration on Tax Assignment. The Financial Administration has also prepared a [simple guide](#) in this respect.

Summary of changes brought by the new Consumer Protection Act

On 14 April 2023, the Government of the Slovak Republic approved a new Consumer Protection Act and amendments to certain acts from the Ministry of Economy of the Slovak Republic.



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According to the explanatory memorandum, the aim of the new legislation is to strike a balance between the rights and obligations of consumers and traders. On the one hand, the consumer's rights are strengthened, which is balanced by a narrowing of some of the obligations of traders in order to remove the administrative burden without endangering the consumer's position.

Unification of legislation

The Act replaces the laws currently in force in this area, in particular the Consumer Protection Act and the Act on Consumer Protection in the Sale of Goods or Provision of Services under a Distance Contract. At the same time, **it modernizes the current legislation in line with European Union legislation.**

The new legislation removes the current fragmentation of consumer protection institutes and unifies the terminology used in this area. The private law regulation of consumer contracts will continue to be regulated preferably in the Civil Code.

New terminology

The new legislation introduces a **new concept of a trader**, which replaces the previous inconsistent terminology under which a trader was defined as a seller in the previous Consumer Protection Act and as a supplier in the Civil Code at the same time.

Under the new legislation, a trader is defined as a person who, in connection with a consumer contract, an obligation arising therefrom or a commercial practice, acts during his or her business or profession, including through another person acting on his or her behalf or for his or her account. The introduction of this new concept ensures terminological consistency at national and European Union level.

The amendment to the Civil Code also introduces **new definitions of digital content, digital services, or things with digital elements.**

Enhancing consumer protection

Positive changes for consumers include, for example, **the extension of the withdrawal period without giving a reason from 14 to 30 days** for contracts concluded during a sales promotion or an unsolicited visit to the trader's home.

There is also **the introduction of remedies for aggrieved consumers** in cases where a trader commits an unfair commercial practice against them and increased awareness when concluding contracts through online marketplaces.

The protection in the online environment against non-transparent purchases and false reviews is also increased, and the promotion of goods that are falsely advertised as identical to goods in another EU Member State is banned. A mechanism is introduced to encourage traders to remedy the illegal situation and achieve faster redress and compensation for a wider range of consumers. Under the proposed legislation, a trader can secure a reduction or remission of the penalty if he refrains from infringing and compensates the injured consumers. Consumers will therefore not have to wait for the outcome of administrative or judicial proceedings and can obtain redress much more quickly.

The new legislation also includes a **draft law on general product safety**, which introduces a regulation of safety requirements for consumer non-food products for which no specific regulation existed until now. This will apply to products as diverse as furniture, bicycles, children's clothing and school supplies. The proposal aims to increase consumer health protection and to introduce effective product surveillance so that unsafe products are identified as soon as possible in order to implement consumer protection measures.

The draft law introduces a definition of a safe product as a product which, under normal conditions of use and for the duration of its normal useful life, poses no or only a minimal and acceptable risk to the consumer corresponding to a high level of protection of the health and safety of persons. In assessing the safety of a product, various criteria will be taken into account, such as the characteristics of the product, the effect on other products, the presentation of the product, labelling, warnings, instructions for use and disposal of the product.

In order to increase consumer protection, the scope of the information obligation for distance or off-premises contracts is changed.

Consumer protection against price manipulation

An important change is **the introduction of an information obligation to indicate, in the case of discounts, the lowest price at which the product was sold in the period of at least 30 days prior to the price reduction**. The aim of this regulation is to prevent price manipulation and unfair commercial practices in the form of misleading consumers about the amount of the actual discount. For example, situations of deliberate short-term price increases in advance of special sales (e.g. Black Friday) in order to artificially inflate the amount of the discount.

Improving the trader's status and new principles for imposing sanctions

The new legislation removes some obligations that are excessively burdening traders, without any real benefit for consumer protection. This includes, for example, the deletion of the duplication of the details of the proof of purchase or the deletion of the obligation to publish a notice of planned temporary closure of an establishment at least 24 hours in advance.

A second chance mechanism is also introduced. This is a number of institutes which waive or reduce the amount of the sanction in cases where traders voluntarily put an end to infringements and remedy the situation for the benefit of injured consumers.

There is also a conceptual change in the imposition of fines. Under the proposed legislation, **finer will be set as a percentage of the trader's turnover**. This represents a fairer and more proportionate form of punishment and the elimination of draconian penalties.

Elimination of competence conflicts

The proposed legislation reflects the requirements of application practice and explicitly and clearly defines the competences of individual state administration bodies in the field of supervision in the area of consumer protection. As an example, only the State Veterinary and Food Administration of the Slovak Republic will supervise the offer and sale of foodstuffs, which will effectively prevent duplicate inspections of the same trader by, for example, the Slovak Trade Inspection Authority.

The effectiveness of the new Act is set for **1 August 2023**. We will keep you informed about the further legislative process and the approval of the new legislation in the Slovak Parliament.

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