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FOR SOCIAL LAW AND SOCIAL POLICY

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## **DEVELOPMENTS IN SOCIAL LEGISLATION AND POLICY**

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## 1. CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION

Following the economic slowdown in recent years, the Czech Republic is gradually returning to economic growth. According to the Czech Statistical Unit (hereinafter “the CSU”), the two year recession period has already ended. In 2014, the Czech economy proofed a more sustained recovery supported by the boom in the automobile and construction industry as well as by positive effects of foreign trade and domestic consumption. Most likely, the Government’s decision to continue in practicing a responsible fiscal policy with deficits below 3% of the reference limit during the period 2007-2014, contributed to this development. A key indication that the Czech economy was on the way to recovery came when the CSU published figures related to the Gross Domestic Product in February 2015. GDP has grown by 2% which is more than in the previous two years.<sup>1</sup> Despite the devaluation of the Czech koruna due to the interventions by the Czech National Bank only a very low inflation of 0.4% took place.<sup>2</sup> However, the economic recovery remains fragile and moderate. The pace of growth as well as its sustainability are uncertain.

The political situation in the Czech Republic has been substantially influenced by the early elections to the Chamber of Deputies of the Parliament of the Czech Republic, which took place in late October 2013. The plot behind the elections resembles a soap opera – a lover of the prime minister ordered the military to spy on his private life, more particularly if he was going to divorce. However, the military spy was caught by the police, and opposition politicians kept an ear to the ground. The whole situation resulted in elections and the formation of a coalition Government by the formal opposition. The new Government is composed of the Czech Social Democratic Party (which won the majority of the votes), the ANO 2011 movement, and the Christian and Democratic Union – Czechoslovak People's Party. In February 2014, the Government won the confidence vote in the Parliament of the Czech Republic.

Income inequality and relative poverty continue to be low in comparison with other Western European countries. The share of workless households decreased thanks to the economic recovery. According to the statistics operated by the Ministry of Labour and Social Affairs, the unemployment rate went down on a continual basis. At the end of 2014, the unemployment rate of the Czech Republic was at 7.5% (compared to 8.6% at the beginning of 2014). The best result in terms of employment was achieved during summer (7.1%).<sup>3</sup> Although the Czech Statistical Office surveyed living and working conditions of Czech households in 2014, not even interim results have been published up to the end of February 2015. The 2013 CSU survey on life satisfaction among Czech citizens was published in October 2014. According to the CSU, people are more or less satisfied with their life in the Czech Republic. Higher satisfaction is connected to housing conditions and private relationships. Czechs feel less comfortable as regards their financial situation and do not trust official authorities.<sup>4</sup>

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<sup>1</sup> See <http://www.czso.cz/csu/csu.nsf/informace/cpoh021315.docx> (Citation 26 February 2015).

<sup>2</sup> See [http://www.czso.cz/csu/redakce.nsf/i/inflace\\_spotrebitelske\\_ceny](http://www.czso.cz/csu/redakce.nsf/i/inflace_spotrebitelske_ceny) (Citation 26 February 2015).

<sup>3</sup> See <https://portal.mpsv.cz/sz/stat/nz/mes> (Citation 6 March 2015).

<sup>4</sup> See [http://www.czso.cz/csu/2014edicniplan.nsf/publ/160027-14-n\\_2014](http://www.czso.cz/csu/2014edicniplan.nsf/publ/160027-14-n_2014) (Citation 26 February 2015).

## 2. REFORMS OF MAIN BRANCHES OF SOCIAL PROTECTION<sup>5</sup>

### 2.1. Old-Age Schemes

In 2014, the old-age protection system comprised three pillars: (1) the traditional mandatory public social insurance scheme (a PAYG scheme) covering the employed and self-employed workers, (2) a voluntary funded scheme, introduced in January 2013 to supplement the public pension scheme, to be funded by diverting 3% of the 28% first-pillar social security contributions, with an additional 2% of members' gross wages; (3) privately managed voluntary individual accounts, implemented under Act No. 42/1994 Coll., which receive government subsidies and favourable tax treatment (with almost 5 million accountholders in December 2014).<sup>6</sup>

#### 2.1.1. Pensions at Retirement Age

In order to fulfil national targets defined within the Europe 2020 Strategy and to reflect other EU initiatives the Czech Government implemented specific country recommendations received in 2013 by the EU Council. In line with recommendations included in the National Reform Programme (NRP) in the field of pension reforms the Government adopted measures to increase the effective retirement age by aligning retirement age or pension benefits to changes in life expectancy and reviewed the indexation mechanism.

