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In brief**

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Summary of changes in the Slovak Labour Code from 1 March 2021

Since March 1, 2021, an amendment to the Labor Code will enter into force, which, among other things, addresses issues of the specificity of work from the employee's household and regulates the employee's ability to choose between meal vouchers and a financial allowance for meals.



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On 1 March 2021 will enter into force amendment to the Act no. 311/2001 Coll. The Labour Code, as amended, and which amends certain acts (hereinafter referred to as the **"Amendment"**).

The aim of the Amendment is to address issues of specificity of work from the employee's household, regulate the employee's choice between meal vouchers and financial contribution for meal, make provision for the criterion of representativeness of employees' representatives at the employer, create a new model of adequate liability of the receiver of work or service, and to make provision for the possibility of temporary assignment of employees between parent and subsidiary companies.

In our article, we prepared for you a summary of these most important changes:

1. Flexible regulation of homeoffice

The new legal regulation reflects the needs of the current pandemic situation and the necessity for more flexible regulation of the conditions of domestic work and telework.

The Amendment introduces a new definition of domestic work and telework. Domestic work and telework is involved if work that could be performed at the employer's workplace is carried out regularly or in part from the employee's household. The possibility and conditions of performing domestic work or telework must be agreed in the employment contract.

As domestic work or telework is not considered the work, which the employee performs occasionally or in extraordinary circumstances with the consent of the employer or agreement with employer from the employee's household.

For the purposes of domestic work or telework, a household is considered to be an agreed place of work of an employee outside the employer's workplace. The place of work can be also agreed indefinitely, so that the employee chooses from where he will perform the work.

The employment contract must include an agreement between the parties on the organization of working time. The employee and the employer may agree in the employment contract that the employee will perform work during flexible working time or that the scheduling of working time is left exclusively to the employee which has to deliver the result by a certain time, regardless of working time in which he will perform it.

An employee performing domestic work or teleworking has the right not to use the means for exercise of domestic work or telework (right to disconnect), during his continuous daily rest and continuous rest during the week, unless the overtime work it is not ordered or agreed. The right disconnect is based on the EU legislation.

The Amendment explicitly stipulates the employer's obligation to reimburse demonstrably increased expenses associated with the use of his own equipment and his own items necessary for the performance of domestic work and telework.

2. Right to choose between Meal Voucher and Financial Contribution

According to the current legislation, the meal allowance is provided mainly in the form of the meal vouchers partly financed by the employer. Based on the Amendment, an employee can choose between two alternatives – meal vouchers and the financial contribution for meal. The employee will be bound by his selection for 12 months.

amount of the financial contribution is at least 55% of the minimum value of the meal voucher. amount of the minimal financial contribution of the employer for meal in 2021 is 2.11 EUR (and 2.81 EUR during the business trip lasting from 5 to 12 hours).

The employer will be able to regulate in the internal regulation more detailed rules by which the selection of the employee is carried out. Until the selection of the employee, the employer provides meal vouchers or a financial contribution for meals based on his decision.

The right of choice applies only to employees of employers who do not provide meals in their own catering facility or in another (contractual) catering facility, so the priority of the corporate catering system remains.

An employer who entered into a contract for the provision of meal vouchers before 1 March 2021 or in the period from 1 March 2021 to 31 December 2021 may decide whether to apply the new rules from 1 March 2021 (from the entry into force of the Amendment) or later, until the expiry of the contract on the provision of meal vouchers, but no longer than 31 December 2021.

In connection with changes in the provision of meal allowances for employees, the maximum amount of the fee for mediated catering service for the purchase of meal vouchers is also changing, and it is reduced from a maximum of 3% to 2% of the amount inscribed on the meal voucher.

With effect from 1 January 2023, it will be possible to provide meal vouchers only in electronic form, unless the use of such an electronic voucher will not be possible at the workplace or near to it.

3. Assignment of Employees between Related Persons

The Amendment introduces a simplified regime for assignment of employees between related parties.

According to the current legislation, the employer may agree with the user employer on the temporary assignment of an employee in an employment relationship only in the case, if there are objective operational reasons for the employer, at the earliest after three months from the date of the commencement of the employment.

Under the Amendment, the conditions of operational reasons and the minimum length of employment of an employee do not apply to the temporary assignment of an employee between the controlling person and the controlled person, which is free of charge.

4. Flexible Working Time during the Business Trip

According to the current legislation, the flexible working time do not apply in the case of an employee's ordered business trip. In such a case, the employer is obliged to determine the beginning and end of the work shift for the employee. In practice, such strict legislation has often encountered application problems.

