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CONTENT OVERVIEW

1. CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION	2
2. SOCIAL REFORMS OF MAIN BRANCHES	3
2.1. Old Age Pensions at Retirement Age	3
2.2. Supplementary Retirement Insurance Systems	4
2.3. Invalidity and Survivors	4
2.4. Health Care	4
2.5. Maternity Benefit and Leave	5
2.6. Industrial Accidents/Occupational Diseases	6
2.7. Unemployment / Promotion of Employment / Labour Market Participation	6
2.8. Family Benefits	7
2.9. Social Assistance (Minimum Income Support)	7
2.10. Social Services	8
3. OCCUPATIONAL BENEFITS	9
4. ORGANISATIONAL, ADMINISTRATION AND FINANCING ISSUES	9
5. JUDICIAL PROTECTION OF SOCIAL RIGHTS	9
6. INTERNATIONAL AGREEMENTS ON SOCIAL SECURITY	10
7. LIST OF IMPORTANT ACTS	11
8. SELECTION OF IMPORTANT MONOGRAPHS AND ARTICLES	11
8.1. Books	11
8.2. Articles	11

The aim of this report is to describe and analyse how the Czech welfare state has stood against two giant marauders, such as deficit and poverty, during 2015. It is based on research conducted under the auspices of the Max Planck Institute for Social Law and Social Policy.

1. CURRENT ECONOMIC, POLITICAL AND SOCIAL SITUATION

The pace of Czech growth as well as its sustainability proved to be extraordinarily strong in 2015. Full year GDP growth likely peaked at a post-recession high of 4.3%, which was one of the fastest rates of expansion in the European Union.¹ The return to growth has been largely driven by domestic demand, with investment growing particularly strongly. On the other hand, the balance of foreign trade had a slight negative influence on the growth of the Czech economy. Compared to 2013, there was a significant slowdown in consumer price inflation to 0.4% (1.4% in 2013).

The general government deficit has improved significantly since 2009 and the Czech public finances do not appear to face sustainability risks in the next years. The general government deficit has improved significantly in recent years and reached 2% of GDP in 2014.² The debt-to-GDP ratio was 42.6 % of GDP.³

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. Two years later, the government is still in one piece and is considered by general meaning to have cohesion and be coherent as much as it is possible for a government based on a coalition agreement.

Income inequality and relative poverty continue to be low in comparison with other Western European countries. The share of workless households has been decreased thanks to the economic recovery. The labour market has continued to improve, with unemployment falling back towards its long-term average. The general unemployment rate of those aged 15-64 years reached 4.5% in December 2015.⁴ Nevertheless, there are two major challenges related to the low labour market participation of certain groups: poorly functioning active labour market policies and barriers to higher female labour-market participation. As to the former, it has to be pointed out that the former right-wing government weakened the informal structure of the respective state agency – the Labour Office. A number of skilled and experienced state officials were dismissed and the reasons behind it seem to be rather unclear or unreasonable. The Labour Office's main role as a job mediator has, to a certain degree, been replaced by private job agencies. The new government changed the public employment policy and has started to restore the situation to its previous state and to reinstate the

¹ See <http://www.focus-economics.com/countries/czech-republic> (citation 2 February 2016). It does not surprise that confidence of Czech entrepreneurs and consumers continues to grow based on a CSU survey in 2016. Compare <https://www.czso.cz/csu/czso/ari/business-cycle-survey-january-2016> (citation 5 February 2016).

² See <http://www.mfcr.cz/cs/aktualne/tiskove-zpravy/2015/deficit-vladniho-sektoru-roce-2014-21051> (citation 15 February 2016).

³ See <http://www.mfcr.cz/cs/aktualne/tiskove-zpravy/2015/deficit-vladniho-sektoru-roce-2014-21051> (citation 15 February 2016).

⁴ See <https://www.czso.cz/csu/czso/ari/rates-of-employment-unemployment-and-economic-activity-december-2015> (citation 5 February 2016).

original mission of said office. As to the latter, the ability of women with children to participate in the labour market is impeded by a lack of affordable childcare services and the limited use of flexible working-time arrangements.

