KPMG

Tax & Legal

Taxes
Legal
World news
Case law

December 2016

Obsah

Editorial

Taxes

Top six tax news items for employers and employees in 2017

Ways to quicker excess VAT deduction refunds

How to correctly treat research and development?

Legal

Corporate criminal liability after the amendment

A new IFRS16 Leases standard

Long awaited amendment to the Corporations Act

World news

European Commission to overhaul corporate taxation

OECD releases a multilateral instrument to modify double taxation treaties

Case law

Consideration paid after withdrawing from a contract for work

Interest on retained excess deductions reconfirmed

Contracting several types of work may backfire on employers

Editorial

Dear readers,

We won't have to wait until year-end to say that this year has seen an increased effort by the tax administration to refund as few tax overpayments as possible and to collect as much money from taxpayers as possible through tax inspections. This applies to all areas of tax, but most of all to transfer pricing, where the financial administration clearly sees the greatest opportunity for additional tax assessments.

Owing to the tax authorities' necessity to hire new personnel, we increasingly often encounter problems with the personnel's insufficient knowledge of complex tax legislation, at times resulting in wrong decisions. The tax authorities also often lack the will to engage in dialogue with taxpayers and, which is worse, are always ready to assess additional tax. Decisions are therefore left up to the courts. But legal proceedings are usually lengthy, which justifiably makes taxpayers feel disadvantaged. We can only hope that the tax administration is on the right track to slowly realising that taxpayers are not their victims but clients. A mutual dialogue will benefit both sides more than confrontation. It will serve well to remember that common sense is what's most precious.

This issue of Tax and Legal Update brings information about changes applicable to employees and employers in 2017 (including changes in labour-law regulations). We also inform our readers about the European Commission's proposal regarding the Common Corporate Tax Base (CCTB). The member states should implement the CCTB concept into their local legislations to allow for its application from 2019. Considering the number of EU member states and the complexity and dissimilarity of the member states' tax systems, this time schedule seems rather unrealistic.

To all of you, a happy and untroubled holiday season!



Jana Bartyzalová
Partner
KPMG Czech Republic

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Taxes

Top six tax news items for employers and employees in 2017

Higher tax reliefs relating to both employer and employee contributions to employees' supplementary pension insurance and life assurance schemes are already a given. Another increase in tax credits for dependent children is yet to be approved. Below you may find information about six extensive changes in taxation applicable to 2017.



Iva Krákorová
ikrakorova@kpmg.cz



Mária Marhefková
mmarhefkova@kpmg.cz

1. Employer contributions to an employee's supplementary pension insurance or private life assurance scheme will be, on the part of the employee, exempt from tax up to CZK 50 000 a year, up from the current limit of CZK 30 000 a year. Moreover, employees contributing to these insurance schemes will be allowed to deduct CZK 24 000 a year from their tax base in respect of their supplementary pension insurance contributions and CZK 24 000 a year in respect of their private life assurance contributions. The limits currently in effect are CZK 12 000 a year per each type of supplementary insurance.
2. Tax credits for second children should increase from CZK 17 004 to CZK 19 404 a year; tax credits for third and subsequent children from CZK 20 604 to CZK 24 204 a year. These increases in tax credits are part of a government bill currently being discussed to amend the Income Tax Act from 2017.
3. A 15% income tax rate on the super-gross salary and a 7% solidarity tax surcharge remain applicable. The monthly limit for solidarity tax payments will increase to CZK 112 928.
4. The maximum assessment base for social insurance premiums in 2017 will be CZK 1 355 136. A maximum assessment base for health insurance will continue not to be applied.
5. An increase in the minimum wage to CZK 11 000 will also affect the amount of minimum monthly health insurance payments, which will increase to CZK 1 485.
6. The tax credit for placing a child into pre-school facilities will increase to CZK 11 000 a year in line with the new minimum wage. This amount may first be applied in the 2017 wage tax prepayment settlement or employee income tax return.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Ways to quicker excess VAT deduction refunds

Excess VAT deductions retained by tax administrators cause cash-flow problems to a large number of corporations. When claiming refunds of excess deductions amounting to millions of Czech crowns, taxpayers often have to wait a long time for the results of their tax administrators' examination of a few disputable invoices. An elegant solution is at hand, however: a partial tax assessment and a refund of the indisputable part of an excess deduction. This would help taxpayers and, simultaneously, would not threaten the state administration's interests. However, the financial administration believes that this option is currently legislatively infeasible. Or is it?