Under the Amendment, these restrictions do not apply if the business trip interferes exclusively with basic working hours or if the employer and the employee agree otherwise

5. Extension of the Employer's Reasons for Termination

The Amendment introduces the new reason for termination of the employment on the side of the employer. Under the Amendment, the employer will be entitled to terminate the employment relationship with the employee, if the employee reaches the age of 65 and at the same time this age will be determined for entitlement to a retirement, i.e. both conditions

must be met simultaneously.

This new legal regulation shall enter into force on 1 January 2022.



6. Representation in Trade Unions

In practice, it may be found that employees in the workplace are represented by persons who have no connection with employees, and in some cases, there are doubts as to whether they have any membership base with the employer at all.

The Amendment conditioned membership in the trade union at an employer by condition that employees can be represented in the workplace only by persons who are employed by the same employer. However, the exception is that a trade union may agree otherwise with the employer. The condition shall not apply to a member of the relevant trade union body for a period of six months from the date of termination of his employment with the employer.

This change will give the employer the certainty that he is negotiating with a trade union that is in fact active in the workplace and can legitimately represent the interests of its employees.

Finding out, whether a trade union operating at an employer has as its members employees in the employment relationships with the employer in its ranks, has its pitfalls. According to the current legislation, the employer does not have access to the list of members of a trade union.

In case of doubt, whether a trade union operating at the employer has members in an employment relationship with the employer, there will be the so-called dispute over the operation of a trade union at the employer. The relevant arbitrator for resolving this dispute shall be elected by the parties to the dispute. Otherwise, the arbitrator shall be appointed on the proposal of the Ministry of Labour, Social Affairs and Family of the Slovak Republic from the list of arbitrators it maintains. The arbitrator shall decide the dispute within 30 days of its receipt.

Social Security in a New Brexit Deal

The European Union (EU) and the United Kingdom (U.K.) reached an agreement in principle on the EU-U.K. Trade and Cooperation Agreement (“the Agreement”), which also affects the coordination of social security, the so-called mobile workers and the protection of their rights.



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On 24 December 2020, the European Union (EU) and the United Kingdom (U.K.) reached an agreement in principle on the EU-U.K. Trade and Cooperation Agreement (“the Agreement”). The Agreement impacts coordination of social security for mobile employees and aims at protecting the entitlements of EU citizens temporarily staying in, working in, or moving to the U.K., and of U.K. citizens temporarily staying in, working in, or moving to the EU after 1 January 2021.

The Agreement entered into force on 1 January 2021, but it is currently undergoing a ratification procedure in the U.K. and in each EU member state (deadline for ratification is by the end of February 2021). Subsequently, it must be approved in the EU parliament. The EU Council must adopt the decision on the conclusion of the Agreement as the last step of the ratification process. The Agreement applies only to the 27 EU member states and the U.K. at this point.

Why this matters

All cross-border situations that are initiated on 1 January 2021 and thereafter are covered by this Agreement with respect to social security. All cross-border situations initiated before 1 January 2021 are covered by the prior Withdrawal Agreement between the EU and the United Kingdom. Employers and employees should focus on the terms and conditions of social security coverage under the Agreement, because there are significant differences in that coverage and rights concerning social security, depending on whether a cross-border situation is covered by the Withdrawal Agreement or by the new Agreement.



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General

On 1 January 2021, the U.K. left the EU Single Market and Customs Union, and EU policies are no longer applicable to the former EU member state. The main consequence is that the free movement of persons, services and goods between the EU and the U.K. is ended.

Social Security

The Agreement provides several measures for coordination of social security for mobile employees aimed at protecting the entitlements of EU citizens temporarily staying in, working in, or moving to the U.K., and of U.K. citizens temporarily staying in, working in, or moving to the EU after 1 January 2021.

Focus of the Protocol on social security coordination is mainly on the following:

- Persons covered,
- Matters covered and **NOT** covered
- Aggregation of periods
- Exportability of benefits

- Overlapping benefits

Scope of social security

It is important to note that the Agreement does not apply the same scope of social security as the EU Regulations for coordination of social security systems in the EU.

Family benefits are no longer coordinated, which means that eligibility for family benefits and a right to export such benefits, for example during a posting, rest on national legislation in the relevant EU member state and the United Kingdom. There is therefore a significant risk that some employees will not be able to claim family benefits or that family benefits will be reduced or even awarded for a shorter duration.

On the other hand, it is reasonable to expect that claims for family benefits that are only subject to the Agreement will be processed faster than the case is today because the involved authorities will not have to communicate or coordinate family benefits in cross-border situations. The authorities will only have to take their local rules into account.