Thanks to the economic recovery, incomes of Czech households increased in 2015 and even their living and working conditions seem to be better compared to previous years; this has been confirmed by the CSU research on the income situation of single mothers in 2012 and previous years. Data proved that in 2012, one third of single mothers were endangered by poverty and social exclusion.⁵ In 2014, more than one million people were at risk of income poverty.⁶

2. SOCIAL REFORMS OF MAIN BRANCHES

2.1. Old Age Pensions at Retirement Age

The new government has given priority to 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 an appropriate indexation of pensions in 2015. The government abolished the slowdown of pension indexations and renewed the yearly indexation mechanism, increasing pensions by 100% of the CPI growth (living costs of all households) and by one third of the increase in real wages, which had been valid until 2012. The reduced indexation for the years 2013 to 2015 had to consider not 100%, but only 1/3 of the price increase, and should have taken place for the last time in January 2015.

The government has also decided to change the current regulation on the statutory retirement age. The Act on Pension Insurance set forth an unlimited increase in the retirement age, which constitutes a real nightmare for young generations. The Expert Committee on Pension Reform proposed a regular mechanism/process to review the pace of increasing the statutory retirement age so 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. The control parameter shall be set as a percentage share of the average life expectancy at the retirement age threshold to the sum of the average life expectancy and the retirement age threshold. Should the value of the control parameter for some of the generations lie beyond the margins of 24–26%, the government shall be obliged to propose an adjustment to the statutory retirement age threshold. According to current demographic forecasts there is currently no reason to change the pace of increasing the statutory retirement age. However, it was assumed that in 2016 there should be further debate and a possible decision on whether or not this proposal should also be enacted in legislation.

⁵ Compare <https://www.czso.cz/csu/czso/living-conditions-household-income-and-expenditure-analyses-commentaries> (citation 5 February 2016).

⁶ See https://www.czso.cz/documents/10180/20551729/310034153.pdf/1e594a3a-ef04-4ede-a4e9-47ef4bdc2e74?redirect=https%3A%2F%2Fwww.czso.cz%2Fweb%2Fczso%2F404-%3Fp_p_id%3D3%26p_p_lifecycle%3D0%26p_p_state%3Dmaximized%26p_p_mode%3Dview%26_3_groupId%3D0%26_3_keywords%3Dchudoba%26_3_struts_action%3D%252Fsearch%252Fsearch%26_3_redirect%3D%252Fweb%252Fczso%252F404- (citation 11 February 2016).

No legislative changes were made with respect to the limitation or expansion of early or deferred retirements, insurance periods, or pension calculation formulas.

2.2. Supplementary Retirement Insurance Systems

In the coalition agreement, the new government stated explicitly that it would prepare a proposal to terminate the system of pension savings (the so-called "second pillar"). An expert committee (most often translated as "the Professional Committee for Pension System Reform") was set up consisting of delegates of coalition and opposition parties, as well as representatives of the social partners and other experts in order to arrive at a broader consensus on the way forward for the reform of the pension system. Despite threatening disputes on compensations to investors, insurance companies and citizens, the government decided to abolish the second pillar in January 2016. The respective statute was approved in October 2015 and the law came into force on 1 January 2016.⁷ The insurance contribution rates were fixed at the same level as before the introduction of the second pillar, i.e. the contribution rate for employees has again been set at 6.5% of gross salaries. The rate for employers has remained unchanged. For self-employed persons who participated in pension savings before 1 January 2016, a contribution rate of 29.2% of declared monthly earned income has become valid.

The Expert Committee on Pension Reform also made some recommendations as to the remaining system of supplementary pension savings in order to turn it into a real additional source of income in old age. The Committee proposed a tax exemption for pensions paid out for more than 10 years, similarly as in case of statutory pensions. Furthermore, the system needs to be adjusted to allow for higher equities (returns) for participants in order to accumulate sufficient capital for their old age security. For this reason, certain strict limits on investing should have been removed and the range of investment instruments should have been expanded.⁸

2.3. Invalidity and Survivors

There were no changes concerning invalidity or survivors' pensions.