Jana Pytelková Svobodová
jsvobodova@kpmg.cz
+420 222 123 483



Jana Fuksová
jfuksova@kpmg.cz

A recent decision of the Regional Court in Prague (48 Af 21/2016) has raised our hopes as it finds a solution without changing any laws. In the given case, after the tax authority itself acknowledged in its records that a substantial portion of the excess VAT deduction at issue was actually indisputable, the judges imposed the duty to issue a partial payment order for that particular amount on the tax authority. The neutrality of VAT was a major point in the court's reasoning. However, the court also drew attention to the fact that VAT payers must know that a partial payment order may result in a tax obligation, typically where VAT on input relating to invoices under review is higher than the total excess deduction for the period. Here, one unanswered key question arises as to whether it is possible to issue a partial payment order without a tax entity's application. The case in question has not yet ended as it awaits an examination by the Supreme Administrative Court.

Meanwhile, the financial administration continues to refuse issuing partial payment orders and, following the example of their Slovak colleagues, is calling for a general introduction of tax self-assessment that has already been introduced as a pilot project with respect to the administration of the newly established gambling tax. The self-assessment system, planned to be in effect from 2020, represents an automatic assessment of tax based on filed tax returns. Procedures to remove doubt and pre-assessment inspections resulting in the retention of excess deductions will therefore be irrelevant. At first sight, this seems like a simple and elegant solution. But, looking more closely, a number of hidden issues come to the fore. All activities associated with the examination of a tax entity's tax obligations by the tax authority will automatically be connected with a 20% penalty on the additionally assessed amount. Taxpayers will no longer be able to ask for a discussion of a disputable tax issue without penalisation before the tax assessment itself; this process to a certain extent had been used as a replacement of the abolished possibility to appeal against one's own tax return.

Ways to a quicker refund of an indisputable part of the retained excess VAT deduction do exist. If your company's cash flow is hampered by long-retained excess deductions, we will be happy to assist you in deciding whether the filing of an application to issue a partial payment order could help with your particular situation.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

How to correctly treat research and development?

A recent decision of the Supreme Administrative Court regarding a research and development expenditure deduction again emphasised the importance of expert opinions in cases of doubt. During inspections the tax authority must take into account the technical aspects of projects and cannot arrive at a decision to reject deductions without carrying out a proper expert examination.



Michaela Thelenová
mthelenova@kpmg.cz



Hana Greiff
hgreiff@kpmg.cz

The number of judgments dealing with research and development expenditure deductions has recently increased. Despite the fact that the tax authorities tirelessly continue to challenge these deductions, case law in this area has developed favourably for taxpayers. In case no. 1 Afs 174/2016-38, the tax authority challenged 2007 and 2008 deductions relating to research and development of packaging used for the transfer of parts for the automotive industry. The tax entity asserted that its research and development activities had been carried out to develop a new system of transportation packaging structures with new space-saving, repetitive-use and long-life qualities. The tax entity also changed the used material.

The tax administrator was of the opinion that this research and development was part of the entity's business activities lacking any component of novelty. Consequently, it rejected the deduction of related costs and assessed additional tax, claiming that the activities at issue were only performed to enhance the quality of existing packaging, i.e. it involved an innovation, and that the structure of new packaging did not at all vary from other packaging. The tax administrator did not change its opinion even though the entity provided a mass of evidence documenting specific and general components of novelty and technical uncertainty. This evidence included tables, charts and other documentation.

The SAC held that first it was absolutely necessary to adhere to the definition of research and development pursuant to the Act on Support of Research, Experimental Development and Innovation. According to the court, the systematic and creative use of knowledge to enhance existing qualities and features falls under this definition. In other words, the court entirely rejected the tax authority's assertion that only the development of a new model function can be regarded a research and development activity. It also pointed out that the tax authority cannot conclude that certain activities do not involve research and development without making an expert assessment and without sufficiently understanding all the technical aspects. If the tax authority had doubts regarding the nature of the entity's activities, it should have appointed an expert to prepare an opinion based on which it could have adequately reviewed all relevant facts.