Furthermore, it should be noted that the exporting of unemployment benefits and disability benefits is also subject to national rules which can reasonably be expected to reduce the eligibility for and the amount of these benefits for some employees in a cross-border situation between the EU and the U.K.

Coordination rules for Social Security

The Protocol for social security in the Agreement maintains the principle that only one state's legislation for social security applies at a time for matters covered. Below, we summarize the most often situations observed in the practice:

- **Main rule:**

An employed or self-employed person is covered by social security for matters covered by the Agreement by the legislation in the state where the working activity is pursued.

- **Specific rule - detached workers:**

A person sent by his or her employer to work in another state on behalf of that employer shall be covered by social security in the sending state. The work in the host state must not exceed 24 months and the person may not replace another detached worker. The employer must be established in the sending state and the employer must perform substantial activities in the sending state.

- **Specific rule - work in more than one country:**

A person who pursues substantial activity (25 percent or more) in the state of residence is covered by the social security legislation in that state. When a person does not perform a substantial part of his or her working activity in the state of residence, the legislation for social security in the state where the employer is located shall apply.

- **Health care:**

An insured person and his or her family shall receive benefits-in-kind (health care) in the country of residence even if the country of residence is not the competent state, and said person shall receive benefits-in-kind in the competent state even if he or she does not reside there.

It is still not clear how exactly administrative communication will be issued, and requirements around applications and documents are to be applied for enactment of the rights under the Agreement.

Interesting remarks - detached workers

Firstly, the EU member states should have opted in to apply the provision for detached workers by the end of January 2021. As published in the Official Journal of the EU on 16 February 2021, all 27 EU member states opted in to apply the provision for posting of workers. However, the specific procedure surrounding this provision indicates that this is not "business as we know it" from the EU legislation.

Secondly, the Agreement does not provide for an extension of the detachment/posting beyond 24 months. Another question that arises here is if when a detachment for 24 months is used once, does that mean that it cannot be used again in another detachment? If it can, on the other hand, what conditions must be met then?

Lastly, it is unclear what requirement will be presented for the duration of the affiliation to the social security in the sending country prior to the detachment. This could also lead to various approaches in different countries and ultimately lead to rejection of the application of social security in the sending country.



Interesting remarks - Others

The Agreement essentially limits the restrictions and limitations that the U.K.'s exit from the EU presents to the movement of people, companies, goods, capital etc.

It is clear from the Protocol on social security in the Agreement that social security between the EU and U.K. is changing significantly and the full effect of these changes will become more evident in time.

Although the Withdrawal Agreement regulated the relationship between the EU and the U.K. from 1 February 2020 until 31 December 2020, in the context of social security it is stated that persons who are covered by the Withdrawal Agreement can continue benefiting from the Withdrawal Agreement after that date as long as their situation is uninterrupted.

Employers and employees should therefore investigate the possibility of continuing the more generous coverage for social security under the Withdrawal Agreement and avoid the application of the social security rules in the new Agreement as long as possible, depending on the corresponding benefits to the employees.

This can be a complicated technical task and different EU member states seem to be approaching the interpretation of (un)interrupted cross-border situations differently; thus, concerned individuals and employers should consider engaging relevant technical expertise on these important matters.

The restrictions in the new Agreement are expected to trigger a reassessment of the compensation and benefits for employees affected by Brexit. The changes in social security are relevant for any discussion about compensation and benefits for employees affected by the provisions of the Withdrawal Agreement and the new Agreement and should undergo careful analysis and form part of any revision of company policies.

Full text: [Trade and Cooperation Agreement between the European Union and the United Kingdom](#). Note that there might be additional bilateral conditions between the U.K. and Ireland, the U.K., Gibraltar and Spain, and the U.K. and Switzerland, etc.

The e-commerce VAT package taking effect soon

On 1 July 2021, the provisions of the amendment of the Slovak VAT Act concerning cross-border online trade will come into effect. These provisions are transposing the EU Directives which introduced so called „e-commerce VAT package“ that will soon become applicable all over the European Union.



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The distant sale of goods and place of taxation

The Intra-EU distance sale of goods was defined, which will replace the current concept of distant sales, and a new definition of distance sale of goods imported from third countries was introduced.

New place-of supply rules were set out for the mentioned supplies of goods to customers (final consumers) with the aim of their taxation in the EU member state of consumption.

The threshold values of delivered goods set out by the individual EU member states, exceeding of which triggered, based on the “old” rules, VAT registration obligation in the EU member state of destination and obligation to account for VAT at appropriate rate in that EU member state, will no longer have to be observed. The place of supply of goods will in the relevant cases be in principle the place where the goods are located when the dispatch or transport of the goods to the customer ends.