As part of austerity measures, indexation in 2013 and 2014 was reduced, so that only one third of the 100% increase in the consumer price index was reflected (one third of the increase in real wages was reflected as before). This temporarily reduced indexation should have taken place for the last time in January 2015. However, the new Government has prioritised improvements in the social situation of the population over the long-term sustainability of the pension system. Despite a huge deficit in the pension insurance, the Government made the most of the positive economic situation and ensured appropriate indexation of pensions in 2014. Pensions were not only increased by Ministerial Decree No. 208/2014 Collection as of 1 January 2015; the Government abolished the slowdown of pensions' indexation in response to the growth of wages and prices enacted in 2012. According to the amended Act on Pension Insurance, pensions will be adjusted by 100% of the growth of consumer prices and 1/3 of the growth of real wages, starting in 2015. This measure is to stop the decrease of the real value of pensions and prevent deteriorating living conditions of pensioners.

The Government also decided to change the current regulation of the statutory retirement age.<sup>7</sup>

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<sup>5</sup> This report is partially based on two books: Koldinská, K., Lang, R. 'Czech Republic'. In *International Encyclopaedia of Laws: Social Security Law*, edited by Willy van Eeckhoutte. Alphen aan den Rijn, suppl. 89 NL: Kluwer Law International, 2013; and Pichrt, J., Štefko, M. *Labour Law and Industrial Relations – Czech Republic*, IEL, Kluwer Law International, The Netherlands, 2009.

<sup>6</sup> Social Security Administration USA, International Update: Recent Developments in Foreign Public and Private Pensions, December 2014 ([https://www.ssa.gov/policy/docs/progdesc/intl\\_update/2014-12/index.html](https://www.ssa.gov/policy/docs/progdesc/intl_update/2014-12/index.html)).

<sup>7</sup> The regulation is still highly differentiated, depending on the year of birth, gender and number of children brought up (only for women). Until 31 December 1995, the required retirement age was 60 years for men and 53–57 years for women. These age limits are still valid for people born prior to the year 1936. The precise retirement age of individuals born between 1936 and 1977 is set forth in the appendix of the Pension Insurance Act. For persons born after 1977, the number of calendar months that equals twice the difference between the year of birth and 1977 is added to the age of 67 years.

The 2011 amendment of Act No. 155/1995 Coll., on Pension Insurance, introduced the increase of the retirement age by two months per year without setting a final target age. This unlimited increase of the retirement age constitutes a real nightmare for young generations.<sup>8</sup> In addition to increasing the statutory retirement age, there is also a gradual unification of the statutory retirement age for men and women (since the 1950ies there have been separate retirement ages for both sexes).<sup>9</sup> The Government aims to gradually slow down the pace of increasing the retirement age. It should be in balance with the expected trends in the average life expectancy in the future. According to some experts, future developments will not meet completely current demographic forecasts. Therefore, the Ministry of Labour and Social Affairs in cooperation with the Ministry of Finance has prepared a discussion document proposing standardized procedures of regular revisions of the retirement age increase rate. The revision mechanism will enable to monitor and evaluate in regular intervals the development of demographic indicators. It should guarantee that there are no significant changes in average time spent in retirement for each generation. The period for which old age pension is received should stabilize at an average of about 20 years. According to current demographic forecasts there is currently no reason to change the pace of increasing the statutory retirement age. However, it is assumed that in 2015 there should be further debate and a possible decision on whether or not this proposal should be enacted in legislation.

### 2.1.2. Supplementary Retirement Insurance Systems

In January 2013, the former Government of Petr Nečas had introduced a second-pillar pension to supplement the public pension scheme<sup>10</sup> without seeking a consensus across the parliamentary political parties on this pension reform. As a result, the former opposition has repeatedly informed the Government, pension insurance companies as well as the broad public that, after a victory in the parliamentary elections, it intended to abolish the pension savings system. After the opposition had won the elections of October 2013, the new three-party coalition Government immediately started to look for ways to reverse the current supplementary retirement insurance and announced that the voluntary second-pillar pension system would be eliminated by January 2016.