We also draw attention to positive developments in legislation. In taxable periods started in 2016 it is now possible to include certification costs in research and development expenditures.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Legal

Corporate criminal liability after the amendment

All corporations should take note: on 1 December 2016, the awaited amendment to the Corporate Criminal Liability Act entered into effect. A number of significant changes should not escape the attention of any corporate entity – whether a multinational corporation, a family-run business or a non-profit organisation.



Viktor Dušek
vdusek@kpmg.cz



Věra Kočicová
vkocicova@kpmg.cz
+420 222 123 869

Importantly, the amended act extends the number of criminal offences that corporate entities could be liable for from approximately 80 to approximately 200: corporate entities will be liable for nearly all the same criminal offences as individuals, with the exception of those explicitly excluded by law – offences where a corporate entity by its nature cannot be liable, such as bigamy. Furthermore, the use of effective (active) remorse has been limited: additional, primarily corruption-related criminal offences have been excluded from its application.

The most widely discussed issue is the possibility of a corporate entity's exoneration: this only was included into the proposed amendment during the legislative process, by a legislative rider in the Chamber of Deputies. Eventually, it passed through both chambers of the parliament. Hence, a corporate entity may be exempt from criminal liability if it can prove to have exerted all reasonable efforts to prevent the offence.

For a corporate entity, the conviction of a criminal offence or even just the initiation of criminal proceedings may have rather unpleasant implications. Apart from posing an undesired threat to the company's reputation, criminal prosecution also constitutes an obstacle for business combinations, for instance. It may also entail an increased risk for the members of statutory or supervisory bodies with respect to their duty to proceed with due care in exercising their offices: criminal prosecution of a corporation may, under certain circumstances, be deemed a breach of such duty, with all possible consequences. In extreme cases, it may lead to the criminal prosecution of the members of statutory or supervisory bodies for the criminal offence of violating trust obligations.

In view of the above, corporate entities should now more than ever focus on setting up a suitable crime prevention system. Effective, custom-tailored compliance mechanisms, inward and outward oriented, and procedures for their regular follow-up and update should be implemented by any corporate entity, from small family businesses to large multinationals. It is in the utmost interest not only of the entity itself, but also of its managing and supervisory bodies.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

A new IFRS16 Leases standard

The International Accounting Standards Board (IASB) issued a new IFRS16 Leases standard, introducing considerable changes in the method of accounting for leased assets. The new standard will affect a large number of business entities. Even though the new regulation will not become effective before 1 January 2019, it is worth preparing for its implications as soon as possible.



Iva Baranová
kpmg@kpmg.cz



Filip Horák
kpmg@kpmg.cz

The standard's primary objective is to report leases in the balance sheets of lessees, which will affect both lease providers and all companies using leases for their operations. Those who acquire a significant portion of their assets via leases will see an increase in the reported assets and liabilities. The higher the number of leases used for business, the greater the impact the change in accounting will have on a business. It will eventually affect the amount of recognised profit and other key financial indicators such as debt ratio and EBITDA. This may be vital for previously agreed-on credit financing, for example.

In addition to impacts on the balance sheet, entities must take into account that they will report a bigger part of lease expenses at the beginning of the contractual period even if they pay invariable annual rents. The standard also distinguishes between lease and servicing contracts. Whereas assets relating to lease contracts will be reported in the balance sheet, the servicing part will be recognised in the income statement. To meet all new requirements, entities might have to change a number of concluded contracts.

The new standard becomes effective in 2019. Considering the extent of potential implications for entities' contractual documentation and financial planning, we recommend commencing a standard-related analysis and associated decision-making processes sufficiently in advance.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Long awaited amendment to the Corporations Act

Soon, we will mark the third anniversary of the Act on Corporations and Cooperatives (Corporations Act) coming into effect. Since the beginning, its application has been wrought with difficulties due to its inaccuracies and deficiencies. An amendment to the Corporations Act proposed by the government and aiming to correct these deficiencies is now going through the comment procedure. While its effective date is only planned for 1 January 2018, it is advisable to become acquainted with the main points of the proposed amendment now.