To support micro-businesses, an exception will be allowed for suppliers established in one single EU member state, if the turnover threshold of EUR 10 000 for cross-border supplies of digital (“TBE”) services and intra-EU distance sales of goods is not exceeded. Based on defined conditions, these suppliers will be entitled to tax their supplies with the appropriate VAT rate applicable in the EU member state where they are established.



TAX AND LEGAL

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Supply of goods via electronic interfaces

A fiction of a supply was created for VAT purposes, where a taxable person operating electronic interfaces such as marketplaces or platforms will, in certain situations, be deemed for VAT purposes to be the supplier of goods. This implies that for VAT purposes, he will be considered to have purchased the goods from the underlying supplier and sold them onwards to the customer. Consequently, the electronic interface will have to apply the VAT applicable in the EU member state of consumption to the supply of goods and to remit this VAT to the tax administration in that EU member state.

This fiction will apply to distant sale of goods imported from third countries in consignments of an intrinsic value not exceeding EUR 150 or supplies of goods within the EU by a taxable person not established in the EU to a non-taxable person.

Special schemes for VAT - One Stop Shop and import One Stop Shop („OSS“ a „iOSS“)

The voluntary special schemes of “Mini One Stop Shop” (“MOSS”) have been used so far for telecommunications, broadcasting and electronically supplied (“TBE”) services supplied to consumers in the EU. As from 1 July 2021, their material and personal scope will be extended, which will result in their extension to a “One Stop Shop” (“OSS”):

- The scope of the special scheme for taxable persons not established in the EU supplying TBE services (i.e. “the non-Union scheme”) will be extended to all services supplied to non-taxable persons which take place in a EU member state (EU member state of consumption) in accordance with the place-of supply rules set out by Article 16 of the Slovak VAT Act.
- In the Union Scheme, suppliers established within the EU but not in the EU member state of consumption can also declare cross-border supplies of services to non-taxable persons taking place in the EU in line with Article 16 of the Slovak VAT Act. (Examples of services with the place of supply rules set out by Article 16 of the Slovak VAT Act are for example services connected to immovable property, hiring of means of transport, accommodation services, admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, etc.).
- The Union Scheme will be extended to intra-Community distance sales of goods and to certain domestic supplies facilitated by electronic interfaces.
- A new scheme will be launched for distance sales of goods imported from third countries, so called Import One Stop Shop (“iOSS”). This scheme can be used by taxable persons for distance sales of goods imported from third countries when these goods are dispatched in a consignment of an intrinsic value not exceeding EUR 150. When the import scheme is used, these goods will then benefit from a VAT exemption upon importation.

The simplification resulting from using a voluntary special scheme lies in removing the supplier's obligation to register for VAT in each EU member state in which his supplies of goods or services take place. Instead, the VAT due on these supplies in the EU member state of consumption can be declared by the suppliers via a single VAT return filed via an electronic portal in a EU member state in which they become registered for using the special scheme (the so-called “EU member state of identification”). They will also pay the VAT liability in the EU member state of identification. The EU member state of identification forwards the respective amount of VAT to the EU member states of consumption.



Special arrangements for declaration and payment of import VAT

Where the import OSS is not used, special arrangements for declaration and payment of import VAT can be used for goods dispatched to customers in the EU in consignments of an intrinsic value not exceeding EUR 150 and which are not subject to excise duties. This simplification mechanism will enable customs declarants such as postal operators, courier firms, customs agents to collect VAT from customers and pay it to the customs authorities.

Abolition of exemption from import VAT for goods in small consignment of a value of up to EUR 22

As of 1 July 2021, import VAT exemption for goods in small consignments of a value of up to EUR 22 will be abolished. Thus, all commercial goods imported into the EU from a third country will be subject to VAT irrespective of their value, to create fair conditions for all market participants and to prevent distortion of competition when trading online.

The European Commission published Explanatory Notes for the VAT e-commerce rules which are available here:

https://ec.europa.eu/taxation_customs/sites/taxation/files/vatecommerceexplanatory_notes_30092020.pdf

Brexit: The end of the transition period and online shopping

The coronavirus pandemic was reflected also in an increased interest in online shopping, the number of consumers who order goods from a foreign site is on the rise. Following Brexit and the end of the transition period, we come across questions buyers are asking regarding its impacts on online purchases. For example, whether they should transfer e.g. to a German version of an online platform if they have been previously using its British version.



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Implications as regards the import payments will be impacted by the fact whether the goods ordered via the British site will also be physically moved from the UK to Slovakia (EU). Commercial goods (e. g. goods ordered via an e-commerce platform) transported from the UK to Slovakia as of 1 January 2021 are subject to customs formalities in Slovakia, including the relevant VAT and customs duties.