According to the new Government, the system of pension savings (the funded “second” pillar) was disadvantageous for most Czech workers and had attracted only few members. Partly the low take-up was due to the pre-election warnings that the new system would be dismantled. But other factors also deterred affiliation: Membership was irrevocable, and affiliates had to personally contribute an additional 2% on top of the 3% diverted from the 28% social contribution rate to the public pension scheme, making the second-pillar unattractive for low income earners. An expert committee was set up consisting of delegates of the coalition and opposition parties as well as of representatives of the social partners and other experts in order to arrive at a broader consensus on the way forward for

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<sup>8</sup> The increases are based on an automatic mechanism which is applied to all the insured born after 1977. The formula to calculate the retirement age is 67 + twice the number of months you get when you subtract 1977 from the birth year of the insured person, cf. section 32 § 3 of the Pension Insurance Act Nr. 155/1995 as modified by Act Nr. 220/2011 (in force as of 30 September 2011).

Example: Retirement age of a person born in 2011:  $67 + 2 \times (2011 - 1977) = 67 + 2 \times 34 = 67 + 68 \text{ Months} = 67 + 5 \text{ years } 8 \text{ months}$

<sup>9</sup> For women, the Act speeded up the increase in retirement age temporarily from four to six months per year until the unification of the pension age in 2041.

<sup>10</sup> A PAYG scheme for all employed and self-employed workers (covering around 5 million workers).

the re-reform of the pension system. The decision to abolish the second pillar in January 2016 was upheld despite the controversial debates on compensation for investors, insurance companies and citizens, and the threats that such compensation would get out of hand. According to the liquidation scheme, recommended by the expert committee, second-pillar members can choose whether to receive their funds into private bank accounts, with the option of returning the 3% portion back to the first public pillar, or reinvest them into existing third-pillar funds. This solution avoided a re-nationalization of the diverted contribution rate, as the re-reform refrained from a compulsory return of the 3% portion to the first pillar advocated by the Labour and Social Affairs minister.

## **2.2. Health Care**

The Government has continued with its difficult task to rebalance the health care insurance that has been in deficit almost every year. Its room for manoeuvre was limited due to the fact that, as in the case of the second pillar pension system, the Government was bound to its pre-election promises to abolish user fees (“regulatory fees”). Although such fees were a substantial additional source of income for health care providers in previous years, the Government decided not to re-introduce the hospitalization fee (abolished by the Constitutional Court) and it abrogated the prescription fee as well as the fee for treatment in outpatient care. The only user fee to remain in existence was the fee for the use of emergency services. It was promised that the public health insurance system, and consequently the healthcare providers, would receive compensation from the state budget for the loss of funds associated with the cancellation of user fees.

The apparent lack of income should also be covered by increased payments for persons insured by the state (children, students, the unemployed, pensioners). The Government approved the plan to increase payments from CZK 787 to 845 CZK in March 2014. The proposal was enacted as Act No. 109/2014 Coll.

Two spectacular criminal acts in 2014 that resulted in a bloodbath created a unique momentum for authorities to revise the system of psychiatric care. Although the reform has been on the agenda since 2013, killing acts by mentally disordered people that had received much public attention by the media clearly speeded up preparatory works. The primary objective of the psychiatric care reform is to improve the quality of life of the mentally ill with a focus on a total enforcement of human rights. The Ministry of Health promised that psychiatric care would be humanized by successive steps, emphasizing the development of community care (semi-mural and extramural). The reform will provide for education programmes for the medical staff and promote de-stigmatisation activities.

## **2.3. Workmen’s Compensation**

The new Czech Civil Code, which entered into force on 1 January 2014, without doubt influenced workmen’s compensation substantially. Not surprisingly, the day-to-day application of the new code has revealed a number of shortcomings that practitioners face. The most serious obstacles for the Civil Code’s future are doubts related to remedies for occupational health injuries.

The legislation wished to free courts from tables they had to apply when evaluating an individual’s harm that affects his/her health. The Civil Code established in Section 2958 that harm (for example pain and lesser employability) shall be compensated in full on the basis of equity (“as it is fair”). In

addition, the Civil Code abolished the ministerial decree (Decree No. 440/2001 Collection) that defined the evaluation method based on tables.<sup>11</sup> However, the administration forgot to annul Section 394 of the Labour Code. This provision sets forth that Decree No. 440/2001 Collection shall continue to apply until the law on occupational accidents insurance comes into force. Although the law was passed many years ago, the Czech parliament postponed its effectiveness during various legislatures. As a consequence, it is still not effective and the Ministry of Labour and Social Affairs may state that Section 394 of the Labour Code prevails.