2.4. Health Care

In 2015, there were only limited changes to the scheme. More important large-scale amendments are on the way. The Ministry of Health established the reform committee, and its ambition is to adjust the system of long-term health and social care, strengthen the role of patients, enforcing data infrastructure of the system to measure the effectiveness of health care services and to provide other functions, improving the accessibility and quality of health care and harmonising and providing interoperability for health information sharing. The strategy should be completed by September 2015, the set of measures should then be implemented in 2016-2020, after the government has approved the strategy.

The most difficult aim seems to be the burning ambition to modify the system of long-term health and social care to set up measures that ensure efficient and financially sustainable provision of long-

⁷ In Czech zákon č. 376/2015 Sb. o ukončení důchodového spoření.

⁸ Cf. http://www.duchodova-komise.cz/?page_id=1248 (citation 3 March 2016).

term care within the combined area of social and health care. Two possible options are being discussed.

The first is a draft of a comprehensive act on long-term care, the second option consists in a draft of an amending act on long-term care (comprising only the purpose, definitions and references to legislative changes in other acts). These issues have been outlined in the following national strategic documents: National Action Plan Promoting Positive Ageing for the Period of 2013-2017; Social Inclusion Strategy 2014-2020; Action Plan to Improve Accessibility and Quality of Health care, Including After-Care and Long-Term Care; and Action Plan for Ensuring the Quality and Safety of Health Care Services.

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 had been prepared since 2013, killings committed by mentally deranged people and attention given by media to such acts sped up preparatory works. In 2015, a strategy for the reform of psychiatric care was approved with its specific action plan. The notion is: to prevent is better than to cure. Therefore, psychiatric care shall be transformed, with responsibilities assumed no longer (only) by official institutions, but (also) by the community services, i.e. the so-called Mental Health Centres. The approved strategy is being implemented in terms of funding a new type of psychiatric care system and testing it at first pilot centres.

According to trade unions statements, medical doctors' working conditions and the hospitals' financial situation have worsened despite an apparent recovery of the Czech economy. The Ministry of Health has decided to face this challenge in a most problematic way. The ministry has prepared amendments to Acts Nos. 95/2004 Coll. and 96/2004 Coll. in order to simplify the system of postgraduate education. The aim of these legislative changes is not only to reduce the number of attestation subjects but also to limit the scope of work required for certification. In addition, attestation centres have to be introduced at regional hospitals. It is expected that these measures will increase the efficiency of the process governing postgraduate education in this area.

Finally, the government has continued to tackle the difficult task of rebalancing the financial situation of the health care insurance, which has been running a deficit almost every year. From 1 January 2015, the regulatory fees were reduced, with an indirect negative impact on the state budget resulting from the compensation of lost revenue from fees to health care providers. On the same day, VAT on medicines was reduced, with an anticipated negative impact on the revenue side of the state budget. The positive impact of the measure consists in a reallocation of the reduced costs of medicines in the category of medicines fully and partially paid by health insurance companies.

2.5. Maternity Benefit and Leave

With respect to requirements or the amount of maternity benefits, as well as to the conditions and length of maternity leave no changes were registered in 2015. The attempt to enact days off for fathers in connection with the birth of their children has not received full-scale support; however, under the new State Civil Service Act state officials were given two paid days off in the first six weeks after a child was born (Governmental Regulation No. 135/2014 Coll.).

2.6. Industrial Accidents/Occupational Diseases

The new Czech Civil Code which entered into force on 1 January 2014 influenced workmen's compensation substantially. Not surprisingly, the day-to-day application of the new Code has revealed a number of shortcomings practitioners find difficult to face. The most serious obstacles to the Civil Code's bright future are doubts connected with remedies for occupational health injuries.