Import payments

As regards customs duties, the impacts are eased only for goods originating in the UK, complying with the appropriate rules of origin as set out in the EU-UK Trade and Cooperation Agreement. Relief from customs duties can be claimed, if conditions specified in the relevant EU and Slovak legislation are met. The VAT exemption for imported goods with a value not exceeding EUR 22 will be maintained in the first half-year 2021.

In practice, e. g. the following situations may occur depending on the consignment value:

- Relief from customs duties is applicable to goods imported in a consignment with a total value of no more than EUR 150 per consignment.
- If the value does not exceed EUR 22, the consignment is also VAT exempt. This will however change from 1 July 2021. As of this date, all commercial goods imported into the EU from a third country will be subject to VAT irrespective of their value and new rules for distant sale of goods will come into effect.
- If the value ranges between EUR 22 and EUR 150, the goods will be relieved from customs duties but will not be exempt from VAT.
- If the value exceeds EUR 150, the goods are no longer free of customs duties and import VAT will be collected as well.

The above exception does not apply to alcoholic products, tobacco or tobacco products, perfumes and toilet waters. Irrespective of their value (even if below EUR 22), customs duties, VAT and potentially also excise tax will be charged. Import of these goods can be subject to further obligations and limitations. Certain alcoholic products, tobacco and tobacco products can be released by the customs authorities only if they are marked by a control excise tax stamp.



Customs formalities

If the import of goods triggers a requirement for the buyer to file an electronic customs declaration, the recipient of the consignment must apply for registration in the Central register of the financial administration (APV CReg). The electronic customs declaration itself can be filed by a postal operator or courier service provider based on a Power of attorney.

If the customs declaration was filed directly by the recipient of the consignment, he would be required to get registered with the customs authorities and to fulfil the conditions for electronic communication for the purpose of filing the customs declarations via the designated information system.

Are the implications different if the goods are shipped from Northern Ireland?

Transactions involving movements of goods between Northern Ireland and EU member states continue to be considered (at least until the end of 2024) as transactions within the EU.

Therefore, if the goods are dispatched or transported by or on behalf of a supplier from Northern Ireland to Slovakia and the customer in Slovakia is a person who is not registered for VAT, distant sales rules will apply.

Under such circumstances, the goods will be taxed by the appropriate VAT rate applicable in the UK, or, where the sales exceed the respective distant selling threshold set by the Slovak Republic or the supplier opts to account for VAT in Slovakia, the supplier delivers the goods under its Slovak VAT number and applies the Slovak VAT on that supply.



What to keep in mind while shopping online

As recommended in this regard also by the European Commission, it is important to read the general terms of sale and delivery conditions when purchasing online. In order to prevent a later surprise, it is appropriate to verify in advance whether the customer becomes responsible for customs formalities connected with import of the goods, whether the price calculated at checkout is the final price including international shipping fees and import payments. In other words, whether the indicated price represents a guaranteed delivery price or additional charges at delivery can be expected.

New rules governing the distant sales of goods will however apply as from 1 July 2021. You can access the summary of the new rules [here](#).

Making vehicles available for private purposes and VAT

Do you provide to the employees vehicles for private purposes for the period exceeding 30 days? Do the employees pay for this use (also in the form of deduction from the remuneration)? Do the employees have their permanent address or do they usually reside in another EU Member State than the seat of the employer?



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Provided you responded to these questions affirmative, such employer might be obliged to pay VAT in the EU Member State in which the employees have their permanent address or usually reside.

[The above mentioned was ruled by the Court of Justice of the EU in its recent judgement C-288/19 QM v Finanzamt Saarbrücken.](#)

Should you wish to review how this judgement may impact your VAT obligations, contact us.



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Temporary application of zero VAT rate for specific protection means

In the period from 12 February 2021 till 30 April 2021 the importation of these goods from the third countries, intra-Community acquisitions from another EU Member States as well as supplies within Slovakia will be subject to zero VAT rate.



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On 12 February 2021, the amendment of Lex Corona became effective which introduced zero VAT rate for specific personal protection means intended to secure higher protection level of respiratory organs. This zero VAT rate will be applicable until 30 April 2021.

As Slovak VAT Act does not stipulate any zero VAT rate and this measure is only temporary, the Financial Directorate of the Slovak Republic issued an information according to which there will be no change of the form of the VAT return. The acquisition of these goods from another EU Member States and their supply within Slovakia will be reported in row 13 of the VAT return (the same way as VAT exempt transactions). These transactions will not be subject to reporting in the VAT Ledger Statement.



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