The Ministry of Labour and Social Affairs in cooperation with the Ministry of Health issued a declaration that Decree No. 440/2001 Collection shall be applied even in 2014. This declaration was to a certain degree supported by the Supreme Court's statement that the decree should be respected by courts in civil proceedings.

## **2.4. Family Benefits**

The legislature prepared an amendment to Act No. 117/1995 Coll. on state social support which re-established the payment of a birth grant also for the birth of the second child. This amendment was approved by Parliament in October 2014 and came into effect on 1 January 2015 as Act No. 253/2014. The birth grant amounts to CZK of 13,000 for the first child and CZK of 10,000 for the second.

There are two benefits set forth to improve the social situation of poor families. The first is regulated within the state social support and the second within the legislative framework for assistance in material need. In 2014, the Government prepared an amendment to the Act on assistance in material need with the aim to change the rules for the provision of the supplement for housing and other provisions for housing benefits. The proposal was passed by Parliament and published as Act 252/2014 Coll. The regulation as of 1 January 2015 simplified the proceedings on the supplement for housing to avoid the payments for unsuitable premises. In addition, it increased the motivation of persons to address their adverse housing situation by their own effort.

The Government also decided to prepare a new law on social housing in order to combat homelessness and housing exclusion more efficiently. The new law should clearly lay down the rights and duties of the government, municipalities and other stakeholders. The preparation of this law is part of the legislative work plan of this Government and is expected to take effect in 2017.

## **2.5. Benefits for Persons with Disabilities**

With effect from 1 January 2014, there has been a change in the method of assessing the medical status of the applicant to meet the health condition for the entitlement to the disability card, especially in response to the complaints from individuals and organizations representing the interests of persons with disabilities, which concerned legislation introduced under the social reforms of the previous Government in the period 2010 – 2013. Act No. 313/2013 Coll., amending the Act on Social Services modified the conditions to grant the disability card, as well as the corresponding

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<sup>11</sup> It must be pointed out that the Czech Labour Code still regulates a civil tort: an employer's liability for damage caused by occupational injury or disease. It is a no-fault liability inspired by former Soviet regulations and codified in 1960ies of last Century.

administrative proceedings. The card can only be granted on application, there are separate administrative proceedings, including health assessment by a review doctor from the District Social Security Administration. The entitlement to the disability card is not linked to a recognized degree of dependence or the inability to provide for one's basic needs in terms of mobility and orientation.

With effect from 1 January 2014, there have also been changes in the case of benefits for people with disabilities. Act No. 313/2013 Coll. changed the conditions for the entitlement to the mobility allowance: for new applicants, the entitlement is conditional on having a ZTP (particularly severe disability) or a ZTP/P (particularly severe disability requiring a guide) card granted after 1 January 2014. Those who have already received the mobility allowance will continue to receive it. The amount of the mobility allowance also remained unchanged at CZK 400 per month. At the request of the beneficiary the allowance may be paid in one instalment for three calendar months for which a person is entitled to receive it. The number of people that, meeting all other conditions, are entitled to the special aid allowance for the purchase of a motor vehicle, is extended to persons with above-knee amputation with the possibility to use a prosthesis.

## **2.6. Social Inclusion of the Poor**

On 8 January 2014, the Government approved a national framework document fostering social inclusion and combating poverty entitled "Social Inclusion Strategy 2014 - 2020". The Strategy aims to contribute to the attainment of the national target of reducing poverty and social exclusion.

## **2.7. Social Services**

### **2.7.1. General Evolution**

Since the enactment of social services, the municipality has become the natural "centre" of social work. It provides a complete range of social work necessary to meet the needs of communities within its territorial jurisdiction. The Ministry of Labour and Social Affairs has systematically worked on further professionalization of social work at the municipal level in the last couple of years. Preparatory works concerned a division of competences between the national and regional levels, a planned enactment of the profession in legislation, and a transparent funding to allow the development of social work which will be efficient, professionally correct and comprehensive in terms of all agendas.