The legislation wished to free courts from tables they had to apply when evaluating an individual's health status after harm suffered. The Civil Code established in Section 2958 that harm (for example pain and lower degree of 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 Coll.) that defined the evaluation method based on tables.⁹ Despite years of preparation, the officials who prepared the Civil Code forgot to annul Section 394 of the Labour Code. This provision sets forth that Decree No. 440/2001 Coll. shall continue to apply until the Act on Occupational Accident Insurance comes into force. Although the Act had been passed long ago, various Czech parliaments were postponing its effectiveness until it was abolished in 2015. 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 Coll. was to 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. Although the legal situation was not clear, the legislation found a solution almost two years later, on 26 October 2015, when a new Governmental Regulation on Workmen's Compensation (No. 276/2015 Coll.)¹⁰ was published. It should not be a surprise that the old tabular method was upheld to a large degree.

By abolishing the Act on Occupational Accident Insurance, the Czech legislature preferred to find remedies to occupational injuries within the realm of labour law. It has to be pointed out that, in doing so, the Czech Republic has returned to the solution developed in the 50's of the previous century, when Czechoslovakia was a communist totalitarian state.

2.7. Unemployment / Promotion of Employment / Labour Market Participation

The Czech public employment policy is rather modest and in balance. The emphasis on introducing security to the labour market, i.e. giving strong support to job applicants in the field of active and passive employment policy, is also seen as rather ambiguous in the Czech Republic. The Czech system of unemployment benefits stipulates a quite stringent qualifying period in cases where unemployment benefits are applied for. According to the Employment Act, to be eligible for Czech benefits, the applicant must have been employed for at least 12 months out of the last 24 months (Sec. 39(1)a) of the Employment Act).

⁹ It must be pointed out that the Czech Labour Code still regulates a civil tort, namely 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 the 1960s.

¹⁰ In Czech: nařízení vlády 276/2015 Sb. o odškodňování bolesti a ztížení společenského uplatnění způsobené pracovním úrazem nebo nemocí z povolání.

It has to be pointed out that the former right-wing government weakened the informal structure of the respective state agency – the Labour Office. A number of skilled and experienced state officials were dismissed and the reasons behind it seem to be rather unclear or unreasonable. The Labour Office's main role as a job mediator has, to a certain degree, been replaced by private job agencies. The new government has changed the public employment policy and has started to restore the situation to its previous state and to reinstate the original mission of said office.

2.8. 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 13,000 for the first child, and CZK 10,000 for the second.

There are two benefits set forth to improve the social situation of poor families. The first is regulated through state social support and the second in terms of assistance in material need. In 2014, the government prepared an amendment to the Act on Assistance in Material Need, which envisaged a change in the rules for the provision of supplement for housing and other regulations governing 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 payment of the benefit for unsuitable premises and increased the motivation of persons to address their adverse housing situations through their own efforts.

The government has also decided to prepare a new law on social housing in order to combat homelessness and housing exclusion more efficiently. The Ministry of Labour and Social Affairs has established an expert committee that examines the current statutory concept of quality, which has been in force and effective for nearly 10 years. Outputs of expert working groups will be referred to further consultations, re-formulated as an amendment, and subsequently submitted to the legislative process. The new law should specify the rights and duties of the government, municipalities and other stakeholders. The preparation of this law is part of the plan of legislative work of this government and is expected to take effect in 2017; however, Prime Minister Sobotka has confirmed delays in the preparatory works.¹¹

2.9. Social Assistance (Minimum Income Support)

There were few amendments in the field of assistance in material need, effective from 1 January 2015. They were aimed at fixing application issues that had emerged in previous years through specification of certain categories and situations of material need, a more favourable calculation of pension incomes assessed for the eligibility to benefits, and, above all, changes related to the housing subsidy.