Věra Kočicová
vkocicova@kpmg.cz
+420 222 123 869



Bohuslava Jiroušková
kpmg@kpmg.cz

Changes are proposed all throughout the act. Apart from correcting obvious errors, the amendment also brings some simplification. For instance, when founding a limited liability company, the duty to pay the deposits into a special bank account should be abolished if the registered capital of the company does not exceed CZK 20 000. It should also be made certain that the acquisition of a share in a corporation does not constitute the other spouse's participation in the corporation. The law should also explicitly allow for the creation of interests and shares without a right to profit distribution, without a right to a share in a liquidation balance and, most importantly, without a voting right. The question of *per rollam* vote in cases where the law requires the general meeting's resolution in a form of a notarial record should also be clarified: a new type of notarial record will be created for these situations. Changes will also affect the regulation of dividends and advances for profit shares.

Stricter sanctions are to be imposed on corporate entities operating as statutory bodies of other corporations: they will have to authorise a single individual to represent them in such statutory body; if they fail to do so, the corporate entity's office in the statutory body will terminate after two months. A new concept of liability of statutory bodies' members should also see the light of day: influential and controlling entities will be held liable for the company' debts if they contributed to the company's bankruptcy. In such cases, the courts could rule that the entity in question has to provide to the bankrupt company's assets a supply up to the amount of the difference between the company's total debt and the value of its assets.

Perhaps the most important changes will concern the monistic system of the internal structure of a joint-stock company. The existing office of a statutory director is to be abolished and a single obligatory body will thus remain – an administrative board. The board will be in charge of the management of the company's business, and in charge of the supervision of a company's activity.

Finally yet importantly, the amendment to the Corporations Act also brings numerous changes to other laws, among them the Act on Public Registers of Individuals and Corporate Entities. Here, the changes are meant to respond, among others, to the general non-observance of the duty to file financial statements in the Collections of Deeds of the Commercial Register.

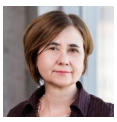
© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

European Commission to overhaul corporate taxation

In late October, the European Commission released its proposal for major corporate tax reform. The package contains three areas: the common (consolidated) corporate tax base (CC(C)TB), mechanisms to resolve double taxation disputes, and measures to address hybrid mismatches with non-EU countries. In this article, we take a look at the first area – the CC(C)TB.



Luděk Vacík
kpmg@kpmg.cz



Lenka Fialková
lfialkova@kpmg.cz

The Commission first presented the CCCTB project in 2011, under the flag of the single EU market and making the business easier for corporations. Because of differences in their taxation systems, member states did not support the proposal at the time, and it was sidelined for several years. Now it has been re-launched, this time not under the heading of corporate tax harmonisation but as a way to combat tax evasion. Tax harmonisation is considered a side effect of the measure.

The Commission proposes to launch the CCCTB in two steps. The first step will be to reach agreement on a single common set of rules to determine a corporate tax base (CCTB); the common consolidated corporate tax base, the CCCTB, is to be introduced only as a second step.

Compared to the 2011 wording, the Commission proposes the rules as mandatory, but only for groups of companies with a consolidated annual turnover exceeding EUR 750 million; other corporate groups could opt in. Some pro-growth measures – a 'super' deduction for research and development costs, and an allowance for growth and investment are also in planning.

The consolidated tax base of corporate groups would be divided among the member states where the group is situated based on three factors: sales, labour and labour costs, and finally, assets. The tax base thus apportioned would then be subject to a corporate income tax applicable in the given state.

The Commission emphasises that even the interim step – a common corporate tax base – will bring benefits to corporations, namely by reducing administrative expenses and compliance costs. Since any mutual offsetting of losses within the group will not apply at this stage, the Commission as an interim measure proposes allowing cross-border offsetting of a subsidiary's loss against the parent's profit; once the subsidiary generates profit, the parent company's state will receive the relieved tax back.

The Commission considers the advantages of CCCTB primarily to be the simplification and unification of corporate systems, the removal of transfer pricing rules, and pro-growth measures. It also wants to demotivate companies from aggressive tax planning and from making use of differences in taxation systems.