As of 1 January 2015 the responsibility for the preparation of medium-term development plans and subsidies to provide social services stay with the regions – the higher territorial self-governing units. This represents the culmination of efforts towards the efficient use of public resources in the area of social services as suggested by the so called Czech school of social policy at the beginning of the previous century. Finally, resources can gradually be used to support social services that are locally/regionally necessary, accessible, efficient and of high quality. The competence of performing the activities and the responsibility for subsidies to fund social work were also transferred to municipalities – the basic territorial self-governing units.

Support for the performance of the social work profession in the municipality led to the formation of recommended minimum standards for social work activities in the municipality, including specialization in thematic areas (such as long-term care or social housing).

### 2.7.2. Childcare Services

The Czech Republic received various recommendations at supranational or international platforms, the last time in 2013, to significantly increase the availability and capacity of childcare facilities, focusing on children under three years of age. A proposal of the law on children's group and amending related laws was prepared. On 2 January 2014, the draft law was approved by the Government, subsequently submitted to Parliament for consideration. The Act on Children's Group was approved and published as Act No. 247/2014 Coll. and came into force on 29 November 2014.

The new legislation aims to expand the range of childcare services for pre-school children by introducing other options and by increasing local availability and affordability of childcare services. It regulates a new type of childcare services on a non-profit basis and introduces tax measures related to childcare for employers and for parents. In addition, in the context of reconciling family and professional life, parents shall be enabled to maintain job relations during the period of childcare and to gradually return to the labour market. The act lays down the conditions for childcare services related to children aged one year and over up to the start of compulsory school education, which has not been regulated by law until now, through the introduction of a new type of babysitting and childcare service in so-called children's groups. This measure should foster early childhood education and care of children (as facilities will have to guarantee the quality of their services), and also help to reduce the risk of poverty and lack of income if parents are out of work for a longer period of time.<sup>12</sup>

## 3. INTERNATIONAL AGREEMENTS IN THE FIELD OF SOCIAL SECURITY

The international agreements on social security with India and Russia have been prepared and approved by the Czech Government. Nevertheless, the successful end of ratifications was hard to foresee due to either political instability or hostile neutrality. Finally, the bilateral international agreement on social security between the Czech Republic and the Russian Federation came into force on 1 November 2014. The agreement was published in the Collection of International Agreements under No. 57/2014. The bilateral international agreement on social security between the Czech Republic and India came into force on 1 September 2014 and was published under No. 45/2014 Collection of International Agreements.

The Parliament of the Czech Republic has also given its consent to the Supplementary Agreement amending the Social Security Agreement between the Czech Republic and the USA. The proposal was delivered to the President on 18 December 2014.<sup>13</sup> As soon as it takes force and effect, the Social Security Agreement between the Czech Republic and the USA will also cover health insurance. This will stop duplicate payments of such insurance by American citizens who, when seconded to American subsidiaries operating in the Czech Republic, must pay Czech health insurance even though they still participate in the American system. Even after adopting the Supplementary Agreement, the following will apply:

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<sup>12</sup> For details in the development of pre-school care cf. National Reform Programme of the Czech Republic 2014, p. 17 f. ([http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014\\_czech\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_czech_en.pdf)).

<sup>13</sup> <http://www.cssz.cz/cz/mezinarodni-smlouvy/smlouvy-uzavrene-cr/cr-a-usa.htm> (Citation 27 February 2015).

- gainfully self-employed individuals and non-active family members will not have automatic access to public health insurance;

- all persons who are not covered by Czech public health insurance will have to fulfil all legal conditions for entry and residence in the Czech Republic, including the conditions for covering the costs of health care in the Czech Republic.

#### **4. LIST OF IMPORTANT AMENDMENTS**

These acts are quoted under their initial number and year of issue in the Collection of Laws.

##### *Health Insurance*

- Act No. 109/2014 Coll. amending the Act on Contributions to Health Care

##### *Sickness Insurance*

- Act No. 250/2014 Coll. amending the Act on Sickness Insurance in connection with the new Act on Civil Service.

##### *Pension Insurance*

- Act No. 183/2014 Coll. amending the Act on Pension Insurance.
- Act No. 251/2014 Coll. amending Social Security Organization and Implementation.
- Act No. 267/2014 Coll. amending among others the Act on Contributions to Social Security and Contributions to State Employment Policy.