The new legislation prevents payment of the housing subsidy for substandard accommodation premises that is financed to the excessive benefit of landlords, and provides for housing quality standards to be assessed for eligibility to this benefit. The amendment also determines the maximum

¹¹ Compare <http://www.mpsv.cz/cs/22524> (citation 15 February 2016).

rent amounts according to the location and standardised housing costs (according to the changed Act on State Social Support). The housing subsidy is provided to individuals living at lodging houses only subject to the consent of the municipality, and only for lodging houses that meet the hygiene standards set for standard quality housing. Another preventive measure linked to the housing subsidy consists of an obligation to inform the respective municipality about the commission of social work aimed to find a suitable housing solution for an individual living in a substandard dwelling.

2.10. Social Services

As of 1 January 2015, the responsibility for the preparation of medium-term development plans and subsidies to provide social services remains with the regions – the higher territorial self-governing units (Act No. 254/2014 Coll.). In particular, the preparation and content of the medium-term plans for the development of social services (which, in accordance with Act No. 108/2006 Coll., on social services, constitute the essential basis to ensure the availability of those services) and of the parameters to be used to create a network of social services receiving financial support have been specified further.

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 and efficient and of high quality. The competence of performing the activities and the responsibility for subsidies to fund social work were also transferred to the municipalities – the basic territorial self-governing units.

Support for the performance of the social work profession within the municipality led to the formation of recommended minimum standards for social work activities within the municipality, including specialization in thematic areas (such as long-term care or social housing). The Ministry of Labour and Social Affairs is preparing the new Act on Social Housing that should enter in force on 1 January 2017.

The Ministry of Labour and Social Affairs has continued to prepare the new Act on Social Workers. The government received the legislative intent of the Act on Social Workers. The articulated wording of the act is expected to be submitted to the government in June 2016 and the act should come into effect as of 1 January 2017. Despite apparent disillusion among actual social workers who raised different issues, the ministry is planning to establish a professional chamber of social workers that ought to act as a promoter of ethical values. The new law should state regulated terms and conditions of social work for all social workers, professional growth opportunities, professional positions and protection of the professional status.¹²

¹² Cf. http://www.mpsv.cz/files/clanky/20463/TZ_040315b.pdf (citation 4 March 2016).

3. OCCUPATIONAL BENEFITS

Not applicable due to Czech legal traditions. Social partners play only a limited role in setting up additional pension insurance schemes or other social security schemes. This has not changed in the last 26 years after the fall of communism, and it seems to remain unchanged in 2016, too.

4. ORGANISATIONAL, ADMINISTRATION AND FINANCING ISSUES

In 2015, social security contributions continued to be the highest in the EU and represent nearly half of all tax revenues, while the rate of personal income tax is significantly lower than the EU average. High social security contributions may have a negative impact on labour demand and a particularly discouraging effect on the young low-skilled and the low-skilled over the age of 55, who typically do not benefit from tax relief for families with children. Even so, no harmonisation of tax bases for personal income tax, social security and health contributions – which would help simplify the tax system – has been achieved as yet, although there had been plans to tackle the issue.

5. JUDICIAL PROTECTION OF SOCIAL RIGHTS

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 follow:

“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 to social security, the letter “f” a case connected to taxes; a number before a slash means a file number, a number after the slash is the year when a claim was lodged before the court.

The highest courts of the Czech Republic issued several rulings concerning social security in 2015:

- Constitutional Court decisions: I.ÚS 491/15; II.ÚS 728/15; I.ÚS 1265/14; IV.ÚS 184/13.
- Supreme Court decisions: 32 Cdo 2051/2013; 25 Cdo 1783/2015.
- Supreme Administrative Court decisions: 10 Ads 196/2015 – 18; 6 Ads 116/2015 – 15; 4 Ads 155/2015 – 25; 1 Ads 252/2015 - 27.

In January 2015, the Constitutional Court issued two important decisions in the areas of health care and the right to education guaranteed by the Constitution: Pl. ÚS 16/14 and Pl. ÚS 19/14.

In both cases, the petitioners were parents of children who had refused, without any justifiable reason, to have their children vaccinated. Because of this behaviour, these children were not admitted to a preschool establishment. The questioned Section 50 of the Public Health Protection Act sets forth that the vaccination is a condition for admission of a child to a kindergarten.