In November, the Czech Ministry of Finance invited the professional public to consult on both proposed directives: the CCCTB Directive, and the CCTB Directive. The Commission has proposed the effective dates of the directives for 2019 (CCTB) and 2021 (CCCTB).

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

OECD releases a multilateral instrument to modify double taxation treaties

Late in November, more than 100 states concluded negotiations on the wording of a new multilateral convention, which is an important part of the OECD's action plan against base erosion and profit shifting (BEPS). This multilateral instrument will facilitate the swift and efficient implementation of selected BEPS measures into individual double taxation treaties, without the need for renegotiation on an individual basis. The primary objective of the measures is to prevent shifting of profits by multinational groups to reduce their tax bases. The OECD estimates that approximately 2 000 existing tax treaties will be modified this way. Understandably, this also affects tax treaties concluded by the Czech Republic.



Luděk Vacík
kpmg@kpmg.cz



Tomáš Prchal
kpmg@kpmg.cz

The multilateral instrument contains measures in the following areas:

- treaty abuse (BEPS Action 6)
- mechanism of treaty-related dispute resolution (BEPS Action 14)
- neutralising the effects of hybrid mismatch arrangements (BEPS Action 2)
- avoidance of permanent establishment status (BEPS Action 7)

The multilateral instrument gives states a certain amount of discretion as to how they will apply the measures to their tax treaties. For the first two areas, states will be obliged to adopt a minimum standard of measures; for the remaining two areas, the states may decide not to apply the measures at all. Further application flexibility will let each state define in advance which of its tax treaties will be covered by the multilateral instrument.

The multilateral convention will only be binding upon the states that join it. Its provisions will enter into effect with respect to a specific double taxation treaty once both parties have ratified the multilateral convention and a time allowance for the clarification of any possible disputes has elapsed. It is expected that countries taking part in negotiating the multilateral convention (approximately 100 states, including the Czech Republic) will join.

Individual states are now preparing a list of their tax treaties to be covered by the multilateral convention and considering in what manner to apply the proposed measures. A large number of states are expected to join the convention already in 2017.

The multilateral convention and an explanatory statement on individual measures are available on the OECD's website.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Consideration paid after withdrawing from a contract for work

The Supreme Administrative Court (SAC) ruled (7 Afs 124/2016 – 35) on the VAT treatment of an amount that a customer paid to a contractor after withdrawing from a contract for work. The core of the dispute was whether the amount was a consideration for work carried out under the contract for work, and thus subject to VAT, or whether it was a financial supply with no relation to the work carried out, thus not subject to VAT.



Tomáš Havel
thavel@kpmg.cz



Klára Kameníková
kpmg@kpmg.cz

In the case in question, the contractor had been contracted to build a production hall for the customer. The contractor carried out certain work under the contract for work, in the scope of approximately 95% of the contracted work. Subsequently, both the customer and the contractor withdrew from the contract. According to the International Court of Arbitration's decision, after the withdrawal from the contract, the customer was obliged to pay to the contractor approximately CZK 50 million for the completed and not reimbursed work.

In the opinion of the contractor, the amount comprised the settlement of a relationship which had ensued from unjust enrichment and corresponded to the loss caused to the contractor or the gain of the customer, and as such was not subject to VAT. According to the SAC, some legal relationships ensuing from the unjust enrichment of one of the parties indeed do not fall under the scope of VAT; however, these are exclusively relationships not involving the delivery of goods or provision of services for consideration. Since, in the case in question, the contractor had built most of the production hall under the contract for work, and the hall had then passed into the ownership of the customer, it was undoubtable that the contractor had provided a service to the customer within the meaning of the VAT Act. As for the amount paid according to the decision of the International Court of Arbitration, the SAC ruled that it had been based on the contracted price and the volume of work carried out, therefore there was a direct proportion between the provision of services and the consideration. Hence, this was the case of a provision of services for a consideration, and the amount is subject to VAT.

As for the point of time of the taxable supply, according to the SAC, it was the day when both parties withdrew from the contract for work. After this point in time, the contractor no longer had any actual access to the work, and the right of disposal of the work had passed on to the customer, irrespective of the fact that the customer refused to sign a delivery and acceptance protocol.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Interest on retained excess deductions reconfirmed

It has been two years since the Supreme Administrative Court issued a breakthrough decision in the Kordárna case, confirming that the tax authority must pay interest on retained excess deductions to the taxpayer. Despite the court's decision, tax administrators still do not pay interest on retained funds automatically and taxpayers often have to summon up great strength to recover their funds. Recently, the SAC again had to stand up for taxpayers by defining the thresholds within which interest on retained excess deductions is charged.