##### *State Social Support*

- Act No. 253/2014 Coll. amending the Act on State Social Support.

##### *Social Assistance*

- Act No. 254/2014 Coll. amending the Act on Social Aid in Material Need.
- Act No. 254/2014 Coll. amending the Act on Social Services.
- Act No. 252/2014 Coll. amending the Act on Subsistence and the Living Minimum.

#### **5. IMPORTANT NATIONAL COURT DECISIONS**

Court decisions are cited in accordance with Czech standards. Decisions are identified by file numbers under which they can be found in free public databases, such as <http://www.usoud.cz/> (applicable for the Constitutional Court), <http://www.nsoud.cz/> (for the Supreme Court) or <http://www.nssoud.cz/Uvod/art/1> (for the Supreme Administrative Court).

Used abbreviations can be explained as follows:

- "Pl. ÚS" a plenum or general assembly of the Constitutional Court;

- "I. ÚS" identifies a senate of the Constitutional Court;
- "Cdo" means file lodged before the Supreme Court;
- "A" or "Ad" means the Administrative Court, the letter "s" following the abbreviation "Ad" recognizes a case connected with social security and the letter "f" a case connected with taxes;
- a number before a slash means a file number and a number after the slash year when a claim was lodged before the court.

Constitutional Court's decisions concerning Social Security: Pl.ÚS 43/13, IV.ÚS 474/13, I.ÚS 2930/13, and Pl.ÚS 9/14.

Supreme Court's decisions: 21 Cdo 3689/2012.

Supreme Administrative Court's decisions: 4 Ads 32/2012 – 50, 3 Ads 58/2013 – 26, 4 Ads 35/2013 – 63, 3 Ads 65/2013 – 14, 5 Ads 94/2014 – 22, 4 Ads 47/2014 – 23, and 4 Ads 75/2014 - 20.

Very few Czech courts' decisions have been published in an English translation. In some of them, there are serious formal differences between the Czech and the English version because the English translation does not contain all points of the Czech version and the section numbers of different language versions of the same decision may differ. In some cases, the English version does not provide marginal numbers at all. In fact, the translated decisions can be considered as an enhanced memo only.

The following important decision issued by the Constitutional Court in 2014 in the areas of health care and social rights guaranteed by the Constitution should be highlighted:

The Constitutional Court's judgment file number Pl. ÚS 43/13, in media mostly abbreviated as Annulment of the "Spa" Decree, confirmed its doctrine based on its previous decision of 24 April 2012, file no. Pl. ÚS 54/10. In this decision of 24 April 2012, the Constitutional Court defined the so called "reasonability test", an instrument used to review the legislature's intervention in the area of constitutionally guaranteed social rights. The reasonability test reflects both the need to respect the legislature's relatively wide discretion and the need to rule out possible excesses on its part. It consists of the four following steps:

- 1) defining the purpose and essence of a social right, i.e., its essential content,
- 2) evaluation of whether a statute does not affect the very existence of a social right or the actual implementation of its essential content,
- 3) evaluation of whether the legislative framework pursues a legitimate aim, i.e., whether it is not an arbitrary lowering of the overall standard of fundamental rights,
- 4) evaluation as to whether the statutory means used to achieve it is reasonable (rational), even if not necessarily the best, most suitable, most effective, or wisest.<sup>14</sup>

On 23 August 2013 the Constitutional Court received a petition from a group of 21 senators ("the petitioner"), represented by Senator Vladimír Plaček, seeking annulment of Ministry of Health Decree no. 267/2012 Coll., on Setting an Indications List for Spa Rehabilitation Treatment Care for Adults, Children and Adolescents, ("the contested decree"), or, in the alternate, the annulment of § 2 par. 2 of the contested decree.

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<sup>14</sup> See decision on 24 April 2012, file no. Pl. ÚS 54/10, point 48.

Spa rehabilitation treatment care is one of the forms of health care of the Public Health Insurance Act, and thus the right to its provision falls within the second sentence of Art. 31 of the Charter. Therefore, the Constitutional Court concluded that also in the contested decree the answer to the question of whether a citizen is entitled to have it provided free on the basis of public health insurance or whether he must pay for it himself should be given by the implementing statute directly, after determination of the facts (in particular the insured person's state of health).