The Constitutional Court upheld the contested regulations with the main notion: the higher the proportion of unvaccinated against vaccinated persons within the population, the higher the risk of a repeated spreading of infection not only among those who have voluntarily refused vaccination but also among those who cannot be vaccinated for serious, especially health reasons. Finally, also those who have been vaccinated, but whose vaccination has not achieved the desired effect, are threatened by the spread of the disease.

According to the Court, persons particularly exposed to the risk of infection are children, who – in case of disease – may face particularly serious consequences. On these grounds, it might be considered as an act of social solidarity if a child is vaccinated before his/her admission to a kindergarten, and it gains in importance with the growing number of vaccinated children in groups within preschool establishments.

6. INTERNATIONAL AGREEMENTS ON SOCIAL SECURITY

The Supplementary Agreement amending the Agreement on Social Security between the United States of America and the Czech Republic of 2007, was signed in Prague on 23 September 2013, and will enter into force on May 1, 2016.¹³

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 U.S. 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. The existing social security agreement only covers social security and not health insurance on the Czech part, since the Czech Republic has, in contrast to the USA, a separate public health insurance scheme. Consequently, the principle of exempting U.S. citizens seconded to the Czech Republic from health insurance in the state in which work is performed (i.e., the Czech Republic) cannot be applied. On the other hand, individuals seconded from the Czech Republic to the USA are not obliged to pay social and health insurance (Medicare) contributions if they continue to contribute to the Czech insurance scheme. Even after adopting the Supplementary Agreement, the following will still apply:

¹³ Published under No. 85/2008 and 86/2008 Collection of International Treaties (Sb.m.s.).

- 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 the 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.

The Supplementary Agreement on Social Security between the United States of America and the Czech Republic has been approved by both chambers of the Czech Parliament.¹⁴ The proposal was delivered to the President on 18 December 2014.¹⁵

7. LIST OF IMPORTANT ACTS

In accordance with Czech legal standards, these acts are quoted under their initial number and year of issue in the Collection of Laws.

Health Insurance

– Act No. 200/2015 Coll. amending Acts on Health Care

Pension Insurance

– Act No. 377/2015 Sb. amending the Act on Supplementary Pension Insurance.

8. SELECTION OF IMPORTANT MONOGRAPHS AND ARTICLES

8.1. Books

Arnoldová, A.: Sociální péče (Social Assistance) Volume 1, Grada 2015, ISBN 978-80-247-5147-4.

Prudká, Š.: Sociální služby pro seniory v kontextu sociální politiky (Social Assistance for Elderly in the Context of Social Policy) Grada 2015, ISBN 978-80-7478-839-0.

Tomeš, I. a kol.: Sociální parvo ČR (Social Security Law of the Czech Republic) Prague, Wolters Kluwer 2015, ISBN 978-80-7478-941-0.

Vysokajová, M. a kol.: Konference k výročí 90. let sociálního pojištění (90th Anniversary of the Czech Social Insurance), Prague, Charles University, Faculty of Law 2015, ISBN 978-80-87975-34-3.

8.2. Articles

Langer, R.: Dlouhodobě nepříznivý zdravotní stav v sociálních systémech, *Práce a mzda*, Volume 63, No. 3 (year 2015), pp. 8-14, ISSN 0032-6208.

¹⁴ See <http://www.psp.cz/sqw/historie.sqw?o=7&t=136> (citation 13 February 2016).

¹⁵ <http://www.cssz.cz/cz/mezinarodni-smlouvy/smlouvy-uzavrene-cr/cr-a-usa.htm> (citation 27 February 2015).

Scheu, H., Ch.: The Limits of So-called Benefit Tourism and the Free Movement of EU Citizens, Czech yearbook of public & private international law (Česká ročenka mezinárodního práva veřejného a soukromého), Prague: Česká společnost pro mezinárodní právo, 2015, pp. 187-208, ISBN 978-80-87488-23-2.

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