Jana Pytelková Svobodová
jsvobodova@kpmg.cz
+420 222 123 483



Jana Fuksová
jfuksova@kpmg.cz

In recent judgment no. 9 Afs 225/2015, the SAC judges categorically refused the financial administration's argumentation that the above case law represents an inadmissible (judicial) law-making. Referring to the SAC's previous judgments as well as the Court of Justice of the European Union's decision in the Kovozber case, the judges explicitly reconfirmed the taxpayers' entitlement to interest.

In many aspects, the SAC clarified or confirmed the parameters for charging interest on excess deductions. According to the court, the tax authority's interest-free examination of excess deductions should take three months in simpler instances. This should allow sufficient time to remove any and all doubt. The method in which excess deductions are examined does not matter. The SAC judges also believe that it would not be fair to differentiate between a procedure to remove doubt and a tax inspection. And, finally, the judges expressed their opinion on the amount of interest. A 14% interest charge a year should be used until the end of 2014, as at that time no explicit legal regulation had been in force to deal with such cases. As a result, interest on refundable overpayment as the closest legal concept should be applied. The court did not voice its opinion on the adequacy of 1% annual interest charged in compliance with a new legal regulation effective from the beginning of 2015. We may expect to hear about it in another cassation complaint still awaiting the court's decision.

The SAC emphasised that interest on retained excess deductions does not represent a punishment of the tax authority but a tax entity's compensation for a financial disadvantage. If the tax authority has been retaining your excess deductions for a long time, or has done so in the past, we will be happy to help you undertake steps to receive appropriate compensation.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

Contracting several types of work may backfire on employers

The Labour Code gives employers several tools to make the relationships with their employees more flexible. The possibility of contracting more than one type of work in a single employment contract is one of them. In particular, this is practical for employers who assign various work tasks beyond the scope of a single job to their employees. However, as the Supreme Administrative Court recently emphasised, there are some disadvantages to this solution.



Martin Hrdlík
mhrdlik@kpmg.cz



Barbora Bezděková
bcvinerova@kpmg.cz
+420 222 123 867

The case in question involved a typical labour-law dispute – the validity of a termination of employment. Under an employment contract, an employee had worked as a laboratory technician and as a driver at the same time. During the term of the employment contract, she ceased to meet the qualification requirements to carry out the work of a laboratory technician. The employer therefore gave her a termination notice on the grounds of her failing to meet the requirements stipulated by legal regulation for carrying out the contracted work. The employee considered the termination unlawful and challenged its validity in court: she argued that she was still meeting all required criteria for working as a driver. In contrast, the employer emphasised that throughout her employment the employee had primarily worked as a laboratory technician and had only worked as a driver sometimes when substituting for her colleagues.

The crucial question was whether it had been possible to terminate the employee's employment on the grounds of a failure to meet stipulated prerequisites even when such grounds for termination only concerned one of several contracted types of work. According to the SAC, this was a breach of law: the employer could still have assigned work to the employee under the existing employment contract; the driver job was not affected by the failure to meet the prerequisites. The court deemed irrelevant that the employee had only carried out the work sporadically. Therefore, the court declared the termination invalid.

The employer probably could have prevented the unfavourable ruling as employers can regulate individual job contents in their internal policies. If the employee had primarily worked as a laboratory technician and if the tasks she carried out as a driver closely related to her laboratory work (for instance involved only transporting, from time to time, laboratory samples for a short distance, between the clients and the laboratory), the job description of the laboratory job could have contained also this activity. Then it would have been sufficient to state only the laboratory technician job in the employment contract, and the termination could have held up in court. In short, professionally drafted policies and procedures may help employers win a good many disputes.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

LinkedIn | Twitter | Facebook | Instagram

www.kpmg.cz
Tel.: +420 222 123 111

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2026 KPMG Česká republika, s.r.o., a Czech limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.