



Tax and Legal Newsletter

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Audit and consulting company Deloitte Lithuania and Professional Partnership of Advocates Deloitte Legal are glad to introduce you with Tax and Legal Newsletter. In this edition you will be presented with the latest tax and legal news prepared by our Tax and Legal experts.

The Supreme Administrative Court of Lithuania allowed ministers to make mistakes

The Supreme Administrative Court of Lithuania delivered the decision in a landmark case in which Deloitte Legal represented the defendant – the ex-minister of the Interior.

The judges have established that the fact that administrative courts have amended and annulled an order regarding the imposition of professional liability on the head of the institution under the Ministry of the Interior, does not constitute a prerequisite for instant liability of the minister of the Interior.

Advocate, Partner-in-Charge of Deloitte Legal Lithuania Mr. Gintautas Bartkus notes that the judgment establishes the indicators of the presence or absence of guilt which in their substance resemble the standard of *bonus pater familias*.

The minister may not be guilty, if:

- the decision of the minister was related to the discretionary powers instead of an enforcement of unambiguous requirements of the law;
- the minister's orders were coordinated with lawyers and other specialists;
- the minister based the decision on conclusions and findings provided by other institutions and committees;
- the minister's actions were not *ultra vires*;
- the procedural requirements were not breached.

Access the full decision of the court [here](#).

Energy: European Parliament approved ambitious targets on renewables and energy efficiency

European Parliament approved three important legislative acts that are part of the Clean Energy for All Europeans package. The adopted legislation sets binding targets for member states: by 2030, energy efficiency in the EU has to be improved by 32.5%, whereas the share of energy from renewables should be at least 32% of the EU's gross final consumption. The indicative targets will play a crucial role in meeting the EU's goals on climate policy.

It is expected that increased energy efficiency will result in reduced energy bills for citizens and businesses. Member states are obliged to ensure that citizens are entitled to generate renewable energy for their own consumption, to store it and to sell excess production. They will also have to establish specific energy efficiency measures to the benefit of those affected by energy poverty.

[Information](#) of the European Parliament.

“The possibility for leaders to make risky decisions needs to be protected.”



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“Energy efficiency will rise in the whole of the EU.”



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State Data Protection Inspectorate has prepared guidelines on the implementation of appropriate organizational and technical data security measures

State Data Protection Inspectorate has adopted guidelines which will not only help organizations to ensure compliance with the General Data Protection Regulation, but will also aid in preparing for the upcoming inspections by the State Data Protection Inspectorate. Regardless of the size of the organizations or the sector companies operate in, it is expected that they will implement the minimum personal data security and privacy requirements set out in the guidelines.

More information is available [here](#).

The Parliament will review the new draft legislation of the Law on Trade Marks

On November 6, the draft project of the Law on Trade Marks, which implements the European Parliament and Council directive (EU) 2015/2436 of 16 December 2015, was submitted to the Parliament for revision.

The new regulation on trademarks sets out these changes:

- It would no longer be required to depict the trade mark graphically. After new legislation comes into force any form of trade mark will be eligible for registration as long as it is possible to clearly and precisely identify the subject matter of legal protection;
- Third parties may submit to the State Patent Bureau written observations, explaining on which grounds the trade mark should not be registered *ex officio*;
- Establishes grounds for registration of collective marks as well as certification marks;
- Establishes compulsory pre-litigation procedure in the State Patent Bureau;
- Lays down the rights of trade mark proprietors and restrictions to these rights, in relation to customs surveillance measures applied on the infringing goods, in particular in transit.

The Law on Trade Marks comes into force on January 1, 2019.

Draft legislation of the Law on Trade Marks is available [here](#).

Geo-blocking regulation starts to apply as of December 3

Geo-blocking is a discriminatory practice that prevents online customers from accessing and purchasing products or services from a website based in another member state. European Parliament and Council Regulation (EU) 2018/302 aims to eliminate these barriers and encourage e-commerce preventing unjustified discrimination

“Implementation of guidelines will help businesses prepare for inspections.”



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„The list of trademarks eligible for registration will expand.”

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based on customers' nationality, place of residence or place of establishment. The Regulation establishes a prohibition for traders to redirect customer to a version of the trader's online interface that is different from the online interface to which the customer initially sought access, by virtue of its layout, use of language or other characteristics, unless the customer has explicitly consented to such redirection. Also, the prohibitions are set for traders to discriminate customers based on the general conditions of access to goods or services, including prices.

On the basis of the Law on Consumer Protection, the State Consumer Rights Protection Authority may impose a fine amounting from EUR 144 to EUR 1,448 on a seller or service supplier for the failure to comply with requirements or prohibitions specified in the Regulation.

More information is available [here](#).

CJEU has given its opinion on the workers' rights to paid annual leave

Court of Justice of the EU has delivered two significant preliminary rulings on a workers' right to annual leave and an allowance in lieu of it.

In the first case the Grand Chamber of CJEU has noted that the right to annual leave constitutes only one of two aspects of the right to paid annual leave as an essential principle of EU social law, that right also including the entitlement to payment. Upon termination of the employment relationship, the actual taking of paid annual leave to which a worker was entitled is no longer possible, for this reason Article 7(2) of Directive 2003/88 concerning certain aspects of the organisation of working time provides that the worker is entitled to an allowance in lieu for the days of annual leave not taken. The Grand Chamber has explained that where an employment relationship terminates due to worker's death, a worker's right to paid annual leave does not lapse, being purely pecuniary in its nature, does not lapse and can be inherited, therefore, the heirs of a deceased worker may claim an allowance in lieu of the paid annual leave not taken by the worker.

In the second case CJEU has declared that a worker cannot automatically lose his rights to paid annual leave acquired under the EU law, and also an allowance in lieu of the paid annual leave only because he did not apply for leave at the required time or did not take the paid annual leave up until the employment relationship has terminated. A worker could lose these rights only if the employer is able to prove that the worker deliberately and knowingly refrained from taking his paid annual leave after having been duly informed about the consequences and given the opportunity actually to exercise his right to it.

Learn more about these cases [here](#) and [here](#).

“This Regulation will unlock the potential of e-commerce across the EU.”



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“An allowance in lieu of annual leave not taken by a worker may be inherited.”



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