Setting the length of a treatment stay and the possibility of beginning one in the contested decree, the Ministry of Health caused a marked reduction in the basic length of a treatment stay, from 28 to 21 days, without any change in the statutory framework. At the time of the Constitutional Court's deliberations in this matter the Ministry of Health was again considering to return to the original length of a treatment stay, and cited as one of the publicly presented reasons for that step the fact that the spas are an important regional employer, and leaving the situation as it was under the contested decree would escalate the growth of unemployment (Government press release of 21 February 2014, published at [www.vlada.cz](http://www.vlada.cz)). Thus the announced change in the conditions for covering spa rehabilitation treatment care would take into account purposes which the Public Health Insurance Act does not at all expect to be achieved through sub-statutory norm creation.

For these reasons the Constitutional Court concluded that the contested decree goes beyond the framework of the statute in setting the limits in which one can exercise the right to free health care on the basis of public health insurance. Therefore, the decree is inconsistent with the statutory reservation under Art. 31 of the Charter and also with the authorization under Art. 79 par. 3 of the Constitution. This ground for derogation must be applied to the full text of the decree, because the parts to which it applies cannot be separated from the remaining parts of the decree without the Constitutional Court thereby changing the conditions for exercising the right to free health care.

We also recommend you to read judgment Pl. ÚS 28/13 in which the Constitutional Court ruled on salaries of judges.

## 6. SELECTION OF LITERATURE

From many books and articles, these papers can be distinguished as leading in the respective fields of social security law:

### 6.1. Books

KVOČÁKOVÁ, Lucia. Vývoj a komparácia právnej úpravy sociálneho poistenia v Českej a Slovenskej republike (Evolution and Comparisons of Social Insurance in the Czech Republic and Slovak Republic). Praha: Univerzita Karlova v Praze, 2014. 255 pgs.

HALÍŘOVÁ, Gabriela. *Sladění pracovních a rodinných rolí zaměstnanců pečujících o děti (Rebalancing Business and Family Life)*. Praha: Leges, 2014, 189 pgs. ISBN 978-80-87576-92-2.

ŠTURMA, Pavel. Úvod: od zákazu diskriminace k ochraně kolektivních práv. *Od zákazu diskriminace k ochraně kolektivních práv (Introduction, From Anti-discrimination to Collective Rights)*. Praha: Univerzita Karlova v Praze, Právnická fakulta, 2014, pp. 5-7.

ŽENÍŠKOVÁ, M.: Pojistné na sociální zabezpečení zaměstnavatelů, zaměstnanců, OSVČ a dobrovolné důchodové pojištění s komentářem a příklady k 1. 1. 2014. (Premiums on Social Security), 6<sup>th</sup> Edition, Prague 2014, ANAG

## 6.2. Article

ŠTEFKO, M.: Zohlednění studia na zahraniční vysoké škole uskutečňované v ČR i mimo ni pro účely českého systému sociální ochrany (Students at Foreign Universities and Their Status in Czech Social Security), Právní rozhledy, 2014, No. 12, pgs 440-443

## 7. OTHER INFORMATION

The main research programme of the Charles University, Faculty of Law, in social security is about the impact of both EU Law and globalization on Czech social security. This programme, financed by the Ministry of Education, Youth and Sports, will continue up to 2015.

Website of the Czech Society for Labour and Social Security Law, an affiliate of the International Society for Labour and Social Security Law: [www.spolpracsoc.cz](http://www.spolpracsoc.cz)

Important web-addresses of public authorities:

- Ministry of Labour and Social Affairs <http://www.mpsv.cz/en/>
- Ministry of Health <http://www.mzcr.cz/Cizinci/>
- Czech Social Security Administration <http://www.cssz.cz/en/about-cssa/>
- General Health Insurance Company <http://www.vzp.cz/en/index.php>
- Constitutional Court <http://www.usoud.cz/en/>
- Supreme Court <http://www.nssoud.cz/Uvod/art/1>
- Research Institute for Labour and Social Affairs <http://www.vupsv.cz/?p=index&site=en;>  
<http://www.vupsv.cz/?p=news&site=en>

National Social Report 2014: it aims at providing comprehensive information on the implementation of the general overarching and specific objectives of social protection and social inclusion defined at EU level within the open method of coordination by the Czech Republic.

National Reform Programme of the Czech Republic

[http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014\\_czech\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_czech_en.pdf